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

WHEN: Wednesday, November 14, 2007
9:00 a.m.–Noon

WHERE: Office of the Federal Register
Conference Room, Suite 700
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Washington, DC 20002

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To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

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

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OFFICE OF MANAGEMENT AND BUDGET

2 CFR Part 175

Trafficking in Persons: Grants and Cooperative Agreements

AGENCY: Office of Federal Financial Management, Office of Management and Budget.

ACTION: Interim final guidance.

SUMMARY: The Office of Federal Financial Management (OFFM) is establishing a government-wide award term for agencies to include in grants and cooperative agreements as part of their implementation of paragraph (g) of section 106 of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7104). In each award under which funding is provided to a private entity, the statute requires the awarding agency to include a condition authorizing termination of the award if the recipient or a subrecipient engages in certain activities related to trafficking in persons.

DATES: The effective date for this interim final guidance is December 13, 2007. To be considered in preparation of the final guidance, comments on the interim final guidance must be received by January 14, 2008.

ADDRESSES: Due to potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, we encourage respondents to submit comments electronically to ensure timely receipt. We cannot guarantee that comments mailed will be received before the comment closing date. Electronic mail comments may be submitted to: *mpridgen@omb.eop.gov*. Please include ''OMB Trafficking in Persons guidance'' in the subject line of your e-mail message. Also, please include the full body of your comments in the text of the electronic message, as well as in an attachment. Please include your name, title, organization, postal address, telephone number, and e-mail address in the text of the message. Comments may also be submitted via facsimile to (202) 395–3952 or by mail at 725 17th St., NW., Room 6025, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Marguerite Pridgen, Office of Federal Financial Management, Office of Management and Budget, telephone (202) 395–7844 (direct) or (202) 395–3993 (main office) and e-mail: *mpridgen@omb.eop.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

In the Trafficking Victims Protection Reauthorization Act of 2003 (Pub. L. 108–193, § 3), Congress amended the Trafficking Victims Protection Act of 2000 (TVPA; Pub. L. No. 106–386, Div. A). One of the amendments was the addition of a new paragraph (g) to section 106 of the TVPA (Section 106 is codified at 22 U.S.C. 7104). Paragraph (g) provides that:

> ''Any grant, contract, or cooperative agreement provided or entered into by a Federal department or agency under which funds are to be provided to a private entity, in whole or in part, shall include a condition that authorizes the department or agency to terminate the grant, contract, or cooperative agreement, without penalty, if the grantee or any subgrantee, or the contractor or any subcontractor (i) engages in severe forms of trafficking in persons or has procured a commercial sex act during the period of time that the grant, contract, or cooperative agreement is in effect, or (ii) uses forced labor in the performance of the grant, contract, or cooperative agreement.''

As originally added in 2003, subsection (g) applied to ''funds made available to carry out any program, project, or activity abroad funded under major functional budget category 150 (relating to international affairs).'' Following the enactment of the 2003 Act, the President issued Executive Order (EO) No. 13333 (69 FR 13455; March 23, 2004), which implemented this new subsection 106(g) by amending EO No. 13257. One of the amendments to EO 13257 was the addition of a new Section 5 (''Enhanced Prevention of Trafficking in Persons''), which provides in part that ''[e]ach affected executive branch department or agency shall implement, within that department or agency, the requirements set out in section 106(g) of the Act with respect to grants and cooperative agreements.''

Section 106(g) was subsequently amended in the Trafficking Victims Protection Reauthorization Act of 2005 (Pub. L. No. 109–164). Section 201(b) of this Act repealed the language that had previously stated that subsection (g) applied with respect to ''category 150'' funding. As a result, section 106(g) now applies to all Federal grants and cooperative agreements under which funds would be provided to private entities.

In implementing Section 106(g), as amended, it is important to ensure effective government-wide implementation of this national policy. To that end, we are issuing, on an interim final basis, a Government-wide standard award term (and related guidance) on trafficking in persons for agencies to include in their grants and cooperative agreements. This award term was developed by an interagency workgroup under the Grants Policy Committee of the Chief Financial Officers Council.

II. Next Steps

We will consider all comments received on the interim final version of the OMB guidance as we develop the final guidance. Federal agencies that award grants or cooperative agreements will implement the guidance through appropriate regulations and award terms.

List of Subjects in 2 CFR Part 175

Administrative practice and procedure, Colleges and universities, Cooperative agreements, Grant programs, Grants administration, Hospitals, Indians—tribal government, Industry, Nonprofit organizations, State and local governments, Trafficking in persons.

Danny Werfel,

Acting Controller.

■ For the reasons set forth above, the Office of Management and Budget amends 2 CFR chapter I by adding a part 175 to read as follows:

PART 175—AWARD TERM FOR TRAFFICKING IN PERSONS

Sec.

Authority: 22 U.S.C. 7104(g); 31 U.S.C. 503; 31 U.S.C. 1111; 41 U.S.C. 405; Reorganization Plan No. 2 of 1970; E.O. 11541, 35 FR 10737, 3 CFR, 1966–1970, p. 939.

§ 175.5 Purpose of this part.

This part establishes a Governmentwide award term for grants and cooperative agreements to implement the requirement in paragraph (g) of section 106 of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)).

§ 175.10 Statutory requirement.

In each agency award (i.e., grant or cooperative agreement) under which funding is provided to a private entity, section 106(g) of the TVPA, as amended, requires the agency to include a condition that authorizes the agency to terminate the award, without penalty, if the recipient or a subrecipient—

(a) Engages in severe forms of trafficking in persons during the period of time that the award is in effect;

(b) Procures a commercial sex act during the period of time that the award is in effect; or

(c) Uses forced labor in the performance of the award or subawards under the award.

§ 175.15 Award term.

(a) To implement the trafficking in persons requirement in section 106(g) of the TVPA, as amended, a Federal awarding agency must include the award term in paragraph (b) of this section in—

(1) A grant or cooperative agreement to a private entity, as defined in § 175.25(d); and

(2) A grant or cooperative agreement to a State, local government, Indian tribe or foreign public entity, if funding could be provided under the award to a private entity as a subrecipient.

(b) The award term that an agency must include, as described in paragraph (a) of this section, is:

I. Trafficking in persons.

a. *Provisions applicable to a recipient that is a private entity.*

1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not—

i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;

ii. Procure a commercial sex act during the period of time that the award is in effect; or

iii. Use forced labor in the performance of the award or subawards under the award.

2. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —

i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or

ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either—

A. Associated with performance under this award; or

B. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, ''OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),'' as implemented by our agency at *[agency must insert reference here to its regulatory implementation of the OMB guidelines in 2 CFR part 180 (e.g., ''2 CFR part XX'')]*.

b. *Provision applicable to a recipient other than a private entity.* We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—

1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or

2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—

i. Associated with performance under this award; or

ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, ''OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),'' as implemented by our agency at *[agency must insert reference here to its regulatory implementation of the OMB guidelines in 2 CFR part 180 (e.g., ''2 CFR part XX'')]*.

c. *Provisions applicable to any recipient.*

1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.

2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:

i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and

ii. Is in addition to all other remedies for noncompliance that are available to us under this award.

3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

d. *Definitions.* For purposes of this award term:

1. ''Employee'' means either:

i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or

ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

2. ''Forced labor'' means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

3. ''Private entity'':

i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.

ii. Includes:

A. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).

B. A for-profit organization.

4. ''Severe forms of trafficking in persons,'' ''commercial sex act,'' and ''coercion'' have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

(c) An agency may use different letters and numbers to designate the paragraphs of the award term in paragraph (b) of this section, if necessary, to conform the system of paragraph designations with the one used in other terms and conditions in the agency's awards.

§ 175.20 Referral.

An agency official should inform the agency's suspending or debarring official if he or she terminates an award based on a violation of a prohibition contained in the award term under § 175.15.

§ 175.25 Definitions.

Terms used in this part are defined as follows:

(a) *Foreign public entity* means:

(1) A foreign government or foreign governmental entity;

(2) A public international organization, which is an organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act (22 U.S.C. 288–288f);

(3) An entity owned (in whole or in part) or controlled by a foreign government; and

(4) Any other entity consisting wholly or partially of one or more foreign governments or foreign governmental entities.

(b) *Indian tribe* means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation (as defined in, or established under, the Alaskan Native

Claims Settlement Act (43 U.S.C. 1601, *et seq.*)) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(c) *Local government* means a:

(1) County;

(2) Borough;

(3) Municipality;

(4) City;

(5) Town;

(6) Township;

(7) Parish;

(8) Local public authority, including any public housing agency under the United States Housing Act of 1937;

(9) Special district;

(10) School district;

(11) Intrastate district;

(12) Council of governments, whether or not incorporated as a nonprofit corporation under State law; and

(13) Any other instrumentality of a local government.

(d) *Private entity.*

(1) This term means any entity other than a State, local government, Indian tribe, or foreign public entity.

(2) This term includes:

(i) A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe in paragraph (b) of this section.

(ii) A for-profit organization.

(e) *State*, consistent with the definition in section 103 of the TVPA, as amended (22 U.S.C. 7102), means:

(1) Any State of the United States;

(2) The District of Columbia;

(3) Any agency or instrumentality of a State other than a local government or State-controlled institution of higher education;

(4) The Commonwealths of Puerto Rico and the Northern Mariana Islands; and

(5) The United States Virgin Islands, Guam, American Samoa, and a territory or possession of the United States.

[FR Doc. E7–22056 Filed 11–9–07; 8:45 am]

BILLING CODE 3110–01–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210, 215, 220, 235 and 245

[FNS–2007–0023]

RIN 0584–AD54

Applying for Free and Reduced Price Meals in the National School Lunch Program and School Breakfast Program and for Benefits in the Special Milk Program and Technical Amendments

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim Rule.

SUMMARY: This interim rule amends the regulations on eligibility determinations for free and reduced price school meals to implement nondiscretionary provisions of the Child Nutrition and WIC Reauthorization Act of 2004. In this interim rule, the statutory definition of ''local educational agency'' is added. In addition, this interim rule specifies that a family only has to submit one application for all children in the household as long as they attend schools in the same local educational agency and requires enhancement of the descriptive materials distributed to families. This rule provides for electronically-submitted applications, addresses electronic signatures and establishes use and disclosure standards for such applications. This rule establishes that eligibility for free or reduced price school meals remains valid for one year unless the household chooses to decline a level of benefits. These changes are intended to provide children with increased access to the school nutrition programs by simplifying the certification process, streamlining program operations and improving program management.

DATES: *Effective date:* This rule is effective December 13, 2007.

Comment date: To be assured of consideration, mailed comments must be postmarked on or before May 12, 2008; e-mailed or faxed comments must be submitted by 11:59 p.m. May 12, 2008; and hand-delivered comments must be received by 5 p.m. May 12, 2008.

ADDRESSES: The Food and Nutrition Service invites interested persons to submit comments on this interim rule. Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Address comments to Mr. Robert M. Eadie, Chief, Policy and Program Planning Branch, Child Nutrition Division, Food and Nutrition Service, Department of Agriculture, 3101 Park Center Drive, Room 640, Alexandria, Virginia 22302–1594.
- *Fax:* Submit comments by facsimile transmission to: (703) 305–2879, attention Mr. Robert M. Eadie.
- *Hand Delivery or Courier:* Deliver comments to 3101 Park Center Drive, Room 640, Alexandria, Virginia 22302–1594, during normal business hours of 8:30 a.m.–5 p.m.

All comments submitted in response to this interim rule will be included in the record and will be made available to the public. Please be advised that the substance of the comments and the identity of the individuals or entities submitting the comments will be subject to public disclosure. All submissions will be available for public inspection at the address noted above Monday through Friday, 8:30 a.m.–5 p.m. The Department may also make the comments available on the Federal eRulemaking portal.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Eadie, Child Nutrition Division, Food and Nutrition Service at 703–305–2590.

SUPPLEMENTARY INFORMATION:

I. Background

Public Law 108–265, the Child Nutrition and WIC Reauthorization Act of 2004, enacted June 30, 2004, amended the Richard B. Russell National School Lunch Act (NSLA) (42 U.S.C. 1751 *et seq.*) and the Child Nutrition Act of 1966 (CNA) (42 U.S.C. 1771 *et seq.*) concerning applications for free and reduced price meals under the National School Lunch Program and the School Breakfast Program, and for free milk under the Special Milk Program for Children. Please note that while the application and certification procedures apply to the Special Milk Program, the preamble will only discuss free and reduced price meal benefits, as only a very small number of children participate in the Special Milk Program. However, this interim rule makes appropriate changes to the Special Milk Program regulations. All references to regulatory citations in this preamble are to Title 7, United States Code unless otherwise indicated.

In response to the statutorily imposed effective dates established by sections 501 and 502 of Public Law 108–265, the Department of Agriculture (USDA or the Department) issued memoranda to implement some of the provisions regulatorily codified in this interim rule.

These memoranda include the July 7, 2004 Duration of Households' Free and Reduced Price Meal Eligibility—Reauthorization 2004 Implementation Memo—SP 3; the March 7, 2005 Statutory Changes in the Free and Reduced Price Eligibility Determination Process and Revised Prototype Application—Implementation Memo—SP 12; the August 30, 2005 Initial Carry-over of Previous Year's Eligibility—Reauthorization Implementation Memo—SP 17; the September 26, 2005 memo General Follow-up of Provisions—Reauthorization 2004 Implementation Memo—SP 21; the November 22, 2005 memo SP 03–2006, Translation of Free and Reduced Price Application Prototypes for People with Limited English Proficiency; the December 23, 2005 memo, SP 08–2006 Reauthorization 2004: Communication with Households; and the February 9, 2006 memo Commercial Software Used in School Nutrition Programs; all located at *http://www.fns.usda.gov/cnd/* click on Policy under ''See Also''.

This interim rule includes modifications made by Public Law 108–265 that necessitated changes to the existing regulatory procedures relating to application and certification for free and reduced price meal benefits. This rule also adds definitions and makes other technical changes to 7 CFR Part 210 (National School Lunch Program), 7 CFR Part 215 (Special Milk Program for Children), 7 CFR Part 220 (School Breakfast Program), 7 CFR Part 235 (State Administrative Expense Funds) and 7 CFR Part 245 (Determining Eligibility for Free and Reduced Meals and Free Milk in Schools) to increase consistency among these regulatory divisions in relation to application and certification requirements.

Readers should note that while this interim regulation makes a number of changes to 7 CFR Part 245 (specifically § 245.6), separate rules on verification and direct certification will additionally revise this section, completing the changes mandated by Public Law 108–265. USDA's program guidance on eligibility determinations will be updated to reflect the regulatory changes resulting from Public Law 108–265. Also of note—updated prototype multi-child (household) applications in English, Spanish and 24 additional languages are now available at *http://www.fns.usda.gov/cnd/FRP/frp.process.htm.*

In addition, this interim rule makes technical nonsubstantive changes to 7 CFR §§ 215.2, 220.2, 235.2, and 245.2, the definitions sections for these parts. The rule removes primary designations and alphabetizes the definitions. In addition, new definitions are added for ''Food Stamps'' and ''Nonprofit.''

II. Specific Provisions

A. Definition of Local Educational Agency

What was in place prior to Public Law 108–265?

Prior to Public Law 108–265, the NSLA used the term ''school food authority'' to describe ''the governing body which is responsible for the administration of one or more schools and has the legal authority to operate the Program therein or be otherwise approved by the Food and Nutrition Service to operate the Program.'' The term is used consistently throughout regulations and guidance that govern all aspects of the school meals programs. There was no regulatory or statutory definition of local educational agency prior to the 2004 statutory amendment.

What changes were made by Public Law 108–265?

Section 108 of Public Law 108–265 replaced the terms ''school food authorities'' and ''local school authorities'' with the term ''local educational agencies'' in sections 9(b)(11) and 9(d)(2) of the NSLA, 42 U.S.C. 1758(b)(11) and (d)(2), and in section 4(b)(1)(E) of the CNA, 42 U.S.C. 1773 (b)(1)(E). The NSLA now specifies, in section 12(d)(4), (42 U.S.C. 1761 (d)(4)), that local educational agency has the meaning as provided for in section 9101 of the Elementary and Secondary Education Act of 1965 (ESEA) (20 U.S.C. 7801) and, for private nonprofit schools, entities as determined by the Secretary. In addition to section 108, other sections of Public Law 108–265 use the term ''local educational agencies'' instead of school food authorities or local school authorities.

Under the ESEA, ''local educational agency'' means ''a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or of or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public elementary schools or secondary schools.'' The definition in the ESEA also includes any other public institution or agency having administrative control and direction of a public elementary school or secondary school, eligible Bureau of Indian Affairs schools, educational service agencies and consortia of those agencies, and the State educational agency in a State in which the State educational agency is the sole educational agency for all public schools. The ESEA, however, does not address non-profit private schools in its definition. Such schools do participate in the school meals programs. For the purposes of the school meals programs, the Department currently defines schools to include nonprofit private as well as public entities for the purposes of the school meals programs. It also defines nonprofit for the purposes of the school meals and school milk programs.

What are the changes that this interim rule makes?

The term ''local educational agency'' will be used when discussing certification and verification requirements, but the term ''school food authority'' will continue to be used when addressing other aspects of operating the school meals programs, such as when discussing agreements or nutritional requirements.

Because the ESEA does not define private nonprofit schools, section 108 of Public Law 108–265 states that the term local educational agency includes, for the purposes of a private nonprofit school, an appropriate entity determined by the Secretary. Current school meals programs regulations, at §§ 210.2 and 220.2, recognize private nonprofit schools and nonprofit private residential child care institutions in the definition of ''School.'' As a result, for schools meals programs purposes, local educational agencies may be comprised of private, nonprofit schools/institutions. The terms private nonprofit school and private nonprofit residential child care institution in the definition of ''Local educational agency'' have the same meaning as used in the paragraphs (b) and (c) of the definition of ''School'' in § 210.2 and in corresponding regulatory provisions in Parts 215, 220, 235 and 245. A definition of ''Local educational agency'' is added to §§ 210.2, 215.2, 220.2, 235.2 and 245.2.

B. Applications and Descriptive Materials

1. Household Applications

What was in place prior to Public Law 108–265?

Prior to Public Law 108–265, a State or school food authority could require an application for each potentially eligible child in the household (single child application) or one application for all potentially eligible children in the household (household application). The

Department provided prototypes for each of these types of applications.

Under existing regulations, single child applications are used for foster and institutionalized children. This is in accordance with § 245.3(c) of existing regulations which states that any child who is not a member of a family, as defined in § 245.2, is considered a family of one. FNS Instruction 765–5, Revision 1, entitled ''Free and Reduced Price Eligibility Determinations for Foster and Institutionalized Children'' (March 19, 1986) clarifies that foster children and institutionalized children are considered households of one, thus triggering use of the single child application.

What changes were made by Public Law 108–265?

Section 105 of Public Law 108–265 revised section 9(b)(3) of the NSLA to require local educational agencies to only use household applications. The provision became effective on July 1, 2005, pursuant to Section 502 of Public Law 108–265. Therefore, effective July 1, 2005, only household applications may be used when all school age children in a household attend schools in the same local educational agency. This change was made to decrease paperwork for households who wish to apply and schools by eliminating multiple application completion and submission for households with more than one child.

What are the changes that this interim rule makes?

This interim rule adds a definition of ''Household application'' in § 245.2, and stipulates in § 245.6(a) that the household application must identify all children in the household for whom free or reduced price meal benefits are being requested. A household has the same definition as ''Family'' in § 245.2; that is, a group of related or non-related individuals, who are not residents of an institution or boarding house, but who are living as one economic unit. This rule also prohibits State agencies and local educational agencies from requesting separate applications for each child attending schools in the same local educational agency. A household only has to submit one application for all children in their household (even if the children attend different schools) as long as those schools are in the same local educational agency. To clarify, however, since § 245.3(c) of the regulations requires that each foster or institutionalized child be considered a family of one, a separate application will continue to be needed for each such child in the household's care.

This change does not mandate central processing of applications. However, the Department encourages all local educational agencies to use centralized approval of applications whenever possible. Local educational agencies need to ensure that children who transfer to schools within the same local educational agency are not required to reapply for free or reduced price meal benefits as stated in existing regulations at § 245.3(c). Copies of the approved application or the direct certification notice may be provided to the new school. Since applications must still be tied to individual schools for reviews conducted by State agencies, a local educational agency may establish a separate record for each child for tracking purposes. These changes may be found at § 245.6(a)(1).

2. Notification of Possible Eligibility

What was in place prior to Public Law 108–265?

Prior to Public Law 108–265, section 9(b) of the NSLA required that applications for free and reduced price school meals and descriptive materials about school meal programs must be distributed to parents and guardians. Existing regulations require that the school meal application and media materials include notification that State Temporary Assistance for Needy Families (TANF), Food Stamp Program, and Food Distribution Program on Indian Reservations (FDPIR) participants can submit an application with a case number rather than income information.

What changes were made by Public Law 108–265?

Effective July 1, 2005, section 104(a) of Public Law 108–265 amended section 9(b)(2) of the NSLA to require that school meal applications and descriptive materials distributed to parents and guardians contain a notification that, in addition to the notification already provided pursuant to school meals programs provisions, notification that participants in the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) may be eligible for free or reduced price school meals. It is important to note that this does not mean that children from families that participate in WIC are automatically (categorically) eligible; rather it means that such participants are likely to be eligible and should consider applying for free or reduced priced meals.

What are the changes that this interim rule makes?

This interim rule adds the requirement that the school meal application's descriptive materials include notification that WIC participants may be eligible for free or reduced price meals. The updated free and reduced price meal benefits prototype application includes this notification. Please refer to our Web site (*http://www.fns.usda.gov/cnd/FRP/frp.process.htm*). This change can be found in § 245.5(a)(1)(ix) of this interim regulation.

3. Communications

What was in place prior to Public Law 108–265?

Under Federal regulations implementing Title VI of the Civil Rights Act of 1964, recipients of Federal financial assistance, such as school food authorities, have a responsibility to ensure meaningful access to their programs by persons with limited English proficiency. Prior to Public Law 108–265, the NSLA did not specifically address providing materials in other than English for the school meal programs.

Current regulations at § 245.6(a) mandate that the school meals programs application be clear and simple in design and that the information requested be limited to that required to demonstrate that the family does, or does not, meet the eligibility criteria for free or reduced price meals. In regard to foreign language translations, the Department encourages schools to provide households with assistance in completing applications through the use of personnel proficient in foreign languages.

To assist schools with providing simpler applications and applications in other languages, the Department worked with a contractor in 2002 that specialized in form design and language simplification to provide an application with a reduced reading level and in a format that is easier to accurately complete. In 2006, the application materials for the free and reduced price prototype application and descriptive materials were translated into Spanish and 24 additional languages. If foreign language materials for a particular language are not available, local educational agencies are always encouraged to provide assistance with completion of English language school meals programs applications through the use of personnel proficient in the necessary foreign language(s) as well as English.

What changes were made by Public Law 108–265?

In addition to the responsibilities established under Title VI of the Civil Rights Act of 1964, section 104(b) of Public Law 108–265, effective July 1, 2005, amended section 9(b) of the NSLA to require that any communication with households regarding application, verification, or documentation of eligibility must be in an understandable and uniform format and, to the maximum extent practicable, in a language that parents and legal guardians can understand.

What are the changes that this interim rule makes?

This interim rule amends the existing regulations that to state that the school meals programs application must be clear and simple in design. This rule adds language reflecting the statutory requirement that any communication with households regarding certification be understandable, and to the maximum extent practicable, provided in a language that the parents and guardians can understand is being added at § 245.6(a)(2). A similar statement concerning verification materials is being added at § 245.6a (a)(2).

4. Electronic Applications

What was in place prior to Public Law 108–265?

There were no provisions in the NSLA prior to Public Law 108–265 that addressed electronic applications and electronic signatures. Current regulations do not address use of these methods, but do permit the use of electronic applications and electronic signatures in keeping with pertinent administrative guidance. Currently the Department allows electronic signatures and recommends that State agencies follow the same guidelines provided to Federal agencies for electronic transactions by the Department of Justice. The May 1, 2007, memorandum ''Update on Electronic Transactions in the Child Nutrition Programs'' may be found at *http://www.fns.usda.gov/cnd/Governance/Policy-Memos/2007/SP_10-2007.*

What changes were made by Public Law 108–265?

Effective July 1, 2005, section 104(b) of Public Law 108–265 amended section 9(b)(3) of the NSLA to address electronic signatures and applications. The law states that a household application may be executed using an electronic signature if the application is submitted electronically and if the electronic application system meets confidentiality standards established by the Secretary. An electronic signature may be accepted pursuant to section 105(a) of Public Law 108–265.

What are the changes that this interim rule makes?

Many State and local educational agencies already have systems available to households that allow them to submit an application electronically and the Department encourages State and local agencies to facilitate the household's ability to apply electronically. This interim rule incorporates the provisions on electronic submissions in the NSLA. In addition, such systems must comply with technical assistance and guidance provided by the Department. On May 1, 2007, we provided such guidance based on guidelines for electronic transactions prescribed to Federal agencies by the Department of Justice.

C. Duration of Eligibility for Free or Reduced Price Meals

What was in place prior to Public Law 108–265?

Prior to Public Law 108–265, regulations at § 245.5(a)(1)(vi) and § 245.6(c)(1) directed that, households be informed that they must report income increases of more than $50 monthly, decreases in household size, or, for children certified based on an application containing a case number, termination of receipt of TANF, food stamp, or FDPIR benefits. If the change reduced children's benefits, the local school food authority was to adjust their eligibility status as appropriate, including providing advance notification of an adverse change in accordance with § 245.6a(e). The existing regulations at § 245.6(c) permit the use of applications and documentation of direct certification from the preceding year to determine eligibility during the 30 operating days following the first operating day at the beginning of the school year, or during a timeframe established by the State agency, that cannot exceed the 30 operating day limit.

What changes were made by Public Law 108–265?

Effective July 1, 2004, section 106 of Public Law 108–265 amended section 9(b)(9) of the NSLA by establishing that eligibility, beginning on the date of approval, is valid for the full school year until a date in the subsequent school year determined by USDA.

What are the changes that this interim rule makes?

This rule provides for year long eligibility as now required by the NSLA. Therefore, once a child is determined eligible for free and reduced price meals, eligibility remains in effect from the date of eligibility determination for the current school year and for up to 30 operating days (as discussed in the next paragraph) into the next school year. A household is no longer required to report changes in income, household size or categorical eligibility status.

Section 106 of Public Law 108–265 also required that a child's eligibility be valid into the subsequent school year. The Department used the long-standing permissive carry-over authority of current § 245.6(c) as the basis for the new requirement. Section 245.6(c)(2) of this rule mandates that local educational agencies carry-over a child's eligibility from the previous school year. The local educational agency must use the previous year's eligibility status for a period not to exceed 30 operating days or until the new eligibility determination is made, whichever comes first.

Year-long eligibility does not apply when the initial eligibility determination was incorrect, when verification activities for the household do not support the level of benefits for which the child was approved or if an administrative review (as provided for in § 210.18) indicates that the initial eligibility determination was in error. In those instances, local educational agency officials must make appropriate changes in eligibility in accordance with regulatory requirements. These provisions may be found at new § 245.6(c)(3)(i) and (c)(3)(ii).

Additionally, year-long eligibility does not apply when a household is given temporary approval. We continue to encourage determining officials to approve households on a temporary basis when their need for assistance appears to be short-term, such as when the household experiences a temporary reduction in income. A suggested time period for temporary approvals is 45 days unless otherwise stipulated by the State agency. At the end of the temporary approval, determining officials must re-evaluate the household's situation. The provision on temporary approval may be found at new § 245.6(c)(3)(iii). Additional information on the use of temporary approvals may be found in program guidance issued by the Department.

With the exception of the situations described above, if a household's income exceeds the eligibility limits at any point during the school year, their initial eligibility determination remains valid unless a new application is submitted. Since the household is no longer required to report changes in

income or household size or loss of food stamp or TANF benefits, this requirement is being deleted by removing paragraph (a)(1)(vi) from § 245.5 and by removing it as part of the revisions to § 245.6(c)(1). However, households may voluntarily report changes, may apply for benefits any time during the school year. The household may also decline benefits when children are directly certified. This provision may be found at new § 245.6(c)(6)(iii).

As State child nutrition agencies and local educational agencies implement full-year eligibility, they have the opportunity to minimize disruptions when a child moves mid-year from one school district to another. They can do so by establishing an optional transfer of information system under which a child's school meal certification status is transferred from one school or local educational agency to another when the child moves. For example, States that maintain a database for all students could establish a data field to indicate the child's certification status—accessible only in accordance with the use or disclosure of information provisions set forth in section 9 of the NSLA—that could be checked by a school whenever a new student is enrolled. A local educational agency is not required to send this information, or accept this information from another local educational agency. However, this rule, at § 245.6(a)(4), includes a provision that allows any local educational agency to accept the eligibility determination from the student's old school district without incurring liability for the accuracy of the initial determination.

D. Technical amendments

1. Numbering of Definitions

Existing §§ 215.2, 220.2, 235.2, and 245.2 include ''primary designations'' (i.e. the letters and numbers that precede the words being defined) while § 210.2 simply lists definitions in alphabetical order. This interim rule removes primary designations in the listed sections, makes corresponding reference changes, and places the definitions in alphabetical order. This is being done to create uniformity among the regulations for the school nutrition programs and is technical in nature.

2. Adding Definition of Food Stamp Program

For consistency among the school nutrition programs, a definition of ''Food Stamp Program'' is being added to § 245.2. The Food Stamp Program is also administered by USDA and the regulations governing this program may be found at 7 CFR Parts 271 through 283 of this Chapter.

3. Updating Definitions

We are updating the definition of ''Nonprofit'' in our regulations to correspond to the definition in section 12(d)(5) of the NSLA and section 15(1) of the CNA which applies nonprofit status to schools and institutions which are exempt from tax under section 501(c)(3) of Internal Revenue Act of 1986. To accomplish this change, the definition of ''Nonprofit'' in §§ 210.2, 215.2 and 220.2 is amended. Also for consistency the definition of ''Nonprofit'' is added to §§ 235.2 and 245.2. The definition of ''School'' in § 215.2 is amended to remove an obsolete reference and the definition of ''School'' in § 235.2 is amended to remove an erroneous citation.

III. Procedural Matters

Executive Order 12866

This interim rule has been determined to be not significant for purposes of Executive Order 12866 and was not reviewed by the Office of Management and Budget in conformance with Executive Order 12866.

Regulatory Flexibility Act

This interim rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). Roberto Salazar, Administrator of the Food and Nutrition Service, has certified that this rule will not have a significant economic impact on a substantial number of small entities. Households applying for free or reduced price school meals for their children will be affected as they can no longer be required by the school district to complete and submit an application for each child. Local educational agencies will also be affected because there will be fewer applications to process and there will be potential for more economically beneficial centralized systems. This rule will reduce paperwork and reduce the workload for school officials.

Unfunded Mandate Reform Act

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the Food Nutrition Service must generally prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Department to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local and tribal governments or the private sector of $100 million or more in any one year. Thus, this interim rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12372

The National School Lunch Program, Special Milk Program, School Breakfast Program, and State Administrative Expense Funds are listed in the Catalog of Federal Domestic Assistance under Nos. 10.555, 10.556, 10.553 and 10.560, respectively. For the reasons set forth in the final rule in 7 CFR Part 3015, Subpart V, and final rule related notice at 48 FR 29114, June 24, 1983, these programs are included in the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Executive Order 13132—Federalism Summary Impact Statement

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under section (6)(b)(2)(B) of Executive Order 13132. The Food and Nutrition Service has considered the impact of this rule on State and local governments and has determined that this rule does not have Federalism implications. This rule does not impose or direct compliance costs on State and local governments. Therefore, under section 6(b) of the Executive Order, a federalism summary impact statement is not required.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its

provisions or which would otherwise impede its full implementation.

This rule is not intended to have retroactive effect unless so specified in the DATES section of this preamble. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted.

Civil Rights Impact Analysis

Under Department Regulation 4300–4, Civil Rights Impact Analysis, the Food and Nutrition Service, USDA, has reviewed this interim rule to identify and address any major civil rights impacts the interim rule might have on minorities, women, and persons with disabilities. After a careful review of the rule's intent and provisions, the Food and Nutrition Service, USDA, has determined that this rule would not in any way limit or reduce participants' ability to participate in the Child Nutrition Programs on the basis of an individual's or group's race, color, national origin, sex, age or disability (the Child Nutrition Programs' nondiscrimination policy can be found at § 210.23(b)). The Food and Nutrition Service found no factors that would negatively and disproportionately affect any group of individuals.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35; see 5 CFR 1320) requires that the Office of Management and Budget (OMB) approve all collections of information by a Federal agency before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number. This rule does not contain any new information collection requirements subject to approval by OMB under the Paperwork Reduction Act of 1995. Information collections associated with this rule have been approved under following OMB control numbers 0584–0005, 0584–0006, 0584–0012, 0584–0026 and 0584–0067.

E-Government Act Compliance

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

Public Participation

This action is being finalized without prior notice or public comment under authority of 5 U.S.C. 553(b)(3)(A) and (B). This rule is being implemented through amendments to current program regulations because of nondiscretionary provisions mandated by the Child Nutrition and WIC Reauthorization Act of 2004 (Public Law 108–265) and the provisions included in this interim rule are consistent with long-standing policies and procedures in the Child Nutrition Programs. This rule implements new requirements in a manner that builds on existing requirements and policies. Further, section 501(b) of Public Law 108–265 permitted the Secretary to issue an interim rule to implement the provisions in Sections 105 and 106 of Public Law 108–265 which are included herein. These provisions have been substantially implemented through the Department's issuance of guidance, which was also permitted by section 501(a) of Public Law 108–265. Therefore, State agencies and local educational agencies began implementing the requirements and procedures set forth in this rule in School Year 2004–2005 and have been operating under them since that time. The Department has also modified and clarified some of these procedures in response to recommendations from State and local program officials and this interim regulation reflects those modifications and clarifications.

In addition, promulgating these provisions in an interim rule allows for prompter codification in the Code of the **Federal Register** of procedures that are already in place. Codification reinforces the provisions significance with State agencies and local educational agencies. Publication of an interim rule provides the Department with the ability to collect comment on the actual implementation experience at all levels. Needed policy changes identified by comments can then be implemented through the publication of a final rule. Thus, the Department has determined in accordance with 5 U.S.C. 553(b), that Notice of Proposed Rulemaking and Opportunity for Public Comments is unnecessary and contrary to the public interest and, in accordance with 5 U.S.C. 553(d), finds that good cause exists for making this action effective without prior public comment.

List of Subjects

7 CFR Part 210

Children, Commodity School Program, Food assistance programs, Grants programs—social programs, National School Lunch Program, Nutrition, Reporting and recordkeeping requirements, Surplus agricultural commodities.

7 CFR Part 215

Food assistance programs, Grant programs—education, Grant programs—health, Infants and children, Milk, Reporting and recordkeeping requirements.

7 CFR Part 220

Children, Food assistance programs, Grant programs—social programs, Nutrition, Reporting and recordkeeping requirements, School Breakfast Program.

7 CFR Part 235

Administrative practice and procedure, Child and Adult Care Food Program, Food assistance programs, Grant administration, Intergovernmental relations, National School Lunch Program, Reporting and recordkeeping requirements, School Breakfast Program, Special Milk Program.

7 CFR Part 245

Civil rights, Food assistance programs, Grant programs—education, Grant programs—health, Infants and children, Milk, Reporting and recordkeeping requirements, School breakfast and lunch programs.

■ Accordingly, 7 CFR parts 210, 215, 220, 235 and 245 are amended as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

■ 1. The authority citation for part 210 continues to read as follows:

Authority: 42 U.S.C. 1751–1760, 1779.

■ 2. In § 210.2:
■ a. Amend paragraph (b) in the definition of ''Child'' by removing the reference ''paragraphs (c)'' and adding in its place the reference ''paragraph (c)'';
■ b. Add a definition of ''Local educational agency'' in alphabetical order; and
■ c. Revise the definition of ''Nonprofit''.

The addition and revision read as follows:

§ 210.2 Definitions.

* * * * *

Local educational agency means a public board of education or other public or private nonprofit authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public or private nonprofit elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for a combination of school districts or

counties that is recognized in a State as an administrative agency for its public or private nonprofit elementary schools or secondary schools. The term also includes any other public or private nonprofit institution or agency having administrative control and direction of a public or private nonprofit elementary school or secondary school, including residential child care institutions, Bureau of Indian Affairs schools, and educational service agencies and consortia of those agencies, as well as the State educational agency in a State or territory in which the State educational agency is the sole educational agency for all public or private nonprofit schools.

* * * * *

Nonprofit means, when applied to schools or institutions eligible for the Program, exempt from income tax under section 501(c)(3) of the Internal Revenue Code of 1986.

* * * * *

§ 210.9 [Amended]

■ 4. In § 210.9, amend paragraph (b)(7) by removing the words ''school food authority'' and adding in their place the words ''local educational agency''.

§ 210.19 [Amended]

■ 5. In 210.19, amend paragraph (c)(6)(ii) by removing the words ''the documentation specified under § 245.2(a–4)(1)(ii); or'' and adding in their place the words ''the information specified in paragraph (1)(ii) of the definition of *Documentation* in § 245.2 of this chapter; or''.

PART 215—SPECIAL MILK PROGRAM FOR CHILDREN

■ 1. The authority citation for Part 215 continues to read as follows:

Authority: 42 U.S.C. 1772 and 1779.

■ 2. In § 215.2:

■ a. Remove currently reserved paragraph (o);

■ b. Remove the remaining paragraph designations for paragraphs (a), (b), (c), (d), (e), (e–1), (e–2), (e–3), (e–4), (e–5), (f), (g), (h), (i), (i–1), (j), (j–1), (k), (k–1), (l), (m), (n), (p), (q), (r), (r–1), (s), (s–1), (t), (u), (u–1), (v), (w), (w–1), (x), (x–1), (x–2), (x–3), (x–4), (x–5), (x–6), (y), (z), (aa), and (bb) and arrange the definitions in alphabetical order;

■ c. Amend the definition of ''Child-care institution'' by removing the words ''Child-care'' and ''child-care'' wherever they appear and adding in their place the words ''Child care'' and ''child care'', respectively;

■ d. Amend third sentence of the definition of ''Child care institution'' by removing the words ''paragraph (v) of'';

■ e. Remove the definition of ''Children'' and add in its place a definition of ''Child'';

■ f. Amend the first sentence of the definition of ''Cost of milk'' by removing the words ''child-care'' wherever they appear and by adding in their place the words ''child care'';

■ g. Add a definition of ''Local educational agency'' in alphabetical order;

■ h. Revise the definition of ''Nonprofit'';

■ i. Amend the definition of ''Reimbursement'' by removing the words ''child-care'' and adding in their place the words ''child care''; and

■ j. Amend the definition of ''School'' by adding the word ''or'' before the number ''(3)'' in the first sentence and by removing the words ''more; or (4) with respect to the Commonwealth of Puerto Rico, non-profit child care centers certified as such by the Governor of Puerto Rico.'' and adding in their place the word ''more.''

The revisions and additions read as follows:

§ 215.2 Definitions.

* * * * *

Child means

(1) A person under 19 chronological years of age in a Child care institution as defined in this section;

(2) A person under 21 chronological years of age attending a school as defined in paragraphs (3) and (4) of the definition of *School* in this section;

(3) A student of high school grade or under attending school as defined in paragraphs (1) and (2) of the definition of *School* in this section; or

(4) A student who is mentally or physically disabled as determined by the State and who is participating in a school program established for the mentally or physically disabled, of high school grade or under as determined by the State educational agency in paragraphs (1) and (2) of the definition of *School* in this section.

* * * * *

Local educational agency means a public board of education or other public or private nonprofit authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public or private nonprofit elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public or private nonprofit elementary schools or secondary schools. The term also includes any other public or private nonprofit institution or agency having administrative control and direction of a public or private nonprofit elementary school or secondary school, including residential child care institutions, Bureau of Indian Affairs schools, and educational service agencies and consortia of those agencies, as well as the State educational agency in a State or territory in which the State educational agency is the sole educational agency for all public or private nonprofit schools.

* * * * *

Nonprofit means, when applied to schools or institutions eligible for the Program, exempt from income tax under section 501(c)(3) of the Internal Revenue Code of 1986.

* * * * *

§ 215.3 [Amended]

■ 3. In § 215.3:

■ a. Amend paragraphs (b) and (c) by removing the words ''child-care'' wherever they appear and adding in their place the words ''child care'';

■ b. Amend paragraph (b) by removing the words ''as defined in § 215.2(v)(3) or § 215.2(v)(4)'' and adding in their place the words ''as described in paragraph (3) of the definition of *School* in § 215.2''; and

■ c. Amend paragraph (c) by removing the words ''in any school as defined in § 215.2(v)(1), § 215.2(v)(2) or § 215.2(v)(3) or any child care institution as defined in § 215.2(e)'' and adding in their place the words ''in any *School* or any *Child care institution* as defined in § 215.2''.

PART 220—SCHOOL BREAKFAST PROGRAM

■ 1. The authority citation for part 220 continues to read as follows:

Authority: 42 U.S.C. 1773, 1779, unless otherwise noted.

■ 2. In § 220.2:

■ a. Remove the paragraph designations for paragraphs (a), (a–1), (b), (c), (c–1), (d), (d–1), (e), (f), (g), (g–1), (h), (i), (i–1), (j), (k), (l), (m), (n), (o), (o–1), (o–2), (o–3), (p), (p–1), (q), (q–1), (q–2), (r), (s), (t), (t–1), (u), (v), (v–1), (w), (w–1), (x), (x–1), (x–2), (x–3), (x–4), (x–5), (y), (z), (aa), and (bb) and arrange the definitions in alphabetical order;

■ b. Amend paragraph (2) of the definition of ''Child'' by removing the words ''in paragraphs (3) of the definition of ''School'' '' and adding in their place the words ''in paragraph (3) of the definition of *School* in this section'';

■ c. Add a definition of ''Local educational agency'' in alphabetical order;
■ d. Amend the second sentence of the definition of ''Menu item'' by removing the reference ''§ 220.2(i–1)'' and adding in its place the words ''the definition of *Foods of minimal nutritional value* in this section'';
■ e. Revise the definition of ''Nonprofit''; and
■ f. Amend the definition of ''State agency'' by removing the words ''as defined in § 220.2(u)(3) of this part'' and adding in their place the words ''as described in paragraph (3) of the definition of *School* in this section''.

The revision and addition read as follows:

§ 220.2 Definitions.

* * * * *

Local educational agency means a public board of education or other public or private nonprofit authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public or private nonprofit elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public or private nonprofit elementary schools or secondary schools. The term also includes any other public or private nonprofit institution or agency having administrative control and direction of a public or private nonprofit elementary school or secondary school, including residential child care institutions, Bureau of Indian Affairs schools, and educational service agencies and consortia of those agencies, as well as the State educational agency in a State or territory in which the State educational agency is the sole educational agency for all public or private nonprofit schools.

* * * * *

Nonprofit means, when applied to schools or institutions eligible for the Program, exempt from income tax under section 501(c)(3) of the Internal Revenue Code of 1986.

* * * * *

§ 220.3 [Amended]

■ 3. In § 220.3:
■ a. Paragraph (b) is amended by removing the words ''as defined in § 220.2(u)(1), (u)(2) and (u)(4)'' and adding in their place the words ''as described in paragraphs (1) and (2) of the definition of *School* in § 220.2'';
■ b. Paragraph (b) is further amended by removing the words ''as defined in § 220.2(u)(1) of'' and adding in their place the words ''as described in paragraph (1) of the definition of *School* in § 220.2 in''; and
■ c. Paragraph (c) is amended by removing the words ''as defined in § 220.2(u)(3)'' and adding in their place the words '', as described in paragraph (3) of the definition of *School* in § 220.2,''.

§ 220.8 [Amended]

■ 4. In § 220.8, amend paragraph (h)(3)(iv) by removing the words ''in §§ 220.2(i–1) and 220.12 and appendix B to this part'' and adding in their place the words ''in the definition of *Foods of minimal nutritional value* in § 220.2, in § 220.12 and in Appendix B of this part''.

§ 220.12 [Amended]

■ 5. In § 220.12:
■ a. Amend paragraph (b)(1) by removing the reference ''§ 220.2(i–1)'' wherever it appears and adding in its place the words ''the definition of *Foods of minimal nutritional value* in § 220.2'';
and
■ b. Amend (b)(2) by removing the words ''as foods of minimal nutritional value as defined in § 220.2(i–1)'' wherever they appear and adding in their place the words '' as meeting the definition of *Foods of minimal nutritional value* in § 220.2''.

PART 235—STATE ADMINISTRATIVE EXPENSE FUNDS

■ 1. The authority citation for part 235 continues to read as follows:

Authority: Secs. 7 and 10 of Child Nutrition Act of 1966, 80 Stat. 888, 889, as amended (42 U.S.C. 1776, 1779).

■ 2. In § 235.2:
■ a. Remove currently reserved paragraphs (e), (j), (k), and (m);
■ b. Remove the paragraph designations for paragraphs (a), (b), (c), (d), (f), (g), (h), (i), (l), (n), (o), (p), (q), (q–1), (q–2), (q–3), (q–4), (q–5), (r), (s), and (t) and arrange the definitions in alphabetical order;
■ c. Add a definition of ''Nonprofit'' in alphabetical order;
■ d. Revise the definition of ''School''; and
■ e. Amend the last sentence of paragraph (2) of the definition of ''State agency'' by removing the words '' 'distributing agency', as defined in § 235.2(d),'' and adding in their place the words ''*Distributing agency* as defined in this section,''.

The addition and revision read as follows:

§ 235.2 Definitions.

* * * * *

Nonprofit means exempt from income tax under section 501(c)(3) of the Internal Revenue Code of 1986.

* * * * *

School means the term as defined in § 210.2, § 215.2, and § 220.2 of this chapter, as applicable.

* * * * *

PART 245—DETERMINING ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS AND FREE MILK IN SCHOOLS

■ 1. The authority citation for part 245 continues to read as follows:

Authority: 42 U.S.C. 1752, 1758, 1759a, 1772, 1773, and 1779.

§ 245.1 [Amended]

■ 2. In § 245.1:
■ a. Amend the first sentence of paragraph (a) by removing the words ''(where applicable), and School Food Authorities'' and adding in their place the words '', school food authorities or local educational agencies, as defined in § 245.2, as applicable''; and
■ b. Amend paragraph (b) by removing the words ''and School Food Authorities'' and adding in their place the words ''school food authorities or local educational agencies, as applicable,''.

■ 3. In § 245.2:
■ a. Remove the paragraph designations for paragraphs (a), (a–1), (a–2), (a–3), (a–4), (b), (b–1),(b–2), (b–3), (c), (d), (d–1), (d–2), (e), (f), (f–1), (f–2), (f–3), (g), (h), (i), (j), (k), (l), and (m) and arrange the definitions in alphabetical order;
■ b. Amend the first sentence of paragraph (2) of the definition of ''Documentation'' by removing the words ''school food authority'' and adding in their place ''local educational agency (as defined in this section)'';
■ c. Amend the definition of ''Household'' by removing the reference ''§ 245.2(b)'' and adding in their place the words ''this section'';
■ d. Add definitions of ''Food Stamp Program'', ''Household application'', ''Local educational agency'' and ''Nonprofit'' in alphabetical order; and
■ e. Amend the second sentence of the definition of ''Verification'' by removing the words ''in the application which is defined as documentation in § 245.(a–4)'' and adding in their place the words ''on the application and defined as *Documentation* in this section''.

The additions read as follows:

§ 245.2 Definitions.

* * * * *

Food Stamp Program means the program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) and operated under Parts 271 through 283 of this chapter.

* * * * *

Household application means an application for free and reduced price meal or milk benefits, submitted by a household for a child or children who attend school(s) in the same local educational agency.

* * * * *

Local educational agency means a public board of education or other public or private nonprofit authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public or private nonprofit elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public or private nonprofit elementary schools or secondary schools. The term also includes any other public or private nonprofit institution or agency having administrative control and direction of a public or private nonprofit elementary school or secondary school, including residential child care institutions, Bureau of Indian Affairs schools, and educational service agencies and consortia of those agencies, as well as the State educational agency in a State or territory in which the State educational agency is the sole educational agency for all public or private nonprofit schools.

* * * * *

Nonprofit means exempt from income tax under section 501(c)(3) of the Internal Revenue Code of 1986.

* * * * *

§ 245.3 [Amended]

■ 4. In § 245.3:

■ a. Amend the first sentence of paragraph (a) by removing the words ''School Food Authorities of schools'' and adding in their place the words ''local educational agencies, as defined in § 245.2,'';

■ b. Amend the first sentence of paragraph (b) introductory text by removing the words ''School Food Authority'' and adding in their place the words ''local educational agency'';

■ c. Amend paragraph (b)(1) by removing the words ''School Food Authority'' the first time they appear and adding in their place the words ''local educational agency'';

■ d. Amend the first sentence of paragraph (b)(2) by removing the words ''School Food Authority'' and adding in their place the words ''local educational agency'' and amend the second sentence of paragraph (b)(2) removing the words ''School Food Authority's'' and adding in their place the words ''local educational agency's'' and

■ e. Amend the second sentence of paragraph (c) by removing the words ''as defined in § 245.2(b)'' and adding in their place the words ''(as defined in § 245.2)''.

■ 5. In § 245.5:

■ a. Amend the first sentence of paragraph (a) introductory text by removing the words ''school food authority'' wherever they appear and adding in their place the words ''local educational agency (as defined in § 245.2)'';

■ b. Amend paragraph (a)(1)(iii) by removing the words '' ''documentation'' as defined in ''§ 245.2(a–4);'' and adding in its place the words ''information as described in paragraph (1)(i) of the definition of *Documentation* in § 245.2'';

■ c. Amend paragraph (a)(1)(iv) by removing the reference ''§ 245.2(a–4)'' and adding in its place the words ''paragraph (2)(ii) of the definition of *Documentation* in § 245.2'';

■ d. Remove paragraph (a)(1)(vi);

■ e. Redesignate paragraphs (a)(1)(vii) through (a)(1)(xi) as (a)(1)(vi) through (a)(1)(x), respectively;

■ f. Amend newly redesignated paragraph (a)(1)(viii) by removing the words ''School Food Authority'' and adding in their place the words ''local educational agency'';

■ g. Amend newly redesignated paragraph (a)(1)(x) by removing the words ''School Food Authority'' and adding in their place the words ''local educational agency''; and

■ h. Add a new paragraph (a)(1)(xi).

The addition reads as follows:

§ 245.5 Public announcement of the eligibility criteria.

(a) * * *

(1) * * *

(xi) A statement to the effect that the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) participants may be eligible for free or reduced price meals.

* * * * *

■ 8. In § 245.6:

■ a. Revise the heading;

■ b. Revise paragraph (a);

■ c. Amend paragraph (b) introductory text:

■ 1. By removing the words ''school food authorities'' in the first sentence and adding in their place the words ''local educational agencies''; and

■ 2. By removing the reference ''§ 245.2(a–4)(2)'' in the second sentence and adding in its place the words ''paragraph (2) of the definition of *Documentation* in § 245.2'';

■ d. Revise paragraph (c);

■ e. Amend paragraphs (d) and (e) by adding headings;

■ f. Amend paragraph (d) by:

■ 1. Removing the words ''School Food Authority'' wherever they appear and adding in their place the words ''local educational agency''; and

■ 2. Removing the words ''School Food Authority's'' wherever they appear and adding in their place the words ''local educational agency's'';

■ g. Amend paragraphs (e) through (h) by removing the words ''school food authority'' wherever they appear and adding in their place the words ''local educational agency'';

■ h. Amend paragraph (f)(4) by removing the words ''school food authorities'' and adding in their place the words ''local educational agencies''; and

■ i. Amend the second sentence of paragraph (h)(1) and the sixth sentence of paragraph (h)(2) by removing references to ''paragraph (a)(1)'' and adding in their place references to ''paragraph (a)(8)(i)'';

■ j. Amend paragraph (i) by removing the words ''school food authorities'' and adding in their place the words ''local educational agencies''.

The revisions and additions read as follows:

§ 245.6 Application, eligibility and certification of children for free and reduced price meals and free milk.

(a) *General requirements—content of application and descriptive materials.* Each local educational agency, as defined in § 245.2, for schools participating in the National School Lunch Program, School Breakfast Program or Special Milk Program or a commodity only school shall provide meal benefit forms for use by families in making application for free or reduced price meals or free milk for their children.

(1) *Household applications.* The State agency or local educational agency must provide a form that permits a household to apply for all children in that household who attend schools in the same local educational agency. The local educational agency cannot require the household to submit an application for each child attending its schools. The application shall be clear and simple in design and the information requested therein shall be limited to that required to demonstrate that the household does, or does not, meet the eligibility criteria

for free or reduced price meals, respectively, or for free milk, issued by the local educational agency. In accordance with § 245.3(c), a foster child or an institutionalized child is considered a family of one.

(2) *Understandable communications.* Any communication with households for eligibility determination purposes must be in an understandable and uniform format and to the maximum extent practicable, in a language that parents and guardians can understand.

(3) *Electronic availability.* In addition to the distribution of applications and descriptive materials in paper form as provided for in this section, the local educational agency may establish a system for executing household applications electronically and using electronic signatures. The electronic submission system must comply with the disclosure requirements in this section and with technical assistance and guidance provided by FNS. Descriptive materials may also be made available electronically by the local educational agency.

(4) *Transferring eligibility status.* When a student transfers to another school district, the new local educational agency may accept the eligibility determination from the student's former local educational agency without incurring liability for the accuracy of the initial determination. As required under paragraph (c)(3) of this section, the accepting local educational agency must make changes that occur as a result of verification activities or coordinated review findings conducted in that local educational agency.

(5) *Required income information.* The information requested on the application with respect to the current income of the household must be limited to:

(i) The income received by each member identified by the household member who received the income or an indication that which household members had no income; and

(ii) The source of the income (such as earnings, wages, welfare, pensions, support payments, unemployment compensation, social security and other cash income). Other cash income includes cash amounts received or withdrawn from any source, including savings, investments, trust accounts, and other resources which are available to pay for a child's meals or milk.

(6) *Household members and social security numbers.* The application must require applicants to provide the names of all household members. In addition, the social security number of the adult household member who signs the application must be provided. If the adult member signing the application does not possess a social security number, the household must so indicate. However, if application is being made for a child(ren) who is a member of a household receiving assistance under the Food Stamp Program, or is in a FDPIR or TANF household, the application shall enable the household to provide the appropriate food stamp or TANF case number or FDPIR case number or other FDPIR identifier in lieu of names of all household members, household income information and social security number.

(7) *Adult member's signature.* The application must be signed by an adult member of the family. The application must contain clear instructions with respect to the submission of the completed application to the official or officials designated by the local educational agency to make eligibility determinations. A household must be permitted to file an application at any time during the school year. A household may, but is not required to, report any changes in income, household size or program participation during the school year.

(8) *Required statements for the application.* The application and/or descriptive materials must contain substantially the following statements:

(i) ''The Richard B. Russell National School Lunch Act requires the information on this application. You do not have to give the information, but if you do not, we cannot approve your child for free or reduced price meals. You must include the social security number of the adult household member who signs the application. The social security number is not required when you apply on behalf of a foster child or you list a Food Stamp, Temporary Assistance for Needy Families (TANF) Program or Food Distribution Program on Indian Reservations (FDPIR) case number for your child or other FDPIR identifier or when you indicate that the adult household member signing the application does not have a social security number. We will use your information to determine if your child is eligible for free or reduced price meals, and for administration and enforcement of the lunch and breakfast programs.'' When the State agency or local educational agency, as appropriate, plans to use or disclose children's eligibility information for non-program purposes, additional information, as specified in paragraph (h) of this section, must be added to the Privacy Act notice/statement. State agencies and local educational agencies are responsible for drafting the appropriate notice and ensuring that the notice complies with section 7(b) of the Privacy Act of 1974 (5 U.S.C. 552a note (Disclosure of Social Security Number)); and

(ii) ''In certain cases, foster children are eligible for free or reduced price meals or free milk regardless of your household income. If you have foster children living with you and wish to apply for such meals or milk for them, please contact us.''

(9) *Attesting to information on the application.* The application must also include a statement, immediately above the space for signature, that the person signing the application certifies that all information furnished in the application is true and correct, that the application is being made in connection with the receipt of Federal funds, that school officials may verify the information on the application, and that deliberate misrepresentation of the information may subject the applicant to prosecution under applicable State and Federal criminal statutes.

* * * * *

(c) *Determination of eligibility*—(1) *Duration of eligibility.* Except as otherwise specified in paragraph (c)(3) of this section, eligibility, as determined through an approved application or by direct certification, for free or reduced price meals must remain in effect for the entire school year and for up to 30 operating days into the subsequent school year. The local educational agency must determine household eligibility, for free or reduced price meals, either through direct certification or the application process at or about the beginning of the school year. The local educational agency must determine eligibility for free or reduced price meals when a household submits an application or, if feasible, through direct certification, at any time during the school year.

(2) *Use of prior year's eligibility status.* Prior to the processing of applications or the completion of direct certification procedures for the current school year, children from households with approved applications or documentation of direct certification on file from the preceding year shall be offered reimbursable free and reduced price meals or free milk, as appropriate. However, applications and documentation of direct certification from the preceding year shall be used only to determine eligibility for a period not to exceed the first 30 operating days following the first operating day at the beginning of the school year, or until a new eligibility determination is made in

the current school year, whichever comes first.

(3) *Exceptions for year-long duration of eligibility*—(i) *Voluntary reporting of changes.* If the household voluntarily reports a change in income or in program participation resulting in categorical eligibility, the local educational agency must inform the household of the consequences of any change that will result in lowered benefits. The household has the option to decline to have the change put into effect.

(ii) *Changes resulting from verification or administrative reviews.* The local educational agency must change the children's eligibility status when a change is required as a result of verification activities conducted under § 245.6a or as a result of a review conducted in accordance with § 210.18 of this chapter.

(iii) *Temporary approvals.* When a household reports no income or a temporary reduction in income, local educational agencies are encouraged to approve free or reduced price meal benefits on a temporary basis only. Approvals for a maximum of 45 days are recommended. At the end of the temporary approval period, the local educational agency would review the household's circumstances and certify or deny the household accordingly.

(4) *Calculating income.* The local educational agency must use the income information provided by the household on the application to calculate the household's total current income. When a household submits an application containing complete documentation, as defined in § 245.2, and the household's total current income is at or below the eligibility limits specified in the Income Eligibility Guidelines as defined in § 245.2, the children in that household must be approved for free or reduced price benefits, as applicable.

(5) *Categorical eligibility.* When a household submits an application containing the required food stamp, FDPIR or TANF documentation, as defined under *Documentation* in § 245.2, the children in that household must be approved for free benefits. Additionally, when the local educational agency obtains documentation, as defined in § 245.2, from the State or local agency responsible for the administration of the Food Stamp Program, FDPIR and/or TANF Program that children are members of a Food Stamp Program, FDPIR or TANF household receiving assistance from one or more of those programs, the local educational agency must approve such children for free benefits without an application.

(6) *Notice of approval*—(i) *Income applications.* The local educational agency must promptly notify the household of the children's eligibility and provide the eligible children the benefits to which they are entitled.

(ii) *Direct Certification.* Households approved for benefits based on information provided by the appropriate State or local agency responsible for the administration of the Food Stamp Program, FDPIR or TANF Program must be notified, in writing, that their children are eligible for free meals or free milk, that no application for free and reduced price school meals or free milk is required. The notice of eligibility must also inform the household that the parent or guardian must notify the local educational agency if they do not want their children to receive free benefits. However, when the parent or guardian transmits a notice of eligibility provided by the food stamp, FDPIR or TANF office, the local educational agency is not required to provide a separate notice of eligibility.

(iii) *Households declining benefits.* Children from households that notify the local educational agency that they do not want free benefits must have their benefits discontinued as soon as possible. Any notification from the household declining benefits must be documented and maintained on file, as required under paragraph (e) of this section, to substantiate the eligibility determination.

(7) *Denied applications and the notice of denial.* When the application furnished by a family is not complete or does not meet the eligibility criteria for free or reduced price benefits, the local educational agency must document and retain the reasons for ineligibility and must retain the denied application. In addition, the local educational agency must promptly provide written notice to each family denied benefits. As a minimum, this notice shall include:

(i) The reason for the denial of benefits, e.g. income in excess of allowable limits or incomplete application;

(ii) Notification of the right to appeal;

(iii) Instructions on how to appeal; and

(iv) A statement reminding parents that they may reapply for free or reduced price benefits at any time during the school year.

(8) *Appeals of denied benefits.* A family that wishes to appeal an application that was denied may do so in accordance with the procedures established by the local educational agency as required by § 245.7. However, prior to initiating the hearing procedure, the family may request a conference to provide the opportunity for the family and local educational agency officials to discuss the situation, present information, and obtain an explanation of the data submitted in the application or the decision rendered. The request for a conference shall not in any way prejudice or diminish the right to a fair hearing. The local educational authority shall promptly schedule a fair hearing, if requested.

(d) *Households that fail to apply.* * * *

* * * * *

(e) *Recordkeeping.* * * *

* * * * *

■ 9. In § 245.6a:

■ a. Amend paragraph (a) introductory text by:

■ 1. Removing the words ''School Food Authorities'' wherever they appear and adding in their place the words ''local educational agencies''; and

■ 2. Removing the words ''School Food Authority'' in the fifth sentence and adding in their place the words ''local educational agency'';

■ b. Amend paragraph (a)(1) by:

■ 1. Removing the words ''School Food Authority'' wherever they appear and adding in their place the words ''local educational agency''; and

■ 2. By removing the words ''the essential information specified in § 245.2(a–4)'' in the second sentence and adding in their place the words ''the information specified in the definition of *Documentation* in § 245.2'';

■ c. Amend paragraph (a)(2) introductory text by:

■ 1. Removing the words ''school food authority'' in the first sentence and adding in their place the words ''local educational agency'';

■ 2. Adding a new sentence between the first and second sentences; and

■ 3. Removing the words ''School food authorities'' in the last sentence and adding in their place the words ''Local educational agencies'';

■ d. Amend the second sentence of paragraph (a)(2)(v) by removing the words ''school food authorities'' and adding in their place the words ''local educational agencies'';

■ e. Amend the second sentence of paragraph (a)(4) by removing the words ''School Food Authority's'' and adding in their place the words ''local educational agency's'';

■ f. Amend paragraph (b)(3) by:

■ 1. Removing the words ''School Food Authority'' in the first sentence and adding in their place the words ''local educational agency''; and

■ 2. Removing the words ''school food authority'' in the second sentence and adding in their place the words ''local educational agency'';

■ g. Amend paragraph (c) by:
■ 1. Removing the words ''school food authority'' wherever they appear and adding in their place the words ''local educational agency''; and
■ 2. Removing the words ''school food authorities'' wherever they appear and adding in their place the words ''local educational agencies''; and
■ h. Amend paragraph (e) by removing the words ''School Food Authority'' wherever they appear and adding in their place the words ''local educational agency''.

The addition reads as follows:

§ 245.6a Verification requirements.

(a) * * *

(2) * * * Any communication with households concerning verification must be in an understandable and uniform format and, to the maximum extent practicable, in a language that parents and guardians can understand.

* * *

* * * * *

■ 10. In § 245.7:
■ a. Revise the heading; and
■ b. Amend paragraph (a) by removing the words ''School Food Authority'' wherever they appear and adding in their place the words ''local educational agency'';

The revision reads as follows:

§ 245.7 Hearing procedure for families and local educational agencies.

* * * * *

§ 245.8 [Amended]

■ 11. In § 245.8:
■ a. Amend the first sentence of the introductory text by adding the words ''and local educational agencies'' after the words ''School Food Authorities''; and
■ b. Amend paragraph (e) by removing the references ''§ 210.10, § 210.15a, § 220.8 or § 215.2(1)'' and adding in their place the words ''§ 210.10, § 220.8 or the definition of *Milk* in § 215.2''.
■ 12. Amend § 245.10 by:
■ a. Revising the heading;
■ b. Removing the words ''School Food Authority'' wherever they appear and adding in their place the words ''local educational agency'';
■ c. Removing the words ''school food authority'' wherever they appear and adding in their place the words ''local educational agency'';
■ d. Removing the words ''School Food Authority's'' wherever they appear and adding in their place the words ''local educational agency's''; and
■ e. Removing the words ''school food authorities'' in the third sentence of paragraph (a)(3) and adding in their place the words ''local educational agencies''.

The revision reads as follows:

§ 245.10 Action by local educational agencies.

* * * * *

§ 245.11 [Amended]

■ 13. In 245.11:
■ a. Amend the first sentence of paragraph (a)(1) by removing the words ''school food authority'' and adding in their place the words ''local educational agency as defined in § 245.2'';
■ b. Amend paragraph (c) by removing the words ''School Food Authorities'' and adding in their place the words ''local educational agencies'';
■ c. Amend paragraph (d) by removing the words ''School Food Authorities'' and adding in their place the words ''local educational agencies'';
■ d. Amend paragraph (e) removing the words ''school food authority'' and adding in their place the words ''local educational agency'';
■ e. Amend paragraph (f) by removing the words ''School Food Authorities'' wherever they appear and adding in their place the words ''local educational agencies'';
■ f. Amend paragraph (i) by removing the words ''school food authority'' wherever they appear and adding in their place the words ''local educational agency''; and
■ g. Amend the third sentence of paragraph (i) by removing the words ''school food authorities'' and adding in their place the words ''local educational agencies''.

Dated: November 2, 2007.

Roberto Salazar,

Administrator, Food and Nutrition Service.

[FR Doc. E7–22053 Filed 11–9–07; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 00–111–3]

Foot-and-Mouth Disease Status of Uruguay

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are adopting as a final rule, with one change, our July 2001 interim rule that amended the regulations governing the importation of certain animals, meat, and other animal products by removing Uruguay from the list of areas considered free of rinderpest and foot-and-mouth disease. The interim rule also removed Uruguay from the list of regions declared free of those diseases, but that are subject to certain restrictions because of their proximity to or trading relations with regions affected with rinderpest or foot-and-mouth disease. The interim rule was necessary because the existence of foot-and-mouth disease had been confirmed in 18 Departments in Uruguay. Because there have been no occurrences of rinderpest in Uruguay, this final rule adds Uruguay to the list of regions considered free of that disease.

EFFECTIVE DATE: December 13, 2007.

FOR FURTHER INFORMATION CONTACT: Dr. Gary Colgrove, Director, Sanitary Trade Issues Team, National Center for Import and Export, VS, APHIS, 4700 River Road, Unit 38, Riverdale, MD 20737–1231; (301) 734–3276.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of specified animals and animal products into the United States in order to prevent the introduction of various animal diseases including rinderpest, foot-and-mouth disease (FMD), African swine fever, classical swine fever, swine vesicular disease, and bovine spongiform encephalopathy. These are dangerous and destructive communicable diseases of ruminants and swine. Section 94.1 of the regulations lists regions of the world that are declared free of rinderpest or free of both rinderpest and FMD. Under § 94.11 of the regulations, some of those regions are subject to additional restrictions because of their proximity to or trading relationships with rinderpest and FMD-affected regions.

In an interim rule effective October 1, 2000, and published in the **Federal Register** on December 13, 2000 (65 FR 77771–77773, Docket No. 00–111–1), we amended the regulations by removing Artigas, a region in northern Uruguay, from the list of regions considered to be free of rinderpest and FMD because FMD had been confirmed there. Prior to the effective date of that interim rule, the entire country of Uruguay was listed in §§ 94.1 and 94.11 as a region considered free of rinderpest and FMD.

We solicited comments concerning the interim rule for 60 days ending February 12, 2001, and received two comments by that date.

However, on April 23, 2001, FMD was confirmed in the Uruguayan department of Soriano. Subsequently, new

outbreaks of the disease were confirmed in the departments of Artigas, Canelones, Colonia, Duranzo, Flores, Florida, Lavalleja, Maldonado, Paysandu, Rio Negro, Rivera, Rocha, Salto, San Jose, Tacuarembo, and Treinta y Tres.

In response to the spread of FMD within Uruguay, we issued an interim rule effective April 2, 2001, and published in the **Federal Register** on July 13, 2001 (66 FR 36695–36697, Docket No. 00–111–2), that amended the regulations by removing Uruguay from the list of regions considered free of rinderpest and FMD and from the list of regions that, although rinderpest and FMD-free, are subject to certain restrictions on the importation of meat and other animal products.

Comments on the interim rule of July 13, 2001, were required to be received on or before September 11, 2001. We did not receive any comments.

Although we removed Uruguay from the list of regions considered to be free of rinderpest and FMD, we recognized in that interim rule that Uruguay's Ministry of Livestock, Agriculture, and Fisheries had responded immediately to the detection of the disease by imposing restrictions on the movements of ruminants and swine from the affected areas and by initiating several measures to eradicate the disease. For this reason, we stated that we intended to reassess the situation in accordance with the standards of the World Organization for Animal Health (OIE) at a future date.

Since that time, we have undertaken a reassessment of Uruguay's disease status. While we acknowledge the many efforts Uruguay has made to control and eradicate FMD within its departments since the interim rule was published, we have received no data suggesting that our disease classification of the country is in error, or supporting the return of Uruguay to FMD-free status.

However, we note that while it was necessary to remove Uruguay from the list in § 94.1(a)(2) of regions that are declared to be free of both FMD and rinderpest, the disease situation that led to that action involved only FMD. Therefore, it is possible to include Uruguay on the list of regions declared to be free of rinderpest. Accordingly, this final rule amends § 94.1(a)(3) by adding Uruguay to the list of regions declared to be free of rinderpest.

Therefore, for the reasons given in the interim rule and in this document, we are adopting the interim rule as a final rule, with the change discussed in this document.

This final rule also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Order 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

■ Accordingly, the interim rule amending 9 CFR part 94 that was published at 66 FR 36695–36697 on July 13, 2001, is adopted as a final rule with the following change:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, CLASSICAL SWINE FEVER, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

■ 1. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, 371.4.

■ 2. In § 94.1, paragraph (a)(3) is revised to read as follows:

§ 94.1 Regions where rinderpest or foot-and-mouth disease exists; importations prohibited.

(a) * * *

(3) The following regions are declared to be free of rinderpest: Namibia, the Republic of South Africa, and Uruguay.

* * * * *

Done in Washington, DC, this 7th day of November 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–22091 Filed 11–9–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. FAA–2006–25877; Amendment No. 21–91]

RIN 2120–AI78

Production and Airworthiness Approvals, Part Marking, and Miscellaneous Proposals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is amending its requirements to allow the issuance of export airworthiness approvals for Class II and III products located at facilities outside the United States. The FAA proposed this change in a Notice of Proposed Rulemaking (NPRM) issued on October 5, 2006. That NPRM proposed comprehensive changes to 14 CFR part 21 to standardize production and airworthiness requirements for production approval holders. This final rule expedites the promulgation of a simple and uncontroversial portion of that rulemaking. The FAA intends to issue a separate final rule on other proposals in that NPRM.

DATES: This amendment becomes effective January 14, 2008.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this final rule, contact John Linsenmeyer, Production Certification Branch, AIR–220, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 493–5571; facsimile (202) 267–5580, e-mail *john.linsenmeyer@faa.gov.*

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

Under the laws of the United States, the Department of Transportation has the responsibility to develop transportation policies and programs that contribute to providing fast, safe, efficient, and convenient transportation (49 U.S.C. 101). The Federal Aviation Administration (FAA or ''we'') is an agency of the Department. The FAA has general authority to issue rules regarding aviation safety, including minimum standards for appliances and for the design, material, construction, quality of work, and performance of aircraft, aircraft engines, and propellers (49 U.S.C. 106(g) and 44701). We may also prescribe regulations in the interest of safety for registering and identifying an aircraft engine, propeller, or appliance (49 U.S.C. 44104).

The FAA may issue, among other things, type certificates, production certificates and airworthiness certificates (49 U.S.C. 44702). We issue a production certificate authorizing the production of a duplicate of an aircraft, aircraft engine, propeller, or appliance for which a type certificate has been issued when we find the duplicate will conform to the certificate. We may include in a production certificate terms required in the interest of safety. We issue an airworthiness certificate for an aircraft when we find the aircraft conforms to its type design and is in condition for safe operation. We may include in an airworthiness certificate

terms required in the interest of safety (49 U.S.C. 44704).

This document adopts a change to our regulations governing the certification procedures for products and parts. This change will make it easier for manufacturers to produce and obtain aircraft parts in the global marketplace, which should aid the efficiency and competitiveness of the industry. For these reasons, this final rule is a reasonable and necessary exercise of the FAA's rulemaking authority and obligations.

Background

On October 5, 2006, the FAA issued an NPRM to amend its certification procedures and identification requirements for aeronautical products and parts (71 FR 58914). Included in that NPRM was a proposed change to § 21.325(b)(3) to allow an export airworthiness approval to be issued for a *product or article* located outside of the U.S. if the FAA finds no undue burden in administering its regulations (Emphasis added). One aspect of the proposed change was to substitute the words ''product or article'' for ''Class II and III products.'' This change was part of a comprehensive effort to standardize terminology throughout part 21. Because the NPRM has not yet been adopted, this final rule allows for the issuance of export airworthiness approvals outside the U.S., but it retains the reference to ''Class II and III products.''

Summary of Comments

The FAA received one comment on our proposed changes to the regulations affecting export airworthiness approvals. The Aviation Suppliers Association noted that the proposal still imposes an obligation to apply to the FAA for the ''no undue burden'' analysis. In the commenter's view, such an analysis is not necessary. Designated Airworthiness Representatives (DARs) must already receive permission to operate outside his or her geographic region. If the DAR has the authority to operate and make findings outside the U.S., then the DAR should also be permitted to issue an export airworthiness approval. An ''undue burden analysis'' would be duplicative and a waste of Government resources. The commenter recommends removal of the ''undue burden analysis.''

The FAA disagrees with the commenter. Pursuant to Title 49 of the United States Code, the Administrator of the FAA may delegate to a qualified private person a matter related to the examination, testing, and inspection necessary to issue a certificate. However, these assignees work on behalf of the Administrator. Ultimately, the FAA has a statutory responsibility to inspect products and determine their airworthiness status. We use the undue burden determination to ensure, with FAA's limited resources, we can meet the requirements of Title 49; our obligations under that statute cannot by circumvented by application of a rule.

Discussion of the Final Rule

Part 21, Subpart L contains regulations for exporting aviation products. This rulemaking amends the regulations governing how export airworthiness approvals for Class II and III products are issued. Export airworthiness approvals are used to identify the airworthiness status of a particular product. Specifically, export airworthiness approvals attest that a particular product conforms to the approved design and is in a condition for safe operation. These approvals provide a certain level of assurance that a product or part that has been placed in the aviation stream of commerce poses a negligible risk to the flying public. They serve both civil aviation authorities approving the products for import and the end-user who places them into service. Although export approvals are required only when requested by the importing civil airworthiness authority, these documents have become increasingly valued in the aviation industry. Products and parts with an airworthiness approval have increased sales potential over those same parts that do not have an approval.

This rulemaking amends Subpart L to allow the issuance of export airworthiness approvals for Class II and III products, regardless of their location. Previously, the rule only permitted approvals to be issued for these products manufactured and located in the United States.

When § 21.325(b)(3) was adopted (30 FR 8465, Jul. 2, 1965), the international market for aviation products was minimal compared with today's international market. Additionally, FAA resources were limited for issuing export airworthiness approvals outside the United States. However, FAA designees are now available to issue export airworthiness approvals for production approval holders (PAHs) and other exporters. This rulemaking relieves the past restriction on issuing approvals, as well as the public's burden of petitioning for exemptions, by allowing export airworthiness approvals to be issued for any Class II or Class III product located in another country, if the FAA finds no undue burden in administering its requirements. Consequently, a PAH may direct ship its products from a supplier facility without first shipping the product to the United States to obtain an export airworthiness approval.

Certificate management and designee oversight responsibilities are examples of potential burdens on the FAA. For the PAHs, the assessment of undue burden related to issuing an export airworthiness approval would be performed during the FAA's undue burden assessment of a prospective production facility located outside the United States. Part of this assessment is a determination by the FAA that the PAH has established and implemented supplier control procedures that are acceptable to the FAA.

The FAA has granted many petitions for exemption to § 21.325(b)(3), and this rulemaking will resolve the direct-ship issue that prompted organizations to request them. Expediting this rulemaking results in a more efficient disposition of those petitions for exemption.

For the reasons stated above, this final rule adds new paragraph § 21.325(b)(4) which allows export airworthiness approvals to be issued for Class II and III products located outside of the United States if the FAA finds no undue burden in administering the applicable requirements of Title 49 U.S.C. and subchapter C of Title 14 of the Code of Federal Regulations.

Paperwork Reduction Act

Information collection requirements associated with this final rule have been approved previously by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), and have been assigned OMB Control Number 2120–0721.

An agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid Office of Management and Budget (OMB) control number.

International Compatibility

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

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

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

In conducting these analyses, FAA has determined that this final rule: (1) Has benefits that justify its costs, (2) is not an economically ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, (3) is not ''significant'' as defined in DOT's Regulatory Policies and Procedures; (4) will not have a significant economic impact on a substantial number of small entities; (5) will not create unnecessary obstacles to the foreign commerce of the United States; and (6) will not impose an unfunded mandate on state, local, or tribal governments, or on the private sector by exceeding the threshold identified above. These analyses are summarized below.

Regulatory Evaluation Summary

This portion of the preamble summarizes the FAA's analysis of the economic impact of this rule. It also includes summaries of the final regulatory flexibility analysis, international trade impact assessment, and the unfunded mandate assessment. For more information, we suggest readers go to the full regulatory evaluation, a copy of which we have placed in the docket for this rulemaking.

Total Costs and Benefits of This Rulemaking

This Regulatory Evaluation examines the impact of an FAA rule allowing for the issuance of export airworthiness approvals for Class II (major components) and Class III (parts and components) products located at facilities outside the United States. Export airworthiness approvals are required by the FAA only if required by the importing country. Consequently, there is no issue of ''market failure'', at least from the perspective of the United States.

As this rule relieves regulatory burden, there are cost-relieving benefits and no costs. The FAA estimates the annual cost savings from this rule to be $11,867,500. As the rule is a procedural change with no front-loaded costs, we use a 10-year period of analysis. Discounting this stream of annual cost savings (at 7%) for ten years yields a present value of approximately $83 million.

Who Is Potentially Affected by This Rulemaking

This rule potentially affects directly all production approval holders, including holders of Production Certificates, Technical Standard Order Authorizations, and Parts Manufacturer Approvals. The rule also potentially affects distributors, importers and exporters of airplane parts, air operators and carriers, and the flying public.

Assumptions

This evaluation makes the following assumptions:

- This rule would become effective on January 1, 2008.
- The discount rate is 7 percent (Office of Management and Budget, Circular A–94, ''Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs'', October 29, 1992, p. 8).
- The period of analysis is the 10-year period, 2008–2017.
- For purposes of discounting, cost savings are conventionally assumed to occur at the end of the year. (If assumed to occur at the beginning of the year, the discounted present value of the cost savings increases by 7%.)

Changes From the NPRM to the Final Rule

- The effective date of the rule changes from 18 months after publication in the **Federal Register** to effective on January 1, 2008.
- The period of analysis changes from 2009–2018 to 2008–2017.
- The base year changes from 2005 to 2008.

Benefits of This Rulemaking

The FAA estimates the present discounted value of the benefits of this rule to be approximately $83 million.

Costs of This Rulemaking

As this rule relieves regulatory burden, there are no costs of this rule.

Alternatives Considered

The Status Quo—The status quo represents a situation in which the FAA would continue to issue exemptions from § 21.325(b)(3) indefinitely. As that would perpetuate ''rulemaking by exemption,'' we choose not to continue with the status quo.

Final Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.'' The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

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

The Initial Regulatory Flexibility Analysis of the rules proposed in the NPRM found a significant economic impact on a substantial number of small entities. This result was reported in the NPRM and the full IRFA was placed in the docket (FAA–2006–25877), along with the Initial Regulatory Analysis, and was also published in the **Federal Register** (72 FR 6968, February 14, 2007). This final rule, however, is cost relieving and, therefore, imposes no

economic cost on small entities. Moreover, we did not receive any comments regarding the small entity impact of this part of the NPRM. Therefore as the Acting FAA Administrator, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39) prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this final rule and determined it would promote international trade by reducing the cost of export airworthiness approvals for Class II products (major components) and Class III products (parts and components).

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (adjusted annually for inflation with the base year 1995) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $128.1 million.

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

Executive Order 13132, Federalism

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

Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 308(b) and involves no extraordinary circumstances.

Regulations That Significantly Affect Energy Supply, Distribution, or Use

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

Availability of Rulemaking Documents

You can get an electronic copy of rulemaking documents using the Internet by—

1. Searching the Federal eRulemaking portal at *http://www.regulations.gov;*

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

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

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

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

Small Business Regulatory Enforcement Fairness Act

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

List of Subjects in 14 CFR Part 21

Aircraft, Certification procedures for products and parts, Export airworthiness approvals.

The Amendment

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

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

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

Authority: 42 U.S.C. 7572; 49 U.S.C. 106(g), 40105, 40113, 44701–44702, 44707, 44709, 44711, 44713, 44715, 45303.

■ 2. Amend § 21.325 by adding new paragraph (b)(4) to read as follows:

§ 21.325 Export airworthiness approvals.

* * * * *

(b)* * *

(4) Class II and III products located outside of the United States if the FAA finds no undue burden in administering the applicable requirements of Title 49 U.S.C. and this subchapter.

* * * * *

Issued in Washington, DC, on November 6, 2007.

Robert A. Sturgell,

Acting Administrator.

[FR Doc. E7–22111 Filed 11–9–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28828; Directorate Identifier 2007–NM–010–AD; Amendment 39–15258; AD 2007–23–12]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 707 Airplanes and Model 720 and 720B Series Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Boeing Model 707 airplanes and Model 720 and 720B series airplanes. This AD requires accomplishing an airplane survey to define the configuration of certain system installations, and repair of any discrepancy found. This AD also requires modifying the fuel system by installing lightning protection for the fuel quantity indication system (FQIS), ground fault relays for the fuel boost pumps, and additional power relays for the center tank fuel pumps and uncommanded on-indication lights at the flight engineer's panel. This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent certain failures of the fuel pumps or FQIS, which could result in a potential ignition source inside the fuel tank, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

DATES: This AD becomes effective December 18, 2007.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone 800–647–5527) is the Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Kathrine Rask, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6505; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to all Boeing Model 707 airplanes and Model 720 and 720B series airplanes. That NPRM was published in the **Federal Register** on August 1, 2007 (72 FR 41958). That NPRM proposed to require accomplishing an airplane survey to define the configuration of certain system installations, and repair of any discrepancy found. That NPRM proposed to also require modifying the fuel system by installing lightning protection for the fuel quantity indication system, ground fault relays for the fuel boost pumps, and additional power relays for the center tank fuel pumps and uncommanded on-indication lights at the flight engineer's panel.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the single comment received. The commenter, Boeing, supports the NPRM.

Conclusion

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

Costs of Compliance

There are about 185 airplanes of the affected design in the worldwide fleet. This AD affects about 52 airplanes of U.S. registry.

The required survey takes about 20 work hours per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the survey for U.S. operators is $83,200, or $1,600 per airplane.

Because the manufacturer has not yet developed a modification commensurate with the actions specified by this AD, we cannot provide specific information regarding the required number of work hours or the cost of parts to do the required modification. In addition, modification costs will likely vary depending on the operator and the airplane configuration. The compliance time of 72 months should provide ample time for the development, approval, and installation of an appropriate modification.

Based on similar modifications accomplished previously on other airplane models, however, we can reasonably estimate that the modification may require as many as 420 work hours per airplane, at an average labor rate of $80 per work hour. Required parts may cost up to $185,000 per airplane. Based on these figures, the estimated cost of the modification for U.S. operators may cost up to $11,367,200, or $218,600 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2007–23–12 Boeing: Amendment 39–15258. Docket No. FAA–2007–28828; Directorate Identifier 2007–NM–010–AD.

Effective Date

(a) This AD becomes effective December 18, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Boeing Model 707–100 long body, –200, –100B long body, and –100B short body series airplanes; and Model 707–300, –300B, –300C, and –400 series airplanes; and Model 720 and 720B series airplanes; certificated in any category.

Unsafe Condition

(d) This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent certain failures of the fuel pumps or fuel quantity indication system (FQIS), which could result in a potential ignition source inside the fuel tank, which, in combination with flammable fuel vapors, could result in fuel tank explosion and consequent loss of the airplane.

Compliance

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

Airplane Survey

(f) Within 12 months after the effective date of this AD: Conduct an airplane survey that defines the configuration of system installations for the wing leading edges, wing-to-body area, electrical equipment bay, flight deck, and FQIS using a method approved in accordance with the procedures specified in paragraph (h)(1) of this AD. If any discrepancy is detected, repair before further flight using a method approved in accordance with the procedures specified in paragraph (h)(1) of this AD. Submit the survey results to the Manager, Seattle Aircraft Certification Office (ACO), FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356, at the applicable time specified in paragraph (f)(1) or (f)(2) of this AD. The report must include the survey results (e.g., photographs and sketches, part numbers of FQIS components and fuel pumps, and the actual configuration of FQIS and the fuel pump control systems), a description of any discrepancy found, the airplane serial number, and the number of landings and flight hours on the airplane. Under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements contained in this AD and has assigned OMB Control Number 2120–0056.

(1) If the survey was done after the effective date of this AD: Submit the report within 30 days after the survey.

(2) If the survey was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

Note 1: For the purposes of this AD, ''discrepancy'' is defined as any wear or deterioration (e.g., damage, fluid leaks, corrosion, cracking, or system failures) that might prevent the airplane from being in an airworthy condition.

Modification of Fuel System

(g) Within 72 months after the effective date of this AD: Modify the fuel system as specified in paragraphs (g)(1), (g)(2), and (g)(3) of this AD, using a method approved in accordance with the procedures specified in paragraph (h)(1) of this AD.

(1) Replace the FQIS wire bundle along the leading edge of the left and right wings with a new wire bundle that has a lightning shield that is separated from other wiring.

(2) Replace each fuel pump relay with a ground fault interrupter relay.

(3) Install redundant power relays for the center tank fuel pumps and uncommanded on-indication lights at the flight engineer's panel.

Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, Seattle ACO has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

Material Incorporated by Reference

(i) None.

BILLING CODE 4910–13–P

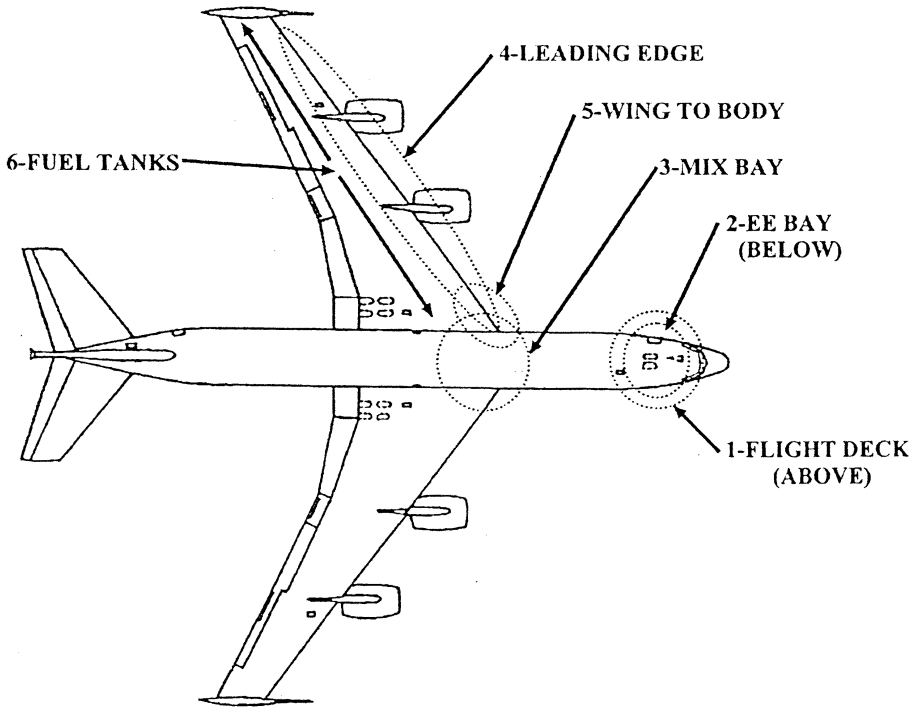
Appendix 1. 707 SFAR 88 Survey Areas

707 SFAR-88 Survey

Boeing and the FAA have identified the following changes to the 707/720 fuel systems to support SFAR-88. Boeing is in the process of developing Service Bulletins for these system changes:

- FQIS Wire Shielding and Separation
- Ground Fault Interrupt (GFI) Relay
- Pump Un-Commanded On (PUO) system
- Potential solution for FQIS Center Tank Hot Short Protection

To support the development of these Service Bulletins, Boeing requires a photographic survey of the airplane. Because these airplanes are now rare, Boeing needs operator assistance with the required SFAR-88 design changes. Boeing needs digital videos or digital photographs of the following areas of the aircraft:



707 SFAR 88 SURVEY AREAS

1) Flight Deck

New circuit breakers will be installed on the P1, P2, P3, P4 and/or P5 panels. Two new indication lights are installed in the lower P11 panel. Provide photographs of these panels.

Provide photos of the Flight Deck area above and below the Engineer's panel and on the opposite side showing the existing wire bundle routing with the ceiling and side panels removed. This will be used to route additional wire bundles separated from the existing power wires that will be routed to the EE Bay.

Verify the part number(s) of the FQIS indicators installed in the P11 panel. Verify if a remote trimmer is installed for this indicator.

Appendix 1. 707 SFAR 88 Survey Areas

2) E/E-Bay
Provide photos of any location within the E/E-Bay where there is enough space to install a J-box. A J-box is a 22 inch by 12 inch by 4.0 inch tall avionics box that contains control relays. A new J-box must be installed in order to add the Ground Fault Interrupt relays and the Pump Un-commanded ON relays. Possible locations are along the body structure and beneath the cabin floor.

3) Mix Bay
Provide photos showing the tubing and duct routing from the wing section. Provide photos of the current wire bundles in the mix bay. Boeing intends to add 18 new splices for the FQIS wire harness. Provide photos for the installation of a box which is 9 x 6 x 6 inches tall which may be required for FQIS Center Tank Hot Short Protection. Boeing requests photos from both inside the aircraft fuselage showing the wire routing and pressure vessel penetration.

4) Leading Edge
Provide photos of the Fuel Quantity Indication system connectors on the front for all fuel tanks. Provide photographs of the front spar every 3 feet from the reserve tank to the center tank. Photos should show tubing installations, existing wire harnesses, pneumatic ducts, etc. Photograph areas between the engine struts, outboard of engine 1 and 4, and between the inboard strut and side of body with a free 9 X 3 X 5 inch accessible areas. These photos will help Boeing engineering develop new FQIS wire routing that has a minimum of 2 inch separation from existing wires , or possibly to install new FQIS spar penetration connectors. Provide photos of the front spar and seal ribs with in the strut area with the access panels removed. These photos will also be used in the development of the FQIS wire shielding and separation.

5) Wing to Body (Un-pressurized wire penetrations)
Photos of the existing wire bundle penetrations through the pressure vessel and a 3 foot radius area around the existing wire bundle penetrations in the wing to body fairing (view from the front spar looking inboard).

6) Fuel Tanks
Provide photographs of the fuel quantity indication probes and the wiring for the probes. Photograph along the wiring to the spar penetration. Provide photographs of the internal tank structure and plumbing. Note that non-explosion proof equipment is generally not allowed inside fuel tanks.

NOTE: To photograph inside the fuel tanks, ensure that the Lower Explosion Limit of the fuel tank is below 10%, and tape the battery compartment on the camera closed. Tapping the battery compartment closed will ensure that the battery will not suddenly eject if the camera is dropped, which will prevent a potential spark.

General notes on taking pictures

1) Preferably, use a digital camera that has a close-up feature and a built in or external flash. A camera with 4 mega pixels or more is preferred. Photos should be in JPEG format.

2) Close up photos should also show a scale in inches or centimeters. In other words, please put a ruler in the shot. After the photos are taken, use any digital photography software to add text (in English) as necessary. Please indicate where on the aircraft the close-up photos were taken (body stations and or wing stations).

3) Digital Video is also an acceptable way to complete this survey. With video, make sure there is enough lighting, especially in the confined areas such as the fuel tanks or EE Bay. With video, please provide sweeps of the areas indicated above. For example, focus on the front spar and slowly walk outboard to inboard to provide an overview of the entire spar. Then, provide the detailed shots of each of the items indicated above. Boeing prefers the videos to be in an AVI or a WMV format.

4) Store the photos or video on CDs or DVDs media. Provide separate CDs or DVDs for each aircraft. Label the media with the aircraft tail number, registry and or serial number. Submit the media to the FAA •

Issued in Renton, Washington, on October 12, 2007.

Stephen P. Boyd,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 07–5635 Filed 11–9–07; 8:45 am]

BILLING CODE 4910–13–C

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0073; Directorate Identifier 2007–NM–229–AD; Amendment 39–15240; AD 2007–22–04]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330 Airplanes

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

ACTION: Final rule; correction.

SUMMARY: The FAA is correcting a typographical error in an existing airworthiness directive (AD) that was published in the **Federal Register** on October 24, 2007 (72 FR 60238). The error resulted in an inadvertent omission of the deadline for submitting comments. This AD applies to all Airbus Model A330 airplanes. This AD requires revising the Procedures and Emergency sections of the Airbus A330 Airplane Flight Manual.

DATES: This correction is effective November 13, 2007. The AD published at 72 FR 60238 remains effective November 8, 2007. Comments on the AD at 72 FR 60238 must be received by December 17, 2007.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone 800–647–5527) is the Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2797; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: On October 12, 2007, the FAA issued AD 2007–22–04, amendment 39–15240 (72 FR 60238, October 24, 2007), for all Airbus Model A330 airplanes. The AD requires revising the Procedures and Emergency sections of the Airbus A330 Airplane Flight Manual.

As published, that AD did not include the sentence that contains the deadline for submitting comments.

No part of the regulatory information has been changed; therefore, the final rule is not republished in the **Federal Register**.

The effective date of this AD remains November 8, 2007.

In the **Federal Register** of October 24, 2007, on page 60238, in the second column, the **DATES** section of AD 2007–22–04 is corrected to read as follows:

''**DATES:** This AD becomes effective November 8, 2007.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of November 8, 2007.

We must receive comments on this AD by December 17, 2007.''

Issued in Renton, Washington, on November 2, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–21996 Filed 11–9–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

19 CFR Part 123

[CBP Dec. 07–84]

Advance Electronic Presentation of Cargo Information for Truck Carriers Required To Be Transmitted Through ACE Truck Manifest at Ports in the State of Alaska

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

ACTION: Final rule.

SUMMARY: Pursuant to section 343(a) of the Trade Act of 2002 and implementing regulations, truck carriers and other eligible parties are required to transmit advance electronic truck cargo information to Customs and Border Protection (CBP) through a CBP-approved electronic data interchange. In a previous document, CBP designated the Automated Commercial Environment (ACE) Truck Manifest System as the approved interchange and announced that the requirement that advance electronic cargo information be transmitted through ACE would be phased in by groups of ports of entry. This document announces that at all land border ports in the state of Alaska truck carriers will be required to file electronic manifests through the ACE Truck Manifest System.

DATES: Trucks entering the United States through land border ports of entry in the state of Alaska will be required to transmit the advance information through the ACE Truck Manifest system effective February 11, 2008.

FOR FURTHER INFORMATION CONTACT: Mr. James Swanson, via e-mail at *james.d.swanson@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

Section 343(a) of the Trade Act of 2002, as amended (the Act; 19 U.S.C. 2071 note), required that CBP promulgate regulations providing for the mandatory transmission of electronic cargo information by way of a CBP-approved electronic data interchange (EDI) system before the cargo is brought into or departs the United States by any mode of commercial transportation (sea, air, rail or truck). The cargo information required is that which is reasonably necessary to enable high-risk shipments to be identified for purposes of ensuring cargo safety and security and preventing smuggling pursuant to the laws enforced and administered by CBP.

On December 5, 2003, CBP published in the **Federal Register** (68 FR 68140) a final rule to effectuate the provisions of the Act. In particular, a new section 123.92 (19 CFR 123.92) was added to the regulations to implement the inbound truck cargo provisions. Section 123.92 describes the general requirement that, in the case of any inbound truck required to report its arrival under section 123.1(b), if the truck will have commercial cargo aboard, CBP must electronically receive certain information regarding that cargo through a CBP-approved EDI system no later than 1 hour prior to the carrier's reaching the first port of arrival in the United States. For truck carriers arriving with shipments qualified for clearance under the FAST (Free and Secure Trade) program, section 123.92 provides that CBP must electronically receive such cargo information through the CBP-approved EDI system no later than 30 minutes prior to the carrier's reaching the first port of arrival in the United States.

ACE Truck Manifest Test

On September 13, 2004, CBP published a notice in the **Federal Register** (69 FR 55167) announcing a test allowing participating Truck Carrier Accounts to transmit electronic manifest data for inbound cargo through ACE, with any such transmissions automatically complying with advance cargo information requirements as provided in section 343(a) of the Trade Act of 2002. Truck Carrier Accounts participating in the test were given the ability to electronically transmit the truck manifest data and obtain release of their cargo, crew, conveyances, and equipment via the ACE Portal or electronic data interchange messaging.

A series of notices announced additional deployments of the test, with deployment sites being phased in as clusters. Clusters were announced in the following notices published in the **Federal Register**: 70 FR 30964 (May 31, 2005); 70 FR 43892 (July 29, 2005); 70 FR 60096 (October 14, 2005); 71 FR 3875 (January 24, 2006); 71 FR 23941 (April 25, 2006); 71 FR 42103 (July 25, 2006), 71 FR 77404 (December 26, 2006); 72 FR 7058 (February 14, 2007); 72 FR 14127 (March 26, 2007); 72 FR 32135 (June 11, 2007), and 72 FR 53789 (September 20, 2007). The September 20, 2007 notice was the final test notice announcing the test in certain ports of Alaska: Alcan, Dalton Cache, and Skagway. CBP has tested ACE at all of the ports for which testing was planned.

Designation of ACE Truck Manifest System as the Approved Data Interchange System

In a notice published October 27, 2006 (71 FR 62922), CBP designated the Automated Commercial Environment (ACE) Truck Manifest System as the approved EDI for the transmission of required data and announced that the requirement that advance electronic cargo information be transmitted through ACE would be phased in by groups of ports of entry.

ACE was phased in as the required transmission system at some ports even while it was still being tested at other ports. However, the use of ACE to transmit advance electronic truck cargo information was not required in any port in which CBP did not first conduct the test.

The October 27, 2006, document identified all land border ports in the states of Washington and Arizona and the ports of Pembina, Neche, Walhalla, Maida, Hannah, Sarles, and Hansboro in North Dakota as the first group of ports where use of the ACE Truck Manifest System is mandated. Subsequently, CBP announced on January 19, 2007 (72 FR 2435) that, after 90 days notice, the use of the ACE Truck Manifest System will be mandatory at all land border ports in the states of California, Texas and New Mexico. On February 23, 2007 (72 FR 8109), CBP announced that, after 90 days notice, the ACE Truck Manifest System will be mandatory at all land border ports in Michigan and New York. On April 13, 2007 (72 FR 18574), CBP announced that, after 90 days notice, the ACE Truck Manifest System will be mandatory at all land border ports in Vermont and New Hampshire, and at the land border ports in North Dakota at which ACE had not been required by any previous notice. On May 8, 2007 (72 FR 25965), CBP announced that, after 90 days notice, the ACE Truck Manifest System will be mandatory at all land border ports in the states of Idaho and Montana. On July 18, 2007 (72 FR 39312), CBP announced that, again after 90 days notice, the ACE Truck Manifest System will be mandatory at all land border ports in the states of Maine and Minnesota, as well.

ACE Mandated at Land Border Ports of Entry in Alaska

Applicable regulations (19 CFR 123.92(e)) require CBP, 90 days prior to mandating advance electronic information at a port of entry, to publish notice in the **Federal Register** informing affected carriers that the EDI system is in place and fully operational. Accordingly, CBP is announcing in this document that, effective 90 days from the date of publication of this notice, truck carriers entering the United States through land border ports of entry in the state of Alaska (Alcan, Dalton Cache and Skagway) will be required to present advance electronic cargo information regarding truck cargo through the ACE Truck Manifest System.

Although other systems that have been deemed acceptable by CBP for transmitting advance truck manifest data will continue to operate and may still be used in the normal course of business for purposes other than transmitting advance truck manifest data, use of systems other than ACE will no longer satisfy advance electronic cargo information requirements at the ports of entry announced in this document as of February 11, 2008.

Compliance Sequence

CBP has either required the use of ACE for the transmission of advance electronic truck cargo information, or provided 90 days notice that it intends to do so, at every land border port in which CBP has planned to require the use of ACE.

Dated: November 7, 2007.

Jayson P. Ahern,

Acting Commissioner, Customs and Border Protection.

[FR Doc. E7–22133 Filed 11–9–07; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9364]

RIN 1545–BG59

Information Reporting on Employer-Owned Life Insurance Contracts

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations concerning information reporting on employer-owned life insurance contracts under section 6039I of the Internal Revenue Code (Code). This temporary regulation is necessary to provide taxpayers with immediate guidance as to how the requirements of section 6039I should be applied. The temporary regulations generally apply to taxpayers that are engaged in a trade or business and that are directly or indirectly a beneficiary of a life insurance contract covering the life of an insured who is an employee of the trade or business on the date the contract is issued. The text of these temporary regulations also serves as the text of proposed regulations set forth in the notice of proposed rulemaking on this subject elsewhere in this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective on November 13, 2007.

Applicability Date: For date of applicability, see § 1.6039I–1T(b).

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Linda K. Boyd, 202–622–3970 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

The Pension Protection Act of 2006, Public Law 109–280, 120 Stat. 780 (2006), added sections 101(j) and 6039I to the Internal Revenue Code (Code) concerning employer-owned life insurance contracts.

Section 101(j)(1) provides that, in the case of an employer-owned life insurance contract, the amount of death benefits excluded from gross income

under section 101(a)(1) shall not exceed an amount equal to the sum of the premiums and other amounts paid by the policyholder for the contract. For this purpose, an employer-owned life insurance contract is a life insurance contract that (i) is owned by a person engaged in a trade or business and under which such person is directly or indirectly a beneficiary under the contract, and (ii) covers the life of an insured who is an employee with respect to the trade or business on the date the contract is issued. An applicable policyholder is generally a person who owns an employer-owned life insurance contract, or a related person as described in section 101(j)(3).

Section 101(j)(2) provides exceptions to the general rule of section 101(j)(1) in the case of certain employer-owned life insurance contracts with respect to which certain notice and consent requirements are met. Those exceptions are based either on (i) the insured's status as an employee within 12 months of death or as a highly compensated employee or highly compensated individual, or (ii) the extent to which death benefits are paid to a family member, trust, or estate of the insured employee, or are used to purchase an equity interest in the applicable policyholder from a family member, trust or estate.

Section 6039I provides that every applicable policyholder that owns one or more employer-owned life insurance contracts shall file a return, at such time and in such manner as the Secretary shall prescribe by regulations, showing for each year the contracts are owned—

(1) The number of employees of the applicable policyholder at the end of the year;

(2) The number of such employees insured under such contracts at the end of the year;

(3) The total amount of insurance in force at the end of the year under such contracts;

(4) The name, address, and taxpayer identification number of the applicable policyholder and the type of business in which the policyholder is engaged; and

(5) That the policyholder has a valid consent for each insured employee (or, if not all such consents are obtained, the number of insured employees for whom such consent was not obtained).

Section 6039I(c) provides that any term used in section 6039I that is used in section 101(j) has the same meaning given that term by section 101(j).

Sections 101(j) and 6039I apply to life insurance contracts issued after August 17, 2006, except for a contract issued after that date pursuant to a section 1035 exchange for a contract issued before that date. For this purpose, a material increase in the death benefit or other material change causes the contract to be treated as a new contract except that, in the case of a master contract within the meaning of section 264(f)(4)(E), the addition of covered lives is treated as a new contract only with respect to those additional covered lives.

These temporary regulations provide that the Commissioner may prescribe the form and manner of satisfying the reporting requirements imposed by section 6039I on applicable policyholders owning one or more employer-owned life insurance contracts issued after August 17, 2006. The regulations are effective on November 13, 2007, and apply to taxable years ending after that date.

Special Analyses

It has been determined that this temporary regulation is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to this regulation.

The Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply to this temporary regulation because the regulation does not impose a collection of information on small entities. Even though a substantial number of small businesses may be subject to the requirements of section 6039I, it is anticipated that whatever requirements the Commissioner may prescribe pursuant to this regulation will not impose a ''significant economic impact'' because the information requested will already be available to taxpayers and the burden of compliance will be minimal.

Pursuant to section 7805(f) of the Internal Revenue Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Linda K. Boyd, Office of Associate Chief Counsel (Financial Institutions & Products). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

Section 1.6039I–1T also issued under 26 U.S.C. 6039I. * * *

■ **Par. 2**. Section 1.6039I–1T is added to read as follows:

§ 1.6039I–1T Reporting of certain employer-owned life insurance contracts (temporary).

(a) *In general.* The Commissioner may prescribe the form and manner of satisfying the reporting requirements imposed by section 6039I on applicable policyholders owning one or more employer-owned life insurance contracts issued after August 17, 2006.

(b) *Effective/applicability date.* These regulations are applicable for tax years ending after November 13, 2007.

(c) *Expiration date.* The applicability of this section expires on or before November 9, 2010.

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

Approved: November 2, 2007.

Eric Solomon,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. E7–22137 Filed 11–9–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[TD 9363]

RIN 1545–BD65

Returns Required on Magnetic Media

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations relating to the requirements for filing corporate income tax returns and returns of organizations required to file returns under section 6033 on magnetic media pursuant to section 6011(e) of the Internal Revenue Code (Code). The term magnetic media includes any magnetic media permitted

under applicable regulations, revenue procedures, or publications, including electronic filing. The final regulations are necessary to update and clarify the rules and procedures for corporations and organizations that are required to file their returns electronically. The final regulations affect corporations, including electing small business corporations (S corporations), with assets of $10 million or more that file Form 1120, U.S. Corporation Income Tax Return, or Form 1120S, U.S. Income Tax Return for an S Corporation; exempt organizations with assets of $10 million or more that are required to file returns under section 6033, and private foundations or section 4947(a)(1) trusts that are required to file returns under section 6033.

DATES: *Effective Date:* These regulations are effective November 13, 2007.

Applicability Date: These regulations are applicable November 13, 2007.

FOR FURTHER INFORMATION CONTACT: Michael E. Hara, (202) 622–4910 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On January 12, 2005, the IRS published a notice of proposed rulemaking (by cross reference to temporary regulations) and a notice of public hearing, (REG–130671–04) (70 FR 2075). The proposed regulations require certain large corporations, including S corporations, to file their corporate income tax returns electronically. The proposed regulations also require certain large exempt organizations, nonexempt charitable trusts, and exempt and nonexempt private foundations to electronically file those returns required to be filed under section 6033.

A public hearing was held on March 16, 2005. After consideration of all the comments, the proposed regulations are adopted as revised by this Treasury decision. The temporary regulations under sections 6011, 6033, and 6037 are removed.

Summary of Comments and Explanation of Revisions

1. Returns Covered

The proposed regulations required electronic filing of Forms 1120 and 1120S by corporations required to file at least 250 returns during the calendar year, required to file corporate income tax returns, and that had total assets of $50 million or more as shown on Schedule L of their Form 1120 or 1120S for taxable years ending on or after December 31, 2005. The proposed regulations also required electronic filing of Forms 1120 and 1120S by corporations required to file at least 250 returns during the calendar year, required to file corporate income tax returns, and that had total assets of $10 million or more as shown on Schedule L of their Form 1120 or 1120S for taxable years ending on or after December 31, 2006. The proposed regulations also required electronic filing of Form 990, Return of Organization Exempt From Income Tax, by organizations required to file at least 250 returns during the calendar year, required to file Form 990 and that had, for a taxable year ending on or after December 31, 2005, total assets as of the end of the taxable year of $100 million or more or that, for a taxable year ending on or after December 31, 2006, had total assets as of the end of the taxable year of $10 million or more. The proposed regulations also required electronic filing of Form 990–PF, Return of Private Foundation or Section 4947(a)(1) Nonexempt Charitable Trust Treated as a Private Foundation, regardless of total assets, by organizations required to file at least 250 returns during the calendar year that were required to file Form 990–PF for taxable years ending on or after December 31, 2006.

Except as described in the preamble, the final regulations clarify that the electronic filing requirement applies to all members of the Form 1120 and Form 1120S series of returns, including amended and superseding returns, and to all members of the Form 990 series of returns, including amended and superseding returns. A member of the Form 1120 series includes, for example, the Form 1120–F, U.S. Income Tax Return of a Foreign Corporation.

The IRS currently does not have the capability to accept electronic filing of certain types of Form 1120, Form 1120S, and Form 990 series of returns, such as a Form 1120 for a taxpayer that has changed its accounting period, or a Form 990 or Form 990–PF for an organization not recognized as exempt or one that has an application for exempt status pending. These regulations thus exclude those returns from the electronic filing requirement. The IRS will announce the returns in the Form 1120, Form 1120S, and Form 990 series that are required to be filled electronically and the returns that are excluded from electronic filing under these regulations in its publications, forms and instructions, including those instructions and Frequently Asked Questions (FAQs) posted electronically to the IRS.gov Web site. The Treasury Department and the IRS intend to require electronic filing of additional corporate income tax returns, excise tax returns and returns required to be filed under section 6033 in the Form 1120, Form 1120S, and Form 990 series as the IRS increases its capability to receive these forms electronically, provided that the Treasury Department and the IRS determine that filers are able to comply with the electronic filing requirements at a reasonable cost.

2. First Year and Last Year Exclusions

The proposed regulations provided exclusions from the requirement to file electronically for certain corporations and organizations that had not had a longstanding filing obligation. Under the proposed regulations, corporations and organizations were not required to file their returns electronically if they were not required to file a Form 1120, Form 1120S, Form 990, or Form 990–PF for the preceding taxable year or had not been in existence for at least one calendar year prior to the due date (not including extensions) of their Form 1120, Form 1120S, Form 990, or Form 990–PF. These transition rules were designed to relieve taxpayer burden during the first year of implementation of the mandatory electronic filing regulations, but caused unnecessary complexity in determining whether a corporation or other organization was entitled to the first year exclusion when the corporation or organization was a part of a reorganization. The Treasury Department and the IRS have determined that these transition rules are no longer necessary and that corporations and other organizations should be able to comply at a reasonable cost with the requirement to file returns electronically.

3. 250 Return Requirement

Under the proposed regulations, the determination of whether an entity is required to file at least 250 returns is made by aggregating all returns, regardless of type, that the entity is required to file over the calendar year, including, for example, income tax returns, returns required under section 6033, information returns, excise tax returns, and employment tax returns. The final regulations clarify that in the case of a short year return, an entity is required to file electronically if, during the calendar year which includes the short taxable year of the entity, the entity is required to file at least 250 returns of any type, including, for example, income tax returns, returns required under section 6033, information returns, excise tax returns, and employment tax returns.

4. Hardship Waiver

Three commentators requested that the IRS institute procedures allowing the Service to waive the requirement to file returns electronically. One commentator recommended that the final guidance on waivers include a clear definition of what constitutes justification for a waiver, and a flexible standard on when a filer would qualify for a waiver. One commentator contended that cost to the filer should be a principal factor in obtaining a hardship waiver. On November 28, 2005, the IRS issued Notice 2005–88, 2005–2 C.B. 1060, which provides procedures for filers to request a waiver of the requirement to electronically file their returns. Notice 2005–88 provides that in determining whether to approve or deny a waiver request, the IRS will consider the filer's ability to timely file its return electronically without incurring an undue economic hardship. The Notice provides that the IRS will generally grant waivers for filing returns electronically where the filer can demonstrate the undue hardship that would result by complying with the electronic filing requirement, including any incremental costs to the filer.

Another commentator contended that technological failures beyond the control of the filer should also not result in the assertion of penalties. For this reason, the commentator recommended that waivers be granted, especially during the first year or two during which a taxpayer is required to file electronically, in the following circumstances:

1. Where the software vendor used by the filer is unable to produce the software needed to e-file any return or schedule within a reasonable time period, perhaps six months before the end of the year for which the return is to be filed.

2. Where the filer discovers significant flaws in either the developer's software program or its own self-developed software during the first three months of the year in which the return is to be filed.

3. Where the filer after significant testing determines the need to switch software vendors in order to comply with the e-filing mandate.

4. Where the filer attempts to timely file the return electronically by the statutory deadline (including extensions), but transmission errors (such as Internet traffic, misrouting of information packets, or disconnects in the transmission) prevent the filing of the return.

Although Notice 2005–88 does not refer to these specific situations, the Notice provides that the IRS will generally grant waivers for filing returns electronically where technology issues prevent the filer from filing its return electronically. The Treasury Department and the IRS believe, however, that it is the responsibility of the filer to review the capabilities and efficacy of the software they use to file their returns, to ensure that the software used will meet their specific filing requirements.

One commentator stated that there might be circumstances when an entity otherwise subject to the electronic filing requirements should be eligible for an automatic waiver as opposed to being required to file a formal waiver request. Another commentator recommended that the purchase and use of software developed by an approved vendor be sufficient evidence that a filer has made a good faith effort to comply with the regulations. The Treasury Department and the IRS believe that waiver requests should be considered on a case-by-case basis, based on each filer's particular facts and circumstances.

Additional guidance on situations in which returns are excluded from the electronic filing mandate is available in IRS Publication 4163, Modernized e-file Handbook for Authorized e-file Providers for Form 1120/1120S; IRS Publication 4206, Modernized e-File information for Authorized e-file Providers of Exempt Organization Filings; and on the *IRS.gov* Internet site.

5. Date of Filing

One commentator supported the concept and use of an electronic postmark, but requested clear and concise guidance as to when an electronically submitted return is deemed filed when such a return is rejected either because of transmission issues or IRS acceptance criteria. Notice 2005–88 provides that if the portion of a return required to be filed electronically is transmitted on or before the due date (including extensions) and is ultimately rejected, but the electronic return originator and the filer comply with the specific requirements for timely submission of the return, the return will be considered timely filed and any elections attached to the return will be considered valid. The Notice also provides that for taxable years ending on or after December 31, 2005, the IRS will allow the filer 20 calendar days from the date of first transmission to perfect the return for electronic resubmission.

6. Effective Dates.

Three commentators recommended that the IRS delay implementation of the requirement to file returns electronically. Both Treasury and the IRS believe that the vendor software is available, that the IRS' systems can accommodate the electronic filing requirement and that implementation of the electronic filing mandate can be accomplished successfully without undue burden by filers. Through October 2006, over 500,000 corporations of all sizes successfully electronically filed their Forms 1120 or 1120S for 2005, of which over 18,000 were corporations with assets exceeding $10 million. In addition, through December 2006, over 15,300 organizations of all sizes successfully electronically filed their Forms 990, 990–EZ or 990–PF for 2005. Accordingly, the recommendation to delay implementation has not been adopted.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations.

When an Agency issues a rulemaking proposal, the Regulatory Flexibility Act, 5 U.S.C. chapter 6 (RFA), requires the Agency to ''prepare and make available for public comment an initial regulatory flexibility analysis'' which will ''describe the impact of the proposed rule on small entities.'' (5 U.S.C. 603(a)). Section 605 of the RFA allows an Agency to certify a rule, in lieu of preparing an analysis, if the proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

The Treasury decision affects corporations required to file corporate income tax returns that are required to file at least 250 returns during the calendar year and have total assets of $10 million or more for taxable years ending on or after December 31, 2006. Section 601(3) of the RFA defines a small business as having the same meaning as ''small business concern'' under section 3 of the Small Business Act, 15 U.S.C. 632. The IRS estimates that of the 6,294,000 entities required to file Forms 1120 or 1120S, 22,000 entities are required to electronically file these Forms. The IRS estimates that of the 22,000 entities required to electronically file Forms 1120 or 1120S, there are 9,500 organizations that will be required to file the Forms 1120 or 1120S electronically that qualify as small businesses. The 9,500 corporation estimate is based on Large and Mid-Size Business Division's estimates of the

number of corporations that have assets between $10 million and $50 million as shown on their Schedule L of their Form 1120 or 1120S for taxable years ending on or after December 31, 2006, and that may have at least 250 employees based on the number of returns the corporation has filed, including Forms W–2. Therefore, the IRS has determined that this Treasury decision will have an impact on a substantial number of small businesses.

The Treasury decision also affects those organizations required to file Form 990 that are required to file at least 250 returns during the calendar year and have total assets of $10 million or more for taxable years ending on or after December 31, 2006. The Treasury decision also affects those organizations that are required to file Form 990–PF, Return of Private Foundation or Section 4947(a)(1) Nonexempt Charitable Trust Treated as a Private Foundation, regardless of total assets. Section 601(4) of the RFA defines a small organization as any not-for-profit enterprise that is independently owned and operated and not dominant in its field (for example, private hospitals and educational institutions). The IRS estimates that of the 263,000 entities that are required to file the Form 990, there are 6,000 organizations that will be required to file the Form 990 electronically that qualify as small organizations. The 6,000 organization estimate is based on Tax Exempt and Government Entities Division's estimates of the number of entities that have assets between $10 million and $100 million as shown on their Schedule L of their Form 990 for taxable years ending on or after December 31, 2006 and that may have at least 250 employees based on the number of returns the corporation has filed, including Forms W–2. The IRS also estimates that of the 85,000 entities that are required to file the Form 990–PF, there are 50 organizations that will be required to file the Form 990–PF electronically that qualify as small organizations. The 50 organizations estimate is based on Tax Exempt and Government Entities Division's estimates of the number of entities that may have at least 250 employees based on the number of returns the corporation has filed, including Forms W–2. Therefore, the IRS has determined that this Treasury decision will have an impact on a substantial number of small organizations.

The IRS has also determined, however, that the impact on entities affected by the proposed rule will not be significant. The IRS and Treasury Department note that these regulations only prescribe the method of filing returns that are already required to be filed. Further, these regulations are consistent with the requirements imposed by statute. The burden on small entities to purchase the software to file its returns electronically is minimal as the software is widely available. Pricing for electronic filing software varies considerably. In many instances, the price for electronic filing is bundled with other services and products. Some software providers offer volume discounts, or unlimited filing for a fixed price. Some software providers offer free electronic filing if the taxpayer purchases a suite of other products or services. And in many cases, taxpayers will use the services of a tax practitioner to prepare and electronically file their return. Accordingly, direct comparison of the cost for electronic filing is difficult. The cost for the software to file returns electronically for small entities from software providers starts from $12.50 per return for on-line electronic filing of Forms 1120, and is free for Form 990 filers with less than $100,000 in gross revenue.

Finally, the IRS has provided procedures for filers to request a waiver of the requirement to electronically file their returns. Notice 2005–88 provides that in determining whether to approve or deny a waiver request, the IRS will consider the filer's ability to timely file its return electronically without incurring an undue economic hardship.

Accordingly, the IRS hereby certifies that the collection of information contained in these regulations will not have a significant economic impact on a substantial number of small entities. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act is not required. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding these final regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses.

Drafting Information

The principal author of these final regulations is Michael E. Hara, Office of the Associate Chief Counsel (Procedure and Administration).

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 301

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

Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR parts 1 and 301 are amended as follows:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.6011–5 is added to read as follows:

§ 1.6011–5 Required use of magnetic media for corporate income tax returns.

The return of a corporation that is required to be filed on magnetic media under § 301.6011–5 of this chapter must be filed in accordance with Internal Revenue Service revenue procedures, publications, forms, or instructions, including those posted electronically. (See § 601.601(d)(2) of this chapter).

§ 1.6011–5T [Removed]

■ **Par. 3.** Section 1.6011–5T is removed.

■ **Par. 4.** Section 1.6033–4 is added to read as follows:

§ 1.6033–4 Required use of magnetic media for returns by organizations required to file returns under section 6033.

The return of an organization that is required to be filed on magnetic media under § 301.6033–4 of this chapter must be filed in accordance with Internal Revenue Service revenue procedures, publications, forms, or instructions, including those posted electronically. (See § 601.601(d)(2) of this chapter).

§ 1.6033–4T [Removed]

■ **Par. 5.** Section 1.6033–4T is removed.

■ **Par. 6.** Section 1.6037–2 is added to read as follows:

§ 1.6037–2 Required use of magnetic media for income tax returns of electing small business corporations.

The return of an electing small business corporation that is required to be filed on magnetic media under § 301.6037–2 of this chapter must be filed in accordance with Internal Revenue Service revenue procedures, publications, forms, or instructions, including those posted electronically. (See § 601.601(d)(2) of this chapter).

§ 1.6037–2T [Removed]

■ **Par. 7.** Section 1.6037–2T is removed.

PART 301—PROCEDURE AND ADMINISTRATION

■ **Par. 8.** The authority citation for part 301 is amended by removing the entries

for ''Section 301.6011–5T'', ''Section 301–6033–4T'', and ''Section 301.6037–2T'' and adding entries, in numerical order, to read as follows:

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

Section 301.6011–5 also issued under 26 U.S.C. 6011. * * *

Section 301.6033–4 also issued under 26 U.S.C. 6033. * * *

Section 301.6037–2 also issued under 26 U.S.C. 6037. * * *

■ **Par. 9.** Section 301.6011–5 is added to read as follows:

§ 301.6011–5 Required use of magnetic media for corporate income tax returns.

(a) *Corporate income tax returns required on magnetic media*—(1) A corporation required to file a corporate income tax return on Form 1120, ''U.S. Corporation Income Tax Return,'' under § 1.6012–2 of this chapter must file its corporate income tax return on magnetic media if the corporation is required by the Internal Revenue Code or regulations to file at least 250 returns during the calendar year. Returns filed on magnetic media must be made in accordance with applicable revenue procedures, publications, forms, or instructions. In prescribing revenue procedures, publications, forms, or instructions, the Commissioner may direct the type of magnetic media filing. (See § 601.601(d)(2) of this chapter.)

(2) All members of a controlled group of corporations must file their corporate income tax returns on magnetic media if the aggregate number of returns required to be filed by the controlled group of corporations is at least 250.

(b) *Waiver.* The Commissioner may grant waivers of the requirements of this section in cases of undue hardship. A request for waiver must be made in accordance with applicable revenue procedures or publications. The waiver also will be subject to the terms and conditions regarding the method of filing as may be prescribed by the Commissioner.

(c) *Failure to file.* If a corporation fails to file a corporate income tax return on magnetic media when required to do so by this section, the corporation is deemed to have failed to file the return. (See section 6651 for the addition to tax for failure to file a return). In determining whether there is reasonable cause for failure to file the return, § 301.6651–1(c) and rules similar to the rules in § 301.6724–1(c)(3) (undue economic hardship related to filing information returns on magnetic media) will apply.

(d) *Meaning of terms.* The following definitions apply for purposes of this section:

(1) *Magnetic media.* The term *magnetic media* means any magnetic media permitted under applicable regulations, revenue procedures, or publications. These generally include magnetic tape, tape cartridge, and diskette, as well as other media, such as electronic filing, specifically permitted under the applicable regulations, procedures, publications, forms, or instructions. (See § 601.601(d)(2) of this chapter).

(2) *Corporation.* The term *corporation* means a corporation as defined in section 7701(a)(3).

(3) *Controlled group of corporations.* The term *controlled group of corporations* means a group of corporations as defined in section 1563(a).

(4) *Corporate income tax return.* The term *corporate income tax return* means a Form 1120, ''U.S. Corporation Income Tax Return,'' along with all other related forms, schedules, and statements that are required to be attached to the Form 1120, and all members of the Form 1120 series of returns, including amended and superseding returns.

(5) *Determination of 250 returns.* For purposes of this section, a corporation or controlled group of corporations is required to file at least 250 returns if, during the calendar year ending with or within the taxable year of the corporation or the controlled group, the corporation or the controlled group is required to file at least 250 returns of any type, including information returns (for example, Forms W–2, Forms 1099), income tax returns, employment tax returns, and excise tax returns. In the case of a short year return, a corporation is required to file at least 250 returns if, during the calendar year which includes the short taxable year of the corporation, the corporation is required to file at least 250 returns of any type, including information returns (for example, Forms W–2, Forms 1099), income tax returns, employment tax returns, and excise tax returns. If the corporation is a member of a controlled group, the determination of the number of returns includes all returns required to be filed by all members of the controlled group during the calendar year ending with or within the taxable year of the controlled group.

(e) *Example.* The following example illustrates the provisions of paragraph (d)(5) of this section:

Example. The taxable year of Corporation X, a fiscal year taxpayer with assets in excess of $10 million, ends on September 30. During the calendar year ending December 31, 2007, X was required to file one Form 1120, ''U.S. Corporation Income Tax Return,'' 100 Forms W–2, ''Wage and Tax Statement,'' 146 Forms 1099–DIV, ''Dividends and Distributions,'' one Form 940, ''Employer's Annual Federal Unemployment (FUTA) Tax Return,'' and four Forms 941, ''Employer's Quarterly Federal Tax Return.'' Because X is required to file 252 returns during the calendar year that ended within its taxable year ending September 30, 2008, X is required to file its Form 1120 electronically for its taxable year ending September 30, 2008.

(f) *Effective/applicability dates.* This section applies to corporate income tax returns for corporations that report total assets at the end of the corporation's taxable year that equal or exceed $10 million on Schedule L of their Form 1120, for taxable years ending on or after December 31, 2006, except for the application of the short year rules in paragraph (d)(5) of this section, which is applicable for taxable years ending on or after November 13, 2007.

§ 301.6011–5T [Removed]

■ **Par. 10.** Section 301.6011–5T is removed.

■ **Par. 11.** Section 301.6033–4 is added to read as follows:

§ 301.6033–4 Required use of magnetic media for returns by organizations required to file returns under section 6033.

(a) *Returns by organizations required to file returns under section 6033 on magnetic media.* An organization required to file a return under section 6033 on Form 990, ''Return of Organization Exempt from Income Tax,'' or Form 990–PF, ''Return of Private Foundation or Section 4947(a)(1) Trust Treated as a Private Foundation,'' must file its Form 990 or 990–PF on magnetic media if the organization is required by the Internal Revenue Code or regulations to file at least 250 returns during the calendar year ending with or within its taxable year. Returns filed on magnetic media must be made in accordance with applicable revenue procedures, publications, forms, or instructions. In prescribing revenue procedures, publications, forms, or instructions, the Commissioner may direct the type of magnetic media filing. (See § 601.601(d)(2) of this chapter).

(b) *Waiver.* The Commissioner may grant waivers of the requirements of this section in cases of undue hardship. A request for waiver must be made in accordance with applicable revenue procedures or publications. The waiver also will be subject to the terms and conditions regarding the method of filing as may be prescribed by the Commissioner.

(c) *Failure to file.* If an organization required to file a return under section 6033 fails to file an information return on magnetic media when required to do so by this section, the organization is deemed to have failed to file the return.

(See section 6652 for the addition to tax for failure to file a return.) In determining whether there is reasonable cause for failure to file the return, § 301.6652–2(f) and rules similar to the rules in § 301.6724–1(c)(3) (undue economic hardship related to filing information returns on magnetic media) will apply.

(d) *Meaning of terms.* The following definitions apply for purposes of this section:

(1) *Magnetic media.* The term *magnetic media* means any magnetic media permitted under applicable regulations, revenue procedures, or publications. These generally include magnetic tape, tape cartridge, and diskette, as well as other media, such as electronic filing, specifically permitted under the applicable regulations, procedures, publications, forms or instructions. (See § 601.601(d)(2) of this chapter).

(2) *Return required under section 6033.* The term *return required under section 6033* means a Form 990, ''Return of Organization Exempt from Income Tax,'' and Form 990–PF, ''Return of Private Foundation or Section 4947(a)(1) Trust Treated as a Private Foundation,'' along with all other related forms, schedules, and statements that are required to be attached to the Form 990 or Form 990–PF, and all members of the Form 990 series of returns, including amended and superseding returns.

(3) *Determination of 250 returns.* For purposes of this section, an organization is required to file at least 250 returns if, during the calendar year ending with or within the taxable year of the organization, the organization is required to file at least 250 returns of any type, including information returns (for example, Forms W–2, Forms 1099), income tax returns, employment tax returns, and excise tax returns. In the case of a short year return, an organization is required to file at least 250 returns if, during the calendar year which includes the short taxable year of the organization, the organization is required to file at least 250 returns of any type, including information returns (for example, Forms W–2, Forms 1099), income tax returns, employment tax returns, and excise tax returns.

(e) *Example.* The following example illustrates the provisions of paragraph (d)(3) of this section. In the example, the organization is a calendar year taxpayer:

Example. In 2006, Organization T, with total assets in excess of $10 million, is required to file one Form 990, ''Return of Organization Exempt from Income Tax,'' 200 Forms W–2, ''Wage and Tax Statement,'' one Form 940, ''Employer's Annual Federal Unemployment (FUTA) Tax Return,'' four Forms 941, ''Employer's Quarterly Federal Tax Return,'' and 60 Forms 1099–MISC, ''Miscellaneous Income.'' Because T is required to file 266 returns during the calendar year, T must file its 2006 Form 990 electronically.

(f) *Effective/applicability dates.* This section applies to any organization required to file Form 990 for a taxable year ending on or after December 31, 2006, that has total assets as of the end of the taxable year of $10 million or more. This section applies to any organization required to file Form 990–PF for taxable years ending on or after December 31, 2006, except for the application of the short year rules in paragraph (d)(3) of this section, which is applicable for taxable years ending on or after November 13, 2007.

§ 301.6033–4T [Removed]

■ **Par. 12.** Section 301.6033–4T is removed.

■ **Par. 13.** Section 301.6037–2 is added to read as follows:

§ 301.6037–2 Required use of magnetic media for returns of electing small business corporation.

(a) *Returns of electing small business corporation required on magnetic media.* An electing small business corporation required to file an electing small business return on Form 1120S, ''U.S. Income Tax Return for an S Corporation,'' under § 1.6037–1 of this chapter must file its Form 1120S on magnetic media if the small business corporation is required by the Internal Revenue Code and regulations to file at least 250 returns during the calendar year ending with or within its taxable year. Returns filed on magnetic media must be made in accordance with applicable revenue procedures, publications, forms, or instructions. In prescribing revenue procedures, publications, forms, or instructions, the Commissioner may direct the type of magnetic media filing. (See § 601.601(d)(2) of this chapter).

(b) *Waiver.* The Commissioner may grant waivers of the requirements of this section in cases of undue hardship. A request for waiver must be made in accordance with applicable revenue procedures or publications. The waiver also will be subject to the terms and conditions regarding the method of filing as may be prescribed by the Commissioner.

(c) *Failure to file.* If an electing small business corporation fails to file a return on magnetic media when required to do so by this section, the corporation is deemed to have failed to file the return. (See section 6651 for the addition to tax for failure to file a return.) In determining whether there is reasonable cause for failure to file the return, § 301.6651–1(c) and rules similar to the rules in § 301.6724–1(c)(3) (undue economic hardship related to filing information returns on magnetic media) will apply.

(d) *Meaning of terms.* The following definitions apply for purposes of this section:

(1) *Magnetic media.* The term *magnetic media* means any magnetic media permitted under applicable regulations, revenue procedures, or publications. These generally include magnetic tape, tape cartridge, and diskette, as well as other media, such as electronic filing, specifically permitted under the applicable regulations, procedures, publications, forms, or instructions. (See § 601.601(d)(2) of this chapter).

(2) *Corporation.* The term *corporation* means a corporation as defined in section 7701(a)(3).

(3) *Electing small business corporation return.* The term *electing small business corporation return* means a Form 1120S, ''U.S. Income Tax Return for an S Corporation,'' along with all other related forms, schedules, and statements that are required to be attached to the Form 1120S, and all members of the Form 1120S series of returns, including amended and superseding returns.

(4) *Electing small business corporation.* The term *electing small business corporation* means an S corporation as defined in section 1361(a)(1).

(5) *Determination of 250 returns.* For purposes of this section, a corporation is required to file at least 250 returns if, during the calendar year ending with or within the taxable year of the corporation, the corporation is required to file at least 250 returns of any type, including information returns (for example, Forms W–2, Forms 1099), income tax returns, employment tax returns, and excise tax returns. In the case of a short year return, a corporation is required to file at least 250 returns if, during the calendar year which includes the short taxable year of the corporation, the corporation is required to file at least 250 returns of any type, including information returns (for example, Forms W–2, Forms 1099), income tax returns, employment tax returns, and excise tax returns.

(e) *Example.* The following example illustrates the provisions of paragraph (d)(5) of this section. In the example, the corporation is a calendar year taxpayer:

Example. In 2007, Corporation S, an electing small business corporation with

assets in excess of $10 million, is required to file one Form 1120S, ''U.S. Corporation Income Tax Return,'' 100 Forms W–2, ''Wage and Tax Statement,'' 146 Forms 1099-DIV, ''Dividends and Distributions,'' one Form 940, ''Employer's Annual Federal Unemployment (FUTA) Tax Return,'' and four Forms 941, ''Employer's Quarterly Federal Tax Return.'' Because S is required to file 252 returns during the calendar year, S is required to file its 2007 Form 1120S electronically.

(f) *Effective/applicability dates.* This section applies to returns of electing small business corporations that report total assets at the end of the corporation's taxable year that equal or exceed $10 million on Schedule L of Form 1120S for taxable years ending on or after December 31, 2006, except for the application of the short year rules in paragraph (d)(5) of this section, which is applicable for taxable years ending on or after November 13, 2007.

§ 301.6037–2T [Removed]

■ **Par. 14.** Section 301–6037–2T is removed.

Kevin M. Brown,

Deputy Commissioner for Services and Enforcement.

Approved: November 6, 2007.

Eric Solomon,

Assistant Secretary of the Treasury.

[FR Doc. E7–22147 Filed 11–9–07; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9365]

RIN 1545–BE90

Railroad Track Maintenance Credit

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final Regulations.

SUMMARY: This document contains final regulations that provide rules for claiming the railroad track maintenance credit under section 45G of the Internal Revenue Code for qualified railroad track maintenance expenditures paid or incurred by a Class II railroad or Class III railroad and other eligible taxpayers during the taxable year. These final regulations reflect changes to the law made by the American Jobs Creation Act of 2004, the Gulf Opportunity Zone Act of 2005, and the Tax Relief and Health Care Act of 2006.

DATES: *Effective Date:* These regulations are effective on November 13, 2007.

Applicability Date: For dates of applicability, see § 1.45G–1(g).

FOR FURTHER INFORMATION CONTACT: David Selig, (202) 622–3040 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507(d)) under control number 1545–2031.

The collection of information in these final regulations is in § 1.45G–1(d). This information is required to enable the IRS to verify the assignments of railroad track miles made under section 45G(b).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number.

Books or records relating to this collection of information must be retained as long as their contents might become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains amendments to 26 CFR part 1 to provide regulations under section 45G of the Internal Revenue Code (Code). Section 45G was added to the Code by section 245(a) of the American Jobs Creation Act of 2004, Public Law 108–357 (118 Stat. 1418) (AJCA), and was modified by section 403(f) of the Gulf Opportunity Zone Act of 2005, Public Law 109–135 (119 Stat. 2577), and section 423(a) of the Tax Relief and Health Care Act of 2006, Public Law 109–432 (120 Stat. 2922) (TRHCA). On September 8, 2006, the IRS and Treasury Department published in the **Federal Register** temporary and proposed regulations (REG–142270–05) under section 45G (71 FR 53009, 71 FR 53053). The IRS and Treasury Department issued a correction notice for the temporary regulations in TD 9286 on December 8, 2006 (71 FR 71039). No requests were received to testify on the proposed regulations and, accordingly, no public hearing was held. Written and electronic comments responding to the proposed regulations were received. After consideration of all the comments, the proposed regulations are adopted as amended by this Treasury decision and the corresponding temporary regulations are removed.

General Overview

Section 38 allows a credit for the taxable year for, among other things, the current year business credit. The current year business credit is the sum of the credits listed in section 38(b). Section 245(c)(1) of the AJCA amended section 38(b) to add to the list of credits the railroad track maintenance credit (RTMC) determined under section 45G(a).

Section 45G(a) provides that, for purposes of section 38, the RTMC for the taxable year is an amount equal to 50 percent of the qualified railroad track maintenance expenditures (QRTME) paid or incurred by an eligible taxpayer during the taxable year.

Section 45G(b) imposes limitations on the amount of the RTMC for any taxable year. The credit allowed under section 45G(a) may not exceed $3,500 multiplied by the sum of (1) the number of miles of railroad track owned by, or leased to, the eligible taxpayer as of the close of the taxable year, and (2) the number of miles of railroad track assigned to the eligible taxpayer by a Class II railroad or Class III railroad that owns or leases the track as of the close of the taxable year.

Section 45G(c) defines an eligible taxpayer to mean any Class II railroad or Class III railroad, and any person who transports property using the rail facilities of such a railroad, or who furnishes railroad-related property or services to such a railroad, but only with respect to miles of railroad track assigned to such person by a Class II railroad or Class III railroad.

Section 45G(d), as amended by section 423(a) of the TRHCA, defines the term QRTME to mean gross expenditures (whether or not chargeable to capital account) for maintaining railroad track (including roadbed, bridges, and related track structures) owned or leased as of January 1, 2005, by a Class II or Class III railroad (determined without regard to any consideration for such expenditures given by the Class II or Class III railroad which made the assignment of such track).

Section 45G(e) defines the terms Class II railroad and Class III railroad to have the respective meanings given those terms by the Surface Transportation Board (STB).

Under section 45G(f), section 45G applies to QRTME paid or incurred during taxable years beginning after December 31, 2004, and before January 1, 2008. The amendments to section 45G(d) made by section 423(a) of the TRHCA apply retroactively to taxable

years beginning after December 31, 2004.

Summary of Comments

Eligible Taxpayers

A commentator suggested that the final regulations clarify that a Class II or Class III railroad may not be recharacterized as an ineligible taxpayer because the railroad is a member of a controlled group of corporations under section 45G(e)(2) that includes a Class I railroad. Section 45G(c)(1) defines the term eligible taxpayer to include any Class II or Class III railroad. Section 45G(e)(1) provides that the terms Class II railroad and Class III railroad have the respective meanings given such terms by the STB. The controlled group rules do not affect the class designations made by the STB. The temporary regulations did not prescribe that the class designations made by the STB be superseded by the controlled group rules. Nevertheless, in response to the comment, the final regulations in § 1.45G–1(b)(1) state explicitly that the definitions of Class II and Class III railroads are determined without regard to the controlled group rules under section 45G(e)(2).

Effect on Reimbursements

Commentators stated that the reimbursement rule in § 1.45G–1T(c)(3)(ii) of the temporary regulations prevents eligible taxpayers from being made whole for their expenditures on railroad track infrastructure, because the credit is only for 50 percent of eligible expenditures. Under § 1.45G–1T(c)(3)(ii), QRTME is treated as not paid or incurred during the taxable year to the extent that a taxpayer is entitled to reimbursement of any expenditures that would otherwise qualify as QRTME. Section 1.45G–1T(c)(3)(ii) further provides that reimbursements may consist of amounts paid either directly or indirectly to the taxpayer. Examples of indirect reimbursements in the temporary regulations include discounted freight shipping rates, price markups of railroad-related property, debt forgiveness, and similar arrangements. Thus, § 1.45G–1T(c)(3)(ii) limits the QRTME paid or incurred to the actual out-of-pocket expenditures paid or incurred by an eligible taxpayer.

On December 20, 2006, Congress enacted the TRHCA, which changed the definition of QRTME. Although statutory changes other than technical corrections are usually made prospectively, this change to the statute was made retroactive to the original date of enactment of section 45G. The new definition provides that QRTME is not reduced by the discount amount in the case of discounted freight shipping rates, the increment in a markup of the price for track materials, or by debt forgiveness or cash payments made by the Class II or Class III railroad to the assignee as consideration for railroad track maintenance expenditures. Consideration received directly or indirectly from persons other than the Class II or Class III railroad, however, does reduce the amount of QRTME. See Joint Committee on Taxation Staff, *General Explanation of Tax Legislation Enacted in the 109th Congress*, 109th Cong., 2d Sess. 769 (January 17, 2007).

Consistent with the change to the statute, the final regulations retroactively limit the application of the reimbursement rule in § 1.45G–1(c)(3)(ii) to consideration received directly or indirectly from persons other than the Class II or Class III railroad. A taxpayer that relied on the reimbursement rule in § 1.45G–1T(c)(3)(ii) and reduced its QRTME reported on Form 8900, ''Qualified Railroad Track Maintenance Credit,'' that was filed with the taxpayer's Federal income tax return, may amend its return to apply § 1.45G–1(c)(3)(ii) to the taxable year provided the taxpayer applies all of § 1.45G–1 to the taxable year.

Basis Adjustment

Commentators suggested that the basis reduction required by section 45G(e)(3) should only be taken by the Class II or Class III railroad owning the railroad track even if an assignee claims the RTMC. Section 45G(e)(3) requires that if a credit is allowed with respect to any railroad track, the basis of such track shall be reduced by the amount of the credit so allowed. Section 1.45G–1T(e) of the temporary regulations provides rules for adjusting basis for the amount of the RTMC claimed by an eligible taxpayer. The temporary regulations provide that for purposes of the basis adjustment under section 45G(e)(3), railroad track is the asset, if any, to which the QRTME must be capitalized, whether the asset is tangible or intangible. Therefore, the only basis that is reduced under section 45G(e)(3) is basis created by capitalizing the QRTME.

Congress commonly includes a basis adjustment rule when it enacts business tax credits as an investment incentive. See, for example, sections 43(d), 44(e), 45D(h), 45F(f), 45H(d), 45L(e), and 280C. The purpose of a basis adjustment is to prevent the taxpayer who claims the credit from obtaining a double tax benefit by also including the expenditures on which the credit was claimed in the basis of the asset created by the expenditures. Section 45G(e)(3) is clear and requires that the basis be reduced on the track with respect to which the credit is allowed. Therefore, to further the intent of Congress by preventing the double tax benefit, the basis adjustment rule must require that the increase in basis of property that results from the QRTME (without regard to the basis adjustment rule) be reduced by the amount of the credit allowed with respect to such QRTME. Allowing the reduction in basis by a taxpayer other than the taxpayer claiming the credit on property other than the property whose basis is increased by the QRTME (without regard to the basis adjustment rule) is contrary to the statute. Therefore, the final regulations do not adopt the commentators' suggestion.

Commentators also suggested that the definition of railroad track under section 45G(e)(3) should be limited to rails, ties, ballast, and other track materials. As stated previously, section 45G(e)(3) requires that basis be reduced on the track with respect to which the credit is allowed. The credit is allowed with respect to QRTME expended on railroad track. The definition of railroad track for purposes of the basis adjustment must be the same as the definition used for determining QRTME. Limiting the definition of railroad track under the basis adjustment rule to rails, ties, ballast, and other track materials is inconsistent with the intent of the definition of railroad track on which expenditures may qualify as QRTME. The definition of railroad track for which expenditures may qualify as QRTME was intended by Congress to be expansive and includes bridges and other related track structures.

Commentators further suggested that the definition of railroad track under section 45G(e)(3) should not include intangibles. All or some of the QRTME paid or incurred by an eligible taxpayer during the taxable year may be required to be capitalized under section 263(a) as a tangible asset or as an intangible asset for improvements to another taxpayer's real property depending upon whether the eligible taxpayer owns (leases) the railroad track and improvements or not. (See, for example, § 1.263(a)–4(d)(8), which generally requires capitalization of amounts paid or incurred by a taxpayer to produce or improve real property owned by another.) Regardless of whether an asset created by QRTME is tangible railroad track owned by the taxpayer, leasehold improvement to railroad track, or intangible railroad track for improvements to another taxpayer's real property, capitalization

of the QRTME creates the basis in railroad track that must be reduced under section 45G(e)(3) if the RTMC is claimed on such expenditures. The rules requiring capitalization of amounts paid or incurred by a taxpayer to produce or improve real property owned by another under section 263(a) were prescribed prior to the enactment of section 45G. The provision in these final regulations that specifically references intangible assets is a reminder that, for purposes of section 45G(e)(3), it is possible that the basis that must be reduced is the basis of an intangible asset.

Coordination With Section 61

The temporary regulations, as corrected, do not contain a specific provision relating to the application of section 61, because such a provision would need to be placed in regulations under section 61. Section 1.45G–1T was never intended to provide rules for determining gross income under section 61. Section 61 and its regulations apply to certain transactions involving section 45G regardless of these regulations or the temporary regulations, and additional regulations under section 61 are not necessary. As stated in the preamble to the temporary regulations, there is no provision in section 45G that prevents the application of section 61 to certain transactions under section 45G. Taxpayers are reminded, therefore, that certain transactions under section 45G may generate gross income.

Other Changes

The final regulations contain other various changes that clarify the application of section 45G.

Effective Dates

Section 245(a) of the AJCA provides that section 45G applies to taxable years beginning after December 31, 2004 and beginning before January 1, 2008. Section 423(b) of the TRHCA provides that the amendments made by section 423(a) to section 45G(d) take effect as if included in section 245(a) of the AJCA. The final regulations provide that § 1.45G–1 is effective for taxable years ending on or after September 7, 2006 (the effective date of § 1.45G–1T). Section 1.45G–1(g)(2) provides that a taxpayer may apply § 1.45G–1 to taxable years beginning after December 31, 2004, and ending before September 7, 2006, provided that the taxpayer applies all provisions in § 1.45G–1 to the taxable year.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is David Selig, Office of the Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.45G–0 is added to read as follows:

§ 1.45G–0 Table of contents for the railroad track maintenance credit rules.

This section lists the table of contents for § 1.45G–1.

§ 1.45G–1 Railroad track maintenance credit.
(a) In general.
(b) Definitions.
(1) Class II railroad and Class III railroad.
(2) Eligible railroad track.
(3) Eligible taxpayer.
(4) Qualifying railroad structure.
(5) Qualified railroad track maintenance expenditures.
(6) Rail facilities.
(7) Railroad-related property.
(8) Railroad-related services.
(9) Railroad track.
(10) Form 8900.
(11) Examples.
(c) Determination of amount of railroad track maintenance credit for the taxable year.
(1) General amount.
(2) Limitation on the credit.
(i) Eligible taxpayer is a Class II railroad or Class III railroad.
(ii) Eligible taxpayer is not a Class II railroad or Class III railroad.
(iii) No carryover of amount that exceeds limitation.
(3) Determination of amount of QRTME paid or incurred.
(i) In general.
(ii) Effect of reimbursements received from persons other than a Class II or Class III railroad.
(4) Examples.
(d) Assignment of track miles.
(1) In general.
(2) Assignment eligibility.
(3) Effective date of assignment.
(4) Assignment information statement.
(i) In general.
(ii) Assignor.
(iii) Assignee.
(iv) Special rule for returns filed prior to November 9, 2007.
(5) Special rules.
(i) Effect of subsequent dispositions of eligible railroad track during the assignment year.
(ii) Effect of multiple assignments of eligible railroad track miles during the same taxable year.
(6) Examples.
(e) Adjustments to basis.
(1) In general.
(2) Basis adjustment made to railroad track.
(3) Examples.
(f) Controlled groups.
(1) In general.
(2) Definitions.
(i) Trade or business.
(ii) Group and controlled group.
(iii) Group credit.
(iv) Consolidated group.
(v) Credit year.
(3) Computation of the group credit.
(4) Allocation of the group credit.
(i) In general.
(ii) Stand-alone entity credit.
(5) Special rules for consolidated groups.
(i) In general.
(ii) Special rule for allocation of group credit among consolidated group members.
(6) Tax accounting periods used.
(i) In general.
(ii) Special rule when timing of QRTME is manipulated.
(7) Membership during taxable year in more than one group.
(8) Intra-group transactions.
(i) In general.
(ii) Payment for QRTME.
(g) Effective/applicability date.
(1) In general.
(2) Taxable years ending before September 7, 2006.
(3) Special rules for returns filed prior to November 9, 2007.

§ 1.45G–0T [Removed]

■ **Par. 3.** Section 1.45G–0T is removed.

■ **Par. 4.** Section 1.45G–1 is added to read as follows:

§ 1.45G–1 Railroad track maintenance credit.

(a) *In general.* For purposes of section 38, the railroad track maintenance credit (RTMC) for qualified railroad track maintenance expenditures (QRTME) paid or incurred by an eligible taxpayer during the taxable year is determined under this section. A taxpayer claiming the RTMC must do so by filing Form 8900, ''Qualified Railroad Track Maintenance Credit,'' with its timely filed (including extensions) Federal income tax return for the taxable year the RTMC is claimed. Paragraph (b) of this section provides definitions of terms. Paragraph (c) of this section provides rules for computing the RTMC, including rules regarding limitations on the amount of the credit. Paragraph (d) of this section provides rules for assigning miles of railroad track. Paragraph (e) of this section contains rules for adjusting basis for the amount of the RTMC claimed by an eligible taxpayer. Paragraph (f) of this section contains rules for computing the amount of the RTMC in the case of a controlled group, and for the allocation of the group credit among members of the controlled group.

(b) *Definitions.* For purposes of section 45G and this section, the following definitions apply:

(1) *Class II railroad and Class III railroad* have the respective meanings given to these terms by the Surface Transportation Board (STB) without regard to the controlled group rules under section 45G(e)(2).

(2) *Eligible railroad track* is railroad track (as defined in paragraph (b)(9) of this section) located within the United States that is owned or leased by a Class II railroad or Class III railroad at the close of its taxable year. For purposes of section 45G and this section, a Class II railroad or Class III railroad owns railroad track if the railroad track is subject to the allowance for depreciation under section 167 by the Class II railroad or Class III railroad.

(3) *Eligible taxpayer* is—

(i) A Class II railroad or Class III railroad during the taxable year;

(ii) Any person that transports property using the rail facilities (as defined in paragraph (b)(6) of this section) of a Class II railroad or Class III railroad during the taxable year, but only is an eligible taxpayer with respect to the miles of eligible railroad track assigned to the person for that taxable year by that Class II railroad or Class III railroad under paragraph (d) of this section; or

(iii) Any person that furnishes railroad-related property (as defined in paragraph (b)(7) of this section) or railroad-related services (as defined in paragraph (b)(8) of this section), to a Class II railroad or Class III railroad during the taxable year, but only is an eligible taxpayer with respect to the miles of eligible railroad track assigned to the person for that taxable year by that Class II railroad or Class III railroad under paragraph (d) of this section.

(4) *Qualifying railroad structure* is property located within the United States that is described in the following STB property accounts in 49 CFR Part 1201, Subpart A:

(i) Property Account 3, Grading.

(ii) Property Account 4, Other right-of-way expenditures.

(iii) Property Account 5, Tunnels and subways.

(iv) Property Account 6, Bridges, trestles, and culverts.

(v) Property Account 7, Elevated structures.

(vi) Property Account 8, Ties.

(vii) Property Account 9, Rails and other track material.

(viii) Property Account 11, Ballast.

(ix) Property Account 13, Fences, snowsheds, and signs.

(x) Property Account 27, Signals and interlockers.

(xi) Property Account 39, Public improvements; construction.

(5) *Qualified railroad track maintenance expenditures (QRTME)* are expenditures for maintaining, repairing, and improving qualifying railroad structure (as defined in paragraph (b)(4) of this section) that is owned or leased as of January 1, 2005, by a Class II railroad or Class III railroad. These expenditures may or may not be chargeable to a capital account.

(6) *Rail facilities* of a Class II railroad or Class III railroad are railroad yards, tracks, bridges, tunnels, wharves, docks, stations, and other related assets that are used in the transport of freight by a railroad and that are owned or leased by the Class II railroad or Class III railroad.

(7) *Railroad-related property* is property that is provided directly to, and is unique to, a railroad and that, in the hands of a Class II railroad or Class III railroad, is described in—

(i) The following STB property accounts in 49 CFR Part 1201, Subpart A:

(A) Property Account 3, Grading;

(B) Property Account 5, Tunnels and subways;

(C) Property Account 22, Storage warehouses; and

(ii) Asset classes 40.1 through 40.54 in the guidance issued by the Internal Revenue Service under section 168(i)(1) (for further guidance, for example, see Rev. Proc. 87–56 (1987–2 CB 674), and § 601.601(d)(2)(ii)(*b*) of this chapter), except that any office building, any passenger train car, and any miscellaneous structure if such structure is not provided directly to, and is not unique to, a railroad are excluded from the definition of railroad-related property.

(8) *Railroad-related services* are services that are provided directly to, and are unique to, a railroad and that relate to railroad shipping, loading and unloading of railroad freight, or repairs of rail facilities (as defined in paragraph (b)(6) of this section) or railroad-related property (as defined in paragraph (b)(7) of this section). Examples of railroad-related services are the transport of freight by rail; the loading and unloading of freight transported by rail; railroad bridge services; railroad track construction; providing railroad track material or equipment; locomotive leasing or rental; maintenance of railroad's right-of-way (including vegetation control); piggyback trailer ramping; rail deramping services; and freight train cars repair services. Examples of services that are not railroad-related services are general business services, such as, accounting and bookkeeping, marketing, legal services; janitorial services; office building rental; banking services (including financing of railroad-related property); and purchasing of, or services performed on, property not described in paragraph (b)(7) of this section.

(9) Except as provided in paragraph (e)(2) of this section, *railroad track* is property described in STB property accounts 8 (ties), 9 (rails and other track material), and 11 (ballast) in 49 CFR part 1201, Subpart A. *Double track* is treated as multiple lines of railroad track, rather than as a single line of railroad track. Thus, one mile of single track is one mile, but one mile of double track is two miles.

(10) *Form 8900.* If Form 8900 is revised or renumbered, any reference in this section to that form shall be treated as a reference to the revised or renumbered form.

(11) *Examples.* The application of this paragraph (b) is illustrated by the following examples. In all examples, the taxpayers use a calendar taxable year, and are not members of a controlled group.

Example 1. A is a manufacturer that in 2006, transports its products by rail using the railroad tracks owned by B, a Class II railroad that owns 500 miles of railroad track within the United States on December 31, 2006. B properly assigns for purposes of section 45G 100 miles of eligible railroad track to A in

2006. A is an eligible taxpayer for 2006 with respect to the 100 miles of eligible railroad track.

Example 2. C is a bank that loans money to several Class III railroads. In 2006, C loans money to D, a Class III railroad, who in turn uses the loan proceeds to purchase track material. Because providing loans is not a service that is unique to a railroad, C is not providing railroad-related services and, thus, C is not an eligible taxpayer, even if D assigns miles of eligible railroad track to C for purposes of section 45G.

Example 3. E leases locomotives directly to Class I, Class II, and Class III railroads. In 2006, E leases locomotives to F, a Class II railroad that owns 200 miles of railroad track within the United States on December 31, 2006. F properly assigns for purposes of section 45G 200 miles of eligible railroad track to E. Because locomotives are property that is unique to a railroad, and E leases these locomotives directly to F in 2006, E is an eligible taxpayer for 2006 with respect to the 200 miles of eligible railroad track assigned to E by F.

Example 4. The facts are the same as in Example 3, except that E leases passenger trains, not locomotives, to F. Because passenger trains are not railroad-related property for purposes of section 45G, E is not an eligible taxpayer even if F assigns miles of eligible railroad track to E for purposes of section 45G.

(c) *Determination of amount of railroad track maintenance credit for the taxable year*—(1) *General amount.* Except as provided in paragraph (c)(2) of this section, for purposes of section 38, the RTMC determined under section 45G(a) for the taxable year is equal to 50 percent of the QRTME paid or incurred (as determined under paragraph (c)(3) of this section) by an eligible taxpayer during the taxable year.

(2) *Limitation on the credit*—(i) *Eligible taxpayer is a Class II railroad or Class III railroad.* If an eligible taxpayer is a Class II railroad or Class III railroad, the RTMC determined under paragraph (c)(1) of this section for the Class II railroad or Class III railroad for any taxable year must not exceed $3,500 multiplied by the sum of—

(A) The number of miles of eligible railroad track owned or leased by the Class II railroad or Class III railroad, reduced by the number of miles of eligible railroad track assigned under paragraph (d) of this section by the Class II railroad or Class III railroad to another eligible taxpayer for that taxable year; and

(B) The number of miles of eligible railroad track owned or leased by another Class II railroad or Class III railroad that are assigned under paragraph (d) of this section to the Class II railroad or Class III railroad for the taxable year.

(ii) *Eligible taxpayer is not a Class II railroad or Class III railroad.* If an eligible taxpayer is not a Class II railroad or Class III railroad, the RTMC determined under paragraph (c)(1) of this section for the eligible taxpayer for any taxable year must not exceed $3,500 multiplied by the number of miles of eligible railroad track assigned under paragraph (d) of this section by a Class II railroad or Class III railroad to the eligible taxpayer for the taxable year.

(iii) *No carryover of amount that exceeds limitation.* Amounts that exceed the limitation under paragraph (c)(2)(i) of this section or paragraph (c)(2)(ii) of this section, may never be carried over to another taxable year.

(3) *Determination of amount of QRTME paid or incurred*—(i) *In general.* The term *paid or incurred* means, in the case of a taxpayer using an accrual method of accounting, a liability incurred (within the meaning of § 1.446–1(c)(1)(ii)). A liability may not be taken into account under section 45G and this section prior to the taxable year during which the liability is incurred. Any amount that an eligible taxpayer (assignee) pays a Class II railroad or Class III railroad (assignor) in exchange for an assignment of one or more miles of eligible railroad track under paragraph (d) of this section, is treated, for purposes of this section, as QRTME paid or incurred by the assignee, and not by the assignor, at the time and to the extent the assignor pays or incurs QRTME.

(ii) *Effect of reimbursements received from persons other than a Class II or Class III railroad.* The amount of QRTME treated as paid or incurred during the taxable year by an eligible taxpayer under paragraphs (b)(3)(ii) and (iii) of this section shall be reduced by any amount to which the eligible taxpayer is entitled to be reimbursed, directly or indirectly, from persons other than a Class II or Class III railroad.

(4) *Examples.* The application of this paragraph (c) is illustrated by the following examples. In all examples, the taxpayers use an accrual method of accounting and a calendar taxable year, and are not members of a controlled group.

Example 1. Computation of RTMC; section 45G credit limitation is not exceeded. (i) G is a Class II railroad that owns or has leased to it 1,000 miles of railroad track within the United States on December 31, 2006. H is a manufacturer that in 2006, transports its products by rail using the rail facilities of G. In 2006, for purposes of section 45G, G assigns 100 miles of eligible railroad track to H and does not make any other assignments of railroad track miles. H did not receive any other assignments of railroad track miles in 2006. During 2006, G incurred QRTME in the amount of $2.5 million and H incurred QRTME in the amount of $200,000.

(ii) For 2006, G determines the tentative amount of RTMC under paragraph (c)(1) of this section to be $1,250,000 (50% multiplied by $2,500,000 QRTME incurred by G during 2006). G further determines G's credit limitation under paragraph (c)(2)(i) of this section for 2006 to be $3,150,000 ($3,500 multiplied by 900 miles of eligible railroad track (1,000 miles owned by, or leased to, G on December 31, 2006, less 100 miles assigned by G to H in 2006)). Because G's tentative amount of RTMC does not exceed G's credit limitation amount for 2006, G may claim a RTMC for 2006 in the amount of $1,250,000.

(iii) For 2006, H determines the tentative amount of RTMC under paragraph (c)(1) of this section to be $100,000 (50% multiplied by $200,000 QRTME incurred by H during 2006). H further determines H's credit limitation under paragraph (c)(2)(ii) of this section for 2006 to be $350,000 ($3,500 multiplied by 100 miles of eligible railroad track assigned by G to H in 2006). Because H's tentative amount of RTMC does not exceed H's credit limitation amount for 2006, H may claim a RTMC in the amount of $100,000.

Example 2. Computation of RTMC; section 45G credit limitation is exceeded. (i) The facts are the same as in *Example 1,* except that G assigned for purposes of section 45G only 50 miles of railroad track to H in 2006 and, during 2006, H incurred QRTME in the amount of $400,000.

(ii) For 2006, G determines the tentative amount of RTMC under paragraph (c)(1) of this section to be $1,250,000 (50% multiplied by $2,500,000 QRTME incurred by G during 2006). G further determines G's credit limitation under paragraph (c)(2)(i) of this section for 2006 to be $3,325,000 ($3,500 multiplied by 950 miles of eligible railroad track (1,000 miles owned by, or leased to, G on December 31, 2006, less 50 miles assigned by G to H in 2006)). Because G's tentative amount of RTMC does not exceed G's credit limitation amount for 2006, G may claim a RTMC in the amount of $1,250,000.

(iii) For 2006, H determines the tentative amount of RTMC under paragraph (c)(1) of this section to be $200,000 (50% multiplied by $400,000 QRTME incurred by H during 2006). H further determines H's credit limitation under paragraph (c)(2)(ii) of this section for 2006 to be $175,000 ($3,500 multiplied by 50 miles of eligible railroad track assigned by G to H in 2006). Because H's tentative amount of RTMC exceeds H's credit limitation amount for 2006, H may claim a RTMC in the amount of $175,000 (the credit limitation amount). Under paragraph (c)(2)(iii) of this section, there is no carryover of the $25,000 (the tentative amount of $200,000 less the credit limitation amount of $175,000) that exceeds the limitation.

Example 3. Railroad track miles assigned for payment. (i) J is a Class II railroad that owns or has leased to it 1,000 miles of railroad track within the United States on December 31, 2006. K is a corporation that sells ties, ballast, and other track material to Class I, Class II, and Class III railroads. During 2006, K sold these items to J and J incurred QRTME in the amount of $1 million. Also, on December 6, 2006, J

assigned for purposes of section 45G 150 miles of eligible railroad track to K and K paid J $800,000 for that assignment. K did not pay or incur any other QRTME during 2006.

(ii) For 2006, in accordance with paragraph (c)(3)(ii) of this section, J is treated as having incurred QRTME in the amount of $200,000 ($1 million QRTME actually incurred by J less the $800,000 paid by K to J for the assignment of the railroad track miles in 2006). For 2006, J determines the tentative amount of RTMC under paragraph (c)(1) of this section to be $100,000 (50% multiplied by $200,000 QRTME treated as incurred by J during 2006). J further determines J's credit limitation amount under paragraph (c)(2)(i) of this section for 2006 to be $2,975,000 ($3,500 multiplied by 850 miles of eligible railroad track (1,000 miles owned by, or leased to, J on December 31, 2006, less 150 miles assigned by J to K in 2006)). Because J's tentative amount of RTMC does not exceed J's credit limitation amount for 2006, J may claim a RTMC in the amount of $100,000.

(iii) For 2006, K is an eligible taxpayer because, during 2006, K provided railroad-related property to J and received an assignment of eligible railroad track miles from J. Under paragraph (c)(3)(ii) of this section, K is treated as having incurred QRTME in the amount of $800,000 (the amount paid by K to J for the assignment of the railroad track miles in 2006). For 2006, K determines the tentative amount of RTMC under paragraph (c)(1) of this section to be $400,000 (50% multiplied by $800,000 QRTME treated as incurred by K during 2006). K further determines K's credit limitation amount under paragraph (c)(2)(ii) of this section for 2006 to be $525,000 ($3,500 multiplied by 150 miles of eligible railroad track assigned by J in 2006). Because K's tentative amount of RTMC does not exceed K's credit limitation amount for 2006, K may claim a RTMC in the amount of $400,000.

(iv) The results in this *Example 3* would be the same if K sold the ties, ballast, and other track material with a fair market value of $1 million to J for $200,000 in exchange for the assignment by J of 150 miles of eligible railroad track to K.

Example 4. Reimbursement of QRTME. (i) L is a Class III railroad that owns or has leased to it 500 miles of railroad track within the United States on December 31, 2006. M is a manufacturer that in 2006 transports its products by rail using the rail facilities of L. During 2006, L did not incur any QRTME. Also, in 2006, L assigned for purposes of section 45G 200 miles of eligible railroad track to M and agreed to reduce L's freight shipping rates to M by $250,000 in exchange for M upgrading these railroad track miles. Consequently, during 2006, M incurred QRTME of $500,000 to upgrade these 200 miles of railroad track and L reduced L's freight shipping rates for M by $250,000.

(ii) For 2006, M is an eligible taxpayer because, during 2006, M transported property using the rail facilities of L and received an assignment of eligible railroad track miles from L. The amount of QRTME paid or incurred by M during 2006 is $500,000 and is not reduced by the reimbursement of $250,000 by L to M because, under paragraph (c)(3)(ii) of this section, QRTME is not reduced by reimbursements from Class II or Class III railroads. For 2006, M determines the tentative amount of RTMC under paragraph (c)(1) of this section to be $250,000 (50% multiplied by $500,000 QRTME incurred by M during 2006). M further determines M's credit limitation amount under paragraph (c)(2)(ii) of this section for 2006 to be $700,000 ($3,500 multiplied by 200 miles of eligible railroad track assigned by L to M in 2006). Because M's tentative amount of RTMC does not exceed M's credit limitation amount for 2006, M may claim a RTMC in the amount of $250,000.

(d) *Assignment of track miles*—(1) *In general.* An assignment of any mile of eligible railroad track under this paragraph (d) is a designation by a Class II railroad or Class III railroad that is made solely for purposes of section 45G and this section of a specific number of miles of eligible railroad track as being assigned to another eligible taxpayer for a taxable year. A designation must be in writing and must include the name and taxpayer identification number of the assignee, and the information required under the rules of paragraph (d)(4)(iii)(B) of this section. A designation requires no transfer of legal title or other indicia of ownership of the eligible railroad track, and need not specify the location of any assigned mile of eligible railroad track. Further, an assigned mile of eligible railroad track need not correspond to any specific mile of eligible railroad track with respect to which the eligible taxpayer actually pays or incurs the QRTME.

(2) *Assignment eligibility.* Only a Class II railroad or Class III railroad may assign a mile of eligible railroad track. If a Class II railroad or Class III railroad assigns a mile of eligible railroad track to an eligible taxpayer, the assignee is not permitted to reassign any mile of eligible railroad track to another eligible taxpayer. The maximum number of miles of eligible railroad track that may be assigned by a Class II railroad or Class III railroad for any taxable year is its total miles of eligible railroad track less the miles of eligible railroad track that the Class II railroad or Class III railroad retains for itself in determining its RTMC for the taxable year.

(3) *Effective date of assignment.* If a Class II railroad or Class III railroad assigns a mile of eligible railroad track, the assignment is treated as being made by the Class II railroad or Class III railroad at the close of its taxable year in which the assignment was made. With respect to the assignee, the assignment of a mile of eligible railroad track is taken into account for the taxable year of the assignee that includes the date the assignment is treated as being made by the assignor Class II railroad or Class III railroad under this paragraph (d)(3).

(4) *Assignment information statement*—(i) *In general.* A taxpayer must file Form 8900, ''Qualified Railroad Track Maintenance Credit,'' with its timely filed (including extensions) Federal income tax return for the taxable year for which the taxpayer assigns any mile of eligible railroad track, even if the taxpayer is not itself claiming the RTMC for that taxable year.

(ii) *Assignor.* Except as provided in paragraph (d)(4)(iv) of this section, a Class II railroad or Class III railroad (assignor) that assigns one or more miles of eligible railroad track during a taxable year to one or more eligible taxpayers must attach to the assignor's Form 8900 for that taxable year an information statement providing—

(A) The name and taxpayer identification number of each assignee;

(B) The total number of miles of the assignor's eligible railroad track;

(C) The number of miles of eligible railroad track assigned by the assignor to each assignee for the taxable year; and

(D) The total number of miles of eligible railroad track assigned by the assignor to all assignees for the taxable year.

(iii) *Assignee.* Except as provided in paragraph (d)(4)(iv) of this section, an eligible taxpayer (assignee) that has received an assignment of miles of eligible railroad track during its taxable year from a Class II railroad or Class III railroad, and that claims the RTMC for that taxable year, must attach to the assignee's Form 8900 for that taxable year a statement—

(A) Providing the total number of miles of eligible railroad track assigned to the assignee for the assignee's taxable year; and

(B) Attesting that the assignee has in writing, and has retained as part of the assignee's records for purposes of § 1.6001–1(a), the following information from each assignor:

(*1*) The name and taxpayer identification number of each assignor.

(*2*) The date of each assignment made by each assignor (as determined under paragraph (d)(3) of this section) to the assignee;

(*3*) The number of miles of eligible railroad track assigned by each assignor to the assignee for the assignee's taxable year.

(iv) *Special rules for returns filed prior to November 9, 2007.* If an eligible taxpayer's Federal income tax return for a taxable year beginning after December

31, 2004, and ending before November 9, 2007, was filed before December 13, 2007, and the eligible taxpayer is not filing an amended Federal income tax return for that taxable year pursuant to paragraph (g)(2) of this section before the eligible taxpayer's next filed original Federal income tax return, and the eligible taxpayer wants to apply paragraph (g)(2) of this section but did not include with that return the information specified in paragraph (d)(4)(ii) or (iii) of this section, as applicable, the eligible taxpayer must attach a statement containing the information specified in paragraph (d)(4)(ii) or (iii) of this section, as applicable, to either—

(A) The eligible taxpayer's next filed original Federal income tax return; or

(B) The eligible taxpayer's amended Federal income tax return that is filed pursuant to paragraph (g)(2) of this section, provided that amended Federal income tax return is filed by the eligible taxpayer before its next filed original Federal income tax return.

(5) *Special rules*—(i) *Effect of subsequent dispositions of eligible railroad track during the assignment year.* If a Class II railroad or Class III railroad assigns one or more miles of eligible railroad track that it owned or leased as of the actual date of the assignment, but does not own or lease any eligible railroad track at the close of the taxable year in which the assignment is made by the Class II railroad or Class III railroad, the assignment is not valid for that taxable year for purposes of section 45G and this section.

(ii) *Effect of multiple assignments of eligible railroad track miles during the same taxable year.* If a Class II railroad or Class III railroad assigns more miles of eligible railroad track than it owned or leased as of the close of the taxable year in which the assignment is made by the Class II railroad or Class III railroad, the assignment is valid for purposes of section 45G and this section only with respect to the name of the assignee and the number of miles listed by the assignor Class II railroad or Class III railroad on the statement required under paragraph (d)(4)(ii) of this section and only to the extent of the maximum miles of eligible railroad track that may be assigned by the assignor Class II railroad or Class III railroad as determined under paragraph (d)(2) of this section. If the total number of miles on this statement exceeds the maximum miles of eligible railroad track that may be assigned by the assignor Class II railroad or Class III railroad (as determined under paragraph (d)(2) of this section), the total number of miles on the statement shall be reduced by the excess amount of miles. This reduction is allocated among each assignee listed on the statement in proportion to the total number of miles listed on the statement for that assignee.

(6) *Examples.* The application of this paragraph (d) is illustrated by the following examples. In none of the examples are the taxpayers members of a controlled group:

Example 1. Assignor and assignee have the same taxable year. (i) N, a calendar year taxpayer, is a Class II railroad that owns 500 miles of railroad track within the United States on December 31, 2006. O, a calendar year taxpayer, is not a railroad, but is a taxpayer that provides railroad-related property to N during 2006. On November 7, 2006, N assigns for purposes of section 45G 300 miles of eligible railroad track to O. O receives no other assignment of eligible railroad track in 2006. O pays or incurs QRTME in the amount of $100,000 in November 2006, and $50,000 in February 2007. N and O each file Form 8900 with their timely filed Federal income tax returns for 2006 and attach the statement required by paragraph (d)(4)(ii) and (iii), respectively, of this section reporting the assignment of the 300 miles of eligible railroad track to O.

(ii) The assignment of the 300 miles of eligible railroad track made by N to O on November 7, 2006, is treated as made on December 31, 2006 (at the close of the N's taxable year). Consequently, the assignment is taken into account by O for O's taxable year ending on December 31, 2006. For 2006, O is an eligible taxpayer because, during 2006, O provides railroad-related property to N and receives an assignment of 300 eligible railroad track miles from N. For 2006, O determines the tentative amount of RTMC under paragraph (c)(1) of this section to be $50,000 (50% multiplied by $100,000 QRTME paid or incurred by O during 2006). O further determines the credit limitation amount under paragraph (c)(2)(i) of this section for 2006 to be $1,050,000 ($3,500 multiplied by 300 miles of eligible railroad track assigned by N to O on December 31, 2006). Because O's tentative amount of RTMC does not exceed O's credit limitation amount for 2006, O may claim a RMTC for 2006 in the amount of $50,000.

Example 2. Assignor and assignee have different taxable years. (i) The facts are the same as in *Example 1,* except that O's taxable year ends on March 31.

(ii) The assignment of the 300 miles of eligible railroad track made by N to O on November 7, 2006, is treated as made on December 31, 2006. As a result, the assignment is taken into account by O for O's taxable year ending on March 31, 2007. Thus, for the taxable year ending on March 31, 2007, O determines the tentative amount of RMTC under paragraph (c)(1) of this section to be $75,000 (50% multiplied by $150,000 QRTME incurred by O during its taxable year ending March 31, 2007). Because O's tentative amount of RTMC does not exceed O's credit limitation amount for the taxable year ending March 31, 2007, O may claim a RMTC for the taxable year ending March 31, 2007, in the amount of $75,000.

Example 3. Assignment location differs from QRTME location. (i) P, a calendar-year taxpayer, is a Class III railroad that owns or has leased to it 200 miles of railroad track within the United States on December 31, 2006. P owns 50 miles of this railroad track and leases 150 miles of this railroad track from Q, a Class I railroad. On February 8, 2006, P assigns for purposes of section 45G 50 miles of eligible railroad track to R. R is not a railroad, but is a taxpayer that ships products using the 50 miles of eligible railroad track owned by P, and R paid $100,000 in 2006 to P to enable P to upgrade these 50 miles of eligible railroad track. In March 2006, P also assigns for purposes of section 45G 150 miles of eligible railroad track to S. S is not a railroad, but is a taxpayer that provides railroad-related property to P, and S paid $400,000 to P to enable P to upgrade P's 200 miles of eligible railroad track. For 2006, P pays or incurs QRTME in the amount of $500,000 to upgrade the 150 miles of eligible railroad track that it leases from Q and pays or incurs no QRTME on the 50 miles of eligible railroad track that it owns. For 2006, P receives no other assignment of eligible railroad track miles and did not retain any eligible railroad track miles for itself. Also, R and S do not pay or incur any other amounts that would qualify as QRTME during 2006. P, R, and S each file Form 8900 with their timely filed Federal income tax returns for 2006 and attach the statement required by paragraph (d)(4) (ii) or (iii) of this section, whichever applies, reporting the assignment of eligible railroad track by P to R or S in 2006.

(ii) For 2006, in accordance with paragraph (c)(3)(ii) of this section, P is treated as having incurred QRTME in the amount of $0 ($500,000 QRTME actually incurred by P less the $100,000 paid by R to P for the assignment of the 50 miles of eligible railroad track and the $400,000 paid by S to P for the assignment of the 150 miles of eligible railroad track). Further, P assigned all of its eligible railroad track miles to R and S for 2006. Accordingly, for 2006, P may not claim any RTMC.

(iii) For 2006, R is an eligible taxpayer because, during 2006, R ships property using the rail facilities of P and receives an assignment of 50 eligible railroad track miles from P. In accordance with paragraph (c)(3)(ii) of this section, R is treated as having incurred QRTME in the amount of $100,000 (the amount paid by R to P for the assignment of the eligible railroad track miles in 2006) even though no work was performed on the 50 miles of eligible railroad track that was assigned by P to R. For 2006, R determines the tentative amount of RTMC under paragraph (c)(1) of this section to be $50,000 (50% multiplied by $100,000 QRTME treated as incurred by R during 2006). R further determines the credit limitation amount under paragraph (c)(2)(ii) of this section to be $175,000 ($3,500 multiplied by 50 miles of eligible railroad track assigned by P to R in 2006). Because R's tentative amount of RTMC does not exceed R's credit limitation amount for 2006, R may claim a RTMC for 2006 in the amount of $50,000.

(iv) For 2006, S is an eligible taxpayer because, during 2006, S provides railroad-related property to P and receives an assignment of 150 eligible railroad track miles from P. In accordance with paragraph (c)(3)(ii) of this section, S is treated as having incurred QRTME in the amount of $400,000 (amount paid by S to P for the assignment of the eligible railroad track miles in 2006). For 2006, S determines the tentative amount of RTMC under paragraph (c)(1) of this section to be $200,000 (50% multiplied by $400,000 QRTME treated as incurred by S during 2006). S further determines the credit limitation amount under paragraph (c)(2)(ii) of this section to be $525,000 ($3,500 multiplied by 150 miles of eligible railroad track assigned by P to S in 2006). Because S's tentative amount of RTMC does not exceed S's credit limitation amount for 2006, S may claim a RTMC for 2006 in the amount of $200,000.

Example 4. Multiple assignments of track miles. (i) T, a calendar-year taxpayer, is a Class III railroad that owns or has leased to it 200 miles of railroad track within the United States on December 31, 2006. T owns 75 miles of this railroad track and leases 125 miles of this railroad track from U, a Class I railroad. V and W are not railroads, but are both taxpayers that provide railroad-related services to T during 2006. On January 15, 2006, T assigns for purposes of section 45G 200 miles of eligible railroad track to V. V agrees to incur, in 2006, $1.4 million of QRTME to upgrade a portion of/segment of these 200 miles of eligible railroad track. Due to unexpected financial difficulties, V only incurs $250,000 of QRTME during 2006 and on May 15, 2006, T learns that V is unable to incur the remainder of the QRTME. On June 15, 2006, T assigns for purposes of section 45G the 200 miles of railroad track to W. In 2006, W incurs $1,100,000 of QRTME to upgrade a portion of/segment of the railroad track. For 2006, T receives no other assignment of eligible railroad track miles and did not retain any eligible railroad track miles for itself. V and W do not receive any other assignments of miles of eligible railroad track miles from a Class II railroad or Class III railroad during 2006. T and W each file Form 8900 with their timely filed Federal income tax returns for 2006, and attach the statement required by paragraph (d)(4) (ii) and (iii), respectively, of this section, reporting the assignment of 200 miles of eligible railroad track to W.

(ii) Because T did not retain any miles of eligible railroad track for itself for 2006, the maximum miles of eligible railroad track that may be assigned by T for 2006 is 200 miles pursuant to paragraph (d)(2) of this section. On the statement required by paragraph (d)(4)(ii) of this section, T assigned a total of 200 miles of eligible railroad track to W. Consequently, because T did not list V as an assignee on T's statement required by paragraph (d)(4)(ii) of this section, V did not receive an assignment of eligible railroad track miles from T during 2006 and V is not an eligible taxpayer for 2006. Thus, for 2006, V may not claim any RTMC even though V incurred QRTME in the amount of $250,000.

(iii) For 2006, W is an eligible taxpayer because, during 2006, W provides railroad-related services to T and receives an assignment of 200 eligible railroad track miles from T. W determines the tentative amount of RTMC under paragraph (c)(1) of this section to be $550,000 (50% multiplied by $1,100,000 QRTME incurred by W during 2006). W further determines the credit limitation amount under paragraph (c)(2)(ii) of this section to be $700,000 ($3,500 multiplied by the 200 miles of eligible railroad track assigned by T to W in 2006). Because W's tentative amount of RTMC does not exceed W's credit limitation amount for 2006, W may claim a RTMC for 2006 in the amount of $550,000.

Example 5. Multiple assignments of track miles. (i) Same facts as in *Example 4,* except T, to its Form 8900 for 2006, attaches the statement required by paragraph (d)(4)(ii) of this section assigning 200 miles of eligible railroad track to W and 200 miles of eligible railroad track to V.

(ii) Because T did not retain any miles of eligible railroad track for itself for 2006, the maximum miles of eligible railroad track that may be assigned by T for 2006 is 200 miles pursuant to paragraph (d)(2) of this section. However, on the statement required by paragraph (d)(4)(ii) of this section, T assigned a total of 400 miles of eligible railroad track (200 miles to W and 200 miles to V). Consequently, the 400 miles of eligible railroad track on this statement must be reduced to the 200 maximum miles of eligible railroad track available for assignment for 2006. Because the statement reports 200 miles of eligible railroad track assigned to each W and V, the reduction of 200 miles (400 total miles of eligible railroad track on the statement less 200 maximum miles of eligible railroad track available for assignment) is allocated pro-rata between W and V and, therefore, 100 miles each to W and V. Thus, pursuant to paragraph (d)(5)(ii) of this section, the number of miles of eligible railroad track assigned by T to W and V for 2006 is 100 miles each.

(iii) For 2006, V is an eligible taxpayer because, during 2006, V provides railroad-related services to T and receives an assignment of 100 eligible railroad track miles from T. V determines the tentative amount of RTMC under paragraph (c)(1) of this section to be $125,000 (50% multiplied by $250,000 QRTME incurred by V during 2006). V further determines the credit limitation amount under paragraph (c)(2)(ii) of this section to be $350,000 ($3,500 multiplied by the 100 miles of eligible railroad track assigned by T to V in 2006). Because V's tentative amount of RTMC does not exceed W's credit limitation amount for 2006, V may claim a RTMC for 2006 in the amount of $125,000.

(iv) For 2006, W is an eligible taxpayer because, during 2006, W provides railroad-related services to T and receives an assignment of 100 eligible railroad track miles from T. W determines the tentative amount of RTMC under paragraph (c)(1) of this section to be $550,000 (50% multiplied by $1,100,000 QRTME incurred by W during 2006). W further determines the credit limitation amount under paragraph (c)(2)(ii) of this section to be $350,000 ($3,500 multiplied by the 100 miles of eligible railroad track assigned by T to W in 2006). Because W's tentative amount of RTMC exceeds W's credit limitation amount for 2006, W may claim a RTMC for 2006 in the amount of $350,000 (the credit limitation). There is no carryover of the amount of $200,000 (the tentative amount of $550,000 less the credit limitation amount of $350,000).

(e) *Adjustments to basis*—(1) *In general.* All or some of the QRTME paid or incurred by an eligible taxpayer during the taxable year may be required to be capitalized under section 263(a) as a tangible asset or as an intangible asset. See, for example, § 1.263(a)–4(d)(8), which requires capitalization of amounts paid or incurred by a taxpayer to produce or improve real property owned by another (except to the extent the taxpayer is selling services at fair market value to produce or improve the real property) if the real property can reasonably be expected to produce significant economic benefits for the taxpayer. The basis of the tangible asset or intangible asset includes the capitalized amount of the QRTME.

(2) *Basis adjustment made to railroad track.* An eligible taxpayer must reduce the adjusted basis of any railroad track with respect to which the eligible taxpayer claims the RTMC. For purposes of section 45G(e)(3) and this paragraph (e)(2), the adjusted basis of any railroad track with respect to which the eligible taxpayer claims the RTMC is limited to the amount of QRTME, if any, that is required to be capitalized into the qualifying railroad structure or an intangible asset. The adjusted basis of the railroad track is reduced by the amount of the RTMC allowable (as determined under paragraph (c) of this section) by the eligible taxpayer for the taxable year, but not below zero. This reduction is taken into account at the time the QRTME is paid or incurred by an eligible taxpayer and before the depreciation deduction with respect to such railroad track is determined for the taxable year for which the RTMC is allowable. If all or some of the QRTME paid or incurred by an eligible taxpayer during the taxable year is capitalized under section 263(a) to more than one asset, whether tangible or intangible (for example, railroad track and bridges), the reduction to the basis of these assets under this paragraph (e)(2) is allocated among each of the assets subject to the reduction in proportion to the unadjusted basis of each asset at the time the QRTME is paid or incurred during that taxable year.

(3) *Examples.* The application of this paragraph (e) is illustrated by the following examples. In each example, all taxpayers use a calendar taxable

year, and no taxpayers are members of a controlled group.

Example 1. (i) X is a Class II railroad that owns 500 miles of railroad track within the United States on December 31, 2006. During 2006, X incurs $1 million of QRTME for maintaining this railroad track. X uses the track maintenance allowance method for track structure expenditures (for further guidance, see Rev. Proc. 2002–65 (2002–2 CB 700) and § 601.601(d)(2)(ii)(*b*) of this chapter). Assume all of the $1 million QRTME is track structure expenditures and none of it was expended for new track structure.

(ii) For 2006, X determines the tentative amount of RTMC under paragraph (c)(1) of this section to be $500,000 (50% multiplied by $1 million QRTME incurred by X during 2006). X further determines the credit limitation amount under paragraph (c)(2)(i) of this section for 2006 to be $1,750,000 ($3,500 multiplied by 500 miles of eligible railroad track). Because X's tentative amount of RTMC does not exceed X's credit limitation amount for 2006, X may claim a RTMC for 2006 in the amount of $500,000.

(iii) Of the $1 million QRTME incurred by X during 2006, X determines under the track maintenance allowance method that $750,000 is the track maintenance allowance under section 162 and $250,000 is the capitalized amount for the track structure. In accordance with paragraph (e)(2) of this section, X reduces the capitalized amount of $250,000 by the RTMC of $500,000 claimed by X for 2006, but not below zero. Thus, the capitalized amount of $250,000 is reduced to zero. X also deducts under section 162 a track maintenance allowance of $750,000 on its 2006 Federal income tax return.

Example 2. (i) Y is a Class II railroad that owns or has leased to it 500 miles of eligible railroad track within the United States on December 31, 2006. Z is not a railroad, but is a taxpayer that, in 2006, transports its products using the rail facilities of Y. In 2006, Y assigns for purposes of section 45G 300 miles of eligible railroad track to Z. Z does not receive any other assignments of eligible railroad track miles in 2006. During 2006, Z incurs QRTME in the amount of $1 million, and Y does not incur any QRTME. Y and Z each file Form 8900 with their timely filed Federal income tax returns for 2006 and attach the statement required by paragraph (d)(4)(ii) and (iii), respectively, of this section reporting the assignment of the 300 miles of eligible railroad track to Z.

(ii) For 2006, Z determines the tentative amount of RTMC under paragraph (c)(1) of this section to be $500,000 (50% multiplied by $1 million QRTME incurred by Z during 2006). Z further determines the credit limitation amount under paragraph (c)(2)(ii) of this section for 2006 to be $1,050,000 ($3,500 multiplied by 300 miles of eligible railroad track assigned by Y to Z in 2006). Because Z's tentative amount of RTMC does not exceed Z's credit limitation amount for 2006, Z may claim a RTMC for 2006 in the amount of $500,000.

(iii) For 2006, Z also must determine the portion of the $1 million QRTME that Z incurs that is required to be capitalized under section 263(a), and the portion that is a section 162 expense. Because Z is not a Class II railroad or Class III railroad, Z cannot use the track maintenance allowance method. Assume that all of the QRTME constitutes an intangible asset under § 1.263(a)–4(d)(8) and, therefore, is required to be capitalized by Z under section 263(a) as an intangible asset. In accordance with paragraph (e)(2) of this section, Z reduces the capitalized amount of $1 million by the RTMC of $500,000 claimed by Z for 2006. Thus, the capitalized amount of $1 million for the intangible asset is reduced to $500,000. Further, pursuant to § 1.167(a)–3(b)(1)(iv), Z may treat this intangible asset with an adjusted basis of $500,000 as having a useful life of 25 years for purposes of the depreciation allowance under section 167(a).

(f) *Controlled groups*—(1) *In general.* Pursuant to section 45G(e)(2), if an eligible taxpayer is a member of a controlled group of corporations, rules similar to the rules in § 1.41–6T apply for determining the amount of the RTMC under section 45G(a) and this section. To determine the amount of RTMC (if any) allowable to a trade or business that at the end of its taxable year is a member of a controlled group, a taxpayer must—

(i) Compute the group credit in the manner described in paragraph (f)(3) of this section; and

(ii) Allocate the group credit among the members of the group in the manner described in paragraph (f)(4) of this section.

(2) *Definitions.* For purposes of section 45G(e)(2) and paragraph (f) of this section—

(i) A *trade or business* is a sole proprietorship, a partnership, a trust, an estate, or a corporation that is carrying on a trade or business (within the meaning of section 162). Any corporation that is a member of a commonly controlled group shall be deemed to be carrying on a trade or business if any other member of that group is carrying on any trade or business;

(ii) *Group* and *controlled group* means a controlled group of corporations, as defined in section 41(f)(5), or a group of trades or businesses under common control. For rules for determining whether trades or businesses are under common control, see § 1.52–1(b) through (g);

(iii) *Group credit* means the RTMC (if any) allowable to a controlled group;

(iv) *Consolidated group* has the meaning set forth in § 1.1502–1(h); and

(v) *Credit year* means the taxable year for which the member is computing the RTMC.

(3) *Computation of the group credit.* All members of a controlled group are treated as a single taxpayer for purposes of computing the RTMC. The group credit is computed by applying all of the section 45G computational rules (including the rules set forth in this section) on an aggregate basis.

(4) *Allocation of the group credit*—(i) *In general.* (A) To the extent the group credit (if any) computed under paragraph (f)(3) of this section does not exceed the sum of the stand-alone entity credits of all of the members of a controlled group, computed under paragraph (f)(4)(ii) of this section, such group credit shall be allocated among the members of the controlled group in proportion to the stand-alone entity credits of the members of the controlled group, computed under paragraph (f)(4)(ii) of this section:

$$\text{group credit that does not exceed sum of all the members' stand-along entity credits} \times \frac{\text{member's stand-alone entity credit}}{\text{Sum of all the members' stand-alone entity credits.}}$$

(B) To the extent that the group credit (if any) computed under paragraph (f)(3) of this section exceeds the sum of the stand-alone entity credits of all of the members of the controlled group, computed under paragraph (f)(4)(ii) of this section, such excess shall be allocated among the members of a controlled group in proportion to the QRTMEs of the members of the controlled group:

$$\text{(group credit less the sum of all the members' stand-alone entity credits)} \times \frac{\text{QRTMEs of members that are eligible taxpayers}}{\text{sum of QRTMEs of all members that are eligible taxpayers.}}$$

(ii) *Stand-alone entity credit.* The term *stand-alone entity credit* means the RTMC (if any) that would be allowable to a member of a controlled group if the credit were computed as if section 45G(e)(2) did not apply, except that the member must apply the rules provided in paragraphs (f)(5) (relating to consolidated groups) and (f)(8) (relating to intra-group transactions) of this section.

(5) *Special rules for consolidated groups*—(i) *In general.* For purposes of applying paragraph (f)(4) of this section, a consolidated group whose members are members of a controlled group is treated as a single member of the controlled group and a single stand-alone entity credit is computed for the consolidated group.

(ii) *Special rule for allocation of group credit among consolidated group members.* The portion of the group credit that is allocated to a consolidated group is allocated to the members of the consolidated group in accordance with the principles of paragraph (f)(4) of this section. However, for this purpose, the stand-alone entity credit of a member of a consolidated group is computed without regard to section 45G(e)(2).

(6) *Tax accounting periods used*—(i) *In general.* The credit allowable to a member of a controlled group is that member's share of the group credit computed as of the end of that member's taxable year. In computing the group credit for a group whose members have different taxable years, a member generally should treat the taxable year of another member that ends with or within the credit year of the computing member as the credit year of that other member. For example, Q, R, and S are members of a controlled group of corporations. Both Q and R are calendar year taxpayers. S files a return using a fiscal year ending June 30. For purposes of computing the group credit at the end of Q's and R's taxable year on December 31, S's fiscal year ending June 30, which ends within Q's and R's taxable year, is treated as S's credit year.

(ii) *Special rule when timing of QRTME is manipulated.* If the timing of QRTME by members using different tax accounting periods is manipulated to generate a credit in excess of the amount that would be allowable if all members of the group used the same tax accounting period, then the appropriate Internal Revenue Service official in the operating division that has examination jurisdiction of the return may require each member of the group to calculate the credit in the current taxable year and all future years as if all members of the group had the same taxable year and base period as the computing member.

(7) *Membership during taxable year in more than one group.* A trade or business may be a member of only one group for a taxable year. If, without application of this paragraph (f)(7), a business would be a member of more than one group at the end of its taxable year, the business shall be treated as a member of the group in which it was included for its preceding taxable year. If the business was not included for its preceding taxable year in any group in which it could be included as of the end of its taxable year, the business shall designate in its timely filed (including extensions) federal income tax return for the taxable year the group in which it is being included. If the business does not so designate, then the appropriate Internal Revenue Service official in the operating division that has examination jurisdiction of the return will determine the group in which the business is to be included. If the Federal income tax return for a taxable year beginning after December 31, 2004, and ending before November 9, 2007, was filed before December 13, 2007, and the business wants to apply paragraph (g)(2) of this section but did not designate its group membership in that return, the business must designate its group membership for that year either—

(i) In its next filed original Federal income tax return; or

(ii) In its amended Federal income tax return that is filed pursuant to paragraph (g)(2) of this section, provided that amended Federal income tax return is filed by the business before its next filed original Federal income tax return.

(8) *Intra-group transactions*—(i) *In general.* Because all members of a group under common control are treated as a single taxpayer for purposes of determining the RTMC, transfers between members of the group are generally disregarded.

(ii) *Payment for QRTME.* Amounts paid or incurred by the owner (or lessor) of eligible railroad track to another member of the group for QRTME shall be taken into account as QRTME by the owner (or lessor) of the eligible railroad track for purposes of section 45G only to the extent of the lesser of—

(A) The amount paid or incurred to the other member; or

(B) The amount that would have been considered paid or incurred by the other member for the QRTME, if the QRTME was not reimbursed by the owner (or lessor) of the eligible railroad track.

(g) *Effective/applicability date*—(1) *In general.* Except as provided in paragraphs (g)(2) and (g)(3) of this section, this section applies to taxable years ending on or after September 7, 2006.

(2) *Taxable years ending before September 7, 2006.* A taxpayer may apply this section to taxable years beginning after December 31, 2004, and ending before September 7, 2006, provided that the taxpayer applies all provisions in this section to the taxable year.

(3) *Special rules for returns filed prior to November 9, 2007.* If a taxpayer's Federal income tax return for a taxable year beginning after December 31, 2004, and ending before November 9, 2007, was filed before December 13, 2007, and the taxpayer is not filing an amended Federal income tax return for that taxable year pursuant to paragraph (g)(2) of this section before the taxpayer's next filed original Federal income tax return, see paragraphs (d)(4)(iv) and (f)(7) of this section for the statements that must be attached to the taxpayer's next filed original Federal income tax return.

§ 1.45G–1T [Removed]

■ **Par. 5.** Section 1.45G–1T is removed.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

■ **Par. 6.** The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

■ **Par. 7.** In § 602.101, paragraph (b) is amended by removing the entry for ''1.45G–1T'' from the table.

■ **Par. 8.** In § 602.101, paragraph (b) is amended by adding the following entry in numerical order to the table to read as follows:

§ 602.101 OMB control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.45G–1	1545–2031
* * * * *	

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

Approved: November 2, 2007.

Eric Solomon,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. E7–22142 Filed 11–9–07; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[ET Docket No. 98–153; FCC 03–33]

Ultra-Wideband Transmission Systems

AGENCY: Federal Communications Commission.

ACTION: Correcting amendment.

SUMMARY: On April 22, 2003, the Commission released a Memorandum Opinion and Order in the matter of ''Ultra-Wideband Transmission Systems.'' This document contains corrections to the final regulations that appeared in the **Federal Register** of April 22, 2003 (68 FR 19746).

DATES: Effective November 13, 2007.

FOR FURTHER INFORMATION CONTACT: John Reed, Policy and Rules Division, Office of Engineering and Technology, (202) 418–2455.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction relate to ''Ultra-Wideband Transmission Systems'' under § 15.513(e) of the rules.

Need for Correction

As published, the final regulations contain a typographical error, which requires immediate correction.

List of Subjects in 47 CFR Part 15

Communications equipment.

■ Accordingly, 47 CFR part 15 is corrected by making the following correcting amendments:

PART 15—RADIO FREQUENCY DEVICES

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

Authority: 47 U.S.C. 154, 302a, 303, 304, 307, 336, and 544a.

■ 2. Section 15.513(e) is revised to read as follows:

§ 15.513 Technical requirements for medical imaging systems.

* * * * *

(e) In addition to the radiated emission limits specified in the table in paragraph (d) of this section, UWB transmitters operating under the provisions of this section shall not exceed the following average limits when measured using a resolution bandwidth of no less than 1 kHz:

Frequency in MHz	EIRP in dBm
1164–1240	−75.3
1559–1610	−75.3

* * * * *

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–22124 Filed 11–9–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 07–4313; MB Docket No. 05–248; RM–11262, RM–11315]

Radio Broadcasting Services; Danville, Falmouth, Midway, Owingsville, Perryville, and Wilmore, KY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document grants a counterproposal filed by Educational Media Foundation requesting the reallotment of Channel 296A from Danville to Wilmore, Kentucky, and the modification of its license to reflect the change and the allotment of Channel 298A at Perryville, Kentucky, as the community's first local aural transmission service. The document denies a petition for rulemaking filed jointly by L.M. Communications of Kentucky, LLC, licensee of Station WBTF (FM), Midway, Kentucky, and Gateway Radio Works, Inc., licensee of Station WKCA (FM), Owingsville, Kentucky, proposing to substitute Channel 298C3 for Channel 300A at Midway, Kentucky and modify Station WBTF's license accordingly, to substitute Channel 295A for 299A at a new site at Owingsville, Kentucky and modify Gateway's license for Station WKCA accordingly, and to substitute Channel 300A for Channel 299A at Falmouth, Kentucky and modify the Station WIOK (FM) license accordingly. Counterproposals filed by West Portsmouth Broadcasting and RGS Communications are dismissed. *See* **SUPPLEMENTARY INFORMATION** *supra.*

DATES: Effective December 3, 2007.

ADDRESSES: Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Victoria McCauley, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MB Docket No. 05–248, adopted October 17, 2007 and released October 19, 2007. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 Twelfth Street, SW., Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractors, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com*. The Commission will send a copy of this *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).

The Media Bureau's Consolidated Data Base Systems will reflect the following FM Channel as the reserved assignment for the listed stations, respectively: Channel 296A at Wilmore, Kentucky in lieu of Danville, Kentucky, for Station WLAI–FM. Channel 296A can be allotted at Wilmore at a site 12.1 kilometers (7.5 miles) east of the community at coordinates 37–49–36 NL and 84–31–42 WL. Channel 298A can be allotted at Perryville at a site 7.5 kilometers (4.7 miles) east of the community at coordinates 37–37–54 NL and 84–52–07 WL.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ For the reasons stated 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.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Kentucky, is amended by adding Perryville, Channel 298A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E7–22118 Filed 11–9–07; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 071018614–7665–02]

RIN 0648–XD56

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

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

ACTION: Temporary rule; extension of temporary area and gear restrictions.

SUMMARY: The Assistant Administrator for Fisheries (AA), NOAA, announces the extension of temporary restrictions consistent with the requirements of the Atlantic Large Whale Take Reduction Plan's (ALWTRP) implementing regulations. These restrictions will continue to apply to lobster trap and anchored gillnet fishermen in an area totaling approximately 2,305 nm² (7,905 km²), south of Portland, Maine, for an additional 15 days. The purpose of this action is to provide immediate protection to an aggregation of Northern right whales (right whales).

DATES: The area and gear restrictions were initially effective 0001 hours October 27, 2007, through 2400 hours November 10, 2007. This notice extends the restricted period from 0001 hours November 11, 2007, through 2400 hours November 25, 2007.

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

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

SUPPLEMENTARY INFORMATION:

Electronic Access

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

Background

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

On January 9, 2002, NMFS published the final rule to implement the ALWTRP's DAM program (67 FR 1133). On August 26, 2003, NMFS amended the regulations by publishing a final rule, which specifically identified gear modifications that may be allowed in a DAM zone (68 FR 51195). The DAM program provides specific authority for NMFS to restrict temporarily on an expedited basis the use of lobster trap/pot and anchored gillnet fishing gear in areas north of 40° 00′ N. lat. to protect right whales. Under the DAM program, NMFS may: (1) require the removal of all lobster trap/pot and anchored gillnet fishing gear for a 15–day period; (2) allow lobster trap/pot and anchored gillnet fishing within a DAM zone with gear modifications determined by NMFS to sufficiently reduce the risk of entanglement; and/or (3) issue an alert to fishermen requesting the voluntary removal of all lobster trap/pot and anchored gillnet gear for a 15–day period and asking fishermen not to set any additional gear in the DAM zone during the 15–day period.

A DAM zone is triggered when NMFS receives a reliable report from a qualified individual of three or more right whales sighted within an area (75 nm² (139 km²)) such that right whale density is equal to or greater than 0.04 right whales per nm² (1.85 km²). A qualified individual is an individual ascertained by NMFS to be reasonably able, through training or experience, to identify a right whale. Such individuals include, but are not limited to, NMFS staff, U.S. Coast Guard and Navy personnel trained in whale identification, scientific research survey personnel, whale watch operators and naturalists, and mariners trained in whale species identification through disentanglement training or some other training program deemed adequate by NMFS. A reliable report would be a credible right whale sighting.

On October 16, 2007, an aerial survey reported a sighting of seven right whales in the proximity of 43° 05′ N. latitude and 69° 56′ W. longitude. This position lies south of the Portland, Maine. After conducting an investigation, NMFS ascertained that the report came from a qualified individual and determined that the report was reliable. Thus, NMFS received a reliable report from a qualified individual of the requisite right whale density to trigger the DAM provisions of the ALWTRP.

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

NMFS reviewed the options and factors noted above and on October 25, 2007, published a temporary rule in the **Federal Register** (72 FR 60583) to announce the establishment of a DAM zone with restrictions on anchored gillnet and lobster trap gear for a 15–day period. On November 5, 2007, a subsequent survey conducted over the DAM zone indicated that fourteen whales are still present in the area and the DAM zone trigger of 0.04 right whales per square nautical mile (1.85 km2) continues to be met. Therefore, in order to further protect the right whales in this DAM zone, pursuant to 50 CFR 229.32(g)(3)(v), NMFS is exercising its authority to extend the restrictions on lobster trap and anchored gillnet gear for an additional 15 day period.

The DAM zone is bound by the following coordinates:

43° 25′ N., 70° 23′ W. (NW Corner)
43° 25′ N., 69° 29′ W.
42° 45′ N., 69° 29′ W.
42° 45′ N., 69° 38′ W.
42° 34′ N., 69° 38′ W.
42° 34′ N., 70° 34′ W.
43° 19′ N., 70° 34′ W.
43° 19′ N., 70° 23′ W.
43° 25′ N., 70° 23′ W. (NW Corner)

In addition to those gear modifications currently implemented under the ALWTRP at 50 CFR 229.32, the following gear modifications are required in the DAM zone. If the requirements and exceptions for gear modification in the DAM zone, as

described below, differ from other ALWTRP requirements for any overlapping areas and times, then the more restrictive requirements will apply in the DAM zone. Special note for gillnet fisherman: A portion of this DAM zone overlaps the year-round Western Gulf of Maine Closure Area for Northeast Multispecies found at 50 CFR 648.81(e). Due to this closure, sink gillnet gear is prohibited from this portion of the DAM zone.

Lobster Trap/pot Gear

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

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;

2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;

3. Fishermen are allowed to use two buoy lines per trawl; and

4. A weak link with a maximum breaking strength of 600 lb (272.4 kg) must be placed at all buoys.

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

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;

2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;

3. Fishermen are allowed to use two buoy lines per trawl; and

4. A weak link with a maximum breaking strength of 1,500 lb (680.4 kg) must be placed at all buoys.

Anchored Gillnet Gear

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

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;

2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;

3. Fishermen are allowed to use two buoy lines per string;

4. The breaking strength of each net panel weak link must not exceed 1,100 lb (498.8 kg). The weak link requirements apply to all variations in net panel size. One weak link must be placed in the center of the floatline and one weak link must be placed in the center of each of the up and down lines at both ends of the net panel. Additionally, one weak link must be placed as close as possible to each end of the net panels on the floatline; or, one weak link must be placed between floatline tie-loops between net panels and one weak link must be placed where the floatline tie-loops attach to the bridle, buoy line, or groundline at each end of a net string;

5. A weak link with a maximum breaking strength of 1,100 lb (498.8 kg) must be placed at all buoys; and

6. All anchored gillnets, regardless of the number of net panels, must be securely anchored with the holding power of at least a 22–lb (10.0–kg) Danforth-style anchor at each end of the net string.

The restrictions will be in effect beginning at 0001 hours, November 11, through 2400 hours November 25, 2007, unless terminated sooner or extended by NMFS through another notification in the **Federal Register**.

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

Classification

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

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

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

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

Federal Register processes the document for publication.

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

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

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

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

Dated: November 6, 2007.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

[FR Doc. 07–5623 Filed 11–7–07; 11:56 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 72, No. 218
Tuesday, November 13, 2007

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0183; Directorate Identifier 2007–NM–146–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

There has been a reported case of failure of a bracket (P/N 85217732–108) of the over-centering spring assembly inside the translating door of the forward baggage compartment. * * * Failure of the bracket caused the eyebolt at the bottom of the spring assembly to become loose, resulted in damage of the support beam during normal door handle movement. Damage of the support beam, which is dormant, in combination with failure of a doorstop attached to any remaining undamaged support beam will degrade the structural integrity of the door, resulting in possible depressurization or loss of the door.

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by December 13, 2007.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Pong K. Lee, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7324; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2007–0183; Directorate Identifier 2007–NM–146–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2007–05, effective April 24, 2007 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

There has been a reported case of failure of a bracket (P/N 85217732–108) of the over-centering spring assembly inside the translating door of the forward baggage compartment. This condition can exist on other translating doors on the aircraft. Investigation concluded that an insufficient gap between the bottom eyebolt and the barrel of the spring assembly caused an increase of tension load on the bracket and resulted in subsequent failure of the bracket. Failure of the bracket caused the eyebolt at the bottom of the spring assembly to become loose, resulted in damage of the support beam during normal door handle movement. Damage of the support beam, which is dormant, in combination with failure of a doorstop attached to any remaining undamaged support beam will degrade the structural integrity of the door, resulting in possible depressurization or loss of the door.

Corrective actions include a one-time inspection for damage of the spring support bracket and support beam of the forward baggage door, aft service door, and aft passenger door; repetitive inspections for integrity (corrosion, damage, cracking, and looseness or misalignment) of the doorstops of support beams found to be within damage limits; repair of support beams, or replacement of damaged brackets, support beams, or doorstops, as applicable; and removal of certain washers and nuts. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Bombardier has issued Service Bulletin 84–52–51, Revision A, dated September 8, 2006, including Service Bulletin 8–MHI0084, Revision C, dated September 6, 2006; and Repair Drawing RD 8/4–52–202, Issue 1, dated December 2, 2005. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation

in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This AD and the MCAI or Service Information

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

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a NOTE within the proposed AD.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 29 products of U.S. registry. We also estimate that it would take about 5 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Required parts would cost about $0 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $11,600, or $400 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new AD:

Bombardier, Inc. (Formerly de Havilland, Inc.): Docket No. FAA–2007–0183; Directorate Identifier 2007–NM–146–AD.

Comments Due Date

(a) We must receive comments by December 13, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bombardier Model DHC–8–400, DHC–8–401, and DHC–8–402 airplanes; certificated in any category; having serial numbers 4001 and 4003 through 4102.

Subject

(d) Air Transport Association (ATA) of America Code 52: Doors.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

There has been a reported case of failure of a bracket (P/N 85217732–108) of the over-centering spring assembly inside the translating door of the forward baggage compartment. This condition can exist on other translating doors on the aircraft. Investigation concluded that an insufficient gap between the bottom eyebolt and the barrel of the spring assembly caused an increase of tension load on the bracket and resulted in subsequent failure of the bracket. Failure of the bracket caused the eyebolt at the bottom of the spring assembly to become loose, resulted in damage of the support beam during normal door handle movement. Damage of the support beam, which is dormant, in combination with failure of a doorstop attached to any remaining undamaged support beam will degrade the structural integrity of the door, resulting in possible depressurization or loss of the door. Corrective actions include a one-time inspection for damage of the spring support bracket and support beam of the forward baggage door, aft service door, and aft passenger door; repetitive inspections for integrity (corrosion, damage, cracking, and looseness or misalignment) of the doorstops of support beams found to be within damage limits; repair of support beams, or replacement of damaged brackets, support beams, or doorstops, as applicable; and removal of certain washers and nuts.

Actions and Compliance

(f) Unless already done, do the following actions.

(1) Within 1,000 flight hours after the effective date of this AD, perform a one-time inspection for damage of the spring support bracket and support beams of the forward baggage door, aft service door, and aft passenger door, as applicable, in accordance with Bombardier Service Bulletin 84–52–51, Revision A, dated September 8, 2006. Replace any damaged bracket, support beam, or doorstop in accordance with the service bulletin, prior to further flight.

(i) If any support beam is damaged at only one spring location and the damage is within the limits defined in Bombardier Repair Drawing RD 8/4–52–202, Issue 1, dated December 2, 2005, do the actions specified in paragraphs (f)(1)(i)(A) and (f)(1)(i)(B) of this AD.

(A) Inspect each doorstop of the affected door for integrity in accordance with the service bulletin prior to further flight, and repeat the inspection thereafter at intervals not to exceed 400 flight hours, until the support beam is repaired as specified in paragraph (f)(1)(i)(B) of this AD or replaced in accordance with the service bulletin. If the

doorstop does not meet integrity standards during any inspection required by this paragraph, before further flight, repair or replace the doorstop with a new or serviceable doorstop in accordance with the repair drawing.

(B) Within 5,000 flight hours after accomplishing the inspection described in paragraph (f)(1) of this AD, repair the support beam in accordance with the repair drawing or replace in accordance with the service bulletin. Doing the repair or replacement terminates the inspections required by paragraph (f)(1)(i)(A) of this AD.

(ii) If any support beam is damaged at one or two spring locations and any damage exceeds the limits defined in Bombardier Repair Drawing RD 8/4–52–202, Issue 1, dated December 2, 2005, prior to further flight, replace the damaged support beam with a new support beam in accordance with the service bulletin.

(iii) If any support beam is damaged at two spring locations and the damage is within the limits defined in Bombardier Repair Drawing RD 8/4–52–202, Issue 1, dated December 2, 2005, prior to further flight, repair the support beam in accordance with the repair drawing.

(2) Within 1,000 flight hours after the effective date of this AD, remove the nuts and washers at the bottom of the over-centering spring assemblies of the forward baggage door, aft service door, and aft passenger door by incorporating Modsum 4–155296, in accordance with Bombardier Service Bulletin 84–52–51, Revision A, dated September 8, 2006.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Pong K. Lee, Aerospace Engineer, New York ACO, FAA, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7324; fax (516) 794–5531. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to MCAI Canadian Airworthiness Directive CF–2007–05, effective April 24, 2007; Bombardier Service Bulletin 84–52–51, Revision A, dated September 8, 2006, including Service Bulletin 8–MHI0084, Revision C, dated September 6, 2006; and Bombardier Repair Drawing RD 8/4–52–202, Issue 1, dated December 2, 2005, for related information.

Issued in Renton, Washington, on November 5, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–22103 Filed 11–9–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0182; Directorate Identifier 2007–NM–138–AD]

RIN 2120–AA64

Airworthiness Directives; Dassault Model Fan Jet Falcon, Fan Jet Falcon Series C, D, E, F, and G Airplanes; Model Mystere-Falcon 200 Airplanes; and Model Mystere-Falcon 20–C5, 20–D5, 20–E5, and 20–F5 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

One occurrence has been reported where a maintenance operation had been performed on the elevator controls, and bellcrank * * * located in the Right Hand MLG (main landing gear) wheel well was mistakenly installed upside down. This discrepancy and improper installation caused an unexpected 5° positioning offset of the elevator control surfaces leading to a hazardous condition on landing, [involving] the pilot being unable to flare the aircraft as needed * * * [which resulted in a hard landing].

The unsafe condition is reduced controllability of the airplane. The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by December 13, 2007.

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

- *DOT Docket Web Site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* 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.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov*; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2007–0182; Directorate Identifier 2007–NM–138–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each

substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member State of the European Community, has issued EASA Airworthiness Directive 2006–0185, dated July 6, 2006 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> One occurrence has been reported where a maintenance operation had been performed on the elevator controls, and bellcrank P/N (part number) MY20273017 or P/N MY20273017015 located in the Right Hand MLG (main landing gear) wheel well was mistakenly installed upside down. This discrepancy and improper installation caused an unexpected 5° positioning offset of the elevator control surfaces leading to a hazardous condition on landing, [involving] the pilot being unable to flare the aircraft as needed * * * [which resulted in a hard landing].
>
> The purpose of this AD is to prevent reoccurrence of this kind of incident introducing disabusing markings on the incriminated parts by applying SB (Service Bulletin) F20–768 or SB F200–122 as appropriate.

The unsafe condition is reduced controllability of the airplane. Corrective actions include verifying the correct assembly of the elevator bellcrank and re-installing if necessary. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Dassault has issued Service Bulletins F20–768, dated May 23, 2006, and F200–122, dated May 23, 2006. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

Differences Between This AD and the MCAI or Service Information

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

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a NOTE within the proposed AD.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 255 products of U.S. registry. We also estimate that it would take about 3 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Required parts would cost about $9 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $63,495, or $249 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new AD:

Dassault Aviation (Formerly Avions Marcel Dassault-Breguet Aviation (AMD/BA)): Docket No. FAA–2007–0182; Directorate Identifier 2007–NM–138–AD.

Comments Due Date

(a) We must receive comments by December 13, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Dassault Model Fan Jet Falcon, Fan Jet Falcon series C, D, E, F, and G airplanes; Model Mystere-Falcon 200 airplanes; and Model Mystere-Falcon 20–C5, 20–D5, 20–E5, and 20–F5 airplanes, all serial numbers, certificated in any category.

Subject

(d) Air Transport Association (ATA) of America Code 27: Flight Controls.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

> One occurrence has been reported where a maintenance operation had been performed on the elevator controls, and bellcrank P/N

(part number) MY20273017 or P/N MY20273017015 located in the Right Hand MLG (main landing gear) wheel well was mistakenly installed upside down. This discrepancy and improper installation caused an unexpected 5° positioning offset of the elevator control surfaces leading to a hazardous condition on landing, [involving] the pilot being unable to flare the aircraft as needed * * * [which resulted in a hard landing].

The purpose of this AD is to prevent reoccurrence of this kind of incident introducing disabusing markings on the incriminated parts by applying SB (Service Bulletin) F20–768 or SB F200–122 as appropriate.

The unsafe condition is reduced controllability of the airplane. Corrective actions include verifying the correct assembly of the elevator bellcrank and re-installing if necessary.

Actions and Compliance

(f) Within 74 months from the effective date of this AD, unless already done, do the following actions.

(1) Verify the correct assembly of the elevator bellcrank P/N (part number) MY20273–17 or P/N MY20273–17–15 at frame 26, as instructed in Dassault Service Bulletin F20–768, dated May 23, 2006; or Dassault Service Bulletin F200–122, dated May 23, 2006; as applicable.

(2) If the elevator bellcrank is found in the reverse orientation, reinstall it prior to next flight in accordance with Dassault Service Bulletin F20–768, dated May 23, 2006; or Dassault Service Bulletin F200–122, dated May 23, 2006; as applicable.

(3) Label the elevator bellcrank as instructed in Dassault Service Bulletin F20–768, dated May 23, 2006; or Dassault Service Bulletin F200–122, dated May 23, 2006; as applicable.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

(3) Reporting Requirements: For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2006–0185, dated July 6, 2006, and Dassault Service Bulletins F20–768 and F200–122, both dated May 23, 2006, for related information.

Issued in Renton, Washington, on October 23, 2007.

Stephen P. Boyd,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–22102 Filed 11–9–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0184; Directorate Identifier 2007–NM–140–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –200C, –300, –400, and –500 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. This proposed AD would require various repetitive inspections for cracking of the upper frame to side frame splice of the fuselage, and other specified and corrective actions if necessary. This proposed AD also provides for an optional preventive modification, which would terminate the repetitive inspections. This proposed AD results from a report that the upper frame of the fuselage was severed between stringers S–13L and S–14L at station 747, and the adjacent frame at station 767 had a 1.3-inch-long crack at the same stringer location. We are proposing this AD to detect and correct fatigue cracking of the upper frame to side frame splice of the fuselage, which could result in reduced structural integrity of the frame and adjacent lap joint. This reduced structural integrity can increase loading in the fuselage skin, which will accelerate skin crack growth and result in decompression of the airplane.

DATES: We must receive comments on this proposed AD by December 28, 2007.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

Hand Delivery: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Wayne Lockett, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6447; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2007–0184; Directorate Identifier 2007–NM–140–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will

consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We have received a report indicating that the upper frame of the fuselage was severed between stringers S–13L and S–14L at station 747 on one airplane that had completed 41,000 total flight cycles, and that the adjacent frame at station 767 had a 1.3-inch-long crack at the same stringer location. This incident occurred on a Model 737–300 airplane. All cracks in the upper frame originated from the upper end fastener hole of the frame splice common to the fail safe chord. This condition, if not corrected, could result in reduced structural integrity of the frame and adjacent lap joint. This reduced structural integrity can increase loading in the fuselage skin, which will accelerate skin crack growth and result in decompression of the airplane.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 737–53A1261, including Appendices A through X inclusive, dated January 19, 2006. The service bulletin describes the following procedures for various repetitive inspections for cracking of the upper frame to side frame splice of the fuselage, and other specified and corrective actions if necessary. The inspections and other specified and corrective actions are described below:

- Configuration 1 airplanes on which the preventive modification specified in Boeing Service Bulletin 737–53–1125 has been done: Perform repetitive medium frequency eddy current (MFEC) inspections for cracking of the upper frame, repair of any crack before further flight, an optional preventive modification, which would eliminate the need for the repetitive inspections. The preventive modification also involves a high frequency eddy current (HFEC) inspection for cracking of the fastener holes in the upper frame and side frame, repair of any crack before further flight, and if no crack is found, fabricating and installing a modification angle as defined in the applicable Appendix.
- Configuration 2 airplanes on which the frame repair specified in Boeing Service Bulletin 737–53–1125 has been done: Perform a detailed inspection of the frame repair to make sure it follows the repair given in the applicable Boeing Model 737 Structural Repair Manual (SRM). If the repair is not as given in the SRM, perform any applicable corrective actions. Then perform an HFEC inspection for cracking of the upper frame. If any crack is found, repair before further flight. If no crack is found, repeat the HFEC inspection or contact Boeing for applicable terminating action, which would eliminate the need for the repetitive inspections.
- Configuration 3 airplanes on which the actions specified in Boeing Service Bulletin 737–53–1125 have not been done: Perform an MFEC inspection for cracking of the upper frame. The MFEC inspection is not necessary if the preventive modification is being accomplished. If any crack is found, repair before further flight. If no crack is found, repeat the MFEC inspection or do the preventive modification, which would eliminate the need for the repetitive inspections. When doing the preventive modification, perform an HFEC inspection for cracking of the fastener holes in the upper frame and side frame. If any crack is found, repair before further flight. If no crack is found, fabricate and install a modification angle as defined in the applicable Appendix.

The service bulletin specifies a compliance time for the initial inspection ranging between 30,000 total flight cycles and 50,000 total flight cycles, with a grace period of 5,000 flight cycles after the release date of the service bulletin, whichever occurs later, depending on airplane configuration.

The corrective actions include repair of any cracks found and ensuring that the frame maintains its structural integrity. If, during the accomplishment of the corrective actions, the structure that has been damaged is not covered in the structural repair manual, the service bulletin specifies contacting Boeing for repair. The service bulletin also describes procedures for a preventive modification of the frame splice joints which would eliminate the need for the repetitive inspections. In addition, the service bulletin recommends contacting Boeing for certain repair instructions and terminating action for certain airplanes.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

Other Related Service Information

Boeing Alert Service Bulletin 737–53A1261 refers to Boeing Message M–7200–02–01294, dated August 20, 2002, as an additional source of service information for accomplishing certain repairs and optional terminating action of the preventive modification.

Boeing Service Bulletin 737–53–1125, dated November 22, 1989, Revision 1, dated September 20, 1990, and Revision 2, dated November 21, 1991, provided a preventive modification to reduce the stress level at the first fastener location in the frame splice common to the fail safe chord. The preventive modification increased the fatigue life of the splice area. However, the service bulletin did not include adequate inspections for cracks prior to accomplishing the preventive modification; therefore, the inspections specified in Boeing Alert Service Bulletin 737–53A1261 (described above) are recommended on airplanes on which that preventive modification has been accomplished in accordance with Boeing Service Bulletin 737–53–1125.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. For this reason, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as discussed under ''Difference Between the Proposed AD and Alert Service Bulletin.''

Difference Between Proposed AD and Alert Service Bulletin

The service bulletin specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

- Using a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization whom we have authorized to make those findings.

Costs of Compliance

There are about 1509 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 524 airplanes of U.S. registry. The proposed inspections would take between 18 and 38 work hours per airplane, depending on airplane configuration, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the

inspections proposed by this AD for U.S. operators is between $754,560 and $1,592,960, or $1,440 and $3,040 per airplane, per inspection cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket No. FAA–2007–0184; Directorate Identifier 2007–NM–140–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by December 28, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 737–53A1261, dated January 19, 2006.

Unsafe Condition

(d) This AD results from a report that the upper frame of the fuselage was severed between stringers S–13L and S–14L at station 747, and the adjacent frame at station 767 had a 1.3-inch-long crack at the same stringer location. We are issuing this AD to detect and correct fatigue cracking of the upper frame to side frame splice of the fuselage, which could result in reduced structural integrity of the frame and adjacent lap joint. This reduced structural integrity can increase loading in the fuselage skin, which will accelerate skin crack growth and result in decompression of the airplane.

Compliance

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

Repetitive Inspections/Corrective Actions

(f) At the applicable compliance time listed in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1261, including Appendices A through X inclusive, dated January 19, 2006: Do the applicable inspections for cracking of the upper frame to side frame splice of the fuselage by doing all of the actions, as specified in the Accomplishment Instructions of the service bulletin; except as provided by paragraphs (g) and (h) of this AD. Do all applicable specified and corrective actions before further flight in accordance with the service bulletin. Repeat the applicable inspections thereafter at intervals not to exceed 6,000 flight cycles until the terminating action in paragraph (i) of this AD has been accomplished.

(g) If any crack is found during any inspection required by this AD, and the service bulletin specifies to contact Boeing for appropriate action: Before further flight, repair the crack in accordance with the procedures specified in paragraph (j) of this AD.

(h) If, during the accomplishment of the corrective actions required by paragraph (f) of this AD, the structure that has been damaged is not covered in the structural repair manual, before further flight, repair in accordance with the procedures specified in paragraph (j) of this AD.

Optional Terminating Action

(i) Accomplishing the actions specified in paragraph (i)(1) (i)(2) or (i)(3) of this AD, as applicable, terminates the repetitive inspections required by paragraph (f) of this AD for the repaired or modified frames only.

(1) Accomplishment of the repair specified in Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1261, including Appendices A through X inclusive, dated January 19, 2006, or the preventive modification specified in Part 4 of the Accomplishment Instructions of the service bulletin.

(2) Accomplishment of the repair or the preventive modification specified in Boeing Message M–7200–02–01294, dated August 20, 2002.

(3) Accomplishment of the repair or the preventive modification in accordance with a method approved by the Manager, Seattle ACO.

Alternative Methods of Compliance (AMOCs)

(j)(1) The Manager, Seattle ACO, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

Issued in Renton, Washington, on November 5, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–22104 Filed 11–9–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0185; Directorate Identifier 2007–NM–246–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

Bombardier Aerospace has completed a system safety review of the CL–600–2B19 aircraft fuel system * * *.

The assessment showed that if the fuel boost pump reducer coupling is anodized, insufficient electrical bonding between the boost pump canister and the pressure pick-up line could occur. Insufficient electrical bonding between the boost pump canister and the pressure pick-up line, if not corrected, could result in arcing and potential ignition source inside the fuel tank during lightning strikes and consequent fuel tank explosion. * * *

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by December 13, 2007.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Rocco Viselli, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7331; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2007–0185; Directorate Identifier 2007–NM–246–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2007–18, dated September 4, 2007 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

Bombardier Aerospace has completed a system safety review of the CL–600–2B19 aircraft fuel system against new fuel tank safety standards introduced in Chapter 525 of the Airworthiness Manual through Notice of Proposed Amendment (NPA) 2002–043. The identified non-compliances were assessed using Transport Canada Policy Letter No. 525–001 to determine if mandatory corrective action is required.

The assessment showed that if the fuel boost pump reducer coupling is anodized, insufficient electrical bonding between the boost pump canister and the pressure pick-up line could occur. Insufficient electrical bonding between the boost pump canister and the pressure pick-up line, if not corrected, could result in arcing and potential ignition source inside the fuel tank during lightning strikes and consequent fuel tank explosion. To correct the unsafe condition, this directive mandates a detailed visual inspection of the fuel boost pump for the presence of anodized reducer couplings. All anodized couplings found are to be replaced with couplings having ion vapor deposition (IVD) coating.

You may obtain further information by examining the MCAI in the AD docket.

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (''SFAR 88,'' Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 requires certain type design (i.e., type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: Single failures, single failures in

combination with a latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Relevant Service Information

Bombardier has issued Service Bulletin 601R–28–057, dated December 4, 2003. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

Differences Between This AD and the MCAI or Service Information

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

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a NOTE within the proposed AD.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 509 products of U.S. registry. We also estimate that it would take about 11 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Required parts would cost about $508 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $706,492, or $1,388 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new AD:

Bombardier, Inc. (Formerly Canadair): Docket No. FAA–2007–0185; Directorate Identifier 2007–NM–246–AD.

Comments Due Date

(a) We must receive comments by December 13, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, certified in any category, serial numbers 7003 through 7067 and 7069 through 7797.

Subject

(d) Air Transport Association (ATA) of America Code 28: Fuel.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

Bombardier Aerospace has completed a system safety review of the CL–600–2B19 aircraft fuel system against new fuel tank safety standards introduced in Chapter 525 of the Airworthiness Manual through Notice of Proposed Amendment (NPA) 2002–043. The identified non-compliances were assessed using Transport Canada Policy Letter No. 525–001 to determine if mandatory corrective action is required.

The assessment showed that if the fuel boost pump reducer coupling is anodized, insufficient electrical bonding between the boost pump canister and the pressure pick-up line could occur. Insufficient electrical bonding between the boost pump canister and the pressure pick-up line, if not corrected, could result in arcing and potential ignition source inside the fuel tank during lightning strikes and consequent fuel tank explosion. To correct the unsafe condition, this directive mandates a detailed visual inspection of the fuel boost pump for the presence of anodized reducer couplings. All anodized couplings found are to be replaced with couplings having ion vapor deposition (IVD) coating.

Actions and Compliance

(f) Unless already done, do the following actions.

(1) Within 5,000 flight hours after the effective date of this AD, carry out a detailed inspection for the presence of an anodized

(blue color) fuel boost pump reducer coupling according to the Accomplishment Instructions of Bombardier Service Bulletin 601R–28–057, dated December 4, 2003.

(2) If the results of the inspection required by paragraph (f)(1) of this AD reveal that none of the fuel boost pump reducer couplings are anodized, no further action is required.

(3) If the results of the inspection required by paragraph (f)(1) of this AD reveal the presence of any anodized fuel boost pump reducer coupling, prior to further flight, replace the anodized coupling with a coupling having ion vapor deposition coating according to the Accomplishment Instructions of Bombardier Service Bulletin 601R–28–057, dated December 4, 2003.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, New York Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Rocco Viselli, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7331; fax (516) 794–5531. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

(3) Reporting Requirements: For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to MCAI Canadian Airworthiness Directive CF–2007–18, dated September 4, 2007, and Bombardier Service Bulletin 601R–28–057, dated December 4, 2003, for related information.

Issued in Renton, Washington, on November 5, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–22146 Filed 11–9–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0186; Directorate Identifier 2007–NM–226–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, DC–10–40F, MD–10–10F, and MD–10–30F Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to revise an existing airworthiness directive (AD) that applies to certain McDonnell Douglas Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, and DC–10–40F airplanes. The existing AD currently requires installing or replacing with improved parts, as applicable, the bonding straps between the metallic frame of the fillet and the wing leading edge ribs, on both the left and right sides of the airplane. This proposed AD would revise the applicability to clarify the identity of the affected airplanes. This proposed AD results from fuel system reviews conducted by the manufacturer. We are proposing this AD to reduce the potential of ignition sources inside fuel tanks in the event of a severe lightning strike, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

DATES: We must receive comments on this proposed AD by December 28, 2007.

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

- *Federal eRulemaking Portal*: Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024).

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Samuel Lee, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5262; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2007–0186; Directorate Identifier 2007–NM–226–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

On July 21, 2006, we issued AD 2006–16–03, amendment 39–14703 (71 FR 43962, August 3, 2006), for certain McDonnell Douglas Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, and DC–10–40F airplanes. That AD requires installing or replacing with improved parts, as applicable, the bonding straps between the metallic

frame of the fillet and the wing leading edge ribs, on both the left and right sides of the airplane. That AD resulted from fuel system reviews conducted by the manufacturer. We issued that AD to reduce the potential of ignition sources inside fuel tanks in the event of a severe lightning strike, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Actions Since Existing AD Was Issued

The applicability of AD 2006–16–03 does not specifically identify Model MD–10–10F and MD–10–30F airplanes by model name. However, those airplanes (converted from Model DC–10 series airplanes) are identified by manufacturer's fuselage numbers in the effectivity listing of McDonnell Douglas DC–10 Service Bulletins 53–109, Revision 4, dated October 7, 1992; and 53–111, Revision 3, dated August 24, 1992. And those service bulletins were referenced in the applicability of AD 2006–16–03.

We have been informed that Boeing is considering revising the service bulletins to, among other things, update the effectivity to clarify the identity of the affected airplanes. If the service bulletins are revised, we might consider approving each as a general alternative method of compliance for the requirements of AD 2006–16–03.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. For this reason, we are proposing this AD, which would revise AD 2006–16–03 and retain its requirements. This proposed AD would clarify the applicability by specifically identifying McDonnell Douglas Model MD–10–10F and MD–10–30F airplanes (converted from Model DC–10 series airplanes) in addition to the airplane models already identified in the AD.

Costs of Compliance

There are about 457 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 280 airplanes of U.S. registry. The actions of this proposed AD would add no additional economic burden to the existing requirements of AD 2006–16–03. The current costs for this AD are repeated for the convenience of affected operators, as follows:

The required actions take between 9 and 17 work hours per airplane, at an average labor rate of $80 per work hour. Required parts cost between $3,720 and $4,169 per airplane. Based on these figures, the estimated cost of the AD is between $4,440 and $5,529 per airplane, or between $1,243,200 and $1,548,120 for the U.S.-registered fleet.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–14703 (71 FR 43962, August 3, 2006) and adding the following new airworthiness directive (AD):

McDonnell Douglas: Docket No. FAA–2007–0186; Directorate Identifier 2007–NM–226–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by December 28, 2007.

Affected ADs

(b) This AD revises AD 2006–16–03.

Applicability

(c) This AD applies to McDonnell Douglas Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, and DC–10–40F airplanes, and MD–10–10F and MD–10–30F airplanes that have been converted from Model DC–10 series airplanes; certificated in any category; with manufacturer's fuselage numbers as identified in the applicable service bulletin listed in Table 1 of this AD.

TABLE 1.—SERVICE BULLETINS

McDonnell Douglas DC–10 Service Bulletin—	Revision—	Dated—	For airplanes with—
53–109	4	October 7, 1992	Extended wing-to-fuselage fillets.
53–111	3	August 24, 1992	Conventional wing-to-fuselage fillets.

Unsafe Condition

(d) This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to reduce the potential of ignition sources inside fuel tanks in the event of a severe lightning strike, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Compliance

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

Installation or Replacement

(f) Within 7,500 flight hours or 60 months after September 7, 2006 (the effective date of AD 2006–16–03), whichever occurs earlier: Install or replace with improved parts, as applicable, the bonding straps between the metallic frame of the fillet and the wing leading edge ribs, on both the left and right sides of the airplane, in accordance with the Accomplishment Instructions of the applicable service bulletin identified in Table 1 of this AD.

Alternative Methods of Compliance (AMOCs)

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

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(3) AMOCs approved previously in accordance with AD 2006–16–03 are approved as AMOCs for the corresponding provisions of this AD.

Issued in Renton, Washington, on November 5, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–22090 Filed 11–9–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–115910–07]

RIN 1545–BG58

Information Reporting on Employer-Owned Life Insurance Contracts

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: Elsewhere in this issue of the **Federal Register**, the IRS is issuing temporary regulations concerning information reporting on employer-owned life insurance contracts under section 6039I of the Internal Revenue Code (Code). The temporary regulations generally apply to taxpayers that are engaged in a trade or business and that are directly or indirectly a beneficiary of a life insurance contract covering the life of an insured who is an employee of the trade or business on the date the contract is issued. The text of those temporary regulations also serves as the text of these proposed regulations.

DATES: Written or electronic comments and requests for a public hearing must be received by January 14, 2008.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–115910–07), room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–115910–07), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–115910–07).

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Linda K. Boyd, 202–622–3970; concerning submissions and requests for a public hearing, contact Kelly Banks, 202–622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

The Pension Protection Act of 2006, Public Law 109–280, 120 Stat. 780 (2006), added sections 101(j) and 6039I to the Internal Revenue Code concerning employer-owned life insurance contracts.

Section 101(j)(1) provides that in the case of an employer-owned life insurance contract, the amount of death benefits excluded from gross income under section 101(a) shall not exceed an amount equal to the sum of the premiums and other amounts paid by the policyholder for the contract. Section 101(j)(2), however, sets forth exceptions to this rule for certain contracts for which notice and consent and other requirements are met. Section 6039I requires information reporting with respect to certain employer-owned life insurance contracts at such time and in such manner as the Secretary shall by regulations prescribe.

Temporary regulations in this issue of the **Federal Register** provide that the Commissioner may prescribe the form and manner of satisfying the reporting requirements imposed by section 6039I. The preamble to the temporary regulations explains the temporary regulations.

Special Analyses

It has been determined that this proposed regulation is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to this regulation.

The Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply to this proposed regulation because the regulation does not impose a collection of information on small entities. Even though a substantial number of small businesses may be subject to the requirements of section 6039I, it is anticipated that whatever requirements the Commissioner may prescribe pursuant to this regulation will not impose a ''significant economic impact'' because the information requested will already be available to taxpayers and the burden of compliance will be minimal.

Pursuant to section 7805(f) of the Internal Revenue Code, this Regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

The IRS and Treasury Department are aware that guidance may be needed under section 101(j) and request comments on that provision as well. In particular, comments are requested on the need for guidance concerning (1)

determination of the status of insured individuals as ''highly compensated employees'' or ''highly compensated individuals''; (2) requirements a taxpayer must meet to satisfy the notice and consent requirements of section 101(j)(4); and (3) the consequences of a section 1035 exchange of an employer-owned life insurance contract. The IRS and Treasury Department anticipate that future guidance, if any, under section 101(j) will not be applied retroactively to the detriment of taxpayers who make a good faith effort to comply with section 101(j) based on a reasonable interpretation of that provision.

Drafting Information

The principal author of these regulations is Linda K. Boyd, Office of Associate Chief Counsel (Financial Institutions & Products). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

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

Section 1.6039I–1 also issued under 26 U.S.C. 6039I. * * *

Par. 2. Section 1.6039I–1 is added to read as follows:

§ 1. 6039I–1 Reporting of certain employer-owned life insurance contracts.

[The text of this proposed section is the same as the text of § 1.6039I–1T published elsewhere in this issue of the **Federal Register**].

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

[FR Doc. E7–22136 Filed 11–9–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. CGD07–07–102]

RIN 1625–AA08

Special Local Regulations; Recurring Marine Events in the Seventh Coast Guard District

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to create special local regulations to regulate recurring marine events in the Seventh Coast Guard District. These regulations will apply to all permitted events listed on the table attached to the regulation, and include events such as regattas, parades, and fireworks displays. These regulations are being proposed to reduce the Coast Guard's administrative workload and expedite public notification of events.

DATES: Comments and related material must reach the Coast Guard on or before December 13, 2007.

ADDRESSES: You may mail comments and related material to Commander, U.S. Coast Guard Seventh District (dpi), 909 SE 1st Ave, Miami, FL 33131–3050. The Seventh District Prevention Division maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the Brickell Plaza Federal Building, Miami, FL, between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Clint Smith, U.S. Coast Guard District Seven Prevention Division, (305) 415–6860.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking CGD07–07–102, indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

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

Background and Purpose

Marine events are frequently held on the navigable waters within the boundary of the Seventh Coast Guard District. These include events such as sailing regattas, holiday parades, and fireworks displays. Currently, there are over 250 annually recurring marine events and many other non-recurring events within the district. In the past, the Coast Guard regulated these events by creating individual special local regulations on a case by case basis. Most of these events required only the establishment of a regulated area and assignment of a patrol commander to ensure safety. Issuing individual, annual special local regulations has created a significant administrative burden on the Coast Guard. In 2005, the Coast Guard created over 60 temporary regulations for marine events in the Seventh District. That number rose to over 110 in 2006 and is expected to rise even higher in 2007.

Additionally, for the majority of these events, the Coast Guard does not receive notification of the event, or important details of the event are not finalized by event organizers, with sufficient time to publish a notice of proposed rulemaking and final rule before the event date. The Coast Guard must therefore create temporary final rules that sometimes are not completed until only days before the event. This results in delayed notification to the public, potentially placing the public and event participants at risk.

This proposed rule will significantly relieve the administrative burden on the Coast Guard, and at the same time allow the sponsor of the event and the Coast Guard to notify the public of these events in a timely manner. The public will be provided with notice of events through the table attached to this regulation. This table lists each recurring event that may be regulated by the Coast Guard, and indicates the

sponsor, as well as the date and location of the event. Because the dates and location of these events may change slightly from year to year, the specific information on each event, including the exact dates, specific areas, and description of the regulated area, will be provided to the public through a Local Notice to Mariners published before the event, as well as through Broadcast Notice to Mariners. This table will be updated by the Coast Guard periodically to add new recurring events, remove events that no longer occur, and update listed events to ensure accurate information is provided.

Discussion of Proposed Rule

This proposed rule will apply to each event listed in the attached table to this rule. Events listed in the table are events that recur annually in the Seventh Coast Guard District. The table provides the event name and sponsor, as well as an approximate date and location of the event. The specific date and regulated area for each event will be provided in a Local Notice to Mariners and Broadcast Notice to Mariners prior to each event. Some events listed in the table currently have permanent regulations published in 33 CFR part 100, and these regulations will be removed.

For each event listed in the table, an event patrol, with a Patrol Commander in charge may be assigned. The Patrol Commander may control the movement of all vessels in the regulated area(s). When hailed or signaled by an official patrol vessel, a vessel in these areas shall immediately comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both. The Coast Guard Patrol Commander may terminate the event, or the operation of any vessel participating in the event, at any time it is deemed necessary for the protection of life or property.

Only event sponsors, designated participants, and official patrol vessels are allowed to enter a regulated area. All persons and vessels not registered with the event sponsor as participants or official patrol vessels are considered spectators. Spectators may not enter the regulated area and may be confined to a designated spectator area to view the event. Spectators may contact the Coast Guard Patrol Commander to request permission to pass through the regulated area. If permission is granted, spectators must pass directly through the regulated area at safe speed and without loitering.

Regulatory Evaluation

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

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in the areas where marine events are being held. This proposed regulation will not have a significant impact on a substantial number of small entities because it will only be enforced on marine events that have been permitted by the Coast Guard Captain of the Port. The Captain of the Port will ensure that small entities are able to operate in the areas where events are occurring. Additionally, in most cases, vessels will be able to safety transit around the regulated area at all times, and, with the permission of the Patrol Commander, vessels may transit through the regulated area.

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

Assistance for Small Entities

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically

significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction, from further environmental documentation. This proposed rule fits the category of paragraph 34(h) because it proposes to create special local regulations for regattas and marine parades.

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

List of Subjects in 33 CFR Part 100

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

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

PART 100—REGATTAS AND MARINE PARADES

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

Authority: 33 U.S.C. 1233.

§§ 100.709, 100.710, 100.714, 100.715, 100.716, 100.721, 100.722, 100.723, 100.730, 100.731, 100.733, and 100.735 [Removed]

2. Remove the following sections from this part: §§ 100.709, 100.710, 100.714, 100.715, 100.716, 100.721, 100.722, 100.723, 100.730, 100.731, 100.733, and 100.735.

3. Add a new § 100.701 to read as follows:

§ 100.701 Special Local Regulations; Marine Events in the Seventh Coast Guard District.

The following regulations apply to the marine events listed in Table 1 of this section. These regulations will be effective annually, for the duration of each event listed in Table 1. Annual notice of the exact dates and times of the effective period of the regulation with respect to each event, the geographical area, and details concerning the nature of the event and the number of participants and type(s) of vessels involved will also be published in local notices to mariners and/or a Notice of Enforcement in the **Federal Register**.

(a) *Definitions.* The following definitions apply to this section:

Patrol Commander. A Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the respective Coast Guard Sector Commander to enforce these regulations.

Spectators. All persons and vessels not registered with the event sponsor as participants or official patrol vessels.

(b) *Event Patrol.* The Coast Guard may assign an event patrol, as described in § 100.40 of this part, to each regulated event listed in the table. Additionally, a Patrol Commander may be assigned to oversee the patrol. The event patrol and Patrol Commander may be contacted on VHF Channel 16.

(c) *Special Local Regulations.* (1) The Coast Guard Patrol Commander may forbid and control the movement of all vessels in the regulated area(s). When hailed or signaled by an official patrol vessel, a vessel in these areas shall immediately comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(2) The Coast Guard Patrol Commander may terminate the event, or the operation of any vessel participating in the event, at any time it is deemed necessary for the protection of life or property.

(3) Only event sponsor designated participants and official patrol vessels are allowed to enter the regulated area.

(4) Spectators are only allowed inside the regulated area if they remain within a designated spectator area. Spectators may contact the Coast Guard Patrol Commander to request permission to pass through the regulated area. If permission is granted, spectators must pass directly through the regulated area at safe speed and without loitering.

(d) *Contact Information.* Questions about marine events should be addressed to the local Coast Guard Captain of the Port for the area in which the event is occurring. Contact information is listed below. For a description of the geographical area of each Captain of the Port zone, please see subpart 3.35 of this chapter.

(1) Captain of the Port Charleston, South Carolina: (843) 724–7616.

(2) Captain of the Port Savannah, Georgia: (912) 652–4353.

(3) Captain of the Port Jacksonville, Florida: (904) 247–7318.

(4) Captain of the Port Miami, Florida: (305) 535–8701.

(5) Captain of the Port Key West, Florida: (305) 292–8779.

(6) Captain of the Port Sector St. Petersburg, Florida: (727) 824–7506.

(7) Captain of the Port San Juan, Puerto Rico: (787) 289–2041.

(e) *Application for Marine Events.* The application requirements of § 100.15 of this part apply to all events listed in Table 1. For information on applying for a marine event, contact the Captain of the Port for the area in which the event will occur, at the phone numbers listed above.

TABLE 1 TO § 100.701

Date	Event	Sponsor	Location
		COTP Zone Miami	
January—1st weekend	Levin Memorial Regatta	Biscayne Bay Star Fleet	Biscayne Bay, 2.3 nautical miles offshore from the Coral Bay, Florida; all waters from the surface to the bottom for a radius of 1.7NM centered around position 25°39′6″N, 080°13′30″W no closer than 500 feet from each vessel.
January—1st weekend	Fort Lauderdale Boomerang Regatta.	Lauderdale Yacht Club	Atlantic Ocean .5 nautical mile offshore from .5 nautical mile south of the Port Everglades Channel to 4 nautical miles south of the Port Everglades offshore of West Lake, Port Everglades, Florida no closer than 500 feet from each vessel.
January—3rd weekend	Rolex Miami Olympic Sailing Race.	U.S. Sailing & U.S. Olympic Sailing Center.	Southern Biscayne Bay inside of an area from the Rickenbacker Causeway southwest to Snapper Creek Canal south to Latitude 25°32′00″N east to Soldier Key and northeast to a position approximately 1 nautical mile east of Cape Florida, northwest to Rickenbacker Causeway, Miami, Florida no closer than 500 feet from each vessel.
February—1st weekend	Commodore Rasco Snipe Class Regatta.	Coconut Grove Sailing Club.	Biscayne Bay, 1 mile offshore from the Coconut Grove Sailing Club, Coconut Grove, Florida; all waters from the surface to the bottom for a radius of 1NM centered around position 25°41′42″N, 080°13′00″W no closer than 500 feet from each vessel.
March—1st week, Monday–Friday.	Bacardi Cup	Biscayne Bay Star Fleet	All waters within 1.5 nautical miles of the following center point: 25°38′16″N latitude; 080°13′14″W longitude, in southern Biscayne Bay, Miami, Florida.
March—2nd weekend, Saturday and Sunday.	Lightenings Midwinter's	Coral Reef Yacht Club	Biscayne Bay, 2.3 nautical miles offshore from the Coral Bay, Florida; all waters from the surface to the bottom for a radius of 1.7NM centered around position 25°39′6″N, 080°13′5″ W no closer than 500 feet from each vessel.
March—2nd weekend	Don Q Rum Snipe Class Regatta.	Coconut Grove Sailing Club.	Biscayne Bay, 1 mile offshore from the Coconut Grove Sailing Club, Coconut Grove, Florida; all waters from the surface to the bottom for a radius of 1NM centered around position 25°41′42″N, 080°13′00″W no closer than 500 feet from each vessel.
March—2nd weekend, Saturday and Sunday.	Coral Cup	Coconut Grove Sailing Club.	Biscayne Bay, 1 mile offshore from the Coconut Grove Sailing Club, Coconut Grove, Florida; all waters from the surface to the bottom for a radius of 1NM centered around position 25°41′42″N, 080°13′00″W.
March—last weekend	Shake-A-Leg Mid Winter Regatta.	Shake-A-Leg Foundation ..	All waters of Biscayne Bay, from the Rickenbacker Causeway south to Latitude 25°32′00″N, Miami, Florida no closer than 500 ft from each vessel.
April—2nd or 3rd weekend ..	Miami to Key Largo Race	Miami Yacht Club Youth Sailing Foundation.	Biscayne Bay and Intracoastal Waterway from the Rickenbacker Causeway in Miami, Florida to Key Biscayne to Cape Florida to Soldier Key to Sands Key to Elliot Key to Two Stacks to Card Sound to Barnes Sound to Blackwater Sound in Key Largo, Florida no closer than 500 feet from each vessel.
April—2nd weekend	Florida State Optimists Championship Regatta.	Coconut Grove Sailing Club.	Biscayne Bay, 1 mile offshore from the Coconut Grove Sailing Club, Coconut Grove, Florida; all waters from the surface to the bottom for a radius of 1NM centered around position 25°41′42″N, 080°13′00″W.
April—2nd weekend, Saturday and Sunday.	Fort Lauderdale Air/Sea Show Super Boat Grand Prix.	Super Boat International Productions, Inc.	Atlantic Ocean offshore Fort Lauderdale, Florida within an area 500 yards wide 300 yards offshore from 1,500 yards north of the Port Everglades Channel north for 4 nautical miles (600 yards north of the Oakland Park Beach Blvd).
April—3rd weekend	Miami Super Boat Grand Prix.	Super Boat International Productions, Inc.	Offshore Miami Beach, Florida, including the area within a line joining the following points: 25°46′18″N, 080°07′51″W; thence to, 25°46′18″N, 080°06′49″W; thence to, 25°51′18″N, 080°06′12″W; thence to, 25°51′18″N, 080°07′11″W; thence along the shoreline to the starting point.

TABLE 1 TO § 100.701—Continued

Date	Event	Sponsor	Location
April—last Saturday	Sunfest Fireworks	Pyro Shows, Inc	Intracoastal Waterway in West Palm Beach between Banyon St and Lakeview; all waters from the surface to the bottom for a radius of 1000 ft centered around position 26°42′34″N, 080°02′47″W.
April—last weekend	Vero Beach Yacht Club Blessing of the Fleet.	Blessing of the Fleet	North Fork and St Lucie River, Florida no closer than 500 feet from each vessel.
April, May, and June—1st weekend.	Hollywood Super Boat Grand Prix.	Super Boat International Productions, Inc.	Atlantic Ocean offshore Hallandale Beach, Florida in an area 400 yards wide approximately 200 yards offshore from the Hallandale Beach tank to approximately 1 nautical mile south of the Dania Town Canal.
May—1st weekend	C-Gull Cup	Coconut Grove Sailing Club.	Biscayne Bay, 1 mile offshore from the Coconut Grove Sailing Club, Coconut Grove, Florida; all waters from the surface to the bottom for a radius of 1NM centered around position 25°41′42″N, 080°13′00″W.
May—1st weekend	Fort Lauderdale Air & Sea Show.	Fort Lauderdale Parks and Recreation.	Atlantic Ocean offshore Fort Lauderdale, Florida within an area 500 yards wide 300 yards offshore from 1,500 yards north of the Port Everglades Channel north for 4 nautical miles (600 yards north of the Oakland Park Beach Blvd).
May—3rd weekend	Pompano Beach Power Squadron Safe Boat Parade.	Pompano Beach Power Squadron.	14th St Bridge to Sunrise Bay, Florida.
May—last weekend	Goombay Regatta	Coconut Grove Sailing Club.	Biscayne Bay, 1 mile offshore from the Coconut Grove Sailing Club, Coconut Grove, Florida; all waters from the surface to the bottom for a radius of 1NM centered around position 25°41′42″N, 080°13′8″W no closer than 500 feet from each vessel.
July 4th	American Legion Fourth of July.	Add-Fire Fireworks, Inc	Biscayne Bay, approx 400 ft offshore of Legion Picnic Island, Miami, Florida in approx position 25°50′02″N, 080°10′24″W.
July 4th	Fort Lauderdale Fourth of July.	Colonial Fireworks	½ NM offshore at Las Olas Blvd., Fort Lauderdale, Florida.
July 4th	Fort Lauderdale Yacht Club Fourth of July.	Colonial Fireworks	Intracoastal Waterway in front of the Fort Lauderdale Yacht Club, Fort Lauderdale, Florida.
July 4th	City of Stuart Fourth of July.	Creative Fireworks Co	Intracoastal Waterway in front of Stuart City Hall, Stuart, Florida.
July 4th	Bayfront Park Fourth of July.	Firepower Displays	All waters within a 1680 foot radius around approximate position 25°46′30″N, 080°10′54″W, in Biscayne Bay, FL.
July 4th	Coral Reef Yacht Club Fourth of July.	Firepower Displays	700 ft offshore from Vizcaya in Biscayne Bay, Miami, Florida.
July 4th	Fisher's Island Fourth of July.	Firepower Displays	Offshore 840 ft from Fisher Island, Florida.
July 4th	Miami Beach Fourth of July.	Firepower Displays	840 ft offshore from Atlantic Heights, Miami Beach, Florida.
July 4th	Village of Key Biscayne Fourth of July.	Firepower Displays	1500 ft offshore from Key Biscayne in Biscayne Bay, Miami, Florida.
July 4th	Viscayans Fourth of July	Firepower Displays	700 ft offshore from Viscaya in Biscayne Bay, Miami, Florida.
July 4th	Delray Beach Fourth of July.	Fireworks by Grucci, Inc	Atlantic Ocean, 1,000 ft offshore from Delray Beach, Florida; all waters from the surface to the bottom for a radius of 840 feet centered around position 26°27′41″N, 080°03′11″W.
July 4th	Boynton Beach Fourth of July.	Melrose South Pyrotechnics.	All waters from the surface to the bottom, for 840 ft out in all directions from approximate position 26°32′52″N, 080°02′54″W.
July 4th	City of Hollywood Fourth of July.	Melrose South Pyrotechnics.	Atlantic Ocean, 1,000 ft offshore from Hollywood, Florida; all waters from the surface to the bottom for a radius of 840 feet centered around position 26°01′19″N, 080°06′39″W.
July 4th	Riviera Beach Fourth of July.	Sparktacular Fireworks	All waters within a 1400 foot diameter around approximate position 26°42′26″N, 080°02′28″W.
July 4th	Town of Lantana Fourth of July.	Zambelli Fireworks	All waters within an 840 foot diameter in approximate position 26°35′13″N, 080°02′50″W.
July 4th	West Palm Beach Fourth of July.	Zambelli Fireworks	All waters within a 1400 foot diameter of approximate position 26°42′26″N, 080°02′28″W.

TABLE 1 TO § 100.701—Continued

Date	Event	Sponsor	Location
July—1st weekend	Commodore's Cup Regatta	Coconut Grove Sailing Club.	Biscayne Bay, 1 mile offshore from the Coconut Grove Sailing Club, Coconut Grove, Florida; all waters from the surface to the bottom for a radius of 1NM centered around position 25°41′42″N, 080°13′00″W no closer than 500 feet from each vessel.
July—2nd weekend	Dania Beach / Hollywood Super Boat Race.	Super Boat International Productions, Inc.	Waters offshore of Hollywood Beach within an area located 300 yards offshore from North Lake north to Dania Cutoff Canal going offshore aproximately 650 yards.
August—3rd weekend	Conch Cup Regatta	Miami Yacht Club	Biscayne Bay from the Rickenbacker Causeway south in the Intracoastal Waterway to the Cape Florida Channel, east around Key Biscayne and north to the Miami Channel entrance, Miami, Florida no closer than 500 feet from each vessel.
October—1st weekend	Columbus Day Regatta	Columbus Day Regatta, Inc.	Southern Biscayne Bay inside of an area from 1 nautical mile south of the Rickenbacker Causeway and 1 nautical mile east of Deering Channel southwest to Snapper Creek Canal south to a point half between Soldier Key and Lewis Cut west to the chain of islands south of Soldier Key and north to 1 nautical mile south of Rickenbacker Causeway, Miami, Florida
October—1st weekend	Deerfield Beach Super Boat National Championship.	Super Boat International Productions, Inc.	Atlantic Ocean within an area 500 yards wide approximately 500 yards offshore Deerfield Beach, FL from 2 miles north of Hillsboro Inlet to .5 mile south of Boca Raton Inlet.
October—2nd weekend	Miami Kayak Challenge	Cystic Fibrosis Foundation	All waters of Biscayne Bay from Lummus Island Cut to the Rickenbacker Causeway, Miami, Florida.
November—2nd weekend, Saturday and Sunday.	Keely Perpetual Trophy Regatta.	Biscayne Bay Yacht Club ..	Biscayne Bay within an area from the Dinner Key Channel to Biscayne National Park Marker "B" to Cutter Channel Mark "2" to Biscayne National Park Marker "C" to West Featherbead Bank Channel Marker "3" to West Featherbed Bank Channel Marker "5" to Elliot Key Biscayne National Park Anchorage, Miami, Florida no closer than 500 feet from each vessel.
November—2nd or 3rd weekend.	Matheson Perpetual Trophy Regatta.	Biscayne Bay Yacht Club ..	Biscayne Bay within an area from the Dinner Key Channel to Biscayne National Park Marker "B" to Cutter Channel Mark "2" to Biscayne National Park Marker "C" to West Featherbead Bank Channel Marker "3" to West Featherbed Bank Channel Marker "5" to Elliot Key Biscayne National Park Anchorage, Miami, Florida no closer than 500 feet from each vessel.
November—2nd weekend ...	PHRF SE Florida Championship.	Coconut Grove Sailing Club.	Biscayne Bay, 2.3 nautical miles offshore from the Coral Bay, Florida; all waters from the surface to the bottom for a radius of 1.7NM centered around position 25°39′6″;N, 080°13′30″W no closer than 500 feet from each vessel.
November—2nd weekend ...	Viscayan's Ball	Firepower Displays	1200 ft offshore from Virginia Key, South of Seaquarium, Miami, Florida.
December 31st	Bayside New Years	Add-Fire Fireworks, Inc	All waters within a 1680 foot radius around a barge in position 25°46′30″N, 080°10′54″W.
December 31st	Fisher Island New Years ...	Add-Fire Fireworks, Inc	1000 ft offshore east of Fisher Island, Florida.
December 31st	Hillsboro New Years Fireworks.	Add-Fire Fireworks, Inc	100 yds north of Hillsboro Inlet, Florida.
December 31st	Indian Riverside Park New Years.	Add-Fire Fireworks, Inc	1200 ft east of Indian Riverside Park, Jensen Beach, Florida.
December 31st	Greater Miami New Years	Firepower Displays	1200 ft offshore from Bayfront Park, Miami Harbor, Miami, Florida.
December 31st	Viscayan's New Years	Firepower Displays	840 ft offshore from Viscaya, Miami, Florida.
December—3rd weekend	Pompano Beach Boat Parade.	Pompano Beach Boat Parade Committee.	Intracoastal Waterway in Pompano Beach, Florida, from Lake Santa Barbara to Hillsboro Blvd Bridge.
December—1st weekend	Commodore's Cup	Biscayne Bay Star Fleet	Biscayne Bay, 2.3 nautical miles offshore from the Coral Bay, Florida; all waters from the surface to the bottom for a radius of 1.7NM centered around position 25°39′6″N, 080°13′30″W no closer than 500 feet from each vessel.
December—1st weekend	Kiwanis of Little Havana Christmas.	Firepower Displays	1200 ft offshore from Virginia Key, south of Seaquarium, Miami, Florida.

TABLE 1 TO § 100.701—Continued

Date	Event	Sponsor	Location
December—1st weekend	Holiday Boat Parade of the Palm Beaches.	Marine Industrial Association of Palm Beach County.	Port of Palm Beach Turning Basin and the Intracoastal Waterway extending south from Lake Worth South LT 1 (LLNR 42170) to Lake Worth South Daybeacon 23 (LLNR 42300).
December—1st weekend	Martin County Christmas Boat Parade.	Marine Industries Association.	All waters of the North and South Forks of the St Lucie River in Stuart, Florida, starting on the north side of the State Road 60 Bridge going south to Hutchinson Island and circling back north to the State Road 60 Bridge and ending past the City of Stuart Municipal Marina.
December—2nd or 3rd weekend.	Seminole Hard Rock Winterfest Boat Parade.	Winterfest, Inc	All waters of the Intracoastal Waterway from the Port Everglades turning basin to the Pompano Beach Daybeacon 74 (LLNR 47230).
December—2nd weekend ...	Piana Cup Regatta	Biscayne Bay Yacht Club ..	Biscayne Bay, 2.3 nautical miles offshore from the Matheson Hammock County Park, Florida; all waters from the surface to the bottom for a radius of 1.5NM centered around position 25°39′54″N, 080°13′12″W no closer than 500 feet from each vessel.
December—2nd weekend ...	Boynton/Delray Beach Christmas Boat Parade.	Kiwanis Club Delray Beach	Intracoastal Waterway from marker #46 in Boynton Beach, Florida to C–15 Canal in Delray Beach, Florida.
December—2nd weekend ...	St Lucie Christmas Boat Parade.	Marine Industrial Association.	All waters of the Intracoastal Waterway and Taylor Creek in Fort Pierce, Florida, starting in the Fort Pierce turning basin and inlet area going to Taylor Creek and the Intracoastal Waterway between the North Causeway Bridge and the South Causeway Bridge.
December—2nd weekend ...	Miami Outboard Club Christmas Boat Parade.	Miami Outboard Club	Biscayne Bay from the Miami Outboard Club on Watson Island starting from in between the MacArthur Causeway and Palm Island heading west around Palm Island and Hibiscus Island, heading east between Di Lido Island, heading east around the monument, south through Meloy Channel, west in Government Cut to Bicentennial Park, south to the Dodge Island Bridge, south in the Intracoastal Waterway to Claughton Island, circling back to the north in the Intracoastal Waterway to Watson Island, around the island on the north side to Miami Outboard Club no closer than 500 feet from each vessel.
December—2nd weekend ...	Boca Raton Holiday Boat Parade.	City of Boca Raton	Moving zone in New River and Intracoastal Waterway, Fort Lauderdale, Florida; from the C15 Canal in Fort Lauderdale to Hillsboro Inlet with 500 feet ahead of the lead parade vessel and 500 feet astern of the last participating parade vessel or within 50 feet on either side of the parade.
December—4th weekend	Orange Bowl Youth Sailing Regatta.	Coral Reef Yacht Club	Southern Biscayne Bay inside of an area from the Rickenbacker Causeway southwest to Snapper Creek Canal south to latitude 25°32′N east to Soldier Key and northwest to Rickenbacker Causeway, Miami, Florida no closer than 500 ft from each vessel.
December—last weekend ...	Coconut Grove Sailing Club Orange Bowl Regatta.	Coconut Grove Sailing Club.	Southern Biscayne Bay inside of an area from the Rickenbacker Causeway southwest to Snapper Creek Canal south to latitude 25°32′N east to Soldier Key and northwest to Rickenbacker Causeway, Miami, Florida no closer than 500 ft from each vessel.
Monthly—last weekend, Saturday and Sunday.	Biscayne Bay Racing Association Full Moon Regatta.	Biscayne Bay Yacht Racing Association.	Southern Biscayne Bay inside of an area from the Rickenbacker Causeway southwest to Snapper Creek Canal south to latitude 25°32′00″N east to Soldier Key and northwest to Rickenbacker Causeway, Miami, Florida no closer than 500 ft from each vessel.
		COTP Zone Key West	
January 1st	Blessing of the Fleet	Islamorada Charter Boat Assn.	From Whale Harbor Channel to Whale Harbor Bridge, Islamorada, Florida.

TABLE 1 TO § 100.701—Continued

Date	Event	Sponsor	Location
January through April—last Monday or Tuesday.	Wreckers Cup Races	Schooner Wharf Bar	Key West Harbor to Sand Key, Florida (Gulf of Mexico side).
January—3rd week, Monday–Friday.	Yachting Key West Race Week.	Premiere Racing, Inc	Inside the reef on either side of main ship channel, Key West Harbor Entrance, Key West, Florida.
February—1st Saturday	The Bogey	Florida Bay Outfitters	Blackwater Sound (entire sound), Key Largo, Florida.
February—1st Sunday	The Bacall	Florida Bay Outfitters	Blackwater Sound (entire sound), Key Largo, Florida.
April—3rd weekend, Saturday–Sunday.	Miami to Key Largo Sailboat Race.	MYC Youth Sailing Foundation, Inc.	Biscayne Bay and Intracoastal Waterway from the Rickenbacker Causeway in Miami, Florida to Key Biscayne to Cape Florida to Soldier Key to Sands Key to Elliot Key to Two Stacks to Card Sound to Barnes Sound to Blackwater Sound in Key Largo, Florida no closer than 500 feet from each vessel.
April—last Friday	Conch Republic Navy Parade and Battle.	Sponsor: Conch Republic	All waters approximately 150 yards offshore from Ocean Key Sunset Pier, Mallory Square and the Hilton Pier within the Key West Harbor.
May—3rd weekend	Marathon Super Boat Grand Prix..	Super Boat International Productions, Inc.	All waters of Knight Key Channel, encompassing both the Gulf of Mexico side and the Atlantic Ocean side of the Seven Mile Bridge.
June—2nd weekend	FKCC Swim around Key West.	Florida Keys Community College.	Begin at Smather's Beach and swim the loop around the island back to the start approximately 50 yards offshore, Key West, Florida.
July—3rd weekend, Saturday and Sunday.	The Easom Cup	South Eastern Ocean Racing Series (SEORS).	Caesar's Creek, Everglades City, Florida.
November—2nd week, Wednesday–Sunday.	Key West World Championship.	Super Boat International Productions, Inc.	In the Atlantic Ocean, off the tip of Key West, on the waters of the Key West Main Ship Channel, Key West Turning Basin, and Key West Harbor Entrance.
November—first weekend, Friday–Sunday.	U.S. Wake Board Championships.	Middle Keys Events Council.	Sombrero Beach, Marathon, Florida; between Sister Creek and Sister Rock to approximately 500 yards offshore from Sombrero Beach.
December—1st Thursday	Boot Key Harbor Christmas Boat Parade.	Dockside Marina	Boot Key Harbor (entire harbor), Marathon, Florida.
December—2nd Sunday	Key Colony Beach Holiday Boat Parade.	Key Colony Beach Community Assn.	Key Colony Beach, Marathon, Florida, between Vaca Cut Bridge and Long Key Bridge.
December—3rd Saturday	Key Largo Boat Parade	Key Largo Boat Parade	From Channel Marker 41 on Dusenbury Creek in Blackwater Sound to tip of Stillwright Point in Blackwater Sound, Key Largo, Florida.
December—3rd Saturday	Key West Lighted Boat Parade.	Schooner Wharf Bar	All waters between Christmas Tree Island and Coast Guard Station thru Key West Harbor to Mallory Square, approximately 35 yards from shore.
		COTP Zone San Juan	
May—first Sunday	Half Ironman Triathlon	Project St. Croix, Inc	St. Croix (Christiansted Harbor), U.S.V.I.: In the following position: PT1 on the shoreline at Kings Wharf at posn 17°44′51″N, 064°42′16″W, thence north to PT2 at the southwest corner of Protestant Cay in posn 17°44′56″N, 064°42′12″W, then east along the shoreline to PT3 at the southeast corner of Protestant Cay in posn 17°44′56″N, 064°42′08″W, thence northeast to PT4 at Christiansted Harbor Channel Round Reef Northeast Junction Lighted Buoy RR in posn 17°45′24″N, 064°41′45″W, thence southeast to PT 5 at Christiansted Schooner Channel Lighted Buoy 5 in posn 17°45′18″N, 064°41′43″W, thence south to PT6 at Christiansted Harbor Channel Buoy 15 in posn 17°44′56″N, 064°41′56″W, thence to PT7 on the shoreline north of Fort Christiansvaem in posn 17°44′51″N, 064°42′05″W, thence west along the shoreline to PT1.
July 4th	Fireworks Display	St. John Festival & Cul., Org.	St. John (West of Cruz Bay/Northeast of Steven Cay), U.S.V.I. all waters from the surface to the bottom for a radius of 200 yards centered around position 18°19′55″N, 064°48′06″W.

TABLE 1 TO § 100.701—Continued

Date	Event	Sponsor	Location
July—3rd week, Sunday	San Juan Harbor Swim	Municipality of Catano	San Juan Harbor, Puerto Rico PT1: La Puntilla Final, Coast Guard Base at posn 18°27′33″N, 066°07′00″W, then south to PT2: Catano Ferry Pier at posn 18°26′36″N, 066°07′00″W, then east along the Catano shoreline to PT3: Punta Catano at posn 18°26′40″N, 066°06′48″W, then north to PT4: Pier 1 San Juan at posn 18°27′40″N, 066°06′49″W, then back along the shoreline to origin at PT1.
December 31st	Fireworks St. Thomas, Great Bay.	Mr. Victor Laurenza, Pyrotecnico, New Castle, PA.	St. Thomas (Great Bay area), U.S.V.I.; all waters from the surface to the bottom for a radius of 600 feet centered around position 18°19′14″N, 064°50′18″W.
December—1st week	Christmas Boat Parade	St. Croix Christmas Boat Committee.	St. Croix (Christiansted Harbor), U.S.V.I.; 200 yards off-shore around Prostestant Cay beginning in posn 17°45′56″N, 064°42′16″W, around the cay and back to the beginning position.
COTP Zone Charleston			
May—Morning Slack Tide on the 3rd and 4th Saturday.	Lowcountry Splash	Logan Rutledge	Cooper River/Charleston Harbor, South Carolina, including the waters of the Wando River, Cooper River, and Charleston Harbor from Hobcaw Yacht Club, in approximate position 32°49′32″N, 079°53′81″W, south along the coast of Mt. Pleasant, S.C., to Charleston Harbor Marina, approximate position 32°47′20″N, 079°54′64″W, and extending out 150 yards from shore.
June—2nd week	Beaufort Water Festival	City of Beaufort	Beaufort, South Carolina, between the Lady's Island swing bridge and Spanish Point.
June–August—every Tuesday.	Shelter Cove Fireworks	Greenwood Development Corp.	Shelter Cove, Hilton Head, South Carolina extending a radius of 600 feet from approximate position 32°11′10″N, 080°43′54″W.
July 4th	Sea pines resort 4th of July.	Seapines Plantation	Harbortowne, Hilton Head, Calibogue Sound, South Carolina extending a radius of 600 feet from approximate position 32°11′10″N, 080°43′54″W.
July 4th	Patriots Point Fireworks	Patriots Point	Charleston Harbor, South Carolina, extending a radius of 1000 feet from approximate position 32°47′01″N, 079°53′8″W.
July 4th	Skull Creek Fireworks	Hudson Seafood	Skull Creek, Hilton Head, South Carolina extending a radius of 1000 feet from the approximate position 32°13′57″N, 080°45′06″W.
July 4th	City of North Charleston Fireworks.	City of North Charleston	Cooper River, Charleston, South Carolina extending a radius of 1000 feet from approximate position 32°51′57″N, 079°57′35″W.
July 4th	Market Street Fireworks	City of Charleston	Charleston harbor, South Carolina extending a radius of 1000 feet from center approximate position 32°54′01″N, 080°08′05″W.
November—2nd week	Head of the South	Augusta Rowing club	Upper Savannah River MM199 to MM196, Georgia.
December—2nd week	Charleston Harbor Christmas Parade of Boats.	City of Charleston	Charleston harbor, South Carolina, from Anchorage A through Shutes Folly, Horse Reach, Hog Island Reach, Town Creek Lower Reach, Ashley River, and finishing at City Marina.
COTP Zone St. Petersburg			
January—3rd Saturday	Gasparilla Children's Parade Fireworks.	Event Makers	Hillsborough Bay within a 500 yard radius of the fireworks barge located in approximate position 27°55′04″N, 082°29′08″W.
January—3rd Saturday	Gasparilla Children's Parade Air show.	Air Boss and Consulting	Hillsborough Bay north of an imaginary line drawn at 27°55′N, west of Davis Islands, and south of the Davis Island Bridge.
January—last Saturday	Gasparilla Boat Parade	YE Mystic Krewe of Gasparilla.	Tampa Bay, Florida, including all waters of Hillsborough Bay and its tributaries north of a line drawn along latitude 27°51′18″N. Hillsborough Cut "D" Channel, Sparkman Channel, Ybor Channel, Seddon Channel and the Hillsborough River south of the John F. Kennedy Bridge.
March—last Friday, Saturday, and Sunday.	Honda Grand Prix	Honda Motor Company and City of St. Petersburg.	Demons Landing, St Petersburg FL, all waters within 100 ft of the seawall.
March—last Friday, Saturday, and Sunday.	St Pete Grand Prix Air show.	Honda Motor Company and City of St. Petersburg.	St Petersburg FL, within two NM of the Albert Whitted Airport.

TABLE 1 TO § 100.701—Continued

Date	Event	Sponsor	Location
April—last Sunday	St Anthony's Triathlon	St Anthony's Health Care	St Petersburg within one NM of Spa Beach.
July 4th	Freedom Swim	None	Peace River FL within two NM of the U.S. 41 Bridge.
July 4th and January 1st	Ybor Fireworks Display	Tampa Bay Attractions Association or various private entities.	Ybor Turning Basin within a 120 yard radius of the fireworks barge in approx. position 27°56′29″N, 082°26′43″W.
July 4th and January 1st	Clearwater fireworks displays.	City of Clearwater	Gulf Intracoastal Waterway in the vicinity of Clearwater within a 500 yard radius of the fireworks barge located in approximate position 26°58′01″N, 082°48′15″W.
July 4th and January 1st	Marco Island fireworks displays.	City of Marco Island	Gulf of Mexico in the vicinity of Marco Island within a 300 yard radius of the fireworks barge located in approximate position 25°54′36″N, 081°45′06″W.
July 4th and January 1st	Venice fireworks displays	City of Venice	Gulf of Mexico in the vicinity of Venice Inlet within a 200 yard radius of the fireworks barge located in approximate position 27°06′44″N, 082°28′09″W.
July 4th and January 1st	Beach House Restaurant fireworks displays.	Beach House Restaurant	Gulf of Mexico in the vicinity of Bradenton Beach within a 200 yard radius of the fireworks barge located in approximate position 27°27′59″N, 082°41′58″W.
July 4th and January 1st	Ft Myers fireworks displays	City of Ft Myers	Caloosahatchee River within a 300 yard radius of the fireworks barge located in approximate position 26°38′45″N 081°52′50″W.
July—1st Sunday	Suncoast Offshore Grand Prix.	Suncoast Foundation for the Handicapped.	Gulf of Mexico in the vicinity of Sarasota, from New Pass to Siesta Beach out to eight NM.
September—3rd Friday, Saturday, and Sunday.	Homosassa Raft Race	Citrus 95 FM radio	Homosassa River between Private Green Dayboard 81 east to private Red Dayboard 2.
October—2nd Friday, Saturday, and Sunday.	St Petersburg Airfest	City of St Petersburg	St Petersburg, within two NM of the Albert Whitted Airport.
November—3rd Thursday, Friday, and Saturday.	Ironman World Championship Triathlon.	City of Clearwater & Ironman North America.	Gulf of Mexico within two NM of Clearwater Beach FL.
		COTP Zone Savannah	
May—2nd weekend, Sunday	Blessing of the Fleet—Brunswick.	Knights of the Columbus—Brunswick.	Brunswick River from the start of the east branch of the Brunswick River (East Brunswick River) to the Golden Isles Parkway Bridge.
May—2nd or 3rd weekend	Grand Prix of Augusta	Champboat Series, LLC	Savannah River, Augusta, Georgia, from the U.S. Highway 1 (Fifth Street) Bridge at mile 199.45 to Eliot's Fish Camp at mile 197.
July 4th	Fourth of July Fireworks	Savannah Waterfront Association.	Savannah River, Savannah Riverfront, Georgia, 500 feet around fireworks launch point centered at approximate position 32°04′56″N, 081°05′02″W.
July—3rd full weekend	Augusta Southern Nationals Drag Boat Races.	Augusta Southern Nationals.	Savannah River, Augusta, Georgia, from the U.S. Highway 1 (Fifth Street) Bridge at mile 199.45 to Eliot's Fish Camp at mile 197.
October—3rd or 4th weekend or November—1st weekend.	Champboat Races of Savannah.	Champboat Series, LLC.	Savannah River, Savannah Riverfront, Georgia, Talmadge bridge to a line drawn at 146 degrees true from dayboard 62.
November—1st Saturday after Thanksgiving Day.	Savannah Harbor Boat Parade of Lights and Fireworks.	Westin Resort, Savannah	Savannah River, Savannah Riverfront, Georgia, Talmadge bridge to a line drawn at 146 degrees true from dayboard 62.
December 31st	New Years Eve Fireworks	Savannah Waterfront Association.	Savannah River, Savannah Riverfront, Georgia, 500 feet around fireworks launch point centered at approximate position 32°04′56″N, 081°05′02″W.
Monthly—first Friday	First Friday of the Month Fireworks.	Savannah Waterfront Association.	Savannah River, Savannah Riverfront, Georgia, 500 feet around fireworks launch point centered at approximate position 32°04′56″N, 081°05′02″W.
		COTP Zone Jacksonville	
February—1st weekend, Friday–Monday.	Clay County Super Celebration.	Reynolds Park Yacht Club	Reynolds Park Yacht Club (entire club), Green Cove Springs.
February—last Saturday	El Cheapo Sheepshead Tournament.	Jacksonville Offshore Sport Fishing Club.	Mayport/Jacksonville Boat Ramp; 500 feet seaward of the boat ramp.
March—1st Saturday	Jacksonville Invitational (Rowing Race).	Stanton Rowing Foundation (may vary).	Ortega River Race Course, Jacksonville; between Timuquana and Roosevelt Bridges.
March—1st Saturday	Stanton Invitational (Rowing Race).	Stanton Rowing Foundation.	Ortega River Race Course, Jacksonville; between Timuquana and Roosevelt Bridges.
March or April—Palm Sunday.	Blessing of the Fleet—Jacksonville.	City of Jacksonville Office of Special Events.	St. Johns River, downtown Jacksonville in the vicinity of Jacksonville Landing between the Main Street Bridge and Acosta Bride.
March or April—Palm Sunday.	Blessing of the Fleet—St. Augustine.	City of St. Augustine	St. Augustine Municipal Marina (entire marina).

TABLE 1 TO § 100.701—Continued

Date	Event	Sponsor	Location
April—1st full weekend, Saturday and Sunday.	Mount Dora Yacht Club Sailing Regatta.	Mount Dora Yacht Club	Lake Dora, Mount Doran—500 ft. off Grantham Point.
April—3rd Saturday	Jacksonville City Championships.	Stanton Rowing Foundation.	Ortega River Race Course, Jacksonville; between Timuquana and Roosevelt Bridges.
April—3rd weekend	Florida Times Union Redfish Roundup.	The Florida Times-Union ...	Sister's Creek Marina to Marker 88 on the St. John's River.
May—1st Friday	Isle of Eight Flags Shrimp Festival Pirate Landing and Fireworks.	City of Fernandina Beach	Fernandina Harbor Marina (entire marina).
May—1st Saturday	Mug Race	The Rudder Club of Jacksonville, Inc.	St. Johns River; Palatka to Buckman Bridge.
May—4th Friday	Palatka Blue Crab Festival and Fireworks.	Palatka Blue Crab Festival	All waters within a 500-yard radius around approximate position 29°38′37″N, 081°37′50″W.
May—4th weekend	Memorial Day RiverFest	City of Green Cove Springs.	All waters within a 500-yard radius around approximate position 29° 59′39″N, 081°40′33″W.
May—last full week, Monday—Friday.	Bluewater Invitational Tournament.	Northeast Florida Marlin Association.	There is a no-wake zone in effect from the St. Augustine City Marina out to the end of the St. Augustine Jettys 6 a.m.–8 a.m. and 3 p.m.–5 p.m. during the above days.
May—last full weekend, Friday—Sunday.	Blue Crab Festival Ski Shows.	Downtown Palatka, Inc. & Palatka Blue Crab Festival, Inc.	St. Johns River, South of Memorial Bridge, Palatka.
June—1st Saturday	Florida Sport Fishing Association Offshore Fishing Tournament.	Florida Sport Fishing Association.	From Sunrise Marina to the end of Port Canaveral Inlet.
June—1st weekend, Friday–Sunday.	Jetty Park Ocean Regatta	Fleet 45 Space Coast Catamaran Association, Inc.	Jetty Park, Port Canaveral; all waters within a 1000-yard radius around approximate position 28°24′21″N, 080°33′33″W.
June—2nd weekend, Friday–Sunday.	St. Augustine King Buster Classic 400.	King Buster Classic, Inc	St. Augustine Municipal Marina (entire marina)
June—4th Saturday	Veterans Day Celebration, Parade and Fireworks Display.	City of New Smyrna Beach	All waters within a 500-yard radius around approximate position 29°03′N, 080°55′W.
June—4th weekend, Thursday–Saturday.	Tournament of Champions Kingfish Tournament.	Nassau Sport Fishing Association.	Fernandina Harbor Marina (entire marina), Fernandina Beach.
June—2nd weekend, Saturday and Sunday.	Kingfish Challenge	Ancient City Game Fish Association.	There is a no-wake zone in effect from the St. Augustine City Marina out to the end of the St. Augustine Jettys 6 a.m.–8 a.m. and 3 p.m.–5 p.m.
July 4th	Cocoa 4th of July Fireworks.	City of Cocoa	All waters within a 500-yard radius around approximate position 28°20′22″N, 080°31′27″W.
July 4th	Daytona Beach Boardwalk Association July 4th Fireworks.	Daytona Beach Boardwalk Association.	All waters within a 500-yard radius around at approximate position 29° 13′34″N, 081°00′33″W.
July 4th	Edgewater Fire Rescue Association Annual Fireworks Celebration.	Edgewater Fire Rescue Association.	All waters within a 500-yard radius around the pier at Kennedy Memorial Park, Edgewater, FL.
July 4th	Fernandina Beach 4th of July Fireworks.	City of Fernandina Beach/ Fernandina Harbor Marina.	All waters within a 500-yard radius around approximate position 30°40′17″N, 081°27′56″W.
July 4th	Fireworks Display for Independence Day Celebration (Palatka).	City of Palatka/Downtown Palatka.	All waters within a 500-yard radius around approximate position 29°38′37″N, 081°37′51″W.
July 4th	Flagler Beach July 4th Celebration Fireworks.	Flagler Beach Chamber of Commerce.	All waters within a 500-yard radius around (the end of Flagler Beach Pier) approximate position 29°28′50″N, 081°07′27″W.
July 4th	Florida Yacht Club and Timuquana Country Club Fireworks Display.	Florida Yacht Club and Timuquana Country Club.	All waters within a 500-yard radius around approximate position 30°15′00″N, 081°41′17″W.
July 4th	Kissimmee July 4th Celebration Fireworks.	City of Kissimmee Parks and Recreation.	All waters within a 500-yard radius around approximate position 28°17′08″N, 081°24′08″W.
July 4th	Kiwanis Club of St. Marys Annual Fourth of July Festival Fireworks.	Kiwanis Club of St. Marys Georgia.	St. Marys River, St. Marys, GA; all waters within a 500-yard radius around approximate position 30°43′7″N, 081°32′59″W.
July 4th	Liberty Fest—4th of July Celebration (Jacksonville Beach).	City of Jacksonville Beach	All waters within a 500-yard radius around approximate position 30°17′06″N, 081°23′16″W.
July 4th	Mount Dora Old Fashioned 4th of July Celebration.	Rotary Club of Mount Dora/ Mount Dora Firefighter Association.	Lake Dora, Mount Dora—500 ft. off Grantham Point.
July 4th	Orange Park Independence Day Celebration Fireworks.	Town of Orange Park	All waters within a 500-yard radius around approximate position 30°10′20″N, 081°42′20″W.

TABLE 1 TO § 100.701—Continued

Date	Event	Sponsor	Location
July 4th	Ormond Beach Independence Day Celebration Fireworks.	City of Ormond Beach	All waters within a 500-yard radius around approximate position 29°17.2′N, 081°02.988′W.
July 4th	Patrick Air Force Base 4th of July Celebration and Fireworks.	Patrick Air Force Base	All waters within a 500-yard radius around approximate position 28°14′00″N, 080°37′00″W.
July 4th	Sanford's July 4th Celebration Fireworks.	City of Sanford	All waters within a 500-yard radius around the Monroe Harbor Marina.
July 4th	St. Augustine July 4th Fireworks Display.	City of St. Augustine	All waters within a 500-yard radius around approximate position 29°53′50.84″N, 081°18′30.87″W.
July—3rd Saturday	Halifax Rowing Association Summer Regatta.	Halifax Rowing Association	Halifax River, Daytona, S. of Memorial Bridge—East Side.
July—3rd week	BellSouth Greater Jacksonville Kingfish Tournament.	Jacksonville Marine Charities, Inc.	All waters of the St. Johns River, from lighted buoy 10 (LLNR 2190) in approximate position 30°24′22″N, 081°24′59″W to lighted buoy 25 (LLNR 7305).
August—2nd week	Townsend Hawkes Ocean Swim.	Jacksonville Beaches Kiwanis Club.	50 ft. offshore from Jacksonville Beach to Sea Turtle Inn, Atlantic Beach.
December 31st	Jacksonville New Year's Eve Fireworks.	City of Jacksonville Office of Special Events.	St. Johns River; west side of Main Street Bridge.
December 31st	St. Augustine Beach New Year's Eve Fireworks.	City of St. Augustine Beach.	All waters within a 500-yard radius approximate position 29°51′16″N, 081°15′49″W.
December—2nd Saturday	St. Johns River Christmas Boat Parade.	St. Johns River Christmas Boat Parade, Inc.	St. Johns River; Whitehair Bridge, Deland to Lake Beresford.
December—2nd Saturday	Christmas Boat Parade (Daytona Beach/ Halifax River).	Halifax River Yacht Club	Halifax River from Seabreeze Bridge to Halifax Harbor Marina.
December—2nd Saturday	Kissimmee Holiday Extravaganza Fireworks.	City of Kissimmee Parks and Recreation.	Kissimmee Lakefront Park; all waters within a 500-yard radius around approximate position 28°17′13″N, 081°24′13″W.

Dated: October 4, 2007.

D.W. Kunkel,

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

[FR Doc. E7–21714 Filed 11–9–07; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[EPA–HQ–OAR–2004–0014, FRL–8494–4]

RIN 2060–AM91

Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of reconsideration of final rule.

SUMMARY: On December 31, 2002, we (the EPA) issued our final New Source Review (NSR) Improvement Rule which, among other things, requires all sources to include ''fugitive emissions'' in assessing whether a proposed physical or operational change qualifies as a ''major modification'' that is subject to review under major NSR. On July 11, 2003, we received a petition for reconsideration on behalf of Newmont USA Limited, dba Newmont Mining Corporation (''Newmont'') arguing that the December 31, 2002 final rule failed to comply with the Clean Air Act (Act) requirement that EPA conduct a rulemaking to list source categories for which fugitive emissions must be included in computing a source's emissions to determine whether it is a ''major stationary source.'' In January 2004, we agreed to reconsider this issue. In this action, we are proposing to revise the provisions of the December 2002 final rules related to the treatment of fugitive emissions for purposes of determining whether a physical or operational change at an existing major source qualifies as a major modification. We request public comment on the proposed revisions. In this action, we are also providing guidelines for determining when and how emissions are to be considered fugitive for NSR and Title V permitting.

DATES: *Comments.* Comments must be received on or before January 14, 2008.

Public Hearing. If anyone contacts us requesting to speak at a public hearing on or before December 3, 2007, we will hold a public hearing approximately 30 days after publication in the **Federal Register**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2004–0014 by one of the following methods:

- *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.
- *E-mail: a-and-r-Docket@epa.gov*, attention Docket No. EPA–HQ–OAR–2004–0014.
- *Fax*: 202–566–9744.
- *Mail*: Attention Docket ID No. EPA–HQ–OAR–2004–0014, U.S. Environmental Protection Agency, EPA West (Air Docket), Mail code 2822T, 1200 Pennsylvania Avenue, Northwest, Washington, DC 20460. Please include a total of 2 copies.
- *Hand Delivery*: U.S. Environmental Protection Agency, EPA West (Air Docket), Room 3334, 1301 Constitution Avenue, Northwest, Washington, DC 20004, Attention Docket ID No. EPA–HQ–OAR–2004–0014. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2004–0014. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business

Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The *http://www.regulations.gov* Web site is an (anonymous access(system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA(s public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*. For additional instructions on submitting comments, go to section I.B of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the U.S. Environmental Protection Agency, EPA West (Air Docket), Room 3334, 1301 Constitution Avenue, Northwest, Washington, DC, Attention Docket ID No. EPA–HQ–OAR–2004–0014. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Ms. Lynn Hutchinson, Air Quality Policy Division (C504–03), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, *telephone number:* (919) 541–5795, *fax number*: (919) 541–4028, or electronic mail at *hutchinson.lynn@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

Industry group	SIC [a]	NAICS [b]
Electric Services	491	221111, 221112, 221113, 221119, 221121, 221122
Petroleum Refining	291	324110
Industrial Inorganic Chemicals	281	325181, 325120, 325131, 325182, 211112, 325998, 331311, 325188
Industrial Organic Chemicals	286	325110, 325132, 325192, 325188, 325193, 325120, 325199
Miscellaneous Chemical Products	289	325520, 325920, 325910, 325182, 325510
Natural Gas Liquids	132	211112
Natural Gas Transport	492	486210, 221210
Pulp and Paper Mills	261	322110, 322121, 322122, 322130
Paper Mills	262	322121, 322122
Automobile Manufacturing	371	336111, 336112, 336211, 336992, 336322, 336312, 336330, 336340, 336350, 336399, 336212, 336213
Pharmaceuticals	283	325411, 325412, 325413, 325414
Mining	211, 212, 213	21
Agriculture, Fishing and Hunting	111, 112, 113, 115	11

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

Entities potentially affected by the subject rule for this proposed action also include State, local, and tribal governments.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit information that you consider to be CBI electronically through *http://www.regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Also, send an additional copy clearly marked as above not only to the Air docket but to: Roberto Morales, c/o OAQPS Document Control Officer, (C339–03), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, Attention Docket ID No. EPA–HQ–OAR–2004–0014.

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

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

C. How can I find information about a possible public hearing?

Persons interested in presenting oral testimony should contact Ms. Pamela S. Long, New Source Review Group, Air Quality Policy Division (C504–03), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number (919) 541–0641, at least 2 days in advance of the public hearing. Persons interested in attending the public hearing should also contact Ms. Long to verify the time, date, and location of the hearing. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning these proposed changes.

D. How is this preamble organized?

The information presented in this preamble is organized as follows:

II. Background

A. What is major New Source Review?

The major NSR program is mandated by parts C and D of title I of the Act. Major NSR is a preconstruction review and permitting program applicable to new or modified major stationary sources (major sources) of air pollutants regulated under the Act. In areas not meeting National Ambient Air Quality Standards (NAAQS) and in ozone transport regions (OTR), the program is implemented under the requirements of part D of title I of the Act. We call this program the ''nonattainment'' major NSR program. In areas meeting NAAQS (''attainment'' areas) or for which there is insufficient information to determine whether they meet the NAAQS (''unclassifiable'' areas), the NSR requirements under part C of title I of the Act apply. We call this program the Prevention of Significant Deterioration (PSD) program. Collectively, we also commonly refer to these programs as the major NSR program. These regulations are contained in 40 CFR 51.165, 51.166, 52.21, 52.24, and part 51, appendix S.

B. What sources are subject to major NSR?

Major NSR applies to (1) construction of new major sources, and (2) major modifications at existing major sources. In either case, the initial step in assessing applicability is to determine whether the source in question qualifies as a ''major source.'' A proposed or existing source qualifies as a major source if it ''emits or has the potential to emit'' a regulated NSR pollutant in an amount greater than the specified annual threshold. We define ''potential to emit'' (PTE) as the maximum capacity of a source to emit a pollutant under its physical and operational design, taking into account any physical or operational limitations on the source that are enforceable as a practical matter. (*See,* for example, § 52.21(b)(4) for the full definition of PTE.)

If a proposed new source's PTE is greater than the applicable major source threshold for one or more regulated NSR pollutants, it is subject to preconstruction review under major NSR. For the PSD program, the major source threshold is 100 tons per year (tpy) for sources in any of 28 categories listed in the regulations, and 250 tpy for any other type of source. (*See* §§ 51.166(b)(1) and 52.21(b)(1) for the full definition of ''major stationary source'' under PSD.) The major source threshold under nonattainment major NSR is generally 100 tpy, but is lower for some pollutants in nonattainment areas classified as serious, severe, or extreme. (*See* § 51.165(a)(1)(iv) for the full definition of ''major stationary source'' under nonattainment major NSR.) These same major source thresholds also apply to modifications at existing minor sources where the modification by itself has potential emissions in excess of the applicable threshold.

If an existing major source (i.e., an existing source with actual emissions and/or PTE greater than the applicable major source threshold) is planning a physical or operational change, the project is subject to major NSR if it is a ''major modification.'' A physical or operational change is a major modification if it meets both of the following two criteria: [1]

- The physical or operational change, taken by itself, would result in a significant increase in emissions of a regulated NSR pollutant; and
- The physical or operational change, taken together with other, contemporaneous emissions increases and decreases at the source, would result in a significant net emissions increase.

The level of emissions that is considered ''significant'' varies by pollutant and, in some cases, by a nonattainment area's classification. For example, an increase of 40 tpy is significant for sulfur dioxide, while 0.6 tpy of lead is considered a significant increase. (*See* §§ 51.166(b)(23) and 52.21(b)(23) for the full definition of ''significant'' under PSD and § 51.165(a)(1)(x) for the full definition under nonattainment major NSR.) In determining the increase in emissions from a physical or operational change, new emissions units are evaluated at their PTE, while existing and replacement units are generally evaluated by comparing their baseline actual emissions before the physical or operational change to their projected actual emissions after the change.

[1] On October 20, 2005, we proposed different major NSR applicability procedures for modifications at electric generating units. (*See* 70 FR 61081.) Our rulemaking effort for such units is ongoing.

C. What are fugitive emissions, and how do they figure into major NSR applicability?

For purposes of major NSR, we define ''fugitive emissions'' as emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. (*See,* for example, § 52.21(b)(20).) Examples of fugitive emissions include windblown dust from surface mines and volatile organic compounds (VOCs) emitted from leaking pipes and fittings at petroleum refineries.

Quantifiable fugitive emissions are included in a stationary source's PTE when determining whether the source is a major source only if it is in one of the source categories specifically listed in the major NSR regulations. This is consistent with section 302(j) of the Act, and is made clear in the definition of ''major stationary source'' that is found in the major NSR regulations. (*See*, for example, § 52.21(b)(1)(iii).)

Conversely, under the 2002 NSR rules, fugitive emissions to the extent quantifiable are included in determining whether a physical or operational change is a major modification (i.e., in calculating the resulting emissions increase and net emissions increase), regardless of the source's source category. This is the case because the definitions of the terms ''projected actual emissions'' and ''baseline actual emissions'' under the 2002 NSR rules, which are the definitions used to calculate emission increases at existing units, include quantifiable fugitive emissions. (*See* §§ 52.21(b)(41)(ii)(*b*) and 52.21(b)(48)(ii)(*a*).) In this action we propose to modify this aspect of the 2002 NSR rules. We propose to take a consistent approach as to the inclusion of fugitive emissions in threshold major source and modification determinations.

D. What is the basis for and history of EPA's treatment of fugitive emissions in major NSR applicability determinations?

Section 302(j) of the Act sets out the definition of ''major stationary source'' that, along with several other provisions of the Act, provides the basis for the definitions used in the major NSR regulations. The definition in section 302(j) specifies that fugitive emissions are included in major source determinations only for source categories that EPA specifies through rulemaking. As discussed below, EPA enacted regulations pursuant to section 302(j) that specify the source categories for which fugitive emissions are included in the major source determination and has listed these source categories in the ''major stationary source'' definitions. However, the Act is silent regarding the treatment of fugitive emissions for purposes of determining whether a physical or operational change is a major modification. Below we discuss the history of this issue leading up to this proposed action.

We first created the list of source categories for which fugitive emissions are included in major source determinations (the ''section 302(j) list'') in the final PSD and nonattainment major NSR rules issued in 1980 on remand from the DC Circuit. (*See* 45 FR 52676, August 7, 1980.) The court remanded our initial major NSR rules for a variety of reasons, including our failure to follow the requirements of section 302(j) in promulgating a partial exemption for fugitive dust. (*See Alabama Power* v. *Costle,* 636 F.2d 323, 369–370 (DC Cir. 1979).)

The promulgated section 302(j) list included the source categories listed in section 169(1) of the Act, which is the definition of ''major emitting facility'' for purposes of PSD. Under that definition, the major source threshold for the listed source categories is 100 tpy, rather than the 250 tpy threshold that applies to other categories of sources. In the preamble to the 1980 major NSR rules, we noted that the *Alabama Power* court stated that ''Congress' intention, in establishing the list of source categories in section 169(1) of the Act, was to identify facilities which, due to their size, are financially able to bear the substantial regulatory costs imposed by the PSD provisions and which, as a group, are primarily responsible for emission of the deleterious pollutants that befoul our nation's air.'' (*See* 45 FR 52691.) In light of that intent, we determined that as a matter of policy, it would be appropriate to count all emissions—including fugitive emissions—in threshold calculations of applicability for those source categories. (Again, *see* 45 FR 52691.) In doing so, we indicated that our listing decisions would be based on whether sources in the category have the potential to degrade air quality significantly. We also indicated that we would consider information raised by commenters that showed that unreasonable socioeconomic impacts relative to the benefits would result from subjecting the sources to the relevant PSD or nonattainment programs.

In addition to the source categories listed in section 169(1), based on application of these criteria, we included on the section 302(j) list ''any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.'' We noted in the 1980 preamble that categories of sources are regulated under section 111 (New Source Performance Standards or NSPS) or 112 (National Emission Standards for Hazardous Air Pollutants or NESHAP) on the basis of a determination that their emissions seriously and adversely impact ambient air quality. We therefore determined that it was appropriate to include their fugitive emissions in the threshold calculations for purposes of major NSR applicability. We included the August 7, 1980 cutoff date because we believed that sources not regulated by an NSPS or NESHAP before the promulgation date of the major NSR rules could not have been afforded a meaningful opportunity to comment on the inclusion of their fugitive emissions in threshold applicability determinations for the source category.

In the preamble to the 1980 NSR rules, we explained that the *Alabama Power* court determined that the ''substantive preconstruction review and permitting requirements of section 165 'apply with equal force to fugitive emissions and emissions from industrial point sources,''' but went on to explain that this meant only that ''section 165 requires that fugitive emissions be taken into account in determinations of whether NAAQS or allowable increments will be violated * * * and that fugitive emissions be subjected to BACT requirements * * *.'' (*See* 45 FR 52691.) Thus, in the preamble to the 1980 rules, we analytically grouped fugitive emissions for purposes of the major source definition and major modifications under the rubric of ''threshold calculations.'' (*See* 45 FR 52690–91.)

However, the 1980 NSR regulations on their face require fugitive emissions to be included in threshold applicability determinations for any project, but then exempt from the relevant PSD or nonattainment requirements any project that (1) would be ''major'' only if fugitive emissions were included and (2) does not belong to one of the categories specifically listed pursuant to the section 302(j) rulemaking. (*See,* for example, §§ 52.21(b)(4) and (i)(4)(vii) as promulgated in 1980 at 45 FR 52736 and 52739, respectively. *See* also the discussion at 49 FR 43204, October 26, 1984.) Thus, in the 1980 rules, we included the section 302(j) list in a provision that exempted from PSD permitting requirements ''a particular major stationary source or major modification, if * * * [t]he source or modification would be a major stationary source or major modification

only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to [any of the categories in the section 302(j) list].'' (*See* §§ 52.21(i)(4), (i)(4)(vii), 45 FR 52738–52739.) A similar exclusion applied in the nonattainment major NSR context. (*See* § 51.18(j)(4), 45 FR 52746.) In our response to a petition for reconsideration of the 1980 rules submitted on behalf of the American Mining Congress, we continued this approach, stating that ''EPA * * * intended to establish that any source which would be 'major' only if fugitive emissions were taken into account is not to be considered 'major' for any PSD purpose, unless the source belongs to one of the categories on the list which now appears in [§]52.21(i)(4)(vii). Similarly, EPA intended to establish that any modification that would be 'major' only if fugitive emissions were taken into account is not to be considered 'major' for any PSD purpose, unless the source * * * belongs to one of the categories on that list.'' Further, we committed to amend the regulations to conform them to these intentions. (*See* letter from Douglas M. Costle, EPA Administrator, to Robert T. Connery, Holland & Hart, January 19, 1981.)

On October 26, 1984 (49 FR 43202) we affirmed the interpretation that we had stated in the 1980 NSR rulemaking. (*See* 49 FR 43208.) We also added NSR regulatory provisions that the fugitive emissions of a stationary source shall not be included in the threshold determination of whether it is a major stationary source unless the source belongs to one of the categories of sources identified by EPA in its section 302(j) rulemaking. (*See* 49 FR 43209–10.)

In a companion notice published on October 26, 1984 (49 FR 43211), we solicited public comment on an ''interpretive ruling'' regarding section 302(j) of the Act as it relates to the review of physical or operational changes involving fugitive emissions.[2] In this notice, we observed that in our 1980 NSR rulemaking and when proposing amendments in 1983, we had assumed that the rulemaking requirement in section 302(j) regarding source categories for which fugitive emissions should be considered applies to modification determinations as well as to threshold major source determinations. However, in this 1984 interpretive proposal, we stated that we believed our prior assumption in this regard was incorrect. We proposed to include fugitive emissions for sources in all source categories, to the extent quantifiable, when determining whether a physical or operational change meets the significance thresholds for a modification for purposes of major NSR. (*See* 49 FR 43213–14.)

On February 28, 1986 (*see* 51 FR 7090), we reopened the comment period to receive further comment on several of the issues addressed in our October 26, 1984 proposal. The comment period ended April 9, 1986. Comments for this proposal are captured in legacy docket A–84–33.

On November 28, 1989 (*see* 54 FR 48870), we finalized our 1984 interpretation and concluded that the section 302(j) limitation on including fugitive emissions applies to the threshold determination of whether a source is a major source, but not to the threshold determination of whether a physical or operational change constitutes a major modification. We pointed out that the language of section 302(j) explicitly attaches the rulemaking requirements only to existing or proposed major sources, and says nothing about major modifications to existing sources. We also noted that the PSD and nonattainment major NSR definitions of ''modification'' in section 169(2)(C) and section 171(4) of the Act, respectively, merely cross-reference section 111(a)(4) of the Act, which is the definition of ''modification'' in the NSPS provisions. Because section 111(a)(4) defines modification solely in terms of the total amount of pollution that a change at a source would produce, we believed that Congress intended to establish no qualitative distinction between stack and fugitive emissions. Moreover, we stated that the legislative history on section 302(j) does not refer directly to major modifications, although the conference report on the PSD construction and modification definitions in section 169(2)(C) does provide that Congress' general intent was ''to conform to usage in other parts of the Act'' [123 Cong. Rec. H 11957, col. 3 (daily ed.) (November 1, 1977)]. We reasoned that this passage referred not only to section 111(a)(4), but to usage of these terms in existing EPA regulations under the NSPS and NSR programs, which did not distinguish between fugitive and stack emissions. We concluded that an interpretation of section 302(j) to exempt fugitive emissions from modification calculations ran counter to EPA's longstanding practice, and that if Congress intended a legislative change as to major modifications, it would have said so explicitly. (*See* 54 FR 48882–83.) We further concluded that EPA's longstanding practice of considering the fugitive emissions of all sources, not just those on the section 302(j) list, when determining whether a major modification had occurred was reasonable. (*See* 54 FR 48883.) In addition, we related that our interpretation likely would not impose new regulatory burdens because fugitive emissions from physical or operational changes would still be excluded from applicability determinations unless the changes occurred at a major source. We reasoned that under the Act and EPA regulations, a modification is ''major'' and subject to review only if the source at which it would occur is also ''major.'' Hence, a modification to a source of predominantly fugitive emissions that does not belong to a currently listed category could not be subject to review, even if its fugitive emissions were taken into account, because the source would not be ''major.'' (*See* 49 FR 43213–14.) Based on this reasoning, our November 28, 1989 final action reaffirmed our October 1984 proposed interpretation that the list of fugitive emissions sources created pursuant to section 302(j) does not apply to major modifications and that fugitive emissions for sources in all source categories must be included when determining whether a physical or operational change meets the significance thresholds for purposes of major NSR.

In October 1990, we issued the draft ''New Source Review Workshop Manual,'' [3] in which we stated that under the federal PSD regulations, fugitive emissions ''are included in the potential to emit (and increases in the same due to modification)'' if they occur at one of the source categories listed pursuant to section 302(j). (*See* page A.9 of the Manual, which may be found at *http://www.epa.gov/ttn/nsr/gen/wkshpman.pdf.*) This phrasing seemingly contradicts our November 1989 final interpretive ruling, although we did not intend to change our policy in this area.

In the NSR Improvement final rulemaking published December 31, 2002 (67 FR 80186), we promulgated final rules consistent with our November 1989 final interpretive ruling. There, we required the inclusion of fugitive emissions in calculating emissions increases for purposes of determining whether a particular

[2] This was an ''interpretive ruling'' in that we proposed to change our previous interpretation of the Act. To put the interpretive ruling into effect, we chose not to finalize the proposed revision to the major modification definition.

[3] The ''New Source Review Workshop Manual'' is in draft form and the Agency chose not to finalize this manual.

physical or operational change constitutes a major modification requiring a PSD or nonattainment major NSR permit. (*See*, for example, § 52.21(b)(41)(ii)(*b*), which includes fugitive emissions, to the extent quantifiable, in the definition of ''projected actual emissions'' and § 52.21(b)(48)(i)(*a*), which includes fugitive emissions, to the extent quantifiable, in the definition of ''baseline actual emissions.'')

E. Why is EPA reconsidering this aspect of the December 2002 NSR Improvement final rulemaking?

On July 11, 2003, we received a petition for reconsideration of the December 2002 NSR Improvement final rules from Newmont USA Ltd., dba Newmont Mining Corporation (Newmont). Newmont argued that we failed to comply with the requirements of section 302(j) of the Act in requiring fugitive emissions to be counted for purposes of determining whether a physical or operational change constitutes a major modification for sources in source categories not listed pursuant to section 302(j). Newmont also argued that we failed to provide notice and an opportunity for comment on this issue. The EPA Assistant Administrator for Air and Radiation granted Newmont's petition by letter in January 2004.

III. This Action

A. What are the results of EPA's reconsideration?

We are proposing to revise the provisions of the December 2002 NSR Improvement final rules related to the treatment of fugitive emissions for purposes of determining whether a physical or operational change at an existing major source qualifies as a major modification. We propose to reverse our existing policy and include fugitive emissions in determining whether a physical or operational change results in a major modification only for sources in the source categories that have been designated through rulemaking pursuant to section 302(j) of the Act. In other words, we propose to adopt the same approach to fugitive emissions currently used for determining whether a source is major, for determining whether a change is a major modification. We solicit comment on this proposed approach.

B. How is EPA proposing to revise the major NSR regulations?

To implement our new approach to fugitive emissions, in this action we propose to revise all four portions of the major NSR program regulations: § 51.165, § 51.166, § 52.21, and appendix S of part 51. This notice includes specific proposed revisions for §§ 51.165, 51.166, and 52.21. The proposed revisions are nearly identical for these regulations because they contain nearly identical provisions related to major modifications. We are not proposing specific revisions for appendix S in this action, but we propose to revise it with regulatory text consistent with the changes that we ultimately finalize for § 51.165.

For §§ 51.165, 51.166, and 52.21, we propose to modify a number of definitions. In addition, we propose a minor change in the provisions for plantwide applicability limitations (PALs) to preserve the existing treatment of fugitive emissions for PALs. We are proposing to modify the paragraph in each rule that explains how to calculate whether a significant emissions increase will occur as the result of a physical or operational change. We are proposing a minor revision in the provisions on monitoring and reporting for physical and operational changes that are found not to be major modifications. Finally, we are proposing to delete as unnecessary the paragraph that provides for a generalized exemption related to fugitive emissions and repeats the section 302(j) list. These proposed rule revisions are discussed in more detail below.

We are proposing revisions to the definitions of ''baseline actual emissions'' and ''projected actual emissions.'' As noted in the Newmont petition, these definitions (which figure in determining the increase associated with a physical or operational change) currently require that fugitive emissions be included, to the extent quantifiable, without regard to source category. Our proposed revisions will qualify this requirement so that fugitive emissions (to the extent quantifiable) must be included for an emissions unit that ''belongs to one of the source categories listed in [the section 302(j) list that appears in the definition of 'major stationary source'] or is located at a major stationary source that belongs to one of the listed source categories.'' For baseline actual emissions, this revision appears in § 51.165(a)(1)(xxxv)(A)(*1*), (B)(*1*), and (C); § 51.166(b)(47)(i)(*a*), (ii)(*a*), and (iii); and § 52.21(b)(48)(i)(*a*), (ii)(*a*), and (iii). For projected actual emissions, the revision appears in § 51.165(a)(1)(xxviii)(B)(*2*) and (*4*), § 51.166(b)(40)(ii)(*b*) and (*d*), and § 52.21(b)(41)(ii)(*b*) and (*d*). Note that the proposed language refers to emissions units that are in a source category on the section 302(j) list, as well as the listing status of the entire major stationary sources that belong to one of the listed source categories. This language addresses those situations where an emissions unit that is included in one of the listed source categories is located within a parent source whose primary activity is not on the list. If either the emissions unit or the parent source is in a source category on the section 302(j) list, the emission unit's fugitive emissions, to the extent quantifiable, must be included for purposes of determining whether a physical or operational change constitutes a modification. We propose similar language throughout this proposed rule. See section III.D below for additional discussion of the rationale for this proposed language.

We also propose to revise the definition of ''baseline actual emissions'' to maintain the current requirements for PALs. Plantwide applicability limitations are an alternative means of determining the applicability of major NSR to changes at an existing major stationary source. Instead of evaluating each physical or operational change individually, the source simply tracks total emissions from the source to be sure that they remain below the level of its PAL. Baseline actual emissions are used in setting the level of the PAL.

We continue to believe that it is appropriate to include fugitive emissions (to the extent quantifiable) in setting the level of the PAL and in tracking compliance with it, regardless of the source category. In the preamble to the December 2002 NSR Improvement rules, we explained that the benefit of PALs to the public and the environment is that PALs are designed ''to assure local communities that air emissions from your major stationary source will not exceed the facility-wide cap set forth in the permit unless you first meet the major NSR requirements.'' We further explained that a PAL ''provides a more complete perspective to the public because in setting a PAL, your reviewing authority accounts for all current processes and all emissions units together and reflects the long-term maximum amount of emissions it would allow from your source.'' (*See* 67 FR 80206.) We therefore do not believe we can exempt fugitive emissions from being included when setting a PAL. Consequently, we are proposing to revise the subparagraph of this definition that addresses PALs to ensure that fugitive emissions continue to be included for the purposes of PALs for all source categories. This proposed revision is found in

§§ 51.165(1)(a)(xxxv)(D), 51.166(b)(47)(iv), and 52.21(b)(48)(iv).

To reinforce our intentions for PALs, we are proposing a minor revision to the provisions for PALs to state clearly that a PAL is to include fugitive emissions, to the extent quantifiable, ''regardless of whether the emissions unit or major stationary source belongs to one of the source categories listed in [the section 302(j) list].'' This revision is found in §§ 51.165(f)(4)(i)(D), 51.166(w)(4)(i)(*d*), and 52.21(aa)(4)(i)(*d*).

We are proposing to revise the definition of ''major modification'' to mirror the existing definition of ''major stationary source.'' Specifically, we propose to add a subparagraph to this definition saying:

> Fugitive emissions shall not be included in determining for any of the purposes of this section whether a physical change in or change in the method of operation of a major stationary source is a major modification, unless the source belongs to one of the source categories listed in [the section 302(j) list that appears in the definition of ''major stationary source'']

This new language is proposed for §§ 51.165(a)(1)(v)(G), 51.166(b)(2)(v), and 52.21(b)(2)(v).

We are proposing to revise the definition of ''net emissions increase'' to preclude an unlisted major source from including contemporaneous increases and decreases in fugitive emissions in the ''netting analysis'' for a physical or operational change. We do not believe that an unlisted source (which does not include fugitive emissions in determining the increase in emissions from the current physical or operational change) should be able to use decreases in fugitive emissions to ''net out'' of major NSR. Rather, we believe that unlisted sources should treat fugitive emissions consistently for all purposes related to determining the applicability of major NSR to physical or operational changes. Accordingly, we propose to add the following language regarding ''creditable'' emissions increases and decreases at §§ 51.165(a)(1)(vi)(C)(*4*), 51.166(b)(3)(iii)(*d*), and 52.21(b)(3)(iii)(*c*):

> For an increase or decrease in fugitive emissions (to the extent quantifiable), it occurs at an emissions unit that belongs to one of the source categories listed in [the section 302(j) list that appears in the definition of ''major stationary source''] or the major stationary source belongs to one of the listed source categories.

The final definition change we are proposing in this action is for ''fugitive emissions.'' For this term, we propose to add subparagraphs to summarize how fugitive emissions are to be addressed in each section and to refer the reader to the relevant provisions. We believe that the added subparagraphs will aid understanding of our intentions regarding fugitive emissions. These revisions are proposed for §§ 51.165(a)(1)(ix), 51.166(b)(20), and 52.21(b)(20).

The December 2002 NSR Improvement rulemaking added provisions to the major NSR regulations to clarify the two-step process for determining whether a physical or operational change is a major modification. Step 1 is the evaluation of the proposed change to determine whether it will cause a significant increase in emissions of a regulated NSR pollutant. If so, the source goes on to Step 2, which is a ''netting analysis'' to determine whether the change will result in a significant net emissions increase when taken together with any contemporaneous, creditable emissions increases or decreases that have occurred at the source. In this action we are proposing revisions to the provisions for Step 1 to clarify that fugitive emissions (to the extent quantifiable) are only included for listed emissions units and source categories. (Clarifications for Step 2 are handled in the proposed revisions to the definitions that are discussed above.) The proposed revision appears in §§ 51.165(a)(2)(ii)(B), 51.166(a)(7)(iv)(*b*), and 52.21(a)(2)(iv)(*b*).

The December 2002 NSR Improvement rulemaking also added provisions for monitoring and reporting the emissions that actually occur after a physical or operational change in cases where the change was determined, prior to construction, not to be a major modification. We are proposing minor revisions to these provisions to be explicit that fugitive emissions (to the extent quantifiable) need only be monitored and reported if the emissions unit or major stationary source in question is on the section 302(j) list. This revision provides for consistent treatment of fugitive emissions before and after the physical or operational change. The proposed revision affects §§ 51.165(a)(6)(iii) and (iv), 51.166(r)(6)(iii) and (iv), and 52.21(r)(6)(iii) and (iv).

Finally, we are proposing to delete a paragraph in each of the major NSR regulations that is no longer necessary. These were the original paragraphs placed in the rules to implement section 302(j) of the Act. However, after the definition of ''major stationary source'' was revised to include the section 302(j) list, and we finalized our policy (proposed to be reversed by this action) that fugitive emissions must be counted for all source categories in major modification determinations, these paragraphs tended to confuse the issue. With our proposal to make uniform the approach to fugitive emissions for major source and major modification determinations, these paragraphs have become completely unnecessary. Accordingly, in this action we propose to remove and reserve these paragraphs, §§ 51.165(a)(4), 51.166(i)(1)(ii), and 52.21(i)(vii).

C. What is the effect of this proposed action on the minor NSR program?

Major NSR programs are very similar across the United States, prescribed as they are by the Act and the implementing federal regulations. In contrast, State and local minor NSR programs are subject only to general requirements and, as a consequence, may vary significantly from area to area.[4] As a result, we do not know with certainty how such programs typically address fugitive emissions in minor NSR permitting. We request comment on this topic. How do existing State and local minor NSR programs address fugitive emissions? Do these programs clearly specify how fugitive emissions are to be considered for all aspects of the program (e.g., applicability, control technology requirements, impacts analysis, etc.)?

We believe that it is important for minor NSR programs to be clear regarding the treatment of fugitive emissions in all areas of the program. This will afford all sources consistent treatment and a ''level playing field.'' In addition, a common understanding of program requirements from the outset is important to avoid controversy and wasted resources during the permitting process. In light of the importance of clear requirements, we propose in this action that each implementation plan as a minimum element must be explicit in specifying how fugitive emissions are to be accounted for in all aspects of the minor NSR program.

We recently proposed minor NSR and nonattainment major NSR regulations for sources in those areas of Indian country where tribes do not have an EPA-approved implementation plan. (*See* 71 FR 48703.) We proposed in the minor NSR rule to require minor sources to include fugitive emissions to the extent quantifiable for applicability purposes for all sources, or include them only for source categories listed pursuant to section 302(j), or exclude them for all sources. In the final tribal minor NSR rule, we will adopt one of these proposed approaches. Since we

[4] There are currently no approved tribal minor NSR programs.

will be explicitly addressing fugitive emissions in the final minor NSR rule in Indian country, we will be acting consistently with the approach for minor NSR programs that we are proposing in this action.

We solicit comment on all aspects of our proposal regarding minor NSR. We also solicit comment on whether we should include rule language in 40 CFR 51.160 (for example, at § 51.160(e)) to require State, local, and tribal minor NSR programs to directly address fugitive emissions in minor NSR rules.

D. What is the rationale for this action?

1. The Newmont Petition

The thrust of Newmont's petition for reconsideration is twofold:

- The EPA did not comply with the requirements of section 302(j) of the Act when we included fugitive emissions in the definitions of ''baseline actual emissions'' and ''projected actual emissions'' for purposes of determining whether a change at a facility constitutes a ''major modification.''
- The EPA did not provide notice or an opportunity for comment on this approach, since these definitions were not proposed in the 1996 proposed major NSR revisions (*see* 61 FR 38250, July 23, 1996).

As we noted in the 1984 and 1989 **Federal Register** notices where we proposed and finalized the interpretive ruling that established our existing approach to fugitive emissions for major modifications, the language of the Act does not resolve the issue of whether the fugitive emissions provisions of section 302(j) were intended by Congress to apply to major modifications as well as major sources. On its face, section 302(j) mandates rulemaking only for determining whether a new source is to be considered a ''major stationary source,'' and does not explicitly address major modifications. Neither does the definition of ''modification'' in section 111(a)(4) address the issue. As discussed above, in our 1989 notice we also noted that interpreting section 302(j) to exempt fugitive emissions from modification calculations ran counter to our longstanding practice, and reasoned that if Congress meant the 302(j) rulemaking provision to cover major modifications, it would have said so. We believe this interpretation remains a permissible construction of the statute, and that since the time we finalized the interpretive ruling in 1989, we required that fugitive emissions be included in major modification determinations. For these reasons, we disagree with petition on both counts.

We now believe, however, that the absence of reference to ''major modification'' in section 302(j) simply does not dispose of the issue. For PSD at least, Congress only added major modifications to the program in ''technical and conforming amendments'' after enacting the 1977 Clean Air Act Amendments and even as to nonattainment major NSR, defined ''modification'' only by cross-reference. Similarly, the legislative history is scant; Congress simply adverted to its desire to ''conform [the PSD definition of construction] to usage in other parts of the Act.'' (*See* 123 Cong. Rec. 36331 (Nov. 1, 1977).) We cannot conclude from the statutory text or the legislative history what Congress explicitly intended on this point; the evidence is simply too ambiguous. Accordingly, we believe that we continue to have discretion under the second prong of *Chevron, USA* v. *NRDC,* 467 U.S. 837, 842–43 (1984), to adopt ''a permissible construction of the statute.''

2. Proposed Actions

We believe that Section 302(j) evinces, at a minimum, an intent by Congress to require a special look at fugitive emissions for purposes of calculating a source's emissions. The statute is silent or ambiguous on the applicability of section 302(j) to the question of whether a physical or operational change is a modification. That is, we do not believe that the Act precludes us from applying the section 302(j) restrictions on counting fugitive emissions to the methodology for determining whether a physical and operation change constitutes a major modification. Moreover, although no authoritative conference or committee report addresses the issue of how fugitive emissions should be covered, there are numerous examples in committee hearings on the bills that led up to the 1977 Amendments of industry testimony to the effect that in many cases fugitive emissions would not be susceptible to control or would be exceedingly costly to control, or would be infeasible to measure. *See e.g* Hearings on Clean Air Act Amendments of 1977, Subcomm. on Health and the Environment, House Comm. on Interstate and Foreign Commerce, March 11, 1977, H.R. Rep. No. 95–59 at 1327 (statement of Earl Mallick, American Iron and Steel Inst.) (high costs of controlling fugitive emissions); id., Part 2, March 18, 1975, H.R. Rept. No. 94–25 at 690 (testimony of Fred Tucker, National Steel Corp.) (impossible to comply with state implementation plan limits on fugitive emissions); Hearings on Implementation of the Clean Air Act—1975, Subcomm. on Environmental Pollution, Sen. Comm. on Public Works, Apr. 22, 1975, S. Rept. No. 94–H10, Pt. 1 at 757 (statement of David M. Anderson, Bethlehem Steel Corp. to effect that control of fugitive emissions would be enormously costly but would have ''a net negative environmental impact''); id., Pt. 2, App. A at 2026 (statement of Cast Metals Federation) (fugitive emissions control at nonferrous metals smelters extremely costly with adverse energy impacts and no improvement in air quality). But *see* id., App. B at 2232–33 (EPA written responses to Committee questions) (for some industries fugitive control can be critical to attainment of standards).

In light of this legislative history, it is reasonable to read section 302(j) of the Act as reflecting a decision by Congress that it simply did not know enough to make the critical decisions regarding the extent to which fugitive emissions should be included in threshold applicability determinations both for purpose of determining whether a source is a major source, and whether a physical or operational change constitutes a modification. Rather, we believe Congress assigned the resolution of these complex issues to EPA. As noted above, EPA's earliest, most nearly contemporaneous construction of the statute in the 1980 rules took it for granted that the treatment of fugitive emissions for purposes of modification calculations would be addressed identically with the same issue for major source determinations.

For policy and programmatic reasons, we now believe that it is better to adopt a uniform approach to these threshold determinations. Analyzing 302(j) functionally, we conclude that it is reasonable to interpret section 302(j) to require EPA to conduct rulemaking to identify source categories that should include their fugitive emissions for all threshold applicability purposes. The concerns appearing in the legislative history relating to fugitive emissions are the same when evaluating whether a project at an existing source is a modification as they are when evaluating whether a source is a major source. Our current, differentiated approach can lead to incongruous results. For example, at an existing source in a source category not on the section 302(j) list that is undergoing a physical or operational change, the fugitive emissions from the source would not be counted in determining whether the source is a major source (the first major NSR applicability criterion), yet the increase in fugitive emissions resulting from the change

would be counted to determine whether the project qualifies as a major modification (the second criterion). Furthermore, if an existing major source in a source category not listed under section 302(j) engages in a physical or operational change that creates a significant volume of fugitive emissions, consideration of its fugitive emissions when calculating whether the change constitutes a modification may be a crucial factor in the determination. Thus, we believe our assertion in the 1984 notice (*see* 49 FR 43213–14) that the interpretation that we proposed then ''likely would not impose new regulatory burdens'' was not correct; our interpretation proposed in 1984 and finalized in 1989 imposed a new regulatory burden on major sources in a source category not on the section 302(j) list, since their fugitive emissions would be counted in determining whether they had made a change constituting a modification.

In summary, the proposed rules that we are publishing in this action eliminate the existing requirement that fugitive emissions be counted in major modification determinations for all source categories, whether or not listed pursuant to section 302(j). We are proposing that only source categories that we list pursuant to section 302(j) would be required to count fugitive emissions when evaluating whether a project is a major modification. We solicit comment on all aspects of this proposed approach and our rationale for it.

IV. When would these proposed changes take effect in the Federal PSD Program, and Must States revise their State Implementation Plans (SIPs) to incorporate this proposed action?

We propose that these changes take effect in the Federal PSD permit program within 60 days from when we promulgate the final rule. This means that we would apply these rules in any area without a SIP-approved PSD Program for which we are the reviewing authority, or for which we delegated our authority to issues permits to a State, local or tribal reviewing authority.

We also propose to establish these proposed requirements as minimum program elements of the PSD and nonattainment NSR programs. Notwithstanding this requirement, it may not be necessary for a State or local authority to revise its SIP begin to implement these changes.[5] Some State or local authorities may be able to adopt these changes through a change in interpretation of existing language in the approved SIP without the need to revise the SIP.

For any State or local authority that can implement the changes without revising its approved SIP, we propose that the changes become effective when the reviewing authority publicly announces that it accepts these changes by interpretation. Although no SIP change may be necessary in certain areas that adopt these changes by interpretation, we encourage State and local authorities in such areas to make such SIP changes in the future to enhance the clarity of the existing rules.

For areas that would revise their SIPs to adopt these changes, the changes would not be effective in such areas until we approve the SIP revision. We propose to require that such State and local authorities submit revisions to SIPs to reflect requirements that are at least as stringent as the minimum program elements we adopt in a final rule within 3 years after the rule's promulgation date. We also propose that State and local authorities may maintain NSR program elements that have the effect of making their regulations more stringent than the final rules, but that a State and local authority submit an explanation for that conclusion to EPA by the SIP submission deadline.

We also propose to require that State, local, and subject tribal authorities explicitly specify in their implementation plans how the reviewing authority will treat fugitive emissions in all aspects of their minor NSR program. Section 110(a)(2)(C) of the Act provides us with authority to specify the inclusion of this minimum element in State, local, and tribal minor NSR programs. We further propose to require State, local, and subject tribal authorities to submit this information within 3 years from the promulgation date of the final rule.

We acknowledge that some States and localities may need to regulate additional fugitive emissions under the implementation plan for attainment purposes. We do not intend to preclude such regulation in either major or minor NSR where necessary to achieve the purposes of the Act. Our proposed action would not prohibit a reviewing authority from requiring control of fugitive emissions or modeling of quantifiable fugitive emissions, regardless of source category, where such measures might be considered necessary for compliance with a NAAQS or for other environmental protection purposes.

We solicit comment on this proposal for revising implementation plans and specifically on the ability of State, local, and tribal authorities to implement this approach through interpretation, without rulemaking.

V. Guiding Principles for Determining Fugitive Emissions

In our major NSR and Title V permit rules, ''fugitive emissions'' means ''those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.'' In practice, we interpret the phrase ''could not reasonably pass'' by determining whether such emissions can be reasonably collected or captured (e.g. enclosures or hoods). Under this interpretation, it is axiomatic that any emissions actually collected or captured by the source are non-fugitive emissions. The answer is less clear when the source is not currently collecting or capturing the emissions. In these circumstances, we make case-by-case determinations as to whether a source could reasonably collect or capture such emissions.

Our past determinations articulate a number of principles we use in making these case-by-case determinations, though none may express the entirety of our policy. Moreover, some EPA memoranda, when viewed in isolation, may appear to provide divergent positions. Accordingly, we rearticulate our guiding principles in making these case-by-case determinations, and expand the explanation of these principles to enhance the understanding of the regulated community. Specifically, EPA proposes to use the following guiding principles in determining whether emissions qualify as fugitive:

1. Determining which emissions could ''reasonably pass'' is a case-by-case decision based on whether or not the emissions can be reasonably collected or captured.

2. Because another similar facility collects, captures, or controls emissions does not mean that it is reasonable for others to do the same, but it is a factor in each consideration.

(a) If a source already collects or captures and discharges the emissions through a stack, chimney, vent or other functionally equivalent opening, then such emissions are non-fugitive at that source.

(b) If we establish a national emissions standard or regulation that requires some sources in the source category to collect or capture and control such emissions, then this weighs heavily towards a finding that the emissions are non-fugitive at other sources in this category; and,

[5] Currently, there are no tribal permitting agencies with an approved TIP to implement the major NSR permitting program.

(c) The more common collection or capture of such emissions is by other similar sources the more heavily this factor should weigh toward a finding that collection is reasonable.

3. The cost to collect or capture emissions is a factor when considering what is ''reasonable.''

(a) The combined costs to collect or capture and control emissions can be used as an alternative measure for the costs of emissions capture or collection alone in the case-by-case analysis;

(b) The surrounding air quality (e.g., nonattainment areas) is a consideration when deciding if costs (collection, capture, control) are reasonable, and,

(c) If it is not technically or economically feasible to control the emissions, then collection or capture of such emissions may not be reasonable.

We believe that the three overarching principles represent our existing policy on defining fugitive emissions. Moreover, we believe that these proposed expansions on these basic concepts represent a reasonable interpretation of our existing regulatory language to be applied to future fugitive emission determinations. Accordingly, we are not proposing specific changes to the existing regulatory language to accommodate this proposal. Nonetheless, we request comment on the specific ideas expressed in our expanded explanations, and on whether this approach should be implemented under the existing regulatory language, or whether regulatory changes to the specific definition of fugitive emissions are needed or desired to implement this proposal.

Our second principle relates to a concept we established in one of our initial guidance memorandums defining fugitive emissions. Specifically, we indicated that a consideration in the case-by-case analysis is whether emissions are ''ordinarily'' collected or captured by other sources in the source category. In subsequent memoranda, we interchanged the term ''ordinarily'' for ''commonly.'' [6] In a more recent memorandum, we describe this element in terms of a presumption.[7] We view these presumptions as no more than suggesting a starting point for the case-by-case analysis.[8] These guiding principles recognize that our existing guidance does not establish a non-rebuttable presumption, and does not attempt to establish a specific methodology States must use in conducting the case-by-case analysis. However, the expanded principles explain how States should weigh collection or capture of emissions by other similar sources in that analysis.

In conducting this analysis, we expect that a reviewing authority could reach different conclusions depending on whether it conducts the analysis for a new or existing emissions unit. For example, costs and technical feasibility may outweigh the consideration that other sources in the source category are subject to a national emissions standard or regulation as outlined in criteria 2(b) above, and a reviewing authority could conclude that such emissions are fugitive for an existing source even when they would find that they are non-fugitive at a new source.

Although costs have always been a consideration in determining whether emissions are fugitive, we historically focused on the cost of collection or capture and not the cost of control. Notwithstanding our past practice, we believe that it is reasonable to consider the cost and economic feasibility of control in determining whether emissions can be reasonably captured or collected. For example, the cost of controlling emissions may be helpful in the analysis if cost data on collection, capture and control in the aggregate is more available or more easily calculated than cost data on collection or capture alone.

Thus, we propose that the *reviewing authority* may consider the reasonableness of the combined costs of capture or collection and control as an alternative to considering only the cost of collection or capture. Notably, however, we expect permitting authorities to find higher costs reasonable when considering combined costs as an alternative compared to what would be reasonable if considering capture or collection costs alone. We also believe that accounting for the differences in attainment status is appropriate, because permitting authorities tend to accept higher collection, capture, and control costs as reasonable in areas where air quality problems are more severe.

Finally, as technology improved, the technical feasibility to collect or capture virtually any source of emissions likewise evolved. For example, it is technically feasible to build a large capture device to collect virtually any type of process emissions. Yet, these captured emissions may contain air pollutants in such small concentrations that there is no technically or economically feasible method to control the emissions once captured. Yet, under a strict interpretation of whether emissions are ''reasonably collected,'' we could find that such emissions are non-fugitive because they are reasonably collectable. Nonetheless this would fail to provide meaning to the term ''fugitive emissions'' as intended by Congress.

As expressed by the *Alabama Power* court,

> In the general definitional section of the Act, section 302(j), Congress employed the term ''fugitive emissions'' to refer to one manner of emission of any air pollutant. As commonly understood, emissions, from an ''industrial point source'' include emissions emanating from a stack or from a chimney. By contrast, ''fugitive emissions'' are emissions from a facility that escape from other than from a point source.'' [9]

In our proposed 1979 major NSR rule, we followed this common understanding of the term ''fugitive emissions.'' When we finalized our rule in 1980, we changed the definition of fugitive emissions from those emissions ''which do not reasonably pass'' through a stack or vent, to those that ''could not reasonably pass'' to avoid creating a disincentive for a source to collect and control emissions when technically and economically feasible. It was not our intent to interpret the term in a way that could eliminate the distinction between fugitive and non-fugitive emissions. Accordingly, we believe that when the only reason to collect or capture such emissions would be to control the emissions, and there is no technical or economically feasible means to control the emissions, then collecting the emissions is nonsensical, and thus, may not be reasonable.

Although this aspect of our principles may expand on how we historically considered costs in a case-by-case analysis, we believe that this interpretation remains fully consistent with Congress' intent in distinguishing fugitive emissions from non-fugitive emissions in the Act. The promulgated

[6] *Compare* Memo from Gerald A. Emison, Director, Office of Air Quality Planning and Standards to David P. Howekamp, Director, Air Management Division, Region IX, *Emissions from Landfills* (Oct. 6, 1987) (landfills are not ordinarily constructed with gas collection systems) *to* Memo from John S. Seitz, Director, Office of Air Quality Planning and Standards, to Director, Air, Pesticides and Toxics Management Division, Region I and V, *et al., Classification of Emissions from Landfills for NSR Applicability Purposes* (Oct. 21, 1994) (* * * use of systems has become more common).

[7] *See e.g.* Memo from Thomas C. Curran, Director, Information Transfer and Program Integration Division, to Judith M. Katz, Director, Air Protection Division, *Interpretation of the Definition of Fugitive Emissions in Parts 70 and 71* (Feb. 10, 1999).

[8] Recent case law suggests that the Agencies posses a limited ability to establish presumptions through guidance. *See e.g.* General Elec. Co. v. EPA, 290 F.3d 377 (D.C. Cir. 2002) (document stating without qualification that a certain value may be used to satisfy regulation was substantive rule; created norm or safe harbor that private parties can rely on).

[9] *Alabama Power* v. *Costle*, 636 F.2d at 368.

302(j) list includes the source categories listed in section 169(1) of the Act, which is the definition of ''major emitting facility'' for purposes of PSD. In the preamble to the 1980 major NSR rules, we noted that the *Alabama Power* court stated that Congress' intention in establishing the list of source categories in section 169(1) of the Act was to identify facilities which, due to their size, are financially able to bear the substantial regulatory costs imposed by the PSD provisions and which, as a group, are primarily responsible for emission of the deleterious pollutants that befoul our nation's air. 45 FR 52691. Thus, the purpose of the fugitive emissions inquiry is to determine which emissions should count for determining source size with a view towards requiring large sources to install pollution controls. If the emissions cannot be controlled, then it is reasonable to consider this factor in determining whether such emissions can be ''reasonably'' collected or captured.

VI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order (EO) 12866 (58 FR 51735, October 4, 1993), this action is a ''significant regulatory action.'' This action is likely to raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under EO 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* We are not promulgating any new paperwork requirements (e.g., monitoring, reporting, recordkeeping) as part of this proposed action. The OMB has previously approved the information collection requirements contained in the existing regulations (40 CFR parts 51 and 52) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control number 2060–0003, EPA ICR number 1230.17. A copy of the OMB approved Information Collection Request (ICR) may be obtained from Susan Auby, Collection Strategies Division; U.S. Environmental Protection Agency (2822T); 1200 Pennsylvania Avenue, NW., Washington, DC 20460 or by calling (202) 566–1672.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

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

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

After considering the economic impacts of this proposed action on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant *adverse* economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the rule on small entities.'' 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

A Regulatory Flexibility Act Screening Analysis (RFASA) developed as part of a 1994 draft Regulatory Impact Analysis (RIA) and incorporated into the September 1995 ICR renewal analysis, showed that the changes to the NSR program due to the 1990 Clean Air Act amendments would not have an adverse impact on small entities. This analysis encompassed the entire universe of applicable major sources that were likely to also be small businesses (approximately 50 ''small business'' major sources). Because the administrative burden of the NSR program is the primary source of the NSR program's regulatory costs, the analysis estimated a negligible ''cost to sales'' (regulatory cost divided by the business category mean revenue) ratio for this source group. Currently, and as reported in the current ICR, there is no economic basis for a different conclusion.

We believe the proposed rule changes in this proposed rule will reduce the regulatory burden associated with the major NSR program for sources, including small businesses, that are not included in the section 302(j) list. The proposed rule will not affect sources, including small businesses, that are included in the section 302(j) list; regulatory requirements for these sources will be unchanged.

The proposed rule changes will improve the clarity of the requirements for unlisted major sources, and may prevent some physical or operational changes at such sources from qualifying as major modifications when they would have been major modifications under the currently existing rules. Thus, the effect of the proposed rule changes will be to improve the operational flexibility of unlisted major sources. We have therefore concluded that this proposed action will relieve regulatory burden for all affected small entities. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

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

The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. The change in this rule is expected to result in a small, one-time increase in the burden imposed upon reviewing authorities in order for the revised rules to be included in the State's SIP (except in States that determine that they can implement the approach in this proposed action without a SIP revision). In addition, we believe the proposed rules changes will actually reduce the regulatory burden associated with the major NSR program by improving the operational flexibility of owners and operators (with an attendant decrease in the number of major modification applications that reviewing authorities must process). Thus, this proposed action is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments, for the same reasons stated above.

E. Executive Order 13132: Federalism

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

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. In addition, we believe the proposed rule changes will actually reduce the regulatory burden associated with the major NSR program by improving the operational flexibility of owners and operators, with an attendant decrease in the number of major modification applications that reviewing authorities must process. Thus, Executive Order 13132 does not apply to this rule. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

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

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This proposed rule does not have tribal implications, as specified in Executive Order 13175.

These proposed changes will benefit reviewing authorities and the regulated community, including any major source owned by a tribal government or located in or near tribal land, by providing increased certainty as to when to count fugitive emissions within the NSR program. In addition, some physical or operational changes that would be considered major modifications under the existing rules may not be treated as such under the revised rules, providing greater operational flexibility to sources.

We anticipate that the changes in this proposed rule will result in a small decrease in the burden imposed upon reviewing authorities. These revisions will ultimately provide greater operational flexibility to permitted sources, which will in turn reduce the overall burden of the program on permitting authorities by reducing the number of required major NSR permits for major modifications. No tribal government currently has an approved tribal implementation plan (TIP) under the Act to implement the NSR program; therefore the Federal government is currently the NSR reviewing authority in Indian country. Thus, tribal governments should not experience added burden from this proposed rule, nor should their laws be affected with respect to implementation of this rule. Thus, Executive Order 13175 does not apply to this rule.

EPA specifically solicits additional comment on this proposed rule from tribal officials.

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

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

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

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

This rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. We believe the proposed rule changes may actually reduce the regulatory burden associated with the major NSR program, and may therefore have a positive effect on the supply, distribution, or use of energy, by improving the operational flexibility of owners and operators.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical.

Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

VII. Statutory Authority

The statutory authority for this action is provided by sections 101, 107, 110, and 301 of the Act as amended (42 U.S.C. 7401, 7407, 7410, and 7601).

List of Subjects

40 CFR Part 51

Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Transportation, Volatile organic compounds, Fugitive emissions.

40 CFR Part 52

Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Transportation, Volatile organic compounds, Fugitive emissions.

Dated: November 5, 2007.

Stephen L. Johnson,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 51—[AMENDED]

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

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

Subpart I—[Amended]

2. Section 51.165 is amended as follows:

a. By adding paragraph (a)(1)(v)(G).

b. By removing the period at the end of paragraph (a)(1)(vi)(C)(*3*) and adding ''; and'' in its place.

c. By adding paragraph (a)(1)(vi)(C)(*4*).

d. By revising paragraph (a)(1)(ix).

e. By revising paragraphs (a)(1)(xxviii)(B)(*2*) and (a)(1)(xxviii)(B)(*4*).

f. By revising paragraphs (a)(1)(xxxv)(A)(*1*), (a)(1)(xxxv)(B)(*1*), (a)(1)(xxxv)(C), and (a)(1)(xxxv)(D).

g. By revising paragraph (a)(2)(ii)(B).

h. By removing and reserving paragraph (a)(4).

i. By revising paragraphs (a)(6)(iii) and (a)(6)(iv).

j. By revising paragraph (f)(4)(i)(D).

The revisions and additions read as follows:

§ 51.165 Permit requirements.

(a) * * *

(1) * * *

(v) * * *

(G) Fugitive emissions shall not be included in determining for any of the purposes of this section whether a physical change in or change in the method of operation of a major stationary source is a major modification, unless the source belongs to one of the source categories listed in paragraph (a)(1)(iv)(C) of this section.

(vi) * * *

(C) * * *

(*4*) For an increase or decrease in fugitive emissions (to the extent quantifiable), it occurs at an emissions unit that belongs to one of the source categories listed in paragraph (a)(1)(iv)(C) of this section or the major stationary source belongs to one of the listed source categories.

* * * * *

(ix) *Fugitive emissions* means those emissions which could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening. Fugitive emissions, to the extent quantifiable, are addressed as follows for the purposes of this section:

(A) In determining whether a stationary source or modification is major, fugitive emissions from an emissions unit are included only if the unit or stationary source belongs to one of the source categories listed in paragraph (a)(1)(iv)(C) of this section. (See paragraphs (a)(1)(iv)(C) and (a)(1)(v)(G) of this section.)

(B) For purposes of determining the net emissions increase associated with a project, an increase or decrease in fugitive emissions is creditable only if it occurs at an emissions unit that belongs to one of the source categories listed in paragraph (a)(1)(iv)(C) of this section or the major stationary source belongs to one of the listed source categories. (See paragraph (a)(1)(vi)(C)(*4*) of this section.)

(C) For purposes of determining the projected actual emissions of an emissions unit after a project, fugitive emissions are included only if the emissions unit belongs to one of the source categories listed in paragraph (a)(1)(iv)(C) of this section or is located at a major stationary source that belongs to one of the listed source categories. (See paragraph (a)(1)(xxviii)(B)(*2*) of this section.

(D) For purposes of determining the baseline actual emissions of an emissions unit, fugitive emissions are included only if the emissions unit belongs to one of the source categories listed in paragraph (a)(1)(iv)(C) of this section or is located at a major stationary source that belongs to one of the listed source categories, except that, for a PAL, fugitive emissions shall be included regardless of the source category. (See paragraphs (a)(1)(xxx)(A)(*1*), (a)(1)(xxx)(B)(*1*), (a)(1)(xxx)(C), and (a)(1)(xxx)(D) of this section.)

(E) In calculating whether a project will cause a significant emissions increase, fugitive emissions are included only for those emissions units that belong to one of the source categories listed in paragraph (a)(1)(iv)(C) of this section, or for all emissions units if the major stationary source belongs to one of the listed source categories. (See paragraph (a)(2)(ii)(B) of this section.)

(F) For purposes of monitoring and reporting emissions from a project after normal operations have been resumed, fugitive emissions are included only for those emissions units that belong to one

of the source categories listed in paragraph (a)(1)(iv)(C) of this section, or for all emissions units if the major stationary source belongs to one of the listed source categories. (See paragraphs (a)(6)(iii) and (iv) of this section.)

(G) For all other purposes of this section, fugitive emissions are treated in the same manner as other, non-fugitive emissions. This includes, but is not limited to, the treatment of fugitive emissions for offsets (see paragraph (a)(3) of this section) and for PALs (see paragraph (f)(4)(i)(D) of this section).

* * * * *

(xxviii) * * *

(B) * * *

(*2*) Shall include emissions associated with startups, shutdowns, and malfunctions; and, for an emissions unit that belongs to one of the source categories listed in paragraph (a)(1)(iv)(C) of this section or is located at a major stationary source that belongs to one of the listed source categories, shall include fugitive emissions (to the extent quantifiable); and

* * * * *

(*4*) In lieu of using the method set out in paragraphs (a)(1)(xxviii)(B)(*1*) through (*3*) of this section, may elect to use the emissions unit's potential to emit, in tons per year, as defined under paragraph (a)(1)(iii) of this section. For this purpose, if the emissions unit belongs to one of the source categories listed in paragraph (a)(1)(iv)(C) of this section or is located at a major stationary source that belongs to one of the listed source categories, the unit's potential to emit shall include fugitive emissions (to the extent quantifiable).

* * * * *

(xxxv) * * *

(A) * * *

(*1*) The average rate shall include emissions associated with startups, shutdowns, and malfunctions; and, for an emissions unit that belongs to one of the source categories listed in paragraph (a)(1)(iv)(C) of this section or is located at a major stationary source that belongs to one of the listed source categories, shall include fugitive emissions (to the extent quantifiable).

* * * * *

(B) * * *

(*1*) The average rate shall include emissions associated with startups, shutdowns, and malfunctions; and, for an emissions unit that belongs to one of the source categories listed in paragraph (a)(1)(iv)(C) of this section or is located at a major stationary source that belongs to one of the listed source categories, shall include fugitive emissions (to the extent quantifiable).

* * * * *

(C) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's potential to emit. In the latter case, fugitive emissions, to the extent quantifiable, shall be included only if the emissions unit belongs to one of the source categories listed in paragraph (a)(1)(iv)(C) of this section or is located at a major stationary source that belongs to one of the listed source categories.

(D) For a PAL for a major stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in paragraph (a)(1)(xxxv)(A) of this section, for other existing emissions units in accordance with the procedures contained in paragraph (a)(1)(xxxv)(B) of this section, and for a new emissions unit in accordance with the procedures contained in paragraph (a)(1)(xxxv)(C) of this section, except that fugitive emissions (to the extent quantifiable) shall be included regardless of the source category.

* * * * *

(2) * * *

(ii) * * *

(B) The procedure for calculating (before beginning actual construction) whether a significant emissions increase (*i.e.*, the first step of the process) will occur depends upon the type of emissions units being modified, according to paragraphs (a)(2)(ii)(C) through (F) of this section. For these calculations, fugitive emissions (to the extent quantifiable) are included only if the emissions unit belongs to one of the source categories listed in paragraph (a)(1)(iv)(C) of this section or the major stationary source belongs to one of the listed source categories. The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source (*i.e.*, the second step in the process) is contained in the definition in paragraph (a)(1)(vi) of this section. Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

* * * * *

(4) [Reserved]

* * * * *

(6) * * *

(iii) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions units identified in paragraph (a)(6)(i)(B) of this section; and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of 5 years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity or potential to emit of that regulated NSR pollutant at such emissions unit. For purposes of this paragraph (a)(6)(iii), fugitive emissions (to the extent quantifiable) shall be monitored if the emissions unit belongs to one of the source categories listed in paragraph (a)(1)(iv)(C) of this section or the major stationary source belongs to one of the listed source categories.

(iv) If the unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the reviewing authority within 60 days after the end of each year during which records must be generated under paragraph (a)(6)(iii) of this section setting out the unit's annual emissions, as monitored pursuant to paragraph (a)(6)(iii) of this section, during the year that preceded submission of the report.

* * * * *

(f) * * *

(4) * * *

(i) * * *

(D) The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source, regardless of whether the emissions unit or major stationary source belongs to one of the source categories listed in paragraph (a)(1)(iv)(C) of this section.

* * * * *

3. Section 51.166 is amended as follows:

a. By revising paragraph (a)(7)(iv)(*b*).

b. By adding paragraph (b)(2)(v).

c. By removing the period at the end of paragraph (b)(3)(iii)(*c*) and adding ''; and'' in its place.

d. By adding paragraph (b)(3)(iii)(*d*).

e. By revising paragraph (b)(20).

f. By revising paragraphs (b)(40)(ii)(*b*) and (b)(40)(ii)(*d*).

g. By revising paragraphs (b)(47)(i)(*a*), (b)(47)(ii)(*a*), (b)(47)(iii), and (b)(47)(iv).

h. By removing and reserving paragraph (i)(1)(ii).

i. By revising paragraphs (r)(6)(iii) and (r)(6)(iv).

j. By revising paragraph (w)(4)(i)(*d*).

The revisions and additions read as follows:

§ 51.166 Prevention of significant deterioration of air quality.

(a) * * *

(7) * * *

(iv) * * *

(*b*) The procedure for calculating (before beginning actual construction) whether a significant emissions increase (*i.e.*, the first step of the process) will occur depends upon the type of emissions units being modified, according to paragraphs (a)(7)(iv)(*c*) through (*f*) of this section. For these calculations, fugitive emissions (to the extent quantifiable) are included only if the emissions unit belongs to one of the source categories listed in paragraph (b)(1)(iii) of this section or the major stationary source belongs to one of the listed source categories. The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source (*i.e.*, the second step in the process) is contained in the definition in paragraph (b)(3) of this section. Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

* * * * *

(b) * * *

(2) * * *

(v) Fugitive emissions shall not be included in determining for any of the purposes of this section whether a physical change in or change in the method of operation of a major stationary source is a major modification, unless the source belongs to one of the source categories listed in paragraph (b)(1)(iii) of this section.

(3) * * *

(iii) * * *

(*d*) For an increase or decrease in fugitive emissions (to the extent quantifiable), it occurs at an emissions unit that belongs to one of the source categories listed in paragraph (b)(1)(iii) of this section or the major stationary source belongs to one of the listed source categories.

* * * * *

(20) *Fugitive emissions* means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. Fugitive emissions, to the extent quantifiable, are addressed as follows for the purposes of this section:

(i) In calculating whether a project will cause a significant emissions increase, fugitive emissions are included only for those emissions units that belong to one of the source categories listed in paragraph (b)(1)(iii) of this section, or for all emissions units if the major stationary source belongs to one of the listed source categories. (See paragraph (a)(7)(iv)(*b*) of this section.)

(ii) In determining whether a stationary source or modification is major, fugitive emissions from an emissions unit are included only if the unit or stationary source belongs to one of the source categories listed in paragraph (b)(1)(iii) of this section. (See paragraphs (b)(1)(iii) and (b)(2)(v) of this section.)

(iii) For purposes of determining the net emissions increase associated with a project, an increase or decrease in fugitive emissions is creditable only if it occurs at an emissions unit that belongs to one of the source categories listed in paragraph (b)(1)(iii) of this section or the major stationary source belongs to one of the listed source categories. (See paragraph (b)(3)(iii)(*d*) of this section.)

(iv) For purposes of determining the projected actual emissions of an emissions unit after a project, fugitive emissions are included only if the emissions unit belongs to one of the source categories listed in paragraph (b)(1)(iii) of this section or is located at a major stationary source that belongs to one of the listed source categories. (See paragraph (b)(40)(ii)(*b*) and (*d*) of this section.

(v) For purposes of determining the baseline actual emissions of an emissions unit, fugitive emissions are included only if the emissions unit belongs to one of the source categories listed in paragraph (b)(1)(iii) of this section or is located at a major stationary source that belongs to one of the listed source categories, except that, for a PAL, fugitive emissions shall be included regardless of the source category. (See paragraphs (b)(47)(i)(*a*), (b)(47)(ii)(*a*), (b)(47)(iii), and (b)(47)(iv) of this section.)

(vi) For purposes of monitoring and reporting emissions from a project after normal operations have been resumed, fugitive emissions are included only for those emissions units that belong to one of the source categories listed in paragraph (b)(1)(iii) of this section, or for all emissions units if the major stationary source belongs to one of the listed source categories. (See paragraphs (r)(6)(iii) and (iv) of this section.)

(vii) For all other purposes of this section, fugitive emissions are treated in the same manner as other, non-fugitive emissions. This includes, but is not limited to, the treatment of fugitive emissions for the application of best available control technology (see paragraph (j) of this section), source impact analysis (see paragraph (k) of this section), additional impact analyses (see paragraph (o) of this section), and PALs (see paragraph (w)(4)(i)(*d*) of this section).

* * * * *

(40) * * *

(ii) * * *

(*b*) Shall include emissions associated with startups, shutdowns, and malfunctions; and, for an emissions unit that belongs to one of the source categories listed in paragraph (b)(1)(iii) of this section or is located at a major stationary source that belongs to one of the listed source categories, shall include fugitive emissions (to the extent quantifiable); and

* * * * *

(*d*) In lieu of using the method set out in paragraphs (b)(40)(ii)(*a*) through (*c*) of this section, may elect to use the emissions unit's potential to emit, in tons per year, as defined under paragraph (b)(4) of this section. For this purpose, if the emissions unit belongs to one of the source categories listed in paragraph (b)(1)(iii) of this section or is located at a major stationary source that belongs to one of the listed source categories, the unit's potential to emit shall include fugitive emissions (to the extent quantifiable).

* * * * *

(47) * * *

(i) * * *

(*a*) The average rate shall include emissions associated with startups, shutdowns, and malfunctions; and, for an emissions unit that belongs to one of the source categories listed in paragraph (b)(1)(iii) of this section or is located at a major stationary source that belongs to one of the listed source categories, shall include fugitive emissions (to the extent quantifiable).

* * * * *

(ii) * * *

(*a*) The average rate shall include emissions associated with startups, shutdowns, and malfunctions; and, for an emissions unit that belongs to one of the source categories listed in paragraph (b)(1)(iii) of this section or is located at a major stationary source that belongs to one of the listed source categories, shall include fugitive emissions (to the extent quantifiable).

* * * * *

(iii) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's potential to emit. In the latter case, fugitive emissions, to the extent quantifiable, shall be included only if the emissions unit belongs to one of the source categories listed in paragraph (b)(1)(iii) of this section or is located at a major stationary source that belongs to one of the listed source categories.

(iv) For a PAL for a major stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in paragraph (b)(47)(i) of this section, for other existing emissions units in accordance with the procedures contained in paragraph (b)(47)(ii) of this section, and for a new emissions unit in accordance with the procedures contained in paragraph (b)(47)(iii) of this section, except that fugitive emissions (to the extent quantifiable) shall be included regardless of the source category.

* * * * *

(i) * * *

(1) * * *

(ii) [Reserved]

* * * * *

(r) * * *

(6) * * *

(iii) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in paragraph (r)(6)(i)(*b*) of this section; and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of 5 years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity or potential to emit of that regulated NSR pollutant at such emissions unit. For purposes of this paragraph (r)(6)(iii), fugitive emissions (to the extent quantifiable) shall be monitored if the emissions unit belongs to one of the source categories listed in paragraph (b)(1)(iii) of this section or the major stationary source belongs to one of the listed source categories.

(iv) If the unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the reviewing authority within 60 days after the end of each year during which records must be generated under paragraph (r)(6)(iii) of this section setting out the unit's annual emissions, as monitored pursuant to paragraph (r)(6)(iii) of this section, during the calendar year that preceded submission of the report.

* * * * *

(w) * * *

(4) * * *

(i) * * *

(*d*) The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source, regardless of whether the emissions unit or major stationary source belongs to one of the source categories listed in paragraph (b)(1)(iii) of this section.

* * * * *

PART 52—[AMENDED]

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

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

Subpart A—[Amended]

5. Section 52.21 is amended as follows:

a. By revising paragraph (a)(2)(iv)(*b*).

b. By adding paragraph (b)(2)(v).

c. By removing the period at the end of paragraph (b)(3)(iii)(*b*) and adding ''; and'' in its place.

d. By adding paragraph (b)(3)(iii)(*c*).

e. By revising paragraph (b)(20).

f. By revising paragraphs (b)(41)(ii)(*b*) and (b)(41)(ii)(*d*).

g. By revising paragraphs (b)(48)(i)(*a*), (b)(48)(ii)(*a*), (b)(48)(iii), and (b)(48)(iv).

h. By removing and reserving paragraph (i)(1)(vii).

i. By revising paragraphs (r)(6)(iii) and (r)(6)(iv).

j. By revising paragraph (aa)(4)(i)(*d*).

The revisions and additions read as follows:

§ 52.21 Prevention of significant deterioration of air quality.

(a) * * *

(2) * * *

(iv) * * *

(*b*) The procedure for calculating (before beginning actual construction) whether a significant emissions increase (*i.e.*, the first step of the process) will occur depends upon the type of emissions units being modified, according to paragraphs (a)(2)(iv)(*c*) through (*f*) of this section. For these calculations, fugitive emissions (to the extent quantifiable) are included only if the emissions unit belongs to one of the source categories listed in paragraph (b)(1)(iii) of this section or the major stationary source belongs to one of the listed source categories. The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source (*i.e.*, the second step in the process) is contained in the definition in paragraph (b)(3) of this section. Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

* * * * *

(b) * * *

(2) * * *

(v) Fugitive emissions shall not be included in determining for any of the purposes of this section whether a physical change in or change in the method of operation of a major stationary source is a major modification, unless the source belongs to one of the source categories listed in paragraph (b)(1)(iii) of this section.

(3) * * *

(iii) * * *

(*c*) For an increase or decrease in fugitive emissions (to the extent quantifiable), it occurs at an emissions unit that belongs to one of the source categories listed in paragraph (b)(1)(iii) of this section or the major stationary source belongs to one of the listed source categories.

* * * * *

(20) *Fugitive emissions* means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. Fugitive emissions, to the extent quantifiable, are addressed as follows for the purposes of this section:

(i) In calculating whether a project will cause a significant emissions increase, fugitive emissions are included only for those emissions units that belong to one of the source categories listed in paragraph (b)(1)(iii) of this section, or for all emissions units if the major stationary source belongs to one of the listed source categories. (See paragraph (a)(2)(iv)(*b*) of this section.)

(ii) In determining whether a stationary source or modification is major, fugitive emissions from an emissions unit are included only if the unit or stationary source belongs to one of the source categories listed in paragraph (b)(1)(iii) of this section. (See paragraphs (b)(1)(iii) and (b)(2)(v) of this section.)

(iii) For purposes of determining the net emissions increase associated with a project, an increase or decrease in fugitive emissions is creditable only if it occurs at an emissions unit that belongs to one of the source categories listed in paragraph (b)(1)(iii) of this section or the major stationary source belongs to one of the listed source categories. (See paragraph (b)(3)(iii)(*c*) of this section.)

(iv) For purposes of determining the projected actual emissions of an emissions unit after a project, fugitive emissions are included only if the emissions unit belongs to one of the source categories listed in paragraph (b)(1)(iii) of this section or is located at a major stationary source that belongs to one of the listed source categories. (See paragraph (b)(41)(ii)(*b*) and (*d*) of this section.

(v) For purposes of determining the baseline actual emissions of an

emissions unit, fugitive emissions are included only if the emissions unit belongs to one of the source categories listed in paragraph (b)(1)(iii) of this section or is located at a major stationary source that belongs to one of the listed source categories, except that, for a PAL, fugitive emissions shall be included regardless of the source category. (See paragraphs (b)(48)(i)(*a*), (b)(48)(ii)(*a*), (b)(48)(iii), and (b)(48)(iv) of this section.)

(vi) For purposes of monitoring and reporting emissions from a project after normal operations have been resumed, fugitive emissions are included only for those emissions units that belong to one of the source categories listed in paragraph (b)(1)(iii) of this section, or for all emissions units if the major stationary source belongs to one of the listed source categories. (See paragraphs (r)(6)(iii) and (iv) of this section.)

(vii) For all other purposes of this section, fugitive emissions are treated in the same manner as other, non-fugitive emissions. This includes, but is not limited to, the treatment of fugitive emissions for the application of best available control technology (see paragraph (j) of this section), source impact analysis (see paragraph (k) of this section), additional impact analyses (see paragraph (o) of this section), and PALs (see paragraph (aa)(4)(i)(*d*) of this section).

* * * * *

(41) * * *

(ii) * * *

(*b*) Shall include emissions associated with startups, shutdowns, and malfunctions; and, for an emissions unit that belongs to one of the source categories listed in paragraph (b)(1)(iii) of this section or is located at a major stationary source that belongs to one of the listed source categories, shall include fugitive emissions (to the extent quantifiable); and

* * * * *

(*d*) In lieu of using the method set out in paragraphs (b)(41)(ii)(*a*) through (*c*) of this section, may elect to use the emissions unit's potential to emit, in tons per year, as defined under paragraph (b)(4) of this section. For this purpose, if the emissions unit belongs to one of the source categories listed in paragraph (b)(1)(iii) of this section or is located at a major stationary source that belongs to one of the listed source categories, the unit's potential to emit shall include fugitive emissions (to the extent quantifiable).

* * * * *

(48) * * *

(i) * * *

(*a*) The average rate shall include emissions associated with startups, shutdowns, and malfunctions; and, for an emissions unit that belongs to one of the source categories listed in paragraph (b)(1)(iii) of this section or is located at a major stationary source that belongs to one of the listed source categories, shall include fugitive emissions (to the extent quantifiable).

* * * * *

(ii) * * *

(*a*) The average rate shall include emissions associated with startups, shutdowns, and malfunctions; and, for an emissions unit that belongs to one of the source categories listed in paragraph (b)(1)(iii) of this section or is located at a major stationary source that belongs to one of the listed source categories, shall include fugitive emissions (to the extent quantifiable).

* * * * *

(iii) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's potential to emit. In the latter case, fugitive emissions, to the extent quantifiable, shall be included only if the emissions unit belongs to one of the source categories listed in paragraph (b)(1)(iii) of this section or is located at a major stationary source that belongs to one of the listed source categories.

(iv) For a PAL for a major stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in paragraph (b)(48)(i) of this section, for other existing emissions units in accordance with the procedures contained in paragraph (b)(48)(ii) of this section, and for a new emissions unit in accordance with the procedures contained in paragraph (b)(48)(iii) of this section, except that fugitive emissions (to the extent quantifiable) shall be included regardless of the source category.

* * * * *

(i) * * *

(1) * * *

(vii) [Reserved]

* * * * *

(r) * * *

(6) * * *

(iii) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in paragraph (r)(6)(i)(*b*) of this section; and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of 5 years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity or potential to emit of that regulated NSR pollutant at such emissions unit. For purposes of this paragraph (r)(6)(iii), fugitive emissions (to the extent quantifiable) shall be monitored if the emissions unit belongs to one of the source categories listed in paragraph (b)(1)(iii) of this section or the major stationary source belongs to one of the listed source categories.

(iv) If the unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the Administrator within 60 days after the end of each year during which records must be generated under paragraph (r)(6)(iii) of this section setting out the unit's annual emissions, as monitored pursuant to paragraph (r)(6)(iii) of this section, during the calendar year that preceded submission of the report.

* * * * *

(aa) * * *

(4) * * *

(i) * * *

(*d*) The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source, regardless of whether the emissions unit or major stationary source belongs to one of the source categories listed in paragraph (b)(1)(iii) of this section.

* * * * *

[FR Doc. E7–22131 Filed 11–9–07; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 07–4312; MB Docket No. 07–220; RM–11403]

Radio Broadcasting Services; Ash Fork and Paulden, AZ

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document sets forth a proposal to amend the FM Table of Allotments, Section 73.202(b) of the Commission's rules, 47 CFR 73.202(b). The Commission requests comment on a petition filed by Sierra H Broadcasting, Inc. (''Petitioner''). Petitioner proposes channel

substitutions for two vacant allotments contained in the FM Table of Allotments, in order to accommodate the allotment of Channel 266C at Cordes Lakes, Arizona. Petitioner proposes the substitution of Channel 259A for vacant FM Channel 267A at Ash Fork, Arizona, and the substitution of Channel 228C3 for vacant FM Channel 263C3 at Paulden, Arizona. Channel 259A can be allotted at Ash Fork in compliance with the Commission's minimum distance separation requirements with a site restriction of 7.4 km (4.6 miles) northwest of Ash Fork. The proposed coordinates for Channel 259A at Ash Fork are 35–16–13 North Latitude and 112–32–31 West Longitude. Channel 228C3 can be allotted at Paulden in compliance with the Commission's minimum distance separation requirements with a site restriction of 7.7 km (4.8 miles) west of Paulden. The proposed coordinates for Channel 228C3 at Paulden are 34–52–16 North Latitude and 112–33–00 West Longitude. *See* **SUPPLEMENTARY INFORMATION** *infra*.

DATES: Comments must be filed on or before December 10, 2007, and reply comments on or before December 26, 2007.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: Barry A. Friedman, Esq., Thompson Hine LLP, Suite 800, 1920 N Street, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Deborah A. Dupont, Media Bureau (202) 418–7072.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 07–220, adopted October 17, 2007, and released October 19, 2007. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–257), 445 12th Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, (800) 378–3160, or via the company's Web site, *www.bcpiweb.com*. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506 (c)(4).

The Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 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.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by removing Channel 267A and by adding Channel 259A at Ash Fork, and by removing Channel 263C3 and by adding Channel 228C3 at Paulden.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E7–22119 Filed 11–9–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 07–4307; MB Docket No. 07–221; RM–11402]

Radio Broadcasting Services; Susanville, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Hilltop Church (''Petitioner''), the licensee of noncommercial educational station KHGQ(FM), Quincy, California. Petitioner has filed an application requesting the substitution of Channel 262A for existing Channel 265A at Station KHGQ(FM), Quincy, California. To accommodate the foregoing application, the Commission has issued a *Notice of Proposed Rule Making* proposing to substitute Channel 264A for Channel 262A at Susanville, California.

DATES: Comments must be filed on or before December 10, 2007, and reply comments on or before December 26, 2007.

ADDRESSES: Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve Petitioner's counsel as follows: John S. Neely, Esq.; Miller and Neely, P.C.; 6900 Wisconsin Ave., Suite 704; Bethesda, Maryland 20815.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making*, MB Docket No. 07–221, adopted October 17, 2007, and released October 19, 2007. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Information Center, 445 Twelfth Street, SW., Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractors, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *www.BCPIWEB.com*. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 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.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California is amended by removing Channel 262A and by adding Channel 264A at Susanville.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E7–22120 Filed 11–9–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 07–4311; MB Docket No. 07–226; RM–11406]

Radio Broadcasting Services; Tecopa, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a Petition for Rule Making filed by Shamrock Communications, Inc. (''Petitioner'') proposing the allotment of new Channel 288A at Tecopa, California. The instant Petition for Rule Making was filed concurrently with and contingent upon the grant of an FCC Form 301 Auction 68 long form application for a new FM station on Channel 291A at Tecopa, which seeks a one-step upgrade from Channel 291A to Channel 290C1 and a change in the community of license from Tecopa, California, to Amargosa Valley, Nevada. Action on the foregoing application will be taken separately from action on the instant Petition for Rule Making.

DATES: Comments must be filed on or before December 10, 2007, and reply comments on or before December 26, 2007.

ADDRESSES: Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve Petitioner's counsel as follows: Kenneth E. Satten, Esq., Wilkinson Barker Knauer, L.L.P.; 2300 N Street, NW., Suite 700; Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making*, MB Docket No. 07–226, adopted October 17, 2007, and released October 19, 2007. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Information Center, 445 Twelfth Street, SW., Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractors, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *www.BCPIWEB.com*. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 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.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California, is amended by removing Channel 291A and by adding Channel 288A at Tecopa.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E7–22121 Filed 11–9–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 07–4309; MB Docket No. 07–227; RM–11405]

Radio Broadcasting Services; Clayton, OK

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rulemaking filed by North Texas Radio Group, L.P., requesting the substitution of Channel 262A for vacant Channel 241A at Clayton, Oklahoma. The reference coordinates for Channel 262A at Clayton, Oklahoma, are 34–32–48 NL and 95–29–45 WL. There is a site restriction 14 kilometers (8.7 miles) west of the community.

DATES: Comments must be filed on or before December 10, 2007, and reply comments on or before December 26, 2007.

ADDRESSES: Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner as follows: Anne Goodwin Crump, Esq., c/o North Texas Radio Group, L.P., Fletcher, Heald & Hildreth, P.L.C., 1300 N. 17th Street, Eleventh Floor, Arlington, Virginia 22209.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 07–227, adopted October 17, 2007, and released October 19, 2007. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 Twelfth Street, SW., Washington, DC 20554. This document

may also be purchased from the Commission's duplicating contractors, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or via e-mail *www.BCPIWEB.com*. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 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.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by removing Channel 241A and by adding Channel 262A at Clayton.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E7–22123 Filed 11–9–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WT Docket No. 02–55; DA 07–4489]

Public Safety and Homeland Security Bureau Seeks Comment on Post-Reconfiguration 800 MHz Band Plan for the U.S.-Canada Border Regions

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document seeks comment on post-reconfiguration 800 MHz band plans for the U.S.-Canada border regions. The Bureau, by this action, affords interested parties an opportunity to submit comments and reply comments on proposals for establishing a reconfigured 800 MHz band plan in the U.S.-Canada border region in order to accomplish the Commission's goals for band reconfiguration.

DATES: Comments are due on or before December 3, 2007 and Reply Comments are due on or before December 18, 2007.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Brian Marenco, Policy Division, Public Safety and Homeland Security Bureau, (202) 418–0838.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking, DA 07–4489, released on November 1, 2007. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (800) 378–3160 or (202) 863–2893, facsimile (202) 863–2898, or via e-mail at *http://www.bcpiweb.com*. It is also available on the Commission's Web site at *http://www.fcc.gov*.

1. In a July 2004 Report and Order, the Commission reconfigured the 800 MHz band to eliminate interference to public safety and other land mobile communication systems operating in the band, 69 FR 67823 (November 22, 2004). However, the Commission deferred consideration of band reconfiguration plans for the border areas, noting that ''implementing the band plan in areas of the United States bordering Mexico and Canada will require modifications to international agreements for use of the 800 MHz band in the border areas.'' The Commission stated that ''the details of the border plans will be determined in our ongoing discussions with the Mexican and Canadian governments.''

2. In a Second Memorandum Opinion and Order, adopted in May 2007, the Commission delegated authority to Public Safety and Homeland Security Bureau to propose and adopt border area band plans once agreements are reached with Canada and Mexico, 72 FR 39756 (July 20, 2007). Specifically, the Commission noted that ''once those discussions are completed, and any necessary modifications to our international agreements have been made, we will need to amend our rules to implement the agreements and identify the portions of the 800 MHz band that will be available to U.S. licensees on a primary basis. In addition, we will need to adopt a band plan for the border regions that specifies the ESMR and non-ESMR portions of the band and the distribution of channels to public safety, B/ILT, and SMR licensees.''

3. In July 2007, the U.S. and Canada reached an agreement on a process that will enable the U.S. to proceed with band reconfiguration in the border region. Consequently, the Public Safety and Homeland Security Bureau issued a Further Notice of Proposed Rulemaking to seek comment on specific proposals for reconfiguring the eight U.S.-Canada border regions. The goal is to separate—to the greatest extent possible—public safety and other non-cellular licensees from licensees who employ cellular technology.

4. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates listed on the first page of this summary. All filings related to the Further Notice of Proposed Rulemaking should refer to WT Docket No. 02–55. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24,121 (1998).

Procedural Matters

A. Initial Regulatory Flexibility Analysis

5. Pursuant to the Regulatory Flexibility Act (RFA), the Bureau has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on

small entities by the proposals considered in the Further Notice of Proposed Rulemaking (FNPRM). The text of the IRFA is set forth in Appendix A of the FNPRM. Written public comments are requested on this IRFA. Comments must be filed in accordance with the same filing deadlines for comments on the FNPRM, and they should have a separate and distinct heading designating them as responses to the IRFA. The Bureau will send a copy of the FNPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

B. Initial Paperwork Reduction Act of 1995 Analysis

6. This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified ''information collection burden for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4).

Initial Regulatory Flexibility Analysis

7. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the Further Notice of Proposed Rulemaking (FNPRM). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the first page of the FNPRM. The Commission will send a copy of the FNPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the FNPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules

8. In the FNPRM, we consider proposals submitted by the Consensus Parties, the Commonwealth of Pennsylvania, and representatives from regional planning committees in Ohio, New York, and Washington State for reconfiguring the 800 MHz band in the U.S.-Canada border regions. These parties propose relocating public safety licensees to U.S. primary spectrum in the lower portion of the band while placing B/ILT and ESMR systems higher in the band on U.S. primary spectrum above 815/860 MHz. These proposals also include region-specific variations. The reconfiguration of the 800 MHz band in the U.S.-Canada border regions is in the public interest because it will allow the Commission to eliminate interference in these regions to public safety and other land mobile communication systems. Interference is eliminated by separating—to the greatest extent possible—public safety and other non-cellular licensees from licensees that employ cellular technology in the 800 MHz band.

B. Legal Basis

9. The legal basis for any action that may be taken pursuant to the FNPRM is contained in sections 4(i) and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 332.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

10. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

11. Nationwide, there are a total of approximately 22.4 million small businesses, according to SBA data. A ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 2002, there were approximately 1.6 million small organizations. The term ''small governmental jurisdiction'' is defined generally as ''governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States. We estimate that, of this total, 84,377 entities were ''small governmental jurisdictions.'' Thus, we estimate that most governmental jurisdictions are small. Below, we further describe and estimate the number of small entities—applicants and licensees—that may be affected by the proposals, if adopted, in this FNPRM.

12. *Public Safety Radio Licensees.* Public safety licensees who operate 800 MHz systems in the U.S.-Canada border region would be required to relocate their station facilities according to the band plans proposed in the FNPRM. As indicated above, all governmental entities with populations of less than 50,000 fall within the definition of a small entity.

13. *Business, I/LT, and SMR licensees.* Business and Industrial Land Transportation (B/ILT) and Special Mobile Radio (SMR) licensees who operate 800 MHz systems in the U.S.-Canada border region would be required to relocate their station facilities according to the band plans proposed in the FNPRM. Neither the Commission nor the SBA has developed a definition of small businesses directed specifically toward these licensees.

14. *Wireless Service Providers.* Wireless Service Providers who operate 800 MHz systems in the U.S.-Canada border region would be required to relocate their station facilities according to the band plans proposed in the FNPRM. The SBA has developed a small business size standard for wireless firms within the two broad economic census categories of ''Paging'' and ''Cellular and Other Wireless Telecommunications.'' Under both categories, the SBA deems a wireless business to be small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 2002 show that there were 807 firms in this category that operated for the entire year. Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more. Thus, under this category and associated small business size standard, the majority of firms can be considered small. For the census category of Cellular and Other Wireless Telecommunications, Census Bureau data for 2002 show that there were 1,397 firms in this category that operated for the entire year. Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more. Thus, under this second category and size standard, the majority of firms can, again, be considered small.

15. Also, Sprint Corporation will be affected by the band plan proposals in this FNPRM but it is not a small carrier.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

16. *The Further Notice of Proposed Rulemaking* does not propose a rule that will entail additional reporting, recordkeeping, and/or third-party consultation or other compliance efforts. As noted in Section C, *supra*, public safety, B/ILT, SMR licensees, and wireless service providers who operate 800 MHz systems in the U.S.-Canada border region would be required to relocate their station facilities according to the band plans proposed in the FNPRM. Also, Sprint Corporation will pay the cost of relocating incumbent licensees.

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

17. The RFA requires an agency to describe any significant, specifically small business 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) and exemption from coverage of the rule, or any part thereof, for small entities.''

18. In the FNPRM, the Bureau seeks comment on proposals to relocate public safety systems to U.S. primary spectrum in the lower portion of the band while placing B/ILT and ESMR systems higher in the band on U.S. primary spectrum above 815/860 MHz. These proposals also contain certain region-specific variations. Because the reconfiguration of the 800 MHz band in the U.S.-Canada border regions seeks to eliminate interference to public safety and other land mobile communication systems, these proposals, if adopted, minimize the cost that licensees would otherwise incur to resolve interference. Further, Sprint Corporation will pay the cost of relocating incumbent licensees. Additionally, the Bureau specifically seeks comment on alternatives to the proposed band plans and will consider such alternatives as may be recommended in comments to the FNPRM.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

19. None.

Ordering Clauses

20. Accordingly, IT IS ORDERED, pursuant to sections 4(i) and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 332, that this Further Notice of Proposed Rulemaking IS ADOPTED.

21. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this *Further Notice of Proposed Rulemaking*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

22. IT IS FURTHER ORDERED that pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on this Further Notice of Proposed Rulemaking on December 3, 2007, and reply comments on December 18, 2007.

Federal Communications Commission.

Derek K. Poarch,

Chief, Public Safety and Homeland Security Bureau.

[FR Doc. E7–22128 Filed 11–9–07; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

RIN 0648–AV62

Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish, Crab, Salmon, and Scallop Fisheries of the Bering Sea and Aleutian Islands Management Area

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

ACTION: Availability of amendments to fishery management plans; request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) has submitted Amendment 88 to the Fishery Management Plan (FMP) for Groundfish of the Bering Sea and Aleutian Islands Management Area, Amendment 23 to the FMP for Bering Sea/Aleutian Islands King and Tanner Crabs, Amendment 12 to the FMP for the Scallop Fishery Off Alaska, and Amendment 9 to the FMP for Salmon Fisheries in the Exclusive Economic Zone Off the Coast of Alaska. These amendments, if approved, would revise the boundaries of the Aleutian Islands Habitat Conservation Area (AIHCA) described in each FMP. This action is necessary to ensure the boundaries of the AIHCA accurately reflect the Council's intent to prohibit nonpelagic trawling in those areas with minimal or no fishing and sensitive habitat, and to allow nonpelagic trawling in areas historically fished by this gear type. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the FMPs, and other applicable laws. Comments from the public are welcome.

DATES: Comments on the amendments must be received by close of business on January 14, 2008.

ADDRESSES: You may submit comments, identified by 0648–AV62, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov*;
- Mail: Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802; Attn: Ellen Sebastian, Records Officer;
- Hand delivery: 709 West 9th Street, Room 420A, Juneau, AK; or
- Fax: 907–586–7557, Attention: Sue Salveson.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of FMP amendments, maps of the AIHCA and proposed revisions, and the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) for this action may be obtained from the same address or from the Alaska Region NMFS website at *http://www.fakr.noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Melanie Brown, 907–586–7228 or *melanie.brown@noaa.gov*.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Act requires that the Council submit any FMP amendment it prepares to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP amendment, immediately publish a notice in the **Federal Register** that the amendment is available for public review and comment.

If approved by NMFS, these amendments would revise the FMPs by revising the boundaries of the AIHCA. The AIHCA consists of the entire Aleutian Islands subarea except for specified areas that have supported the highest groundfish catches in the past. The AIHCA is closed to all nonpelagic trawling to protect relatively undisturbed habitats. The Council determined that the AIHCA would provide a balance between continued fishing in the Aleutian Islands subarea and protection of sensitive habitats such as cold-water corals.

After implementation of the AIHCA (71 FR 36694, June 28, 2006), the Council received information from the fishing industry that two locations in the AIHCA should be adjusted. The Council recommended adjustments to the boundaries near Agattu Island and Buldir Island. Waters near Agattu Island were historically fished by nonpelagic trawl gear, and no evidence of sensitive habitat exists for this area. This area currently is closed to nonpelagic trawling under the AIHCA and is proposed to be opened under this action. Waters open to nonpelagic trawling near Buldir Island were identified as not extensively fished. These waters also contain sensitive coral and sponge habitat. This proposed action would close waters near Buldir Island to protect coral and sponge habitat from the potential effects of nonpelagic trawling. This proposed action would ensure the boundaries of the AIHCA are consistent with the Council's intent to protect sensitive habitat from the potential effects of nonpelagic trawling and allow fishing in areas historically fished.

NMFS is soliciting public comments on the proposed amendments through January 14, 2008. A proposed rule that would implement the amendments will be published in the **Federal Register** for public comment at a later date, following NMFS' evaluation under the Magnuson-Stevens Act procedures. Public comments on the proposed rule must be received by the end of the comment period on the amendments in order to be considered in the approval/disapproval decision on the amendments. All comments received on the amendments by the end of the comment period, whether specifically directed to the amendments or to the proposed rule, will be considered in the approval/disapproval decision. Comments received after that date will not be considered in the approval/disapproval decision on the amendments. To be considered, comments must be received—not just postmarked or otherwise transmitted—by close of business on the last day of the comment period.

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

Dated: November 6, 2007.

Emily H. Menashes,

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

[FR Doc. E7–22107 Filed 11–9–07; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 72, No. 218
Tuesday, November 13, 2007

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2007–0074]

Notice of Request for Extension of Approval of an Information Collection; Importation of Hass Avocados From Michoacan, Mexico

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with regulations for the importation of Hass avocados from Michoacan, Mexico.

DATES: We will consider all comments that we receive on or before January 14, 2008.

ADDRESSES: You may submit comments by either of the following methods:

Federal eRulemaking Portal: Go to *http://www.regulations.gov,* select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click ''Submit.'' In the Docket ID column, select APHIS–2007–0074 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.

Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2007–0074, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2007–0074.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

FOR FURTHER INFORMATION CONTACT: For information on regulations for the importation of avocados from Michoacan, Mexico, contact Mr. David Lamb, Import Specialist, Commodity Import Analysis and Operations, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1236; (301) 734–4312. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS* Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION: *Title:* Importation of Hass Avocados from Michoacan, Mexico.

OMB Number: 0579–0129.

Type of Request: Extension of approval of an information collection.

Abstract: The Plant Protection Act (PPA, 7 U.S.C. 7701 *et seq.*) authorizes the Secretary of Agriculture to restrict the importation, entry, or interstate movement of plants, plant products, and other articles to prevent the introduction of plant pests, including avocado stem weevils, seed weevils, and seed moths, into the United States or their dissemination within the United States. Regulations authorized by the PPA concerning the importation of fruits and vegetables into the United States from certain parts of the world are contained in ''Subpart-Fruits and Vegetables'' (7 CFR 319.56 through 319.56–47).

Under these regulations, avocados from Michoacan, Mexico, are subject to certain conditions before entering the United States. These requirements include, among other things, trust fund agreements, work plans, phytosanitary certificates, stickers, truck and container seals, and box marking.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.0015266 hours per response.

Respondents: Importers, shippers, distributors, and handlers of Hass avocados from Mexico; Mexican national plant protection organization officials.

Estimated annual number of respondents: 2,223.

Estimated annual number of responses per respondent: 32,713.735.

Estimated annual number of responses: 72,722,635.

Estimated total annual burden on respondents: 111,024 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 7th day of November 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–22094 Filed 11–9–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No: APHIS–2007–0118]

Imported Fire Ant; Availability of an Environmental Assessment

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: We are advising the public that a draft environmental assessment has been prepared by the Animal and Plant Health Inspection Service relative to the proposed release into areas quarantined for imported fire ant of five additional species of phorid flies for use as biological control agents. We are making the environmental assessment available to the public for review and comment.

DATES: We will consider all comments that we receive on or before December 13, 2007.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov,* select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click ''Submit.'' In the Docket ID column, select APHIS–2007–0118 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.
- *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2007–0118, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2007–0118.

Reading Room: You may read any comments that we receive on the environmental assessment in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Charles L. Brown, Imported Fire Ant Quarantine Program Manager, Pest Detection and Management Programs, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–4838.

SUPPLEMENTARY INFORMATION:

Background

The imported fire ant (*Solenopsis invicta* Buren, *Solenopsis richteri* Forel, and hybrids of these species) is an aggressive, stinging insect that, in large numbers, can seriously injure and even kill livestock, pets, and humans. The imported fire ant, which is not native to the United States, feeds on crops and builds large, hard mounds that damage farm and field machinery. The imported fire ant regulations (contained in 7 CFR 301.81 through 301.81–10 and referred to below as the regulations) are intended to prevent the imported fire ant from spreading throughout its ecological range within the country. The regulations quarantine infested States or infested areas within States and restrict the interstate movement of regulated articles to prevent the artificial spread of the imported fire ant.

In addition to the movement restrictions in the regulations, the Animal and Plant Health Inspection Service (APHIS) and its State cooperators release phorid flies (*Pseudacteon* species), a natural enemy of the imported fire ant, into quarantined areas. These flies parasitize the imported fire ant, killing those that are parasitized. Those ants that are not parasitized are affected behaviorally by the presence of the flies because their presence reduces fire ant foraging. A decrease in foraging activity facilitates competition from native fire ants that might otherwise be excluded from food sources in fire ant territory.

Currently, APHIS uses three species of phorid flies (*Pseudacteon curvatus, P. litoralis,* and *P. tricuspis*) as biological control agents. We are now proposing to release five more species (*P. cultellatus, P. nocens, P. nudicornis, P. obtusus,* and P. sp. near *obtusus*) into areas quarantined for imported fire ant within the Commonwealth of Puerto Rico and the following States: Alabama, Arkansas, California, Florida, Georgia, Louisiana, Mississippi, North Carolina, New Mexico, Oklahoma, South Carolina, Tennessee, and Texas.

To provide the public with documentation of APHIS' review and analysis of the potential environmental impacts associated with releasing these additional species of phorid flies into the environment, we have prepared a draft environmental assessment entitled ''Field Release of Phorid Flies (*Pseudacteon* species) for the Biological Control of Imported Fire Ants'' (July 2007).

The environmental assessment has been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 7th day of November 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–22092 Filed 11–9–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–840]

Certain Orange Juice from Brazil; Notice of Extension of Time Limits for Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 13, 2007.

FOR FURTHER INFORMATION CONTACT: Elizabeth Eastwood, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3874.

SUPPLEMENTARY INFORMATION:

Background

On April 27, 2007, the Department of Commerce (the Department) published a notice of initiation of administrative review of the antidumping duty order

on certain orange juice from Brazil. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 72 FR 20986 (Apr. 27, 2007). The period of review is August 24, 2005, through February 28, 2007, and the preliminary results are currently due no later than December 3, 2007. The review covers three producers/exporters of the subject merchandise to the United States.

Extension of Time Limit for Preliminary Results

Pursuant to section 751(a)(3)(A) of Tariff Act of 1930, as amended (the Act), the Department shall make a preliminary determination in an administrative review of an antidumping order within 245 days after the last day of the anniversary month of the date of publication of the order. Section 751(a)(3)(A) of the Act further provides, however, that the Department may extend the 245-day period to 365 days if it determines it is not practicable to complete the review within the foregoing time period. We determine that it is not practicable to complete this administrative review within the time limits mandated by section 751(a)(3)(A) of the Act because of technical issues contained in supplemental questionnaire responses. Analysis of these issues requires additional time. Therefore, we have fully extended the deadline for completing the preliminary results until March 31, 2008, the next business day after 365 days from the last day of the anniversary month of the date of publication of the order. The deadline for the final results of the review continues to be 120 days after the publication of the preliminary results.

This extension notice is published in accordance with sections 751(a)(3)(A) and 777(i) of the Act.

Dated: November 5, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–22185 Filed 11–9–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty–Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States. Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before December 3, 2007. Address written comments to Statutory Import Programs Staff, Room 2104, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 a.m. and 5 p.m. at the U.S. Department of Commerce in Room 2104.

Docket Number: 07–062. Applicant: Battelle Memorial Institute, Pacific Northwest Division, 902 Battelle Blvd., Richland, WA 99354. Instrument: Electron Microscope, Model FIB/SEM. Manufacturer: FEI Company, Netherlands. Intended Use: The instrument is intended to be used for all science disciplines from biological to material science samples. The Environmental Molecular Science Laboratory, where the instrument will be housed, is a National Scientific User Facility and any scientist may use the laboratory and this instrument for free as long as they agree to publish their findings. The instrument will be used to support the ongoing science of interfacial phenomena, nanotechnology and catalysts interaction, along with other studies. Application accepted by Commissioner of Customs: October 26, 2007.

Docket Number: 07–063. Applicant: University of California San Diego, National Center for Microscopy and Image Research, 9500 Gilman Drive, MC 0608, Basic Science Building, Room 1000, La Jolla, CA 92093–0608. Instrument: Electron Microscope, Model Titan 80–300 C–Twin STEM. Manufacturer: FEI Company, Netherlands. Intended Use: The instrument is intended to be used to study biological specimens prepared for electron microscopic imaging and involves the elucidation of the 3D structural information of target materials. Project investigations span basic and translational science, including neuroscience, neurodegenerative diseases, heart disease, stroke, etc. Application accepted by Commissioner of Customs: November 2, 2007.

Docket Number: 07–066. Applicant: St. Jude Children's Research Hospital, 332 North Lauderdale, Memphis, TN 38105. Instrument: Electron Microscope, Model Tecnai G^2 F20 TWIN. Manufacturer: FEI Company, Netherlands. Intended Use: The instrument is intended to be used to study the intracellular components of biological samples obtained from mice, rats, cell cultures, viruses, bacteria and particulate material. The study will perform experiments using genetically altered mice and rats to better understand the mechanism involved in cancer at the intracellular level. Application accepted by Commissioner of Customs: October 29, 2007.

Docket Number: 07–067. Applicant: National Institute for Occupational Safety and Health, 4676 Columbia Parkway, Cincinnati, OH 45226. Instrument: Electron Microscope, Model JEM–2100F. Manufacturer: Jeol Ltd., Japan. Intended Use: The instrument is intended to be used for multiple research projects throughout the Institute. Applications include analysis of asbestos and other fiber types, nanotechnology–related materials (e.g., carbon nanotubes and fibers, tungsten fibers, metal oxides), aerosol research, ultrafine particles emissions, general support for laboratory and field research, methods development, and evaluation of engineering controls and personal protective equipment. Application accepted by Commissioner of Customs: October 30, 2007.

Dated: November 6, 2007.

Faye Robinson,

Director, Statutory Import Programs Staff.

[FR Doc. E7–22151 Filed 11–9–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–911]

Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination; Preliminary Affirmative Determination of Critical Circumstances; and 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 preliminarily determines that countervailable subsidies are being provided to producers and exporters of circular welded carbon quality steel pipe from the People's Republic of China. For information on the estimated subsidy rates, see the ''Suspension of Liquidation'' section of this notice. The Department further determines preliminarily that critical circumstances exist with respect to imports of the subject merchandise. This notice also serves to align the final countervailing duty determination in this investigation

with the final determination in the companion antidumping duty investigation of circular welded carbon quality steel pipe from the People's Republic of China.

EFFECTIVE DATE: November 13, 2007.

FOR FURTHER INFORMATION CONTACT: Salim Bhabhrawala, Damian Felton, or Shane Subler, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1784, (202) 482–0133, or (202) 482–0189, respectively.

SUPPLEMENTARY INFORMATION:

Case History

The following events have occurred since the publication of the Department of Commerce's (the Department) notice of initiation in the **Federal Register**. *See Notice of Initiation of Countervailing Duty Investigation: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China*, 72 FR 36668 (July 5, 2007) (*Initiation Notice*).

On July 26, 2007, the Department selected the three largest Chinese producers/exporters of circular welded carbon quality steel pipe (CWP), Tianjin Shuangjie Steel Pipe Group Co., Ltd. (Shuangjie), Weifang East Steel Pipe Co., Ltd. (East Pipe), and Zhejiang Kingland Pipeline and Technologies Co., Ltd. (Kingland), as mandatory respondents. *See* Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, ''Respondent Selection'' (July 26, 2007). This memorandum is on file in the Department's Central Records Unit in Room B–099 of the main Department building (CRU). On July 27, 2007, we issued the countervailing duty (CVD) questionnaire to the Government of the People's Republic of China (GOC), East Pipe, Kingland, and Shuangjie.

On July 31, 2007, the International Trade Commission (ITC) issued its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of allegedly subsidized imports of CWP from the People's Republic of China (PRC). *See Circular Welded Carbon–Quality Steel Pipe from the PRC*, Investigation Nos. 701–TA–447 and 731–TA–1116, 72 FR 43295 (Preliminary) (August 3, 2007).

On August 2, 2007, we published a postponement of the preliminary determination of this investigation until November 5, 2007. *See Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Notice of Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 72 FR 42399 (August 2, 2007).

The Ad Hoc Coalition for Fair Pipe Imports from the PRC and the United States Steel Workers (collectively, petitioners) filed a new subsidy allegation on August 21, 2007. On September 7, 2007, the Department determined to investigate aspects of the newly alleged subsidy relating to currency retention. *See* Memorandum to Susan Kuhbach, Director, AD/CVD Operations, Office 1, ''New Subsidy Allegation'' (September 7, 2007). The GOC submitted comments responding to petitioners' new subsidy allegation on September 10, 2007. Questions regarding this newly alleged subsidy were sent to the GOC and the respondent companies on September 11, 2007.

The petitioners alleged that critical circumstances exist with respect to imports of CWP from the PRC on September 17, 2007. *See* 19 CFR 351.206. Shuangjie submitted comments responding to petitioners' allegations of critical circumstances on September 24, 2007. Petitioners responded to Shuangjie's comments on September 27, 2007. The Department issued questionnaires to the respondent companies regarding the critical circumstances allegation on October 24, 2007. Responses to these questionnaires were received from Kingland and East Pipe on October 31, 2007, and November 1, 2007, respectively. As explained further below, Shuangjie did not respond. We address the allegation of critical circumstances below.

On September 24, 2007, petitioners requested that the Department extend the deadline for the submission of new subsidy allegations beyond September 26, the normal deadline established in the Department's regulations. *See* 19 CFR 351.301(d)(4)(i)(A). The Department granted an extension of the deadline to October 5, and on that date received additional new subsidy allegations from the petitioners. The Department intends to address those allegations in the near future.

We received responses to our CVD questionnaires from the GOC and the respondent companies on September 17, 2007, September 24, 2007, September 25, 2007, and October 19, 2007. The petitioners filed comments on these responses as follows: GOC - September 24, 2007, October 1, 2007 and October 11, 2007; East Pipe - September 25, 2007, September 27, 2007, and October 1, 2007; Kingland - September 25, 2007, and October 1, 2007; and, Shuangjie - September 25, 2007, and October 1, 2007.

We issued supplemental questionnaires to: East Pipe, Kingland and Shuangjie on October 4, 2007; the GOC on October 9, 2007 and October 10, 2007; and Shuangjie on October 25, 2007. We received responses to these supplemental questionnaires from the GOC on October 23, 2007; East Pipe on October 18 and 19, 2007; and Kingland and Shuangjie on October 18, 2007. Petitioners filed comments on these supplemental responses as follows: Shuangjie on October 23, 2007, and East Pipe, Kingland and Shuangjie on October 25, 2007.

On October 26, 2007, the petitioners submitted comments for consideration in the preliminary determination.

On October 31, 2007, Shuangjie withdrew from the investigation and requested that the Department return all of its proprietary fillings.

On August 20, 2007, Jiangsu Yulong Steel Pipe Co., Ltd. (''Yulong''), requested that the Department reconsider its mandatory respondent selection in this investigation. In addition, Yulong requested that if the Department declined to revisit its mandatory respondent selection process, that Yulong be allowed to participate as a voluntary respondent. On August 23, 2007, the Department declined Yulong's request that the Department revisit its mandatory respondent selection process. However, the Department did state that it would consider accepting Yulong as a voluntary respondent at a later date. Yulong filed timely responses to the Department's CVD questionnaires on September 17, 2007, and September 24, 2007.

Even though Shuangjie has withdrawn from the investigation, we were unable to analyze Yulong's voluntary responses for consideration in this preliminary determination. Shuangjie's October 31, 2007 withdrawal came five days before the preliminary determination and, thus, the Department was unable to complete the necessary analyses of Yulong's submissions and issue the necessary supplemental questionnaires in sufficient time for the preliminary determination. Furthermore, the Department will not have sufficient time or resources to analyze Yulong's responses during the remainder of this investigation. Based on our experiences with the mandatory respondents in this investigation, it is likely that detailed supplemental questionnaires will be required in order to gather the information necessary to calculate an CVD rate for Yulong. At this point in the proceeding, analyzing Yulong's responses and issuing detailed

supplemental questionnaires prior to the final determination would be extremely burdensome and would likely inhibit the timely completion of the investigation. Consequently, the Department is not accepting Yulong as a voluntary respondent and will not calculate an individual countervailing duty rate for Yulong.

On November 2, 2007, petitioners requested that the final determination of this countervailing duty investigation be aligned with the final determination in the companion antidumping duty investigation in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (the Act). We address this request below.

Scope Comments

In accordance with the preamble to the Department's regulations, we set aside a period of time in our *Initiation Notice* for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of that notice. *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323, (May 19, 1997) and *Initiation Notice*, 72 FR at 36669.

On July 19, 2007, the petitioners submitted comments concerning the scope of the CWP antidumping and countervailing duty investigations. MAN FERROSTAAL INC., MACSTEEL SERVICE CENTERS USA, and SUNBELT GROUP L.P. (collectively, FERROSTAAL) also submitted comments concerning the scope of these investigations on July 19, 2007. The petitioners and FERROSTAAL both submitted rebuttal comments on July 26, 2007.

We have analyzed the comments of the interested parties regarding the scope of this investigation. *See* Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, Re: Scope of the Antidumping and Countervailing Duty Investigations of Circular Welded Carbon Quality Steel Pipe from the People's Republic of China, ''Analysis of Comments and Recommendation for Scope of Investigations'' (November 5, 2007). Our position on these comments is reflected below.

Scope of the Investigation

The scope of this investigation covers certain welded carbon quality steel pipes and tubes, of circular cross-section, and with an outside diameter of 0.372 inches (9.45 mm) or more, but not more than 16 inches (406.4 mm), whether or not stenciled, regardless of wall thickness, surface finish (*e.g.*, black, galvanized, or painted), end finish (*e.g.*, plain end, beveled end, grooved, threaded, or threaded and coupled), or industry specification (*e.g.*, ASTM, proprietary, or other), generally known as standard pipe and structural pipe (they may also be referred to as circular, structural, or mechanical tubing).

Specifically, the term ''carbon quality'' includes products in which (a) iron predominates, by weight, over each of the other contained elements; (b) the carbon content is 2 percent or less, by weight; and (c) none of the elements listed below exceeds the quantity, by weight, as indicated:
(i) 1.80 percent of manganese;
(ii) 2.25 percent of silicon;
(iii) 1.00 percent of copper;
(iv) 0.50 percent of aluminum;
(v) 1.25 percent of chromium;
(vi) 0.30 percent of cobalt;
(vii) 0.40 percent of lead;
(viii) 1.25 percent of nickel;
(ix) 0.30 percent of tungsten;
(x) 0.15 percent of molybdenum;
(xi) 0.10 percent of niobium;
(xii) 0.41 percent of titanium;
(xiii) 0.15 percent of vanadium; or
(xiv) 0.15 percent of zirconium.

Standard pipe is made primarily to American Society for Testing and Materials (''ASTM'') specifications, but can be made to other specifications. Standard pipe is made primarily to ASTM specifications A–53, A–135, and A–795. Structural pipe is made primarily to ASTM specifications A–252 and A–500. Standard and structural pipe may also be produced to proprietary specifications rather than to industry specifications. This is often the case, for example, with fence tubing. Pipe multiple–stenciled to a standard and/or structural specification and to any other specification, such as the American Petroleum Institute (''API'') API–5L or 5L X–42 specifications, is also covered by the scope of this investigation when it meets the physical description set forth above and also satisfies one or more of the following characteristics: is a single random length; less than 2.0 inches (50 mm) in outside diameter; has a galvanized and/or painted surface finish; or has a threaded and/or coupled end finish.

The scope of this investigation does not include: (a) pipe suitable for use in boilers, superheaters, heat exchangers, condensers, refining furnaces and feedwater heaters, whether or not cold drawn; (b) mechanical tubing, whether or not cold–drawn; (c) finished electrical conduit; (d) finished scaffolding; (e) tube and pipe hollows for redrawing; (f) oil country tubular goods produced to API specifications; and (g) line pipe produced to only API specifications.

The pipe products that are the subject of this investigation are currently classifiable in HTSUS statistical reporting numbers 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, 7306.30.50.90, 7306.50.10.00, 7306.50.50.50, 7306.50.50.70, 7306.19.10.10, 7306.19.10.50, 7306.19.51.10, and 7306.19.51.50. However, the product description, and not the HTSUS classification, is dispositive of whether merchandise imported into the United States falls within the scope of the investigation.

Use of Facts Otherwise Available

Sections 776(a)(1) and (2) of the Act provide that the Department shall apply ''facts otherwise available'' *if, inter alia*, necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits and subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides that the Department ''shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all applicable requirements established by the administering authority'' if the information is timely, can be verified, is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information if it can do so without undue difficulties.

In this case, Shuangjie did not provide information we requested that is necessary to determine a

countervailing duty rate for this preliminary determination. Specifically, Shuangjie did not respond to the Department's October 24, 2007, request for shipment data relating to the allegation of critical circumstances, did not respond to the Department's October 25, 2007, supplemental questionnaire and, finally, on October 31, 2007, withdrew all of its proprietary information from the record. Thus, in reaching our preliminary determination, pursuant to section 776(a)(2)(A), and (C) of the Act, we have based Shuangjie's countervailing duty rate on facts otherwise available.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Section 776(b) of the Act also authorizes the Department to use as adverse facts available (AFA) information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as ''{i}nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' *See Statement of Administrative Action* (SAA) accompanying the Uruguay Round Agreements Act, H. Doc. No. 316, 103d Cong., 2d Session (1994) at 870. Corroborate means that the Department will satisfy itself that the secondary information to be used has probative value. *See* SAA at 870. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that the Department need not prove that the selected facts available are the best alternative information. *See* SAA at 869.

In selecting from among the facts available, the Department has determined that an adverse inference is warranted, pursuant to section 776(b) of the Act because, in addition to not responding to all of our requests for information, Shuangjie has withdrawn all of its proprietary information and has withdrawn from all participation in the investigation thereby precluding verification of the public information remaining on the record. Thus, Shuangjie failed to cooperate by not acting to the best of its ability, and our preliminary determination is based on AFA.

Selection of the Adverse Facts Available Rate

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from (1) the petition, (2) a final determination in the investigation, (3) any previous review or determination, or (4) any information placed on the record. It is the Department's practice to select, as AFA, the highest calculated rate in any segment of the proceeding. *See, e.g., Certain In–shell Roasted Pistachios from the Islamic Republic of Iran: Final Results of Countervailing Duty Administrative Review*, 71 FR 66165 (November 13, 2006), and accompanying Issues and Decision Memorandum at ''Analysis of Programs.''

The Department's practice when selecting an adverse margin from among the possible sources of information is to ensure that the margin is sufficiently adverse ''as to effectuate the purpose of the facts available role to induce respondents to provide the Department with complete and accurate information in a timely manner.'' *See Notice of Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors From Taiwan*; 63 FR 8909, 8932 (February 23, 1998). The Department's practice also ensures ''that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See* SAA at 870. In choosing the appropriate balance between providing a respondent with an incentive to respond accurately and imposing a rate that is reasonably related to the respondent's prior commercial activity, selecting the highest prior margin ''reflects a common sense inference that the highest prior margin is the most probative evidence of current margins, because, if it were not so, the importer, knowing of the rule, would have produced current information showing the margin to be less.'' *See Rhone Poulenc, Inc. v. United States*, 899 F. 2d 1185, 1190 (Fed. Cir. 1990).

Because Shuangjie failed to act to the best of its ability, as discussed above, for each program examined, we made the adverse inference that Shuangjie benefitted from the program unless the record evidence made it clear that Shuangjie could not have received benefits from the program because, for example, we have preliminarily found the program not countervailable. *See, e.g., Certain Cold–Rolled Carbon Steel Flat Products From Korea; Final Affirmative CVD Determination*, 67 FR 62102 (October 3, 2002) and accompanying Issues and Decision Memorandum at ''Methodology and Background Information.'' To calculate the program rates, we have generally relied upon the highest program rate calculated for any responding company in this investigation as adverse facts available. *See Certain In–shell Roasted Pistachios from the Islamic Republic of Iran: Final Results of Countervailing Duty Administrative Review*, 71 FR 66165 (November 13, 2006) and accompanying Issues and Decision Memorandum at ''Analysis of Programs.''

Thus, for programs based on the provision of goods at less than adequate remuneration, we have used the Kingland rate for the provision of hot–rolled steel for less than adequate remuneration. For value added tax (''VAT'') programs, we are unable to utilize company–specific rates from this proceeding because neither respondent received any countervailable subsidies from these subsidy programs. Therefore, for VAT programs we are applying the highest subsidy rate for any program otherwise listed, which in this instance is Kingland's rate for the provision of hot–rolled steel for less than adequate remuneration.

Similarly, for the grant programs, we are not relying on the highest calculated preliminary subsidy rate because it is *de minimis*. Instead, we are applying the highest calculated preliminary subsidy rate, which in this instance is Kingland's rate for the provision of hot–rolled steel for less than adequate remuneration.

Finally, for the seven alleged income tax programs pertaining to either the reduction of the income tax rates or the payment of no income tax, we have applied an adverse inference that Shuangjie paid no income tax during the period of investigation (*i.e.*, calendar year 2006). The standard income tax rate for corporations in the PRC is 30 percent, plus a 3 percent provincial income tax rate. Therefore, the highest possible benefit for these seven income tax rate programs is 33 percent. We are applying the 33 percent AFA rate on a combined basis (*i.e.*, the seven programs combined provided a 33 percent benefit). This 33 percent AFA rate does not apply to income tax deduction or credit programs. For income tax

deduction or credit programs we are applying the highest subsidy rate for any program otherwise listed, which in this instance is Kingland's rate for provisions of hot–rolled-steel at less than adequate remuneration. *See* Memorandum to the File, entitled ''Selection of the Adverse Facts Available Rate for Tianjin Shuangjie Steel Pipe Co., Ltd.'' (November 5, 2007) (this memorandum is on file in the Department's CRU).

We do not need to corroborate the calculated subsidy rates we are using as AFA because they are not considered secondary information as they are based on information obtained in the course of this investigation. *See* section 776(c) of the Act; *see also* the SAA at 870.

We have also identified certain instances in which the GOC has failed to cooperate to the best of its ability in providing requested information. First, in our questionnaire, we asked the GOC to provide information about the hot–rolled steel industry in the PRC (including a description of the industry, users of hot rolled steel in the PRC, and whether hot–rolled steel producers are state–owned enterprises). The GOC limited its response to the ''hot–rolled steel narrow strip'' industry, arguing that this narrow strip industry was separate from the hot–rolled steel industry. In our supplemental questionnaire, we asked the GOC to provide the requested information for the hot–rolled steel industry as a whole. While some limited information was provided in the GOC's supplemental questionnaire response (October 23, 2007), the GOC stated, ''We hope to prove (*sic*) the Department a broader analysis of hot–rolled steel producers at a later date.'' Similarly, in response to our supplemental questionnaire seeking additional information on rates charged for water in Tianjin (where Shuangjie is located), the GOC responded that it had contacted the local agencies and was awaiting their reply (this rate information had also been requested in our initial questionnaire).

The failure to provide this information within the established deadlines has impeded our investigation. Moreover, the GOC has not provided us with any plausible explanation as to why it cannot provide us with the information within the established deadlines. Therefore, we preliminarily determine that the GOC has failed to act to the best of its ability and we are applying facts available with an adverse inference to address these omissions. With respect to hot–rolled steel, the Department is preliminarily rejecting prices in the PRC as possible benchmarks for determining whether hot–rolled steel is being provided for less than adequate remuneration. With respect to water, we are preliminarily finding that this input is being provided for less than adequate remuneration for Shuangjie, as AFA.

Critical Circumstances

On September 17, 2007, petitioners requested that the Department make an expedited finding that critical circumstances exist with respect to imports of CWP from the PRC. Section 703(e)(1) of the Act states that if the petitioner alleges critical circumstances, the Department will determine, on the basis of information available to it at the time, if there is a reason to believe or suspect the alleged countervailable subsidy is inconsistent with the WTO Agreement on Subsidies and Countervailing Measures (the SCM Agreement) and whether there have been massive imports of the subject merchandise over a relatively short period.

In accordance with 19 CFR 351.206(c)(2)(i), because the petitioners submitted a critical circumstances allegation more than 20 days before the scheduled date of the preliminary determination, the Department must issue a preliminary critical circumstances determination not later than the date of the preliminary determination. *See, e.g., Policy Bulletin 98/4 regarding Timing of Issuance of Critical Circumstances Determinations*, 63 FR 55364 (October 15, 1998). Due to resource constraints, we were unable to accommodate petitioners' request that the Department make an expedited determination with respect to critical circumstances. Specifically, given the complex issues inherent to this investigation, *i.e.*, the second countervailing duty investigation of imports from the PRC, as well as the multiple other ongoing antidumping and countervailing duty investigations, the Department was unable to make a critical circumstances determination prior to the preliminary results of this investigation.

We preliminarily find that East Pipe received no countervailable subsidies inconsistent with the SCM Agreement. Therefore, in accordance with section 703(e)(1) of the Act, we preliminarily determine that critical circumstances do not exist with respect to imports of CWP from East Pipe.

As discussed in the *Analysis of Programs* section below, the Department has preliminarily determined that Kingland received countervailable export subsidies during the POI. These export subsidies are inconsistent with the SCM Agreement. Although the countervailable subsidy rate for these export subsidies is *de minimis*, use of an export subsidy program is sufficient to make an affirmative preliminary determination of critical circumstances under section 703(e)(1)(A) of the Act. *See Notice of Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Certain Softwood Lumber Products From Canada*, 66 FR 43186, 43189–90 (August 17, 2001); and *Notice of Amended Final Affirmative Countervailing Duty Determination and Notice of Countervailing Duty Order: Certain Softwood Lumber Products From Canada*, 67 FR 36070 (May 22, 2002) (the unchanged final determination).

Regarding Shuangjie, we have made an adverse inference that Shuangjie benefitted from countervailable export and import substitution subsidy programs pursuant to our determination to apply AFA to this company.

For ''all other'' exporters, we are basing our finding on the experience of Kingland and, therefore, find that ''all others'' benefitted from export subsidies.

In determining whether there are ''massive imports'' over a ''relatively short period,'' pursuant to section 703(e)(1)(B) of the Act, the Department normally compares the import volume of the subject merchandise for three months immediately preceding the filing of the petition (*i.e.*, the base period) with the three months following the filing of the petition (*i.e.*, the comparison period). Section 351.206(h)(1) of our regulations provides that, in determining whether imports of the subject merchandise have been ''massive,'' the Department normally will examine: (i) the volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, 19 CFR 351.206(h)(2) provides that an increase in imports of 15 percent during the ''relatively short period'' of time may be considered ''massive.'' Finally, 19 CFR 351.206(i) defines ''relatively short period'' as normally being the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed) and ending at least three months later.

On October 31, 2007, Kingland filed its monthly shipment data for subject merchandise exported to the United States for calendar years 2005 and 2006, and for January through September 2007. Based upon these data, we preliminarily find that Kingland's CWP

imports increased more than 15 percent during the ''relatively short period.'' *See* Memorandum to the File Re ''Critical Circumstances Analysis for Zhejiang Kingland Pipeline and Technologies Co., Ltd. Import Shipment Analysis for Zhejiang Kingland Pipeline and Technologies Co., Ltd. and ''All Others'' (November 5, 2007) (Import Analysis Memorandum) (this memorandum is on file in the Department's CRU). Therefore, we preliminarily determine that the requirements of section 703(e)(1)(B) of the Act have been satisfied, and that critical circumstances exist for Kingland.

Regarding Shuangjie, as part of our adverse facts available determination we have made an adverse inference that there were massive imports from Shuangjie over a relatively short period. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances: Wax and Wax/Resin Thermal Transfer Ribbons from Japan*, 68 FR 71072, 71076–77 (December 22, 2003); and *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Wax and Wax/Resin Thermal Transfer Ribbons from Japan*, 69 FR 11834 (March 12, 2004) (the unchanged final determination). Therefore, we preliminarily determine that the requirements of section 703(e)(1)(B) of the Act have been satisfied, and that critical circumstances exist for Shuangjie.

For ''all others,'' we preliminarily determine that there were massive imports over a relatively short period based on import statistics from the ITC's Dataweb (adjusted to remove East Pipe's and Kingland's shipments). *See* Import Analysis Memorandum. Therefore, we preliminarily determine that the requirements of section 703(e)(1)(B) of the Act have been satisfied, and that critical circumstances exist for ''all others.''

Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination

On July 5, 2007, the Department initiated the countervailing duty and antidumping duty investigations on CWP from the PRC. *See Initiation Notice and Initiation of Antidumping Duty Investigation: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China*, 72 FR 36663 (July 5, 2007). The countervailing duty investigation and the antidumping duty investigation have the same scope with regard to the merchandise covered.

On November 2, 2007, petitioners submitted a letter, in accordance with section 705(a)(1) of the Act, requesting alignment of the final countervailing duty determination with the final determination in the companion antidumping duty investigation of CWP from the PRC. Therefore, in accordance with section 705(a)(1) of the Act, and 19 CFR 351.210(b)(4), we are aligning the final countervailing duty determination with the final determination in the companion antidumping duty investigation of CWP from the PRC. The final countervailing duty determination will be issued on the same date as the final antidumping duty determination, which is currently scheduled to be issued on or about March 18, 2008. *See* Postponement of Preliminary Determination of Antidumping Duty Investigation: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China (signed, November 1, 2007) (this memorandum is on file in the Department's CRU).

Application of the Countervailing Duty Law to Imports from the PRC

On October 25, 2007, the Department published *Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007) (*CFS from the PRC*). In that determination, the Department found, ''. . . given the substantial differences between the Soviet–style economies and the PRC's economy in recent years, the Department's previous decision not to apply the CVD law to these Soviet–style economies does not act as a bar to proceeding with a CVD investigation involving products from China.'' *CFS from the PRC*, and accompanying Issues and Decision Memorandum at Comment 6; *see also* Memorandum to David M. Spooner, Countervailing Duty Investigation of Coated Free Sheet Paper from the People's Republic of China - Whether the Analytical Elements of the Georgetown Steel Opinion are Applicable to China's Present-day Economy at 2 (March 29, 2007) (Georgetown Steel Memo).

The GOC, in an October 11, 2007 submission in this proceeding, argues that the Department should not investigate certain newly alleged subsidies that occurred before 2005, the period of investigation in the *CFS from the PRC* proceeding. Citing the Georgetown Steel Memo, the GOC claims that the Department found that ''it is possible to determine whether the PRC Government has bestowed a benefit upon a Chinese producer (*i.e.*, the subsidy can be identified and measured) and whether any such benefit is specific,'' as of 2005. *See* Georgetown Steel Memo at 2. The GOC additionally points to *Final Affirmative Countervailing Duty Determination: Sulfanilic Acid from Hungary*, 67 FR 60223 and accompanying Issues and Decision Memorandum at Comment 1 (September 25, 2003) (*Sulfanilic Acid from Hungary*), in which the Department declined to countervail capital infusions received by the respondent in the year prior to Hungary's transition to a market economy, when Hungary also became subject to the countervailing duty law. Finally, the GOC notes that in the preamble to the Department's countervailing duty regulations, the Department states that it intends to continue its practice of only countervailing subsidies bestowed after a country's status is changed to market economy. *See Countervailing Duties; Final Rule*, 63 FR 65348, 65360 (November 25, 1998) (CVD Preamble).

We have carefully reviewed *CFS from the PRC*, the Georgetown Steel Memo, and the CVD Preamble, and do not agree with the GOC that we are precluded from investigating subsidies bestowed prior to 2005. In particular, although 2005 served as the period of investigation in *CFS from the PRC*, we found loans given prior to 2005 under the Policy Lending Program to be countervailable. *See CFS from the PRC* and accompanying Issues and Decision Memorandum at Comment 12. More importantly, although we found that we could apply the CVD law to imports from the PRC, we did not squarely address the issue of how far back in time we should find countervailable subsidies. Now that this issue has been clearly presented in this investigation, we preliminarily determine that it is appropriate and administratively desirable to identify a uniform date from which the Department will identify and measure subsidies in the PRC for purposes of the CVD law.

We preliminarily determine that date to be December 11, 2001, the date on which the PRC became a member of the WTO. Prior to this date, many changes were occurring in the PRC's economy. Many of the obligations undertaken by the PRC pursuant to its accession to the WTO were in line with the PRC's objective of economic reform. *See* Report of the Working Party on the Accession of China, WT/ACC/CHN/49 (October 1, 2001), for example, at paragraph 4. Taken together, these changes would permit the Department to determine whether the GOC has bestowed a countervailable subsidy on Chinese producers. *See Georgetown Steel Memo; CFS from the PRC* at

Comments 1 and 6. Finally, the GOC acknowledged the changing nature of its economy in so far as its Accession Protocol contemplates the application of the CVD law to the PRC, even while it remains a non–market economy (NME). *See* Protocol of Accession of the People's Republic of China, WT/L/432 (November 23, 2001) at Section 15(b); *see also, CFS* at Comment 1. Therefore, for this preliminary determination, we have selected the date of December 11, 2001, as the date from which we will measure countervailable subsidies in the PRC.

Period of Investigation

The period for which we are measuring subsidies, or the period of investigation (POI), is calendar year 2006.

Subsidies Valuation Information

Allocation Period

The average useful life (''AUL'') period in this proceeding as described in 19 CFR 351.524(d)(2) is 15 years according to the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System for assets used to manufacture primary steel mill products. No party in this proceeding has disputed this allocation period.

Attribution of Subsidies

The Department's regulations at 19 CFR 351.525(b)(6)(i) state that the Department will normally attribute a subsidy to the products produced by the corporation that received the subsidy. However, 19 CFR 351.525(b)(6)(ii) directs that the Department will attribute subsidies received by certain other companies to the combined sales of those companies if (1) cross–ownership exists between the companies, and (2) the cross–owned companies produce the subject merchandise, are a holding or parent company of the subject company, produce an input that is primarily dedicated to the production of the downstream product, or transfer a subsidy to a cross–owned company. The Court of International Trade (CIT) has upheld the Department's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits. *See Fabrique de Fer de Charleroi v. United States*, 166 F. Supp. 2d. 593, 604 (CIT 2001).

According to 19 CFR 351.525(b)(6)(vi), cross–ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This regulation states that this standard will normally be met where there is a majority voting interest between two corporations or through common ownership of two (or more) corporations.

East Pipe: In its response, East Pipe reported that it is affiliated with East Pipe Transportation Facility Co., Ltd. (East Highway). East Pipe states that East Highway's primary business is to install highway guardrails in the PRC and that East Highway did not produce subject merchandise during the POI. East Pipe further contends that East Highway cannot be considered the holding company of East Pipe because its ownership interest in East Pipe is nominal (the details of the relationship between these two companies are proprietary).

Given the unusual nature of the ownership relation between these companies, we preliminarily agree that any subsidies to East Highway should not be attributed to East Pipe under 19 CFR 351.525(b)(6)(iii). Moreover, because East Highway does not produce subject merchandise, we preliminarily determine that any subsidies it receives should not be attributed to East Pipe under 19 CFR 351.5252(b)(6)(ii). See Memorandum from Salim Bhabhrawala to Susan Kuhbach Re: Preliminary Negative Countervailing Duty Determination: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China; Calculations for the Preliminary Determination for Weifang East Steel Pipe Co., Ltd. (November 5, 2007).

East Pipe acknowledges a second company with which it is legally affiliated by virtue of a long–term investment, but which East Pipe views as commercially independent (the details of the relationship between these two companies are also proprietary). According to East Pipe, the company does not produce the subject merchandise and does not provide inputs to East Pipe. Because the company does not produce subject merchandise or otherwise fall within the situations described in 19 CFR 351.525(b)(6)(iii)-(v), we do not need to reach the issue of whether this company and East Pipe are cross–owned within the meaning of 19 CFR 351.525(b)(6)(vi), and we are not attributing any subsidies received by this company to East Pipe. Consequently, we are limiting our investigation to subsidies received by East Pipe.

Kingland: Kingland has responded to the Department's original and supplemental questionnaires on behalf of itself; its parent company, Kingland Group Co., Ltd. (Kingland Group); Beijing Kingland Century Technologies Co. (Kingland Century); Zhejiang Kingland Pipeline Industry Co., Ltd. (Kingland Industry); and Shanxi Kingland Pipeline Co., Ltd. (Shanxi Kingland). According to Kingland, Kingland Group and Kingland Century do not produce the subject merchandise. However, because Kingland Group is the parent company of Kingland, we are preliminarily attributing subsidies received by Kingland Group to Kingland, in accordance with 19 CFR 351.525(b)(6)(iii).

With respect to Kingland Century, this company is a domestic trading company and does not produce any merchandise. Instead, it purchased and provided inputs to Kingland during the POI. Because it is not an input producer, we are not treating Kingland Century as an input supplier as described in 19 CFR 351.525(b)(6)(iv) (which refers to subsidies received by the input producer). Instead, for the preliminary determination, we are treating these inputs as being provided directly to Kingland. *See* Memorandum from Shane Subler to Susan Kuhbach Re: Preliminary Affirmative Countervailing Duty Determination: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China; Calculations for the Preliminary Determination for Zhejiang Kingland Pipeline and Technologies Co., Ltd.; Kingland Group Co., Ltd., and Beijing Kingland Century Technologies Co. (November 5, 2007) (*Kingland Calculation Memorandum*).

Kingland Industry and Shanxi Kingland produced and sold subject merchandise domestically during the POI. Therefore, in accordance with 19 CFR 351.525(b)(6)(ii), we are preliminarily including Kingland Industry and Shanxi Kingland in the subsidy calculation.

Kingland also identified other affiliated companies whose names indicated that they might be involved in the production or sales of CWP. In response to our supplemental questionnaire, Kingland reported that these companies do not produce or sell the subject merchandise. *See* Kingland's supplemental questionnaire response (October 19, 2007) at pages 1–6. For one of these companies, CNOOC Kingland Pipeline Co., Ltd. (CNOOC Kingland), Kingland stated it produces certain casings tube and steel pipes that are outside the scope of the investigation. Furthermore, Kingland provided evidence on CNOOC Kingland's shareholder voting rights, board of directors, and management to demonstrate that cross–ownership did not exist between Kingland and CNOOC Kingland during the POI. After

reviewing the current record, we preliminarily determine that cross–ownership did not exist between Kingland and CNOOC Kingland during the POI. Moreover, we have preliminarily accepted Kingland's claims that CNOOC Kingland Pipeline does not produce subject merchandise.

Finally, Kingland's organization chart shows several additional companies that appear to be service companies with no relationship to the subject merchandise or companies in which the responding companies held a very limited share of ownership during the POI. We have discussed these companies in a separate, proprietary memorandum, entitled ''Zhejiang Kingland Pipeline Co., Ltd.: Cross–owned Companies'' (November 5, 2007) (this memorandum is on file in the Department's CRU). We have preliminarily excluded these companies from the subsidy calculation.

Therefore, based on information currently on the record, we preliminarily determine that cross–ownership within the meaning of 19 CFR 351.525(b)(6)(vi) exists between Kingland, Kingland Group, Kingland Century, Kingland Industry, and Shanxi Kingland. Because we preliminarily determine that Kingland, Kingland Industry, and Shanxi Kingland are cross–owned producers of the subject merchandise, as addressed in 19 CFR 351.525(b)(6)(ii), we are attributing the subsidies received by the three companies to their combined sales. We also preliminarily determine that subsidies received by Kingland Group should be attributed to the consolidated sales of the parent company and its subsidiaries. *See* 19 CFR 351.525(b)(6)(iii).

Benchmark

Petitioners alleged that Baosteel received countervailable loans and that it was uncreditworthy (*see, Initiation Notice*, 72 FR at 36671). Because we did not select Baosteel as a mandatory respondent in this investigation, we are making no finding regarding that company's creditworthiness.

Analysis of Programs

Based upon our analysis of the petition and the responses to our questionnaires, wedetermine the following:

I. *Programs Preliminarily Determined to Be Countervailable*

A. *Provision of Inputs for Less than Adequate Remuneration*

Hot–rolled Steel

The Department initiated an investigation into whether state–owned steel producers in the PRC provide hot–rolled steel to CWP producers for less than adequate remuneration. In response to the Department's questions on the PRC's hot–rolled steel industry in the original questionnaire, the GOC provided information on the hot–rolled steel narrow strip industry, as discussed in *the Selection of the Adverse Facts Available Rate* section, above. Citing information from market observer MYSTEEL and industry journal articles, the GOC claims that the hot–rolled steel narrow strip industry does not compete with other hot–rolled steel products because narrow strip has a lower market price, is used primarily to produce CWP and light section steel, and has a production process that is different from hot–rolled steel sheet. The GOC argues further that pipe producers incur additional cost in slitting hot–rolled steel sheet into a narrow strip product.

In their pre–preliminary comments, the petitioners reject the GOC's argument that hot–rolled steel narrow strip production is a separate industry. Referring to price information provided by the GOC, the petitioners contend that prices for hot–rolled steel narrow strip and hot–rolled wide coil move in tandem. Moreover, citing the respondents' reported purchase information, petitioners argue that the respondents use both products in their production of subject merchandise. Therefore, the petitioners argue that the Department should analyze the hot–rolled steel industry as a whole, not only the production of hot–rolled steel narrow strip.

We preliminarily agree with petitioners and do not find the producers of hot–rolled steel narrow strip to be an industry separate from the wider hot–rolled steel industry because there is no clear distinction between hot–rolled steel narrow strip and other hot–rolled steel. The GOC relies on price information provided by MYSTEEL to define hot–rolled steel narrow strip as having a width of less than 1000 millimeters and hot–rolled steel sheet as having a width of no less than 1250 millimeters. However, these definitions leave out a classification for products between 1000 millimeters and 1250 millimeters wide. Therefore, there is no specific width that distinguishes hot–rolled steel narrow strip from other hot–rolled steel sheet. Moreover, all of the products are hot–rolled steel, which is the input product on which the Department initiated an investigation. Therefore, we are basing our preliminary analysis on the hot–rolled steel industry as a whole.

Kingland reported that it purchased hot–rolled steel for its CWP from GOC–owned hot–rolled steel producers and suppliers. East Pipe reported that it purchased its steel input for CWP entirely from privately owned suppliers. Therefore, we preliminarily determine that the GOC did not provide East Pipe with hot–rolled steel for CWP during the POI and our analysis is limited to Kingland.

In its response, the GOC listed the industries that use hot–rolled steel: ''construction, automobile, electronic appliance, machineries, chemical industries, and long transmission pipelines, etc.'' *See* GOC questionnaire response at 56 (September 17, 2007). We preliminarily find that these industries are ''limited in number'' and, hence, that the provision of hot–rolled steel is *de facto* specific under section 771(5A)(D)(i) of the Act. *See also Notice of Final Affirmative Countervailing Duty Determination: Certain Cold–Rolled Carbon Flat Steel Products from the Republic of Korea*, 67 FR 62102 (October 3, 2002) and accompanying Issues and Decision Memorandum at Comment 1 and Comment 2, where the Department found that Posco's provision of hot–rolled coil was countervailable.

We further determine preliminarily that the GOC's provision of hot–rolled steel through its state–owned producers is a financial contribution within the meaning of section 771(5)(D)(iii) and that it confers a benefit on CWP producers because the good is being sold for less than adequate remuneration as described in section 771(5)(E)(iv). In determining what constitutes adequate remuneration, the Department is not relying on prices in the PRC, as explained in the *Selection of the Adverse Facts Available Rate* section, above. Instead, in accordance with 19 CFR 351.511(a)(2), we have used a world market price as a benchmark to compare to the respondents' reported purchase prices from state–owned steel suppliers. Specifically, we used the ''World Export Price'' from *Steel Benchmarker*, as provided in Exhibit 38 of the petitioners' pre–preliminary comments (October 26, 2007).

To calculate the benefit, we compared the monthly weighted–average price paid by Kingland for hot–rolled steel purchased from state–owned enterprises (SOEs) to the average monthly prices reported in *Steel Benchmarker*. *Steel Benchmarker* does not include prices for January - March 2006; therefore, we have used the April 2006 price as a surrogate. On this basis, we preliminarily determine that Kingland received a countervailable benefit of 16.57 percent *ad valorem*.

For certain of Kingland's suppliers, we did not have information about their

ownership and did not have time to request it for this preliminary determination, therefore, it is unclear what portion of this steel is provided by SOEs. We intend to seek this supplier information for our final determination. For the preliminary determination, we have relied on neutral facts available and treated this pool of steel as having been provided by suppliers in the same proportion as reported for known SOE and non–SOE suppliers. *See* Kingland Calculation Memorandum.

B. *Other Subsidies (Kingland)*

Kingland, Kingland Group, and Kingland Industry reported that they received different city, district, and provincial grants related to export assistance, research and development, and other business activities in 2004, 2005, and 2006. Kingland only identified two of these programs, the ''Electromechanical Products Technologies Renovation Project Fund'' and ''Superstar Enterprise'' award, as public information. Kingland designated information about the other programs as business proprietary. Therefore, we have addressed these programs in more detail in the *Kingland Calculation Memorandum*. Current information on the record does not indicate that these grants are tied to any of the programs discussed in this notice.

We preliminarily determine that all the grants received in 2004 and 2005 should be expensed in those years, *i.e.*, prior to the POI because even if they were treated as non–recurring, the total amount received was less than 0.5 percent of the relevant sales in those years (*see* 19 CFR 351.524(b)(2)). Hence, they would confer no benefit in the POI.

For the export assistance grants received in 2006, certain of them pertained to markets other than the United States. We have not included these in our analysis pursuant to 19 CFR 351.525(b)(4). For the remaining export assistance grant, we preliminarily determine the grant is a countervailable subsidy within the meaning of section 771(5) of the Act. It is a financial contribution under section 771(5)(D)(i), and it provides a benefit in the amount of the grant (*see* 19 CFR 351.504(a)). Finally, because it is contingent upon export performance, it is specific under section 771(5A)(B).

To calculate the benefit, we divided the amount received by Kingland's export sales in 2006. On this basis, we preliminarily determine that a countervailable subsidy of less than .005 percent *ad valorem* exists for Kingland. Where the countervailable subsidy rate for a program is less than .005 percent, the program is not included in the total countervailing duty rate. *See, e.g., Final Results of Countervailing Duty Administrative Review: Low Enriched Uranium from France*, 70 FR 39998 (July 12, 2005), and the accompanying Issues and Decision Memorandum at ''Purchases at Prices that Constitute 'More than Adequate Remuneration''' (citing *Final Results of Administrative Review: Certain Softwood Lumber Products from Canada*, 69 FR 75917 (December 20, 2004)).

Kingland Group reported that it received a Super Star Enterprise award from Huzhou City. Kingland Group explained that Huzhou City granted this award based on the total value of a company's sales. The company met the relevant sales threshold for 2005 and received this award in 2006.

We preliminarily determine that Kingland received a countervailable subsidy under the Huzhou City Super Star Enterprises award program. We find that this grant is a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act, providing a benefit in the amount of the grant. *See* 19 CFR 351.504(a). We further preliminarily determine that the grant provided under this program is limited as a matter of law to certain enterprises, *i.e.*, enterprises that exceed certain sales values during a year. Hence, we preliminarily find that the subsidy is specific under section 771(5A)(D)(i) of the Act.

To calculate the countervailable subsidy, we used our standard methodology for non–recurring grants. *See* 19 CFR 351.524(b). Because the award was not tied to any specific product, we attributed the subsidy to the consolidated sales of the Kingland Group. Also, because the benefit was less than 0.5 percent, the entire amount was attributed to the POI. On this basis, we preliminarily determine the countervailable subsidy to be 0.02 percent *ad valorem* for Kingland.

For the remaining grants, we intend to seek further information for our final determination.

II. *Programs Preliminarily Determined to Be Not Countervailable*

A. *Government Policy Lending Program*

In *CFS from the PRC*, the Department found Government Policy Lending to provide a countervailable subsidy because record evidence indicated that: (i) the GOC had a policy in place to encourage and support the growth and development of the forestry and paper industry through preferential financing initiatives as illustrated in the GOC's five-year plans and industrial policies; and (ii) the GOC's policy toward the paper industry was carried out by the central and local governments through the provision of loans extended by GOC Policy Banks and state–owned commercial banks. *See CFS from the PRC* and accompanying Issues and Decision Memorandum at Comment 8.

In this investigation, the evidence submitted to date does not support a finding that the CWP industry in the PRC received preferential financing pursuant to the GOC's Iron and Steel Policy. Therefore, we preliminarily determine that producers and exporters of CWP in the PRC did not receive government policy loans. We will, however, continue to investigate whether the GOC's Iron and Steel Policy or other plans apply to the CWP industry, and, if so, the purpose of those policies and whether preferential lending was provided to the CWP industry pursuant to those policies.

B. *Provision of Inputs for Less than Adequate Remuneration*

Electricity: According to the GOC, electricity in the PRC is produced by numerous power plants and it is transmitted for local distribution by two state–owned transmission companies, State Grid and China South Power Grid. Generally, prices for uploading electricity to the grid and transmitting it are regulated by the GOC, as are the final sales prices. *See, e.g., Circular on Implementation Measures Regarding Reform of Electricity Prices*, (FAGAIJIAGE {2005} No. 514, National Development and Reform Commission) at Appendix 3 of the *Provisional Measures on Prices for Sales of Electricity* at Article 29 (''Government departments in charge of pricing at various levels shall be responsible for the administration and supervision of electricity sales prices.''), provided within the GOC response at Exhibit 114 (September 17, 2007).

Electricity consumers are divided into broad categories such as residential, commercial, large–scale industry and agriculture. The rates charged vary across customer categories and within customer categories based on the amount of electricity consumed. Moreover, among industrial users, certain industries are specifically broken out and these industries receive special, discounted rates. Based on our review of the rate schedules submitted for two of the three provinces in which the respondents are located, discounted rates are established for producers of calcium carbide, electrolyte caustic alkali, synthetic ammonia, yellow phosphorus with electric furnace, and chemical fertilizer producers. For the third province, discounted rates are established for the production of chlor alkali, electrolyte aluminum, and chemical fertilizer. Thus, there is not a

discounted rate for CWP producers and, according to the GOC, the number of customers in the large–scale enterprise category (which includes the CWP producers) ranges from over 400 to more than 2200, across these three localities.

Based on the record evidence, we preliminarily determine that the provision of electricity to large–scale enterprises in the PRC is neither *de jure* nor *de facto* specific. Although producers in a few particular industries are eligible for discounts under the law, all other large–scale enterprises within a locality pay the same rate for their electricity. Moreover, the absence of price discrimination among most users may also support a preliminary finding that electricity is not being provided to CWP producers for less than adequate remuneration. *See Countervailing Duties; Final Rule*, 63 FR 65348, 65378 (November 25, 1998) (discussing that, where the government is the sole provider of a good or service, especially in the case of electricity, land or water, the Department may assess whether the government price was set in accordance with market principles, which may include an analysis of whether there is price discrimination among the users of the good or service that is provided and that ''{w}e would only rely on a price discrimination analysis if the government good or service is provided to more than a specific enterprise or industry, or group thereof.'').

On this basis, we preliminarily determine that the GOC's provision of electricity does not confer a countervailable subsidy.

Water: According to the GOC, water suppliers in the PRC are highly localized. Many suppliers are SOEs, particularly in cities, but there is also private ownership. Water prices generally are regulated by the local governments. *See, e.g., the Regulation on Administration of City Water Supply* (Decree 158 of the State Council, 1994), provided within the GOC response at Exhibit 118 (September 17, 2007).

East Pipe's water supplier, Weifang Treated Water Company, Ltd., is a majority privately owned company. Therefore, for East Pipe, we preliminarily determine that water is not provided by an ''authority'' and, hence, that no countervailable subsidy is bestowed. *See* section 771(5)(b) of the Act. We will continue to examine whether East Pipe's water supplier is a private entity during the course of this investigation. Regarding Shuangjie, the GOC did not provide water rate schedules.

For Kingland, the GOC has provided the *Circular on Adjusting the Water Resource Charge Rate* ZHEJAIFEI {2004} No. 209 and *Circular of Huzhou City People's Government on Approving and Forwarding the Provisional Regulation on the Collection of River Network Water Supply Fee Issued by City Water Resource Bureau* HUZHENGFA {2002} No. 39, provided within the GOC supplemental response as exhibits S - 5 and S - 6 (October 23, 2007). These two schedules show that uniform rates are charged, with no discounts for any industry groups.

Therefore, for the same reasons described above for electricity, we preliminarily determine that record evidence demonstrates that the provision of water in Zhejiang Province and Huzhou City (location of Kingland Pipe) is neither *de jure* nor *de facto* specific. Consequently, we preliminarily find that the government's provision of water does not confer a countervailable subsidy on Kingland.

Because the GOC has failed to provide the requested rate information for water purchased by Shuangjie, we are preliminarily treating this program as countervailable for this company. *See Selection of Adverse Facts Available Rate* section, above.

C. *VAT Rebates* (originally referred to as ''Export Incentive Payments Characterized as ''VAT Rebates'')

According to the GOC, the ''exemption, deduction and refund'' of VAT applies if a manufacturer exports its self–produced goods by itself or via a trading company. *See* Article 1 of the *Circular on Further Promotion of Methodology of ''Exemption, Deduction, and Refund'' of Tax for Exported Goods* (CAISHUI (2002) No. 7) provided within the GOC response at Exhibit 98. Under the ''VAT refund system,'' when a producer/exporter purchases inputs (*e.g.*, raw materials, components, fuel and power) it pays a VAT based on the purchase price of inputs. The GOC reported the VAT rates paid by CWP producers/exports for inputs are as follows: hot–rolled steel strips, zinc and electricity power at a rate of 17 percent; fuel at 13 percent; and water at 6 percent. Once the exporter/producer exports subject merchandise, a VAT payment and tax exemption form is prepared and filed with the relevant state tax authority. CWP exporters receive a VAT refund of 13 percent of the export price.

The Department's regulations state that in the case of an exemption upon export of indirect taxes, a benefit exists only to the extent that the Department determines that the amount exempted ''exceeds the amount levied with respect to the production and distribution of like products when sold for domestic consumption.'' 19 CFR 351.517(a); *see also* 19 CFR 351.102 (for a definition of ''indirect tax''). Information in the company responses shows that East Pipe and Kingland paid the VAT on their inputs, and applied for and received a VAT refund on their export sales.

To determine whether a benefit was provided under this program, the Department analyzed whether the amount of VAT exempted during the POI exceeded the amount levied with respect to the production and distribution of like products when sold for domestic consumption. Because the VAT rate levied on CWP in the domestic market (17 percent) exceeded the amount of VAT exempted upon the export of CWP (13 percent), the Department preliminarily determines that, for the purposes of this investigation, the VAT refund received upon the export of CWP does not confer a countervailable benefit.

III. Post–POI Programs

E. *Government Restraints on Exports Hot–rolled Steel and Zinc*: Petitioners alleged that the GOC restrains exports of hot–rolled steel and zinc by means of export taxes, which artificially suppress the price a producer in the PRC can charge for these inputs into CWP.

In its response, the GOC provided the *Announcement on Adjustments of Provisional Import or Export Duty for Certain Merchandises* (PRC Customs Announcement No. 22, 2007) *See* Exhibit 122 of the GOC questionnaire response (September 17, 2007). This document shows that on May 30, 2007, the GOC announced a provisional export duty rate for hot–rolled steel of five percent and an increase in the provisional export duty rate for zinc from five percent to ten percent. These changes were implemented retroactively to begin on July 1, 2006.

The POI for this investigation is January 1, 2006 through December 31, 2006, and the export restraints allegedly giving rise to a subsidy were announced on May 30, 2007, *i.e.*, after the POI. Although the export duties were implemented retroactively, there is no basis to conclude that the export duties affected the prices paid by the respondents for hot–rolled steel and zinc prior to May 30, 2007, because those purchases had already been made. Therefore, any subsidy conferred by the export duties on hot–rolled steel and zinc would properly be addressed under our Program–wide Change regulation, 19 CFR 351.526(a). That regulation states that the Department may take a program–wide change into account in establishing the estimated countervailing duty cash deposit rate if:

(1) the Department determines that subsequent to the period of investigation or review, but before a preliminary determination in an investigation, a program–wide change has occurred; and (2) the Department is able to measure the change in the amount of countervailable subsidies provided under the program in question.

In this investigation, East Pipe and Kingland submitted their monthly purchase prices for hot–rolled steel and zinc for periods prior to and following the May 30, 2007, announcement. The data show fluctuations in the prices of these inputs both before and after the announcement of the export duties. Moreover, the data available for the months after the announcement are limited. For these reasons, we cannot measure the subsidy, if any, arising from the imposition of the export duties, and we are not including these alleged subsidy programs in our cash–deposit rates.

IV. *Programs Determined To Be Terminated*

A.Exemption from Payment of Staff and Worker Benefits for Export–oriented Industries

The Department has determined that this program was terminated on January 1, 2002, with no residual benefits. *See CFS from the PRC* and accompanying Issues and Decision Memorandum at ''Programs Determined to be Terminated.''

V. Programs Preliminarily Determined To Be Not Used By East Pipe and Kingland

We preliminarily determine that East Pipe and Kingland did not apply for or receive benefits during the POI under the programs listed below.

A.Loans and Interest Subsidies Provided Pursuant to the Northeast Revitalization Program
B. The ''Two Free, Three Half'' Program
C. Reduced Income Tax Rates for Foreign Invested Enterprises (FIEs) Based on Location
D. Local Income Tax Exemption and Reduction Program for ''Productive'' FIEs
E. Income Tax Exemption Program for Export–oriented FIEs
F. Corporate Income Tax Refund Program for Reinvestment of FIE Profits in Export–oriented Enterprises
G. Reduced Income Tax Rate for Technology and Knowledge Intensive FIEs
H. Reduced Income Tax Rate for High or New Technology FIEs
I. Preferential Tax Policies for Research and Development at FIEs
J. Income Tax Credits on Purchases of Domestically Produced Equipment by Domestically Owned Companies
K. Income Tax Credits on Purchases of Domestically Produced Equipment by FIEs
L. Program to Rebate Antidumping Legal Fees in Shenzen and Zhejiang Provinces
M. Funds for ''Outward Expansion'' of Industries in Guangdong Province
N. Export Interest Subsidy Funds for Enterprises Located in Shenzhen and Zhejiang Provinces
O. Loans Pursuant to Liaoning Province's Five-year Framework
P. VAT and Tariff Exemptions on Imported Equipment
Q. VAT Rebates on Domestically Produced Equipment
R. The State Key Technologies Renovation Project Fund
S. Grants to Loss–making State–owned Enterprises
T. Provision of Inputs for Less Than Adequate Remuneration: Natural Gas
U. Foreign Currency Retention Program

For purposes of this preliminary determination, we have relied on the GOC's and respondent companies' responses to preliminarily determine non–use of the programs listed above. During the course of verification, the Department will further investigate whether these programs were used by respondent companies during the POI.

VI.*Programs for Which More Information is Required*

A.*Provision of Land for Less than Adequate Remuneration*

Citing Article 29 of the *Implementation Rules of the Law on Administration of Land*, land–use rights can be obtained from the government in one of three ways: 1) purchase; 2) lease; and 3) as an equity investment (*see* GOC response at Exhibit 121 (September 17, 2007)). The GOC further states that the price of land–use rights may be determined by means of public bidding, auction, independent appraisal, and negotiation.

East Pipe reported that it obtained its land–use rights through the management buy–out of Maite Steel in 2001 and East Pipe has provided appraisals which, it claims, demonstrate that adequate remuneration was paid for the land. Kingland Group purchased its land use rights in 2000 and transferred a portion of these to Kingland Pipeline in 2002. Kingland provided reference prices contemporaneous with its purchase of land–use rights for similar industrial land.

The GOC has indicated, and the company responses appear to confirm, that the administration of state–owned lands is highly decentralized with the authority to sell, lease, or invest land–use rights left to local authorities. At this time, we do not have sufficient information from the local governments to determine whether their provision of land–use rights to East Pipe and Kingland confers a countervailable subsidy. In particular, we do not know how prices for land–use rights are set or the methods for transferring land–use rights. We intend to seek further information on these questions and to issue an interim analysis describing our preliminary findings with respect to this program before the final determination so that parties will have the opportunity to comment on our findings before the final determination.

Other Subsidies (Kingland)

As explained in the *Programs Preliminarily Determined to Be Countervailable* section, above, Kingland received grants from various city, district, and provincial governments. We have preliminarily determined certain of these grants to be countervailable. However, for the other grants, we intend to seek further information regarding the programs under which they were given.

Verification

In accordance with section 782(i)(1) of the Act, we will verify the information submitted by the respondents prior to making our final determination.

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated an individual rate for each exporter/manufacturer of the subject merchandise. We preliminarily determine the total estimated net countervailable subsidy rates to be:

Exporter/Manufacturer	Net Subsidy Rate
Tianjin Shuangjie Steel Pipe Co., Ltd., Tianjin Shuangjie Steel Pipe Group Co., Ltd., Tianjin Wa Song Imp. & Exp. Co., Ltd., and Tianjin Shuanglian Galvanizing Products Co., Ltd.	264.98
Weifang East Steel Pipe Co., Ltd.	0

Exporter/Manufacturer	Net Subsidy Rate
Zhejiang Kingland Pipeline and Technologies Co., Ltd., Kingland Group Co., Ltd, Beijing Kingland Centruy Technologies Co., Zhejiang Kingland Pipeline Industry Co., Ltd., and Shanxi Kingland Pipeline Co., Ltd.	16.59
All Others	16.59

Sections 703(d) and 705(c)(5)(A) of the Act state that for companies not investigated, we will determine an ''all others'' rate by weighting the individual company subsidy rate of each of the companies investigated by each company's exports of the subject merchandise to the United States. However, the ''all others'' rate may not include zero and *de minimis* rates or any rates based solely on the facts available. In this investigation, because we have only one rate that can be used to calculate the ''all others'' rate, Kingland's rate, we have assigned that rate to ''all others.''

In accordance with sections 703(d)(1)(B) and (2) of the Act, we are directing CBP to suspend liquidation of all entries of CWP from the PRC that are entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit or bond for such entries of merchandise in the amounts indicated above. Moreover, in accordance with section 703(e)(2)(A), for Kingland, Shuangjie, and for ''all other'' Chinese exports of CWP, we are directing CBP to apply the suspension of liquidation to any unliquidated entries entered, or withdrawn from warehouse for consumption, on or after the date 90 days prior to the date of publication of this notice in the **Federal Register**. Neither the suspension of liquidation nor the requirement for a cash deposit or bond will apply to merchandise produced and exported by East Pipe because the Department has preliminarily determined that East Pipe did not receive any countervailable subsidies.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non–privileged and non–proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Disclosure and Public Comment

In accordance with 19 CFR 351.224(b), we will disclose to the parties the calculations for this preliminary determination within five days of its announcement.

Case briefs for this investigation must be submitted no later than one week after the issuance of the last verification report. *See* 19 CFR 351.309(c) (for a further discussion of case briefs). Rebuttal briefs must be filed within five days after the deadline for submission of case briefs, pursuant to 19 CFR 351.309(d)(1). A list of authorities relied upon, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes.

Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs, pursuant to 19 CFR 351.310(d), at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice, pursuant to 19 CFR 351.310(c). Requests should contain: (1) the party's name, address, and telephone; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

This determination is published pursuant to sections 703(f) and 777(i) of the Act.

Dated: November 5, 2007.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

[FR Doc. E7–22144 Filed 11–9–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement, Article 1904 Binational Panel Reviews

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of First Request for Panel Review.

SUMMARY: On November 6, 2007, Holcim Apasco, S.A. de C.V. filed a First Request for Panel Review with the United States section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the Notice of Final Results of the Antidumping Changed Circumstances Review made by the International Trade Administration, respecting Gray Portland Cement and Clinker from Mexico. This determination was published in the **Federal Register** (72 FR 61863) on November 1, 2007. The NAFTA Secretariat has assigned Case Number USA–MEX–2007–1904–02 to this request.

FOR FURTHER INFORMATION CONTACT: Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for

Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the United States Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on November 6, 2007, requesting panel review of the Notice of Final Antidumping Changed Circumstances Review described above.

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is December 6, 2007);

(b) a Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is December 21, 2007); and

(c) the panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: November 7, 2007.

Caratina L. Alston,

United States Secretary, NAFTA Secretariat.

[FR Doc. E7–22174 Filed 11–9–07; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD80

Nominations for the 2008 Annual Sustainable Fisheries Leadership Awards

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

ACTION: Notice; request for nominations.

SUMMARY: In 2006, NOAA established the Sustainable Fisheries Leadership Awards Program to annually recognize outstanding performances, achievements and leadership by industries, organizations and individuals who promote best stewardship practices for the sustainable use of living marine resources and ecosystems, and who have fostered change and inspired a stewardship ethic within their community. This notice solicits nominations of qualified individuals for the third annual Sustainable Fisheries Leadership Awards in six award categories listed in this Notice. NMFS has partnered with the Fish for the Future Foundation for this awards program.

DATES: Nomination forms and required supporting materials must be received on or before February 11, 2008.

ADDRESSES: Nominations should be sent electronically to the Fish for the Future Foundation, *nominations@fish4thefuturefoundation.org*. Nominations can also be mailed to Sustainable Fisheries Leadership Awards, % Fish for the Future Foundation, 3382 Gunston Road, Alexandria, VA 22302, or faxed to (703) 379–5777. All information and official nomination forms can be accessed electronically at the Fish for the Future Foundation website *www.fish4thefuturefoundation.org* or NMFS website *www.nmfs.noaa.gov/awards/*.

FOR FURTHER INFORMATION CONTACT: Michele Shea, Fish for the Future Foundation, (703) 379–6101, *Michele.Shea@fish4thefuturefoundation.org*.

SUPPLEMENTARY INFORMATION: Established by NMFS, the Sustainable Fisheries Leadership Awards reflect the values and principles of NOAA and its mission to ensure sustainable management of U.S. fishery resources for the benefit of our Nation. NMFS has partnered with the Fish for the Future Foundation, an Internal Revenue Service-approved non-profit organization, to assist with the awards program. The Fish for the Future Foundation is dedicated to promoting education among the American public on the need for and importance of a vibrant, sustainable fishing industry.

The Sustainable Fisheries Leadership Awards Program is open to fishing industry sectors, organizations, individuals, and state, local and federal government agencies and their employees. Organizations, individuals and agencies cannot nominate themselves. A nominee cannot be nominated for more than one award category. International entities or employees of NMFS are not eligible to receive an award under any category. Presenting an award under each of the six categories will be entirely dependent on the pool nominations received and NMFS' determination of their qualifications. As such, there may be years in which an award is not presented under one or more of the categories.

Nominated through a public process, nominees will be considered for the following categories: Special Recognition Award, Stewardship & Sustainability Award, Conservation Partnership Award, Science, Research & Technology Award, Coastal Habitat Restoration Award, and Public Education, Community Service & Media Award.

Nominations must be submitted on the official nomination form available at *www.nmfs.noaa.gov/awards/* or *www.fish4thefuturefoundation.org*, and submitted electronically, mailed or faxed to Fish for the Future Foundation (see **DATES** and **ADDRESSES**). Relevant supporting materials, not to exceed 10 pages in length, may be submitted along with the nomination form. At least one reference is required however no more than three references or endorsements will be accepted or considered by the review panel. Nominations will be reviewed by the Marine Fisheries Advisory Committee (a federal advisory group established to advise the Secretary of Commerce on living marine resource issues) as well as NMFS leadership, making recommendations to the Assistant Administrator for Fisheries. Final selection of award recipients is made by the Assistant Administrator for Fisheries and the Under Secretary of Commerce for Oceans and Atmosphere.

The following award categories are open for nominations:

Special Recognition Award — This award honors an individual who has demonstrated a life time achievement in innovative management and outstanding leadership for the

stewardship and sustainable use of living marine resources.

Stewardship & Sustainability Award — This award recognizes excellence in promoting responsible stewardship and innovative management for long-term social, economic and biological sustainability of living marine resources.

Conservation Partnership Award — This award recognizes outstanding achievement in cooperative and collaborative work among stakeholder groups to foster best practices in sustainable living marine resources management.

Science, Research & Technology Award — This award recognizes excellence in the field of applied fisheries research. Nominations will be considered for advancements in technology to improve fisheries monitoring, reduce bycatch, protect habitat, conserve protected species, and enhance fishing operations as well as other technological advances that reduce the impacts of human activity on the marine environment.

Coastal Habitat Restoration Award — This award recognizes significant achievements made in coastal habitat restoration, including the development of innovative approaches and community based support necessary to accomplish the ambitious goals inherent with these projects.

Public Education, Community Service & Media Award — This award recognizes efforts to inform the general public about marine fisheries and living marine resources in the United States, or efforts to support the nation's fishing communities through community service.

Evaluation of nominations will include but are not limited to the following criteria:

Leadership — the individual or the overall team effort that has been demonstrated over a sustained period of time in support of the stewardship and sustained use of living marine resources.

Impact on Stewardship — the degree of stewardship and conservation ethics and practices fostered within the larger community of living marine fisheries stakeholders and users.

Ecological Significance — the impact and benefit to the overall health and abundance provided to living marine resources.

Long-term Significance — the impact to the science, management and economic sustainability of living marine resources.

These awards are presented annually. This is the third year of the Sustainable Fisheries Leadership Awards. Information on last year's awards and award recipients can be found at *www.nmfs.noaa.gov/awards*.

Dated: November 6, 2007.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. E7–22145 Filed 11–9–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD51

Stock Assessment of Small Coastal Sharks in the U.S. Atlantic and Gulf of Mexico

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

ACTION: Notice of availability.

SUMMARY: NMFS announces the availability of a final stock assessment report on small coastal sharks (SCS) in the Atlantic and Gulf of Mexico. The report summarizes the consensus of review panel assessments, describes methodologies used to determine SCS complex stock status, and details relevant working documents, including copies of Data and Assessment workshop reports.

ADDRESSES: Requests for copies of the SCS final stock assessment report should be sent to Robert Smith, Highly Migratory Species Management Division (F/SF1), National Marine Fisheries Service (NMFS), 1315 East-West Highway, Silver Spring, MD 20910, or may be sent via facsimile (fax) to (301)713–1917 or phone (301)713–2347. Electronic copies of the stock assessment and all supporting documents may also be obtained on the internet at: *http://www.sefsc.noaa.gov/sedar/*.

FOR FURTHER INFORMATION CONTACT: For information on the methods, data, and results of the stock assessment, contact Enric Cortes by phone at (850) 234–6541 or by fax at (850) 235–3559.

SUPPLEMENTARY INFORMATION: This assessment for SCS was conducted, as close as possible, to the procedures of the Southeast Data, Assessment, and Review (SEDAR) process to ensure the best available data and techniques were used. SEDAR is a cooperative Fishery Management Council process initiated in 2002 to improve the quality and reliability of fishery stock assessments in the South Atlantic, Gulf of Mexico, and U.S. Caribbean. SEDAR emphasizes constituent and stakeholder participation in assessment development, transparency in the assessment process, and a rigorous and independent scientific review of completed stock assessments.

SEDAR is organized around three workshops. The first in the series for the SCS assessment, the Data Workshop, was held in Panama City, FL, February 5 through February 9, 2007, and reviewed and compiled fisheries, monitoring, and life history data. An Assessment Workshop, the second workshop in the series, was held in Panama City, FL, May 7 through May 11, 2007, and developed assessment models and estimated population parameters using the information provided from the Data Workshop. The Review Workshop was the final workshop, in which a panel of independent experts met in Panama City, FL, from August 6 through August 10, 2007, and reviewed the data and assessments and recommended the most appropriate values of critical population and management quantities. All workshops were open to the public. More information on the SEDAR process can be found at *http://www.sefsc.noaa.gov/sedar/*. Additionally, the final stock assessment report and all supporting documents can be found at that website under the heading ''SEDAR 13 - Small Coastal Sharks.''

The assessment reviewed data and models for the SCS complex and for each individual within the SCS complex, as per recommendations in previous assessments. This allowed individual analyses, discussions, and stock status determinations for five separate assessments: 1) SCS complex, 2) Atlantic sharpnose shark, 3) bonnethead shark, 4) blacknose shark, and 5) finetooth sharks. These assessments are included in one report as many of the indices, data, and issues overlap among assessments. The Review Panel found that the data and methods used were appropriate and the best available. The Review Panel also endorsed recommendations for future research contained in the Data Assessment workshop reports, added additional recommendations, and provided comments on the SEDAR process to consider in the future.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: November 5, 2007.

Emily H. Menashes

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

[FR Doc. E7–22115 Filed 11–9–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD78

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Applications for three scientific research permits and three permit renewals.

SUMMARY: Notice is hereby given that NMFS has received six scientific research permit application requests relating to Pacific salmon. The proposed research is intended to increase knowledge of species listed under the Endangered Species Act (ESA) and to help guide management and conservation efforts.

DATES: Comments or requests for a public hearing on the applications must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific standard time on December 13, 2007.

ADDRESSES: Written comments on the applications should be sent to the Protected Resources Division, NMFS, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232–1274. Comments may also be sent via fax to 503–230–5441 or by e-mail to *resapps.nwr@NOAA.gov*.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, Portland, OR (ph.: 503–231–2005, Fax: 503–230–5441, e-mail: *Garth.Griffin@noaa.gov*). Permit application instructions are available from the address above.

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

The following listed species are covered in this notice:

Chinook salmon (*Oncorhynchus tshawytscha*): threatened lower Columbia River (LCR), threatened upper Willamette River (UWR), endangered upper Columbia River (UCR), threatened Snake River (SR) spring/summer (spr/sum), threatened SR fall, threatened Puget Sound (PS).

Chum salmon (*O. keta*): threatened Columbia River (CR).

Steelhead (*O. mykiss*): threatened LCR, threatened UWR, threatened middle Columbia River (MCR), threatened SR, endangered UCR, threatened PS.

Coho salmon (*O. kisutch*): threatened LCR, threatened Southern Oregon Northern California Coasts (SONCC).

Sockeye salmon (*O. nerka*): endangered SR.

Sturgeon: Threatened green (*Acipenser medirostris*).

Authority

Scientific research permits are issued in accordance with section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 et seq.) and regulations governing listed fish and wildlife permits (50 CFR 222–226). NMFS issues permits based on findings that such permits: (1) are applied for in good faith; (2) if granted and exercised, would not operate to the disadvantage of the listed species that are the subject of the permit; and (3) are consistent with the purposes and policy of section 2 of the ESA. The authority to take listed species is subject to conditions set forth in the permits.

Anyone requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see ADDRESSES). Such hearings are held at the discretion of the Assistant Administrator for Fisheries, NMFS.

Applications Received

Permit 1119

The U.S. Fish and Wildlife Service is seeking to renew research permit 1119 for another five years. The permit currently covers five studies that, among them, would annually take adult and juvenile endangered UCR spring chinook salmon (natural and artificially propagated) and UCR steelhead (natural and artificially propagated) at various points in the Wenatchee, Entiat, Methow, Okanogan, and Yakima River watersheds and other points in eastern Washington State. The ongoing research projects are: Study 1 Peshastin Creek Salmonid Production and Life History Investigations; Study 2 Entiat Basin Spawning Ground Surveys; Study 3 Snorkel Surveys in the Wenatchee, Entiat, Methow, Okanogan, and Yakima Watersheds and Other Waterways of Eastern Washington; Study 4 Fish Salvage Activities in the Wenatchee, Entiat, Methow, Okanogan, and Yakima Watersheds and other Waterways of Eastern Washington. Study 5 would be changed from ''Icicle Creek Salmonid Production and Life History Investigations'' to ''Capture of Bull Trout, Lamprey, and Other Species in the Wenatchee, Entiat, Methow, Okanogan, and Yakima Watersheds.'' Under the proposal, listed adult and juvenile salmon and steelhead would be variously (a) captured (using nets, traps, and electrofishing equipment) and anesthetized; (b) sampled for biological information and tissue samples; (c) tagged with PIT tags or other identifiers; (d) marked and recaptured to determine trap efficiency, and (e) released.

The research has many purposes and would benefit listed salmon and steelhead in different ways. In general, the purposes of the research are to (a) gain current information on the status and productivity of various fish populations (to be used in determining the effectiveness of restoration programs); (b) collect data on the how well artificial propagation programs are helping salmon recovery efforts (looking at hatchery and wild fish interactions); (c) support the aquatic species restoration goals found in several regional plans; and (d) fulfill ESA requirements for several fish hatcheries. The fish would benefit through improved recovery actions, better designs for hatchery supplementation programs, and by being rescued outright when they are stranded by low flows in Eastern Washington streams. The FWS does not intend to kill any of the fish being captured, but a small percentage may die as an unintentional result of the research activities.

Permit 1124

The Idaho Department of Fish and Game is seeking to renew Permit 1124 for another five years. The receipt of this permit request was originally noticed in August of 2007 (72 FR 43628). Since then, the applicant has determined that they will seek approval for the majority of their research though another process under section 4(d) of the ESA. The remaining portions of the current permit would only affect juvenile and adult endangered sockeye salmon. The remaining research would cover two projects directed at monitoring natural and hatchery Chinook salmon (during which sockeye may rarely be captured), one project centered on sockeye salmon reintroduction in Idaho lakes, and a general provision for rescuing and salvaging sockeye salmon. The purposes of the research are to monitor listed salmonid health, help guide sockeye salmon recovery operations, and outrightly rescue sockeye salmon in need of help due to circumstances such as being trapped by low flows in Idaho Streams. The benefits to the salmon will come in the form of information to help guide resource managers in restoring the

listed fish and, as stated, in rescuing them from peril. The fish would be captured by various methods screw trap, electrofishing, hook-and-line-angling, mid-water trawl and most would immediately be released. A few of the fish may die as a result of the research.

Permit 1406

NMFS' Northwest Fisheries Science Center is seeking to renew its 5 year permit to annually take juvenile (and precocious male) threatened SR spring/ summer chinook salmon (naturally produced) and juvenile threatened SR steelhead at various places in the Salmon River drainage in Idaho, at Little Goose Dam on the lower Snake River, and at multiple subbbasins in Northeast Oregon, Southeast Washington, and Idaho including the Clearwater and Grande Ronde Rivers. The research is a continuation of long-term, ongoing studies that have been in place for more than 15 years. The current permit covers two studies: Monitoring the Migrations of wild Snake River Spring/ summer Chinook Salmon Smolts and Monitoring and Evaluating the Genetic Characteristics of Supplemented Salmon and Steelhead. The applicant is asking that only the first of these studies be renewed. Under this study, the listed fish would be variously captured (using seines, dipnets, and electrofishing), re-captured at a smolt bypass facility, anesthetized, tagged with PIT tags or otherwise marked, tissue sampled, weighed, measured, and released.

The research has many purposes and would benefit listed salmon and steelhead in different ways. In general, the purpose of the research is to continue monitoring juvenile outmigration behavior among steelhead and spring/summer chinook salmon populations in Idaho. The research will benefit the fish by continuing to supply managers with the information they need to budget water releases at hydropower facilities in ways that will help protect migrating juveniles. The applicant does not intend to kill any of the fish being captured, but small percentage may die as an unintended result of the research.

Permit 10020

The City of Bellingham Environmental Resources Division is requesting a 5–year research permit to take PS Chinook salmon and steelhead. The purpose of the research is to assess the effectiveness of habitat restoration measures implemented as part of the Whatcom Creek long-term Restoration Plan. In June of 1999, aquatic and wetland habitats in Whatcom Creek were severely affected by a fuel leak and subsequent explosion. The information gathered by this research would benefit listed salmonids by helping resource managers evaluate the effectiveness of the habitat restoration efforts. The applicant proposes to capture fish using a smolt trap. Listed fish would be captured, identified, measured, and released. The applicant does not intend to kill any listed fish species, but a small number may die as an unintended result of the activities.

Permit 10042

The U.S. Geological Survey is requesting a 5–year research permit to conduct studies of interactions between American shad (*Alosa sappidissima*) and salmonid restoration efforts in the lower Columbia River. The applicant proposes to capture a few adults and juveniles of all species listed at the beginning of this notice except for those found in the Puget Sound, Washington. The purpose of the study is to determine how shad are benefitted by or detract from salmonid restoration programs in the Columbia River basin. The listed fish will benefit from these efforts as managers learn how the non-native shad affect both the local salmonids and the programs designed to restore them. The applicant proposes to capture the fish using a variety of methods: gillnetting, electrofishing, angling, seines, cast nets, etc. All listed fish captured during the research would be immediately returned to the water at the point of capture. The applicant does not propose to kill any listed fish, but a small number may die as an unintended result of the activities.

Permit 10077

The U.S. Fish and Wildlife Service's Western Washington Fish and Wildlife Office is requesting a 1–year research permit to take PS Chinook salmon and steelhead. The purposes of the study are to (1) provide the City of Seattle, the U.S. Army Corps of Engineers (Seattle District), and the Washington Department of Transportation with information on juvenile Chinook salmon movement patterns and habitat use in Lake Washington and the Lake Washington Ship Canal; and (2) collect habitat use information on two key predators of juvenile Chinook salmon: smallmouth bass and northern pikeminnow. The information gathered by this research would benefit listed salmonids by helping resource managers (1) determine the relationship between habitat use and shoreline development, (2) guide the city's efforts to improve habitat conditions, (3) predict the effects of habitat modifications, (4) help Lake Washington municipalities with their shoreline management programs, and (5) determine how fish pass through the Ballard Locks and identify ways to improve fish passage. For the habitat use study, the applicant proposes to obtain juvenile Chinook salmon from a screw trap operated by the Washington Department of Fish and Wildlife. An acoustic tag would be surgically implanted in the captured juvenile Chinook salmon and the fish would be released into Lake Washington. In the predator sampling study, the applicant would capture fish by using hook and line fishing, beach seines, and gill nets. Listed fish captured during the predator sampling study would be released immediately. The applicant does not intend to kill any listed fish, but a small number may die as an unintended result of the activities.

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the application, associated documents, and comments submitted to determine whether the application meets the requirements of section 10(a) of the ESA and Federal regulations. The final permit decisions will not be made until after the end of the 30–day comment period. NMFS will publish notice of its final action in the **Federal Register**.

Dated: November 6, 2007.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E7–22108 Filed 11–9–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Membership of the Defense Information Systems Agency Senior Executive Service Performance Review Board

AGENCY: Defense Information Systems Agency, Department of Defense.

ACTION: Notice of Membership of the Defense Information Systems Agency Senior Executive Service Performance Review Board; correction.

SUMMARY: On October 24, 2007 (72 FR 60322) the Department of Defense published a notice announcing the appointment of members to the Defense Information Systems Agency (DISA) Performance Review Board. The listing published was incorrect. This notice announces the correct members.

DATES: *Effective Date:* October 24, 2007.

FOR FURTHER INFORMATION CONTACT: Ms. Patti Wai, SES Program Manager,

Defense Information Systems Agency, P.O. Box 4502, Arlington, Virginia 22204–4502, (703) 607–4411.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4214(c)(4), the following are the names and titles of DISA career executives appointed to serve as members of the DISA Performance Review Board. Appointees will serve one-year terms, effective upon publication of this notice.

RADM Elizabeth A. Hight, USN, Vice Director, DISA, Chairperson.

Ms. Diann L. McCoy, Component Acquisition Executive, DISA, Member.

Mr. John J. Garing, Director for Strategic Planning and Information/Chief Information Officer, DISA, Member.

Mr. John J. Penkoske, Jr., Director for Manpower, Personnel, and Security, DISA, Member.

Dated: November 5, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. E7–22106 Filed 11–9–07; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Extension of Public Scoping Period and Intent To Prepare a Supplemental Environmental Impact Statement to the Final Environmental Impact Statement

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality Regulations (40 CFR parts 1500–1508), the Department of the Navy (DON) published a notice of intent to prepare a Supplemental EIS to the Final Environmental Impact Statement for ''Developing Home Port Facilities for Three NIMITZ Class Aircraft Carriers in Support of the U.S. Pacific Fleet'' dated July 1999 with its Record of Decision signed on 28 January 2000 and published in the **Federal Register** on 8 February 2000 (65 FR 6181) and announced public comment period in the **Federal Register**, 72 FR 59085 on October 18, 2007. This notice announces the extension of the public scoping period from November 19, 2007 to December 3, 2007.

DATES AND ADDRESSES: The agency must receive comments on or before December 3, 2007. Comments may be submitted by mail or electronically through the project Web site. Comments may be mailed to the following address: Naval Facilities Engineering Command Southwest, *Attention:* Ms. Ann Rosenberry (Code OPME.AR), 2730 McKean St., Building 291, San Diego, CA 92136. Comments may be submitted electronically at the project Web site at: *http://www.nimitzcarriersseis.com*.

FOR FURTHER INFORMATION CONTACT: Ms. Ann Rosenberry, Naval Facilities Engineering Command Southwest, 2730 McKean St., Building 291, San Diego, CA 92136; telephone: 619–556–7368, facsimile: 619–556–0195.

SUPPLEMENTARY INFORMATION: Due to the recent wildfires in the San Diego area, the Department of the Navy has decided to extend the public scoping period for this proposed action. Accordingly, the public scoping period is hereby extended for 15 days. To receive full consideration, comments must be received on or before December 3, 2007.

Dated: November 7, 2007.

T.M. Cruz,

Lieutenant, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E7–22172 Filed 11–9–07; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Partially Closed Meeting of the U.S. Naval Academy Board of Visitors

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The U.S. Naval Academy Board of Visitors will meet to make such inquiry, as the Board shall deem necessary into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy. The meeting will include discussions of personnel issues at the Naval Academy, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The executive session of this meeting will be closed to the public.

DATES: The open session of the meeting will be held on Monday, December 10, 2007, from 8 a.m. to 10:45 a.m. The closed Executive Session will be held from 10:45 a.m. to 12 p.m.

ADDRESSES: The meeting will be held at the United States Naval Academy Alumni Hall; United States Naval Academy, Annapolis, MD 21402–5000.

FOR FURTHER INFORMATION CONTACT: Lieutenant Andrew B. Koy, USN, Executive Secretary to the Board of Visitors, Office of the Superintendent, U.S. Naval Academy, Annapolis, MD 21402–5000, telephone: 410–293–1503.

SUPPLEMENTARY INFORMATION: This notice of meeting is provided per the Federal Advisory Committee Act (5 U.S.C. App. 2). The executive session of the meeting will consist of discussions of personnel issues at the Naval Academy and internal Board of Visitors matters. The proposed closed session from 1110–1200 will include a discussion of new and pending courts-martial and state criminal proceedings involving the Midshipmen attending the Naval Academy to include an update on the pending/ongoing sexual assault cases, rape cases, etc. The proposed closed session from 1045–1200 will include a discussion of new and pending administrative/minor disciplinary infractions and nonjudicial punishments involving the Midshipmen attending the Naval Academy to include but not limited to individual honor/conduct violations within the Brigade. Discussion of such information cannot be adequately segregated from other topics, which precludes opening the executive session of this meeting to the public. Accordingly, the Secretary of the Navy has determined in writing that the meeting shall be partially closed to the public because it will be concerned with matters listed in section 552b(c)(5), (6), and (7) of title 5, United States Code.

Dated: November 6, 2007.

T.M. Cruz,

Lieutenant, Judge Advocate Generals Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E7–22113 Filed 11–9–07; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; Electro-Optic Instruments, Inc.

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Electro-Optic Instruments, Inc., a revocable, nonassignable, exclusive license to practice in the fields of use of an array of four (4) or more fiber optic sensors for the detection of sub-sonic, sonic, and ultra-sonic pressure waves, said field to exclude any and all medical applications; and one or more fiber optic pressure sensors for use in catheters for pressure sensing for medical applications in the United

States and certain foreign countries, the Government-owned inventions described in U.S. Patent No. 7,020,354: Intensity Modulated Fiber Optic Pressure Sensor, Navy Case No. 84,638.//U.S. Patent No. 7,149,374: Fiber Optic Pressure Sensor, Navy Case No. 84,557.//U.S. Patent Application No. 11/250,708: Intensity Modulated Fiber Optic Static Pressure Sensor System, Navy Case No. 97,279.//U.S. Patent Application No. 11/250,709: Multiplexed Fiber Optic Sensor System, Navy Case No. 97,488 and any continuations, divisionals or re-issues thereof.

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than November 28, 2007.

ADDRESSES: Written objections are to be filed with the Naval Research Laboratory, Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320.

FOR FURTHER INFORMATION CONTACT: Rita Manak, Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320, telephone: 202–767–3083. Due to U.S. Postal delays, please fax: 202–404–7920, e-mail: *rita.manak@nrl.navy.mil* or use courier delivery to expedite response.

(Authority: 35 U.S.C. 207, 37 CFR Part 404.)

Dated: November 5, 2007.

T. M. Cruz,

Lieutenant, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E7–22097 Filed 11–9–07; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Correction Notice.

SUMMARY: On November 5, 2007, the Department of Education published a comment period notice in the **Federal Register** (Page 62446, Column 2) for the information collection, ''Online and Distance Education Courses at Postsecondary Institutions.'' The title of the notice is hereby corrected to ''After School Programs at Public Elementary Schools.''

The IC Clearance Official, Regulatory Information Management Services, Office of Management, hereby issues a correction notice as required by the Paperwork Reduction Act of 1995.

Dated: November 5, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

[FR Doc. E7–22085 Filed 11–9–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Mathematics Advisory Panel

AGENCY: U.S. Department of Education, National Mathematics Advisory Panel.

ACTION: Notice of Open Meeting and Public Hearing.

SUMMARY: This notice sets forth the schedule and proposed agenda of an upcoming meeting, including a public hearing, with members of the National Mathematics Advisory Panel. The notice also describes the functions of the Panel. Notice of this meeting is required by section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of their opportunity to attend.

DATES: Wednesday, November 28, 2007.

Time: 8:30 a.m.–3 p.m.

ADDRESSES: Baltimore-Washington International (BWI) Airport Marriott, 1743 West Nursery Road, Baltimore, MD 21240.

FOR FURTHER INFORMATION CONTACT: Tyrrell Flawn, Executive Director, National Mathematics Advisory Panel, 400 Maryland Avenue, SW., Washington, DC 20202; telephone: (202) 260–8354.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Panel was established by Executive Order 13398. The purpose of this Panel is to foster greater knowledge of and improved performance in mathematics among American students, in order to keep America competitive, support American talent and creativity, encourage innovation throughout the American economy, and help State, local, territorial, and tribal governments give the nation's children and youth the education they need to succeed.

The meeting will be held at the Baltimore-Washington International (BWI) Airport Marriott in Baltimore, MD, on Wednesday, November 28, 2007, from 8:30 a.m. to 3 p.m. From 8:30 a.m. to 11:30 a.m. and again from 1 p.m. to 3 p.m. the Panel will discuss the Final Report draft. Individuals interested in attending the meeting are advised to register in advance to ensure space availability. Please contact Jennifer Graban at *Jennifer.Graban@ed.gov* by Wednesday, November 21, 2007.

This meeting will not include a public comment session, as the Panel will be concluding its work on the Final Report. However, if you would like to provide comments to the Panel, please do so in written form, via e-mail at *NationalMathPanel@ed.gov*, by Wednesday, November 21, 2007. Written comments will also be accepted at the meeting site. Please note that comments submitted to the National Mathematics Advisory Panel in any format are considered to be part of the public record of the Panel's deliberations, and will be posted on the Web site.

The Panel has submitted its Preliminary Report to the President, through the U.S. Secretary of Education. The Preliminary Report is available at *http://www.ed.gov/mathpanel.* The Final Report will be submitted not later than February 28, 2008, and will, at a minimum, contain recommendations on improving mathematics education based on the best available scientific evidence.

The meeting site is accessible to individuals with disabilities. Individuals who will need accommodations in order to attend the meeting, such as interpreting services, assistive listening devices, or materials in alternative format, should notify Jennifer Graban at *Jennifer.Graban@ed.gov* no later than Wednesday, November 21, 2007. We will attempt to meet requests for accommodations after this date, but cannot guarantee their availability.

Records are kept of all Panel proceedings and are available for public inspection at the staff office for the Panel, from the hours of 9 a.m. to 5 p.m., Monday through Friday.

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister/index.html.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: November 7, 2007.

Margaret Spellings,

Secretary, U.S. Department of Education.

[FR Doc. E7–22132 Filed 11–9–07; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Sunshine Act Notice

AGENCY: United States Election Assistance Commission.

ACTION: Notice of public meeting for EAC Board of Advisors.

DATE AND TIME: Wednesday, December 12, 2007, 8:30 a.m.–5 p.m. and Thursday, December 13, 2007, 8:30 a.m.–5 p.m. and Friday, December 14, 2007, 8:30 a.m.–12 p.m.

PLACE: Omni Hotel Downtown, 700 San Jacinto Boulevard at 8th Street, Austin, TX 78701, Phone number (512) 476–3700.

PURPOSE: The U.S. Election Assistance Commission (EAC) Board of Advisors, as required by the Help America Vote Act of 2002, will meet to consider and receive presentations on the proposed next iteration of the Voluntary Voting System Guidelines (VVSG), as were submitted to EAC from the commission's Technical Guidelines Development Committee (TGDC). The Board of Advisors will formulate recommendations to EAC regarding the guidelines and consider other administrative matters. The EAC Standards Board will meet at the same time and some of the Board of Advisors sessions will be held jointly with the Standards Board.

This meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: Bryan Whitener, Telephone: (202) 566–3100.

Thomas R. Wilkey,

Executive Director, U.S. Election Assistance Commission.

[FR Doc. 07–5636 Filed 11–7–07; 4:24 pm]

BILLING CODE 6820–KF–M

ELECTION ASSISTANCE COMMISSION

Sunshine Act Notice

AGENCY: United States Election Assistance Commission.

ACTION: Notice of public meeting for EAC Standards Board.

DATE AND TIME: Wednesday, December 12, 2007, 8:30 a.m.–5 p.m. and Thursday, December 13, 2007, 8:30 a.m.–5 p.m. and Friday, December 14, 2007, 8:30 a.m.–12 p.m.

PLACE: Omni Hotel Downtown, 700 San Jacinto Boulevard at 8th Street, Austin, TX 78701, Phone number (512) 476–3700.

PURPOSE: The U.S. Election Assistance Commission (EAC) Standards Board, as required by the Help America Vote Act of 2002, will meet to consider and receive presentations on the proposed next iteration of the Voluntary Voting System Guidelines (VVSG), as were submitted to EAC from the commission's Technical Guidelines Development Committee (TGDC). The Standards Board will formulate recommendations to EAC regarding the guidelines and consider other administrative matters. The EAC Board of Advisors will meet at the same time and some of the Standards Board sessions will be held jointly with the Board of Advisors.

This meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: Bryan Whitener, Telephone: (202) 566–3100.

Thomas R. Wilkey,

Executive Director, U.S. Election Assistance Commission.

[FR Doc. 07–5637 Filed 11–7–07; 4:24 pm]

BILLING CODE 6820–KF–M

DEPARTMENT OF ENERGY

Notice of 229 Boundary Revision for the Oak Ridge National Laboratory

AGENCY: Department of Energy (DOE).

ACTION: Notice of 229 Boundary Revision for the Oak Ridge National Laboratory.

SUMMARY: Notice is hereby given that the U.S. Department of Energy, pursuant to section 229 of the Atomic Energy Act of 1954, as amended, as implemented by 10 CFR part 860 published in the **Federal Register** on August 26, 1963 (28 FR 8400), prohibits the unauthorized entry, as provided in 10 CFR 860.3 and the unauthorized introduction of weapons or dangerous materials, as provided in 10 CFR 860.4, into or upon the following described facilities of the Oak Ridge National Laboratory of the United States Department of Energy. The following amendments are made:

The U.S. Department of Energy installation known as the Oak Ridge National Laboratory 7900 Area, occupied by the High Flux Isotope Reactor and associated facilities, is located in the Second Civil District of Roane County, Tennessee, within the corporate limits of the city of Oak Ridge. The facility contains approximately 40 acres and is located on the south side of Melton Valley Drive, approximately 0.7 miles west of the intersection of Melton Valley Drive and Melton Valley Access Road. This intersection is approximately 0.6 miles south of the intersection of Bethel Valley Road and Melton Valley Access Road. The 229 Boundary of this facility is indicated by a chain link fence which surrounds the facility.

The U.S. Department of Energy installation known as the National U–233 Repository (Building 3019) is located in the Second Civil District of Roane County, Tennessee, within the corporate limits of the city of Oak Ridge. The physical facility contains approximately 2.5 acres including approximately 40,000 square feet of floor space within the security area boundary. This complex is located south of Bethel Valley Road, approximately 0.25 miles east of the intersection of Bethel Valley Road and First Street. The 229 Boundary for this facility is indicated by a chain link fence which surrounds the facility.

FOR FURTHER INFORMATION CONTACT: Ms. Cindy B. Hunter, Certified Realty Specialist, DOE Oak Ridge Office, Post Office Box 2001, Oak Ridge, Tennessee 37831, Telephone: (865) 576–4431, Facsimile: (865) 576–9204.

SUPPLEMENTARY INFORMATION: This security boundary is designated pursuant to section 229 of the Atomic Energy Act of 1954. This revised boundary supersedes and/or re-describes the entries previously contained in the **Federal Register** notice published October 19, 1965, at 30 FR 13285; amended on January 11, 1973, at 38 FR 1301; and amended on March 6, 1974, at 39 FR 8652 for Oak Ridge National Laboratory.

Issued in Oak Ridge, Tennessee, on October 29, 2007.

Cindy B. Hunter,

DOE ORO Realty Officer.

[FR Doc. E7–22109 Filed 11–9–07; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Savannah River Site

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), Savannah River Site. 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: Monday, November 26, 2007, 1 p.m.–5 p.m.

Tuesday, November 27, 2007, 8:30 a.m.–4 p.m.

ADDRESSES: Augusta Marriott Hotel, Two Tenth Street, Augusta, Georgia 30901.

FOR FURTHER INFORMATION CONTACT: Gerri Flemming, Office of External Affairs, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, SC, 29802; Phone: (803) 952–7886.

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

Monday, November 26, 2007

1 p.m. Combined Committee Session
5 p.m. Adjourn

Tuesday, November 27, 2007

8:30 a.m. Approval of Minutes, Agency Updates
9:30 a.m. Public Comment Session
9:45 a.m. Chair and Facilitator Update
10:15 a.m. Nuclear Materials Committee Report
10:45 a.m. Administrative Committee Report
11:45 a.m. Public Comment Session
12 p.m. Lunch Break
1 p.m. Strategic and Legacy Management Committee Report
2:45 p.m. Waste Management Committee Report
3:15 p.m. Facility Disposition and Site Remediation Committee Report
3:45 p.m. Public Comment Session
4 p.m. Adjourn

If needed, time will be allotted after public comments for items added to the agenda and administrative details. A final agenda will be available at the meeting Monday, November 26, 2007.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Gerri Flemming's office at the address or telephone 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 Gerri Flemming at the address or phone number listed above. Minutes will also be available at the following Web site *http://www.srs.gov/general/outreach/srs-cab/srs-cab.html*.

Issued at Washington, DC on November 6, 2007.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. E7–22096 Filed 11–9–07; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Biomass Research and Development Technical Advisory Committee

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces an open meeting of the Biomass Research and Development Technical Advisory Committee under the Biomass Research and Development Act of 2000. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that agencies publish these notices in the **Federal Register** to allow for public participation. This notice announces the meeting of the Biomass Research and Development Technical Advisory Committee.

Dates and Times: Tuesday, November 27, 2007, 1 p.m. to 5:30 p.m., Wednesday, November 28, 2007, 7:30 a.m. to 4:15 p.m.

ADDRESSES: Westin Arlington, 801 N. Glebe Road, F. Scott Fitzgerald Ballroom, Arlington, Virginia, Phone: (703) 717–6200.

FOR FURTHER INFORMATION CONTACT: Valri Lightner, Designated Federal Official for the Committee, Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; (202) 586–0937 or Carolyn Clark at (410) 997–7778 * 235; E-mail: *cclark@bcs-hq.com.*

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: To provide advice and guidance that promotes research and development leading to the production of biobased fuels and biobased products.

Tentative Agenda

- Update on Biomass Program activities.
- Report on the Six Integrated Biorefinery Projects.
- Update on 2007 Farm Bill.
- Update on 2007 Joint Solicitation Projects.
- Presentation on the EPA Greenhouse Gas Rulemaking.
- Presentation: Bioenergy Research Centers—DOE Office of Science.
- Presentation: Biobased Products—Lou Honory, University of Iowa.
- Meeting with the Biomass R&D Board.
- Discussion: Approve 2008 Committee Work Plan.

Public Participation: In keeping with procedures, members of the public are welcome to observe the business of the Biomass Research and Development Technical Advisory Committee. To attend the meeting and/or to make oral statements regarding any of the items on the agenda, you should contact Valri Lightner at 202–586–0937; E-mail: *valri.lightner@ee.doe.gov* or Carolyn Clark at (410) 997–7778 * 235; E-mail: *cclark@bcs-hq.com.* You must make your request for an oral statement at least 5 business days before the meeting. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chair of the Committee will make every effort to hear the views of all interested parties. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. The Chair will conduct the meeting to facilitate the orderly conduct of business.

Minutes: The minutes of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room; Room 1E–190; Forrestal Building; 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on November 6, 2007.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. E7–22095 Filed 11–9–07; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2007–0274; FRL–8494–3]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Safer Detergent Stewardship Initiative (SDSI) Program; EPA ICR No. 2261.01, OMB No. 2070–NEW

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request for a new collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before December 13, 2007.

ADDRESSES: Submit your comments, referencing docket ID Number EPA–HQ–OPPT–2007–0274 to (1) EPA online using *www.regulations.gov* (our preferred method), by e-mail to *oppt.ncic@epa.gov* or by mail to: Document Control Office (DCO), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, Mail Code: 7407T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Barbara Cunningham, Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, Mailcode: 7408–M, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 9, 2007 (72 FR 26357), EPA sought comments on the proposed new ICR pursuant to 5 CFR 1320.8(d). EPA received 13 comments during the comment period, which are addressed in the ICR. Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OPPT–2007–0274, which is available for online viewing at *http://www.regulations.gov*, or in person inspection at the OPPT Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Pollution Prevention and Toxics Docket is 202–566–0280.

Use EPA's electronic docket and comment system at *www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov*.

Title: Safer Detergent Stewardship Initiative (SDSI) Program.

ICR Numbers: EPA ICR No. 2261.01, OMB Control No. 2070–NEW.

ICR Status: This ICR is for a new information collection activity. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: This information collection addresses paperwork activities that support the administration of the Safer Detergent Stewardship Initiative (SDSI). SDSI is a voluntary program administered by EPA to offer resources and recognition to businesses involved in the transition to safer surfactants. Surfactants are a major ingredient in cleaning products such as detergents, cleaners, airplane deicers and fire-fighting foams. Safer surfactants are those that break down quickly to non-polluting compounds. Businesses and other organizations that wish to be recognized by EPA should complete and submit an application form (EPA Form 6300–2).

Under SDSI, businesses that have fully transitioned to safer surfactants, or (for non-profits, academic institutions, etc.) can document outstanding efforts to encourage the use of safer surfactants, are granted Champion status. Businesses that commit to a full and timely transition to safer surfactants, or (for non-profits, academic institutions, etc.) can document outstanding efforts to encourage the use of safer surfactants, are granted Partner status. This category provides recognition of significant accomplishments towards the use of safer surfactants. Partners will be listed on the EPA SDSI website and may be granted recognition as a Champion in the future if appropriate. Responses to the collection of information are voluntary. Respondents may claim all or part of a notice as CBI. EPA will disclose information that is covered by a CBI claim only to the extent permitted by, and in accordance with, the procedures in 40 CFR part 2.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 10 hours per response. Burden means the total time, effort or financial resources expended by persons to generate, maintain, retain or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Entities potentially affected by this action are establishments or organizations engaged in formulating, producing, purchasing or distributing surfactants or products containing surfactants.

Estimated No. of Respondents: 375.

Frequency of Collection: On occasion.

Estimated Total Annual Hour Burden: 3,750 hours.

Estimated Total Annual Labor Costs: $182,625.

Changes in Burden Estimates: This is a new information collection request. The burden associated with responses to this new information collection reflects an increase of 3,750 hours in the total estimated respondent burden from that currently in the OMB inventory. This increase represents a program change.

Dated: November 6, 2007.

Sara Hisel-McCoy,

Director, Collection Strategies Division.

[FR Doc. E7–22154 Filed 11–9–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8494–6]

Meeting of the Total Coliform Rule Distribution System Advisory Committee—Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Under Section 10(a)(2) of the Federal Advisory Committee Act, the United States Environmental Protection Agency (EPA) is giving notice of a meeting of the Total Coliform Rule Distribution System Advisory Committee (TCRDSAC). The purpose of this meeting is to discuss the Total Coliform Rule (TCR) revision and information about distribution systems issues that may impact water quality.

The TCRDSAC advises and makes recommendations to the Agency on revisions to the TCR, and on what information should be collected, research conducted, and/or risk management strategies evaluated to better inform distribution system contaminant occurrence and associated public health risks.

Topics to be discussed in the meeting include: TCR rule objectives and how the TCR relates to other Safe Drinking Water Act regulations, TCR indicator framework, TCR implementation and compliance analysis, potential ways to revise the TCR, and an assessment of the information on distribution system issues that may impact water quality.

DATES: The public meeting will be held on Wednesday, December 5, 2007 (8:30 a.m. to 6 p.m., Eastern Time (ET)) and Thursday, December 6, 2007 (8 a.m. to 3 p.m., ET). Attendees should register for the meeting by calling Kate Zimmer at (202) 965–6387 or by e-mail to *kzimmer@resolv.org* no later than December 3, 2007.

ADDRESSES: The meeting will be held at RESOLVE, 1255 Twenty-Third St., NW., Suite 275, Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: For general information, contact Kate Zimmer of RESOLVE at (202) 965–6387. For technical inquiries, contact Ken Rotert (*rotert.kenneth@epa.gov*, (202) 564–5280), Standards and Risk Management Division, Office of Ground Water and Drinking Water (MC 4607M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; Fax number: (202) 564–3767.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. The Committee encourages the public's input and will take public comment starting at 5:30 p.m. on December 5, 2007, for this purpose. It is preferred that only one person present the statement on behalf of a group or organization. To ensure adequate time for public involvement, individuals interested in presenting an oral statement may notify Jini Mohanty, the Designated Federal Officer, by telephone at 202–564–5269, no later than December 3, 2007. Any person who wishes to file a written statement can do so before or after a Committee meeting. Written statements received by December 3, 2007, will be distributed to all members before any final discussion or vote is completed. Any statements received on December 4, 2007, or after the meeting will become part of the permanent meeting file and will be forwarded to the members for their information.

Special Accommodations

For information on access or accommodations for individuals with disabilities, please contact Jini Mohanty at 202–564–5269 or by e-mail at *mohanty.jini@epa.gov*. Please allow at least 10 days prior to the meeting to give EPA as much time to process your request.

Dated: November 7, 2007.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. E7–22116 Filed 11–9–07; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget

November 5, 2007.

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 (PRA) of 1995, 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 Paperwork Reduction Act (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 Paperwork Reduction Act (PRA) comments should be submitted on or before December 13, 2007. If you anticipate that you will be submitting PRA 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: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, (202) 395–5887, or via fax at 202–395–5167 or via Internet at *Nicholas_A._Fraser@omb.eop.gov* and to *Judith-B. Herman@fcc.gov,* Federal Communications Commission, Room 1–B441, 445 12th Street, SW., Washington, DC 20554 or an e-mail to *PRA@fcc.gov.* If you would like to obtain or view a copy of this information collection, you may do so by visiting the OMB's ROCIS system at: *http://www.reginfo.gov/public/do/PRAMain.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith

B. Herman at 202–418–0214 or via the Internet at *Judith-B.Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION: *OMB Control Number:* 3060–0798.

Title: FCC Application for Radio Service Authorization: Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau.

Form No.: FCC Form 601.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households; business or other for-profit; not-for-profit institutions and state, local or tribal government.

Number of Respondents: 253,120 respondents; 253,120 responses.

Estimated Time per Response: 1.25 hours (average).

Frequency of Response: On occasion and every 10 year reporting requirements, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 221,780 hours.

Total Annual Cost: $50,664,000.

Privacy Act Impact Assessment: Yes.

Nature and Extent of Confidentiality: Respondents may request materials or information submitted to the Commission to be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this information collection to the OMB as a revision during this comment period to obtain the full three-year clearance from them. There is a change in the number of respondents/responses, burden hours and annual costs due to instructional changes to Schedules B and D due to Auction 73 of the 700 MHz band licenses (*Second Report and Order* in FCC 07–132, WT Docket No. 06–150) which is scheduled for January 16, 2008.

The FCC Form 601 is a consolidated, multi-part application form, or ''long form,'' that is used for general market-based licensing and site-by-site licensing for wireless telecommunications and public safety services filed through the Commission's Universal Licensing System (ULS). FCC Form 601 is composed of a main form that contains the administrative information and a series of schedules used for filing technical and other information. Respondents are encouraged to submit FCC Form 601 electronically and are required to do so when submitting the FCC Form 601 to apply for an authorization for which the applicant was the winning bidder in a spectrum auction (700 MHz auction scheduled for January 16, 2008).

OMB Control Number: 3060–0799.

Title: FCC Ownership Disclosure Information for the Wireless Telecommunications Services.

Form No.: FCC Form 602.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit; not-for-profit institutions and state, local or tribal government.

Number of Respondents: 550 respondents; 5,216 responses.

Estimated Time Per Response: 1.50 hours (average).

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 5,216 hours.

Total Annual Cost: $508,200.

Privacy Act Impact Assessment: No.

Nature and Extent of Confidentiality: Respondents may request materials or information submitted to the Commission to be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this information collection to the OMB as a revision during this comment period to obtain the full three-year clearance from them. There is a change in the number of respondents/responses, burden hours and annual costs due to Auction 73 of the 700 MHz band licenses (*Second Report and Order* in FCC 07–132, WT Docket No. 06–150) which is scheduled for January 16, 2008. There is no change to the FCC Form 602—just an increase in the number of new respondents that are affected by this collection—which changed the total annual burden hours and annual costs.

The purpose of the FCC Form 602 is to obtain the identity of the filer and to elicit information required by Section 1.2112 of the Commission's rules regarding: (1) Persons or entities holding a 10 percent or greater direct or indirect ownership interest or any general partners in a general partnership holding a direct or indirect ownership interest in the applicant (''Disclosable Interest Holders''); and (2) all FCC-regulated entities in which the filer or any of its Disclosable Interest Holders owns a 10 percent or greater interest. The data collected on the FCC Form 602 includes the FCC Registration Number (FRN), which serves as a ''common link'' for all filings an entity has with the FCC. The Debt Collection Improvement Act of 1996 requires that entities filing with the Commission to use a FRN. The FCC Form 602 was designed for, and must be filed electronically by all licensees that hold licenses in auctionable services.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–22112 Filed 11–9–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted to the Office of Management and Budget, Comment Requested

November 6, 2007.

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 (PRA) of 1995, 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 Paperwork Reduction Act (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 Paperwork Reduction Act (PRA) comments should be submitted on or before January 14, 2008. If you anticipate that you will be submitting PRA 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: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, (202) 395–5887, or via fax at 202–395–5167 or via Internet at *Nicholas_A._Fraser@omb.eop.gov* and to *Judith-B.Herman@fcc.gov,* Federal Communications Commission, Room 1–B441, 445 12th Street, SW., Washington,

DC 20554 or an e-mail to *PRA@fcc.gov.* If you would like to obtain or view a copy of this information collection after the 60–day comment period, you may do so by visiting the OMB's ROCIS site at: *http://www.reginfo.gov/public/do/PRAMain.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith B. Herman at 202–418–0214 or via the Internet at *Judith-B.Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0686.

Title: Streamlining the International Section 214 Authorization Process and Tariff Requirements.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 3,563 respondents; 3,563 responses.

Estimated Time Per Response: 561 hours (average).

Frequency of Response: On occasion, annual and quarterly reporting requirements, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 147,753 hours.

Total Annual Cost: $16,162,000.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The Commission will submit this revision to the OMB after this 60-day comment period to obtain the full three-year clearance from them.

The Commission released a *Report and Order* on June 22, 2007 in IB Docket No. 04–47, FCC 07–118. Among other requirements, international carriers must notify the Commission at the same time that they notify affected customers of the discontinuance of international service. The Commission reduced the time period for such notification(s) from 60 to 30 days.

If the collections were not conducted or were conducted less frequently, applicants would not obtain the authorizations necessary to provide telecommunications services, and the Commission will be unable to carry out its mandate under the Communications Act of 1934 and the Cable Landing License Act. Furthermore, the Commission would not be able to ensure that applicants and current licensees comply with the Coastal Zone Management Act of 1972 (CZMA) statute. Additionally, without the information collections, the United States would jeopardize its ability to fulfill the U.S. obligations as negotiated under the World Trading Organization (WTO) Basic Telecom Agreement because these collections are imperative to detecting and deterring anticompetitive conduct. They are also necessary to preserve the Executive Branch agencies' and the Commission's ability to review foreign investments for national security, law enforcement, foreign policy, and trade concerns.

OMB Control Number: 3060–0944.

Title: Review of Commission Consideration of Applications Under the Cable Landing License Act.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 211 respondents; 211 responses.

Estimated Time Per Response: 7 hours (average).

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 1,056 hours.

Total Annual Cost: $407,600.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The Commission will submit this revision to the OMB after this 60-day comment period to obtain the full three-year clearance from them. The Commission released a *Report and Order* on June 22, 2007 in IB Docket No. 04–47, FCC 07–118.

Among other requirements, cable landing applicants and current licensees must comply with an environmental statute, Coastal Zone Management Act of 1972 (CZMA). The statute authorizes states to develop coastal management programs, subject to Federal approval by the U.S. Department of Commerce's National Oceanic and Atmospheric Administration (NOAA). Specifically, they must furnish a certification to the Commission and applicable state(s) that the proposed activity complies with the enforceable policies of the state's approved program and such activity will be conducted in a manner consistent with the program.

If the collection of information is not conducted or is conducted less frequently, applicants will not obtain the authorizations necessary to provide telecommunications services, and the Commission will be unable to carry out its mandate under the Cable Landing License Act and Executive Order 10530. Furthermore, the Commission would not be able to ensure that applicants and current licensees comply with the Coastal Zone Management Act of 1972 (CZMA) statute. In addition, without this collection of information, the United States would jeopardize its ability to fulfill the U.S. obligations as negotiated under the World Trade Organization (WTO) Basic Telecom Agreement because these information collection requirements are imperative to detecting and deterring anticompetitive conduct. They are also necessary to preserve the Executive Branch agencies and the Commission's ability to review foreign investments for national security, law enforcement, foreign policy and trade concerns.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–22122 Filed 11–9–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Notices

DATE AND TIME: *Tuesday, November 20, 2007 at 10:00 a.m.*

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED: Correction and Approval of Minutes.

Final Rules on Electioneering Communications.

Management and Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Robert Biersack, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 07–5651 Filed 11–8–07; 3:19 pm]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal

Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 27, 2007.

A. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. McLane Family Control Group, Poplar Bluff, Missouri, consisting of Joseph T. McLane, Jana McLane Brown, Jerri Ann McLane, the Norma McLane Smith Revocable Trust, Norma McLane Smith as trustee of Trust, and the Midwest Bancorporation, Inc. and Affiliates Employee Stock Ownership Plan Trust Joseph T. McLane as trustee, all of Poplar Bluff, Missouri; to acquire additional voting shares of Midwest Bancorporation, Inc., Poplar Bluff, Missouri, and thereby indirectly acquire additional voting shares of First Midwest Bank of Dexter, Missouri and First Midwest Bank of the Ozarks, Piedmont, Missouri.

Board of Governors of the Federal Reserve System, November 7, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–22105 Filed 11–9–07; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–0990–New]

Agency Information Collection Request; 30-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, e-mail your request, including your address, phone number, OMB number, and OS document identifier, to *Sherette.funncoleman@hhs.gov,* or call the Reports Clearance Office on (202) 690–6162. Written comments and recommendations for the proposed information collections must be received within 30 days of this notice directly to the OS OMB Desk Officer all comments must be faxed to OMB at 202–395–6974.

Title: Safe Harbor for Federally Qualified Health Centers Arrangements under the Anti-kickback Statute—OMB No. 0990–New—Office of Inspector General (OIG).

Proposed Project: The Office of the Inspector General (OIG), Office of the Secretary (OS), Department of Health and Human Services (HHS) is requesting a 3-year clearance for the data collection under the anti-kickback statute, as described below. In order for an arrangement between a health center and a donor individual or entity to enjoy safe harbor protection, the arrangement: (1) Must be set out in writing (§ 1001.952(w)(1)(i)(A)); (2) the written agreement must be signed by the parties (§ 1001.952(w)(1)(i)(B)); (3) the written agreement must cover, and specify the amount of, all goods, items, services, donations, or loans provided by the individual or entity to the health center (§ 1001.952(w)(1)(i)(C)); (4) the health center must document its basis for its reasonable expectation that the arrangement will benefit a medically underserved population (§ 1001.952(w)(3)); and (5) the health center, at reasonable intervals, must reevaluate the arrangement to ensure that it is expected to continue to benefit a medically underserved population, and must document the re-evaluation contemporaneously (§ 001.952(w)(4)).

OIG may request to see documentation kept pursuant to the safe harbor in order to determine compliance with the terms of the safe harbor and the fraud and abuse laws. Compliance with the safe harbor is voluntary, and no party is ever required to comply with the safe harbor.

The safe harbor does not entail a routine and continuous affirmative collection of data from the regulated community. However, health centers that choose to avail themselves of the safe harbor must have initial documentation and a re-evaluation of the arrangement at least annually. The respondents are businesses and/or other private sector for-profit and not-for-profit institutions.

OIG previously solicited comments on this section of the PRA on July 1, 2005, upon publication of the 60-day notice of proposed rulemaking (70 FR 38081). OIG did not receive any comments specifically addressing the PRA in response to that notice; however, OIG is now providing an additional opportunity for comment on the PRA aspect of the rule only.

ESTIMATED ANNUALIZED BURDEN TABLE

Type of respondent	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Health Centers (Administrative Professionals)	1,873	1	1	1,873

Dated: November 1, 2007.

Alice Bettencourt,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. E7–22086 Filed 11–9–07; 8:45 am]

BILLING CODE 4152–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Chronic Fatigue Syndrome Advisory Committee

AGENCY: Office of the Secretary, Office of Public Health and Science, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the U.S. Department of Health and Human Services is hereby giving notice that the

Chronic Fatigue Syndrome Advisory Committee (CFSAC) will hold a meeting. The meeting will be open to the public.

DATES: The meeting will be held on Wednesday, November 28, 2007 and Thursday, November 29, 2007. The meeting will be held from 9 a.m. to approximately 5 p.m. on both days.

ADDRESSES: Department of Health and Human Services; Room 800 Hubert H. Humphrey Building; 200 Independence Avenue, SW; Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Dr. Anand K. Parekh, Executive Secretary, Chronic Fatigue Syndrome Advisory Committee; Department of Health and Human Services; 200 Independence Avenue, SW., Room 727H; Washington, DC 20201; (202) 260–2873.

SUPPLEMENTARY INFORMATION: CFSAC was established on September 5, 2002. The Committee was established to advise, consult with, and make recommendations to the Secretary, through the Assistant Secretary for Health, on a broad range of topics including (1) The current state of knowledge and research about the epidemiology and risk factors relating to chronic fatigue syndrome, and identifying potential opportunities in these areas; (2) current and proposed diagnosis and treatment methods for chronic fatigue syndrome; and (3) development and implementation of programs to inform the public, health care professionals, and the biomedical, academic, and research communities about chronic fatigue syndrome advances.

The agenda for this meeting is being developed. The agenda will be posted on the CFSAC Web site, *http://www.hhs.gov/advcomcfs,* when it is finalized.

Public attendance at the meeting is limited to space available. Individuals must provide a photo ID for entry into the building where the meeting is scheduled to be held. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the designated contact person. Members of the public will have the opportunity to provide comments at the meeting. Individuals who wish to address the Committee during the public comment session must pre-register by November 26, 2007. Any individual who wishes to participate in the public comment session should call the telephone number listed in the contact information to register. Public comment will be limited to five minutes per speaker. Members of the public who wish to have printed material distributed to CFSAC members for discuss should submit, at a minimum, one copy of the material to the Executive Secretary, CFSAC prior to close of business on November 26, 2007. Contact information for the Executive Secretary, CFSAC is listed above.

Dated: November 6, 2007.

Anand K. Parekh,

Executive Secretary, Chronic Fatigue Syndrome Advisory Committee.

[FR Doc. E7–22100 Filed 11–9–07; 8:45 am]

BILLING CODE 4150–42–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Toxicology Program (NTP); Report on Carcinogens (RoC); Availability of the Draft Background Documents for Aristolochic Acid Related Exposures (Two Candidate Substances: Botanical Products Containing Aristolochic Acid and Aristolochic Acid) and Riddelliine and Request for Public Comment on the Draft Background Documents; Announcement of the Aristolochic Acid Related Exposures and Riddelliine Expert Panel Meeting

AGENCY: National Institute of Environmental Health Sciences (NIEHS); National Institutes of Health (NIH), Department of Health and Human Services (HHS).

ACTION: Request for public comments and meeting announcement.

SUMMARY: The NTP announces the availability of the draft background documents for (1) aristolochic acid related exposures (the background document describes information on two candidate substances: Botanical products containing aristolochic acid and aristolochic acid) and (2) riddelliine on November 13, 2007, on the RoC Web site (*http://ntp.niehs.nih.gov/go/10091* see aristolochic acid related exposures or riddelliine) or in printed text from the RoC (see **FOR FURTHER INFORMATION CONTACT** below). The NTP invites the submission of public comments on the two draft background documents (see **SUPPLEMENTARY INFORMATION** below). The expert panel will meet on January 24–25, 2008, at the Chapel Hill Sheraton Hotel, One Europa Drive, Chapel Hill, North Carolina 27514, to peer review the draft background documents for aristolochic acid related exposures and riddelliine and, once completed, make a recommendation regarding the listing status (i.e., known to be a human carcinogen, reasonably anticipated to be a human carcinogen, or not to list) for botanical products containing aristolochic acid, for aristolochic acid, and for riddelliine in the 12th Edition of the RoC (12th RoC). The RoC expert panel meeting is open to the public with time scheduled for oral public comments. Attendance is limited only by the available meeting room space. Following the expert panel meeting and completion of the expert panel report, the NTP will post the final version of the background documents and the expert panel peer review reports on the RoC Web site.

DATES: The expert panel meeting for aristolochic acid related exposures and riddelliine will be held on January 24–25, 2008. The draft background documents for these substances will be available for public comment on November 13, 2007. The deadline to submit written comments is January 11, 2008, and the deadline for pre-registration to attend the meeting and provide oral comments at the meeting is January 18, 2008. Persons needing special assistance, such as sign language interpretation or other reasonable accommodations in order to attend, should contact 919–541–2475 (voice), 919–541–4644 TTY (text telephone), through the Federal TTY Relay System at 800–877–8339, or by e-mail to *niehsoeeo@niehs.nih.gov*. Requests should be made at least seven business days in advance of the event.

ADDRESSES: The RoC expert panel meeting on aristolochic acid related exposures and riddelliine will be held at the Chapel Hill Sheraton Hotel, One Europa Drive, Chapel Hill, North Carolina 27514. Access to on-line registration and materials for the meeting is available on the RoC Web site (*http://ntp.niehs.nih.gov/go/29679*). Comments on the draft background documents should be sent to Dr. C. W. Jameson, RoC Director, NIEHS, P.O. Box 12233, MD EC–14, Research Triangle Park, NC 27709, Fax: (919) 541–0144, or *jameson@niehs.nih.gov*. Courier address: Report on Carcinogens, 79 T.W. Alexander Drive, Building 4401, Room 3118, Research Triangle Park, NC 27709.

FOR FURTHER INFORMATION CONTACT: Dr. C. W. Jameson, RoC Director, 919–541–4096, *jameson@niehs.nih.gov*.

SUPPLEMENTARY INFORMATION:

Background

On April 16, 2007 (72 FR 18999 available at *http://ntp.niehs.nih.gov/go/9732*), the NTP announced the RoC review process for the 12th RoC. An expert panel meeting is being convened on January 24–25, 2008, to review three candidate substances (botanical products containing aristolochic acid,

aristolochic acid, and riddelliine) under consideration for possible listing in the 12th RoC. The available scientific and exposure information on botanical products containing aristolochic acid and aristolochic acid overlap is described in one background document (aristolochic acid related exposures); however, the expert panel will be asked to make separate recommendations for listing status for each candidate substance. The draft background documents for aristolochic acid related exposures and riddelliine will be available on the RoC Web site on November 13, 2007, or in printed text from the RoC Director (see **ADDRESSES** above). Persons can register free-of-charge with the NTP listserv to receive notification when draft RoC background documents for other candidate substances for the 12th RoC are made available on the RoC Web site (*http://ntp.niehs.nih.gov/go/231*).

Botanical products containing aristolochic acid are used in traditional folk medicines, particularly in Chinese herbal medicine and have been used inadvertently as part of a weight-loss regimen. Aristolochic acid is a generic name for a family of nitrophenanthrene carboxylic acids that occurs naturally in plants in the Aristolochiaceae family, primarily of the genera *Aristolochia and Asarum*. Riddelliine is a pyrrolizidine alkaloid that occurs in plants of the genus *Senecio* that are found in sandy desert areas of the western United States and other parts of the world. Humans may be exposed to riddelliine via direct contamination of foodstuffs by parts of *Senecio* plants or from indirect introduction of the alkaloid through products derived from animals that have fed on the plants. Pyrrolizidine alkaloid residues have been detected in honey.

Request for Comments

The NTP invites written public comments on the draft background documents on aristolochic acid related exposures and riddelliine. All comments received will be posted on the RoC Web site prior to the meeting and distributed to the expert panel and RoC staff for their consideration in the peer review of the draft background documents and/or preparing for the expert panel meeting. Persons submitting written comments are asked to include their name and contact information (affiliation, mailing address, telephone and facsimile numbers, e-mail, and sponsoring organization, if any) and send them to Dr. Jameson (see **ADDRESSES** above) for receipt by January 11, 2008. Time is set-aside on January 24–25, 2008, for the presentation of oral public comments at the expert panel meeting. Seven minutes will be available for each speaker (one speaker per organization). Persons can register on-line to present oral comments or contact Dr. Jameson (see **ADDRESSES** above). When registering to comment orally, please provide your name, affiliation, mailing address, telephone and facsimile numbers, e-mail and sponsoring organization (if any). If possible, send a copy of the statement or talking points to Dr. Jameson by January 18, 2008. This statement will be provided to the expert panel to assist them in identifying issues for discussion and will be noted in the meeting record. Registration for presentation of oral comments will also be available at the meeting on January 24–25, 2008, from 7:30–8:30 a.m. Persons registering at the meeting are asked to bring 25 copies of their statement or talking points for distribution to the expert panel and for the record.

Preliminary Agenda, Availability of Meeting Topics and Registration

Preliminary agenda topics include:

- Oral public comments on aristolochic acid related exposures.
- Peer review of the background document on aristolochic acid related exposures.
- Recommendation for listing status in the 12th RoC for botanical products containing aristolochic acid and for aristolochic acid.
- Oral public comments on riddelliine.
- Peer review of the background document on riddelliine.
- Recommendation for listing status in the 12th RoC for riddelliine.

The meeting is scheduled for January 24–25, 2008, from 8:30 a.m. to adjournment each day. The review of riddelliine will immediately follow the review of aristolochic acid related exposures. A copy of the preliminary agenda, expert panel roster, and any additional information, when available, will be posted on the RoC Web site or may be requested from the RoC Director (see **ADDRESSES** above). Individuals who plan to attend the meeting are encouraged to register on-line by January 18, 2008, to facilitate planning for the meeting.

Background Information on the RoC

The RoC is a congressionally mandated document that identifies and discusses agents, substances, mixtures, or exposure circumstances (collectively referred to as ''substances'') that may pose a hazard to human health by virtue of their carcinogenicity. Substances are listed in the report as either known or reasonably anticipated human carcinogens. The NTP prepares the RoC on behalf of the Secretary of Health and Human Services. Information about the RoC and the nomination process can be obtained from its homepage (*http://ntp.niehs.nih.gov/go/roc*) or by contacting Dr. Jameson (see **FOR FURTHER INFORMATION CONTACT** above). The NTP follows a formal, multi-step process for review and evaluation of selected chemicals. The formal evaluation process is available on the RoC Web site (*http://ntp.niehs.nih.gov/go/15208*) or in printed copy from the RoC Director.

Dated: October 30, 2007.

Samuel H. Wilson,

Acting Director, National Institute of Environmental Health Sciences and National Toxicology Program.

[FR Doc. E7–22178 Filed 11–9–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Meetings of the Advisory Committee for Injury Prevention and Control, and Its Subcommittee, the Science and Program Review Subcommittee

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 subcommittee and committee meetings.

Name: Science and Program Review Subcommittee (SPRS).

Time and Date: 8:30 a.m.–12 p.m., December 11, 2007.

Place: CDC, Global Communications Center, 1600 Clifton Road, NE., Bldg. 19, Room 117, Atlanta, GA 30333.

Purpose: The Science and Program Review Subcommittee (SPRS) provides advice on the needs, structure, progress and performance of programs of the National Center for Injury Prevention and Control (NCIPC).

Matters to be Discussed: The subcommittee will meet December 11, 2007, to discuss scientific matters, including but not limited to, the FY07 extramural research awards, the research portfolio reviews, and revisions to the Injury Research Agenda.

Agenda items are subject to change as priorities dictate.

Name: Advisory Committee for Injury Prevention and Control.

Times and Dates:

1 p.m.–5:30 p.m., December 11, 2007.

8:30 a.m.–12 p.m., December 12, 2007.

Place: CDC, Global Communications Center, 1600 Clifton Road, NE, Bldg. 19, Room B3, Atlanta, GA 30333.

Purpose: The committee advises and makes recommendations to the Secretary, Department of Health and Human Services, the Director, Centers for Disease Control and

Prevention (CDC), and the Director, National Centers for Injury Prevention and Control (NCIPC) regarding feasible goals for the prevention and control of injury. The committee makes recommendations regarding policies, strategies, objectives, and priorities, and reviews progress toward injury prevention and control.

Matters to be Discussed: The meeting will open to the public. The Advisory Committee for Injury Prevention and Control (ACIPC) will be discussing partnership activities and how the ACIPC can advance the field of injury prevention and control. Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Ms. Amy Harris, Executive Secretary, ACIPC, NCIPC, CDC, 4770 Buford Highway, NE., M/S K61, Atlanta, Georgia 30341–3724, telephone (770) 488–4936.

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: November 5, 2007.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E7–22149 Filed 11–9–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Institute for Occupational Safety and Health (BSC, NIOSH)

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:

Time and Date: 10 a.m.–2 p.m., December 13, 2007.

Place: Holiday Inn Capitol, 550 C Street, SW., Washington, DC 20024.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people. Teleconference available toll-free; please dial (888) 677–1819, Participant Pass Code 25404.

Purpose: The Secretary, the Assistant Secretary for Health, and by delegation the Director, Centers for Disease Control and Prevention, are authorized under sections 301 and 308 of the Public Health Service Act to conduct directly or by grants or contracts, research, experiments, and demonstrations relating to occupational safety and health and to mine health. The Board of Scientific Counselors shall provide guidance to the Director, National Institute for Occupational Safety and Health on research and prevention programs. Specifically, the Board shall provide guidance on the Institute's research activities related to developing and evaluating hypotheses, systematically documenting findings and disseminating results. The Board shall evaluate the degree to which the activities of the National Institute for Occupational Safety and Health: (1) Conform to appropriate scientific standards, (2) address current, relevant needs, and (3) produce intended results.

Matters To Be Discussed: NIOSH Response to the National Academies of Science Program Reviews.

Agenda items are subject to change as priorities dictate.

For Further Information Contact: Roger Rosa, Executive Secretary, BSC, NIOSH, CDC, 395 E Street, SW., Suite 9200, Patriots Plaza Building, Washington, DC 20201, telephone (202) 245–0655, fax (202) 245–0664.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the CDC and the Agency for Toxic Substances and Disease Registry.

Dated: November 5, 2007.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. E7–22155 Filed 11–9–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Report of a Modified System of Records

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Notice of a Modified System of Records (SOR).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to modify an existing SOR titled, ''Individuals Authorized Access to Centers for Medicare & Medicaid Services (CMS) Computer Services (IACS), System No. 09–70–0064,'' most recently modified at 67 *FR* 48911 (July 26, 2002). We propose to assign a new CMS identification number to this system to simplify the obsolete and confusing numbering system originally designed to identify the Bureau, Office, or Center that maintained information in the Health Care Financing Administration systems of records. The new identifying number for this system should read: System No. 09–70–0538.

We propose to broaden the scope of this system to include a CMS service planned to provide a centralized user provisioning and administration service that supports the creation, deletion, and lifecycle management of enterprise identities. This service creates accounts, supports Role Based Access Control (RBAC), and provides business application integration points. RBAC is a form flow approval process and enterprise identity audit and recertification based on the role of the individual. The business application integration point allows business application owners to use the form flow process of the user provisioning service to approve or deny requests for access to business applications. This modification will permit CMS to implement a unified framework for managing user information and access rights, for those individuals who apply for and are granted access across multiple CMS systems and business contexts.

We propose to modify existing routine use number 1 that permits disclosure to agency contractors and consultants to include disclosure to CMS grantees who perform a task for the agency. CMS grantees, charged with completing projects or activities that require CMS data to carry out that activity, are classified separate from CMS contractors and/or consultants. The modified routine use will remain as routine use number 1. We will delete routine use number 2 authorizing disclosure to support constituent requests made to a congressional representative. If an authorization for the disclosure has been obtained from the data subject, then no routine use is needed. The Privacy Act allows for disclosures with the ''prior written consent'' of the data subject. Finally, we will delete the section titled ''Additional Circumstances Affecting Routine Use Disclosures,'' that addresses ''Protected Health Information (PHI)'' and ''small cell size.'' The requirement for compliance with HHS regulation ''Standards for Privacy of Individually Identifiable Health Information'' does not apply because this system does not collect or maintain PHI. In addition, our policy to prohibit release if there is a possibility that an individual can be identified through ''small cell size'' is not applicable to the data maintained in this system.

We are modifying the language in the remaining routine uses to provide a proper explanation as to the need for the routine use and to provide clarity to CMS's intention to disclose individual-specific information contained in this system. The routine uses will then be prioritized and reordered according to their usage. We will also take the

opportunity to update any sections of the system that were affected by the recent reorganization or because of the impact of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108–173) provisions and to update language in the administrative sections to correspond with language used in other CMS SORs.

The primary purpose of the system has been to collect and maintain individually identifiable information to assign, control, track, and report authorized access to and use of CMS's computerized information and resources, for those individuals who apply for and are granted access across multiple CMS systems and business contexts. Information in this system will also be used to: (1) Support regulatory and policy functions performed within the Agency or by a contractor, consultant, or CMS grantee; and (2) support litigation involving the Agency related to this system. We have provided background information about the modified system in the ''Supplementary Information'' section below. Although the Privacy Act requires only that the ''routine use'' portion of the system be published for comment, CMS invites comments on all portions of this notice. See **EFFECTIVE DATES** section for comment period.

EFFECTIVE DATES: CMS filed a modified system report with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Homeland Security and Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on November 7, 2007. To ensure that all parties have adequate time in which to comment, the modified SOR, including routine uses, will become effective 40 days from the publication of the notice, or from the date it was submitted to OMB and the Congress, whichever is later, unless CMS receives comments that require alterations to this notice.

ADDRESSES: The public should address comments to: CMS Privacy Officer, Division of Privacy Compliance, Enterprise Architecture and Strategy Group, Office of Information Services, CMS, Room N2–04–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.–3 p.m., Eastern Time zone.

FOR FURTHER INFORMATION CONTACT: Nancy Martin, Division of Development & Engineering, Information Services Design & Development Group, Office of Information Services, CMS, Room N2–15–04, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Her telephone number is 410–786–0167, or e-mail at *Nancy.Martin@cms.hhs.gov*.

SUPPLEMENTARY INFORMATION: The IACS framework consists of two major components: An identity management service and a set of authentication or access management services. These two components will enable a single identity to be used throughout CMS and will ensure that users authenticate to applications using a level of assurance equal to the sensitivity of the application and/or data. As CMS moves into the web-enabled application arena for mission critical applications, the need to securely manage this environment is a major concern. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) requirements, e-Authentication guidance and the Personal Identity Verification initiative make the need for a security services framework even more important.

CMS has provided an application that will streamline our information technology environment so that existing and new applications can work more effectively by sharing information, and so that CMS can be more responsive to the demands of changing business needs and emerging technology. CMS plans to make our data more readily accessible to our beneficiaries, partners, and stakeholders in a secure, efficient, and carefully planned manner. In striving to meet these goals, CMS has established a target enterprise architecture and modernization strategy that is based upon several key design principles: (1) An established, secure Internet architecture for the CMS enterprise; (2) Defined products for the target enterprise architecture; (3) Defined security classifications and controls for CMS applications; (4) Defined security services that support the architecture and implement the controls; and (5) Prescriptive application development standards and guidelines for the target environment.

When an account/identity is created, a unique identifier will be generated to universally associate a user with CMS. The provisioning service uses a seven-character algorithm to generate user IDs that are unique across the CMS enterprise. The provisioning service will also provide a mechanism to assign roles that will be maintained in the central data store. An application integration point will be established to allow business application owners to use the user provisioning service to approve or deny requests for access to business applications.

Initial users of the IACS will be primarily CMS business partners such as health care plans and customer inquiry service personnel who answer queries to 1–800–MEDICARE. Three entities are key in providing this support: The Customer Support for Medicare Modernization Support, the CMS IT CITIC Service Desk and the Centers for Beneficiary Choices. Future users will consist of but are not limited to, individuals who apply from Plans and Providers, Provider Hospitals, Group Practitioners, Physicians and Beneficiaries.

I. Description of the Modified System of Records

A. Statutory and Regulatory Basis for the System

Authority for maintenance of the system is given under Executive Order 9397, the Debt Collection Improvement Act, 31 United States Code (U.S.C.) § 7701(c)(1), and 5 U.S.C. 552a(b)(1).

B. Collection and Maintenance of Data in the System

Information for this system is collected and maintained on individuals who voluntarily apply for access to the Web-based Application Systems and individuals with an approved need for access to the computer resources and information maintained by CMS. Information collected for this system will include, but is not limited to, name, social security number, date of birth, current Resource Access Control Facility Identification (RACF ID), e-mail address, telephone number, company name, and geographic location.

II. Agency Policies, Procedures, and Restrictions on the Routine Use

A. Agency Policies, Procedures, and Restrictions on the Routine Use

The Privacy Act permits us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such disclosure of data is known as a ''routine use.'' The government will only release IACS information that can be associated with an individual as provided for under ''Section III. Proposed Routine Use Disclosures of Data in the System.'' Both identifiable and non-identifiable data may be disclosed under a routine use.

We will only collect the minimum personal data necessary to achieve the purpose of IACS. CMS has the following policies and procedures concerning disclosures of information that will be

maintained in the system. Disclosure of information from the system will be approved only to the extent necessary to accomplish the purpose of the disclosure and only after CMS:

1. Determines that the use or disclosure is consistent with the reason that the data is being collected, e.g., to collect and maintain individually identifiable information to assign, control, track, and report authorized access to and use of CMS's computerized information and resources.

2. Determines that:

a. The purpose for which the disclosure is to be made can only be accomplished if the record is provided in individually identifiable form;

b. The purpose for which the disclosure is to be made is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring; and

c. There is a strong probability that the proposed use of the data would in fact accomplish the stated purpose(s).

3. Requires the information recipient to:

a. Establish administrative, technical, and physical safeguards to prevent unauthorized use of disclosure of the record;

b. Remove or destroy at the earliest time all patient-identifiable information; and

c. Agree to not use or disclose the information for any purpose other than the stated purpose under which the information was disclosed.

4. Determines that the data are valid and reliable.

III. Proposed Routine Use Disclosures of Data in the System

A. The Privacy Act allows us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such compatible use of data is known as a ''routine use.'' The proposed routine uses in this system meet the compatibility requirement of the Privacy Act. We are proposing to establish the following routine use disclosures of information maintained in the system:

1. To support Agency contractors, consultants, or CMS grantee who have been contracted by the Agency to assist in accomplishment of a CMS function relating to the purposes for this system and who need to have access to the records in order to assist CMS.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contractual or similar agreement with a third party to assist in accomplishing CMS functions relating to purposes for this system.

CMS occasionally contracts out certain of its functions when this would contribute to effective and efficient operations. CMS must be able to give a contractor, consultants, or grantee whatever information is necessary for the contractor to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor, consultants, or grantee from using or disclosing the information for any purpose other than that described in the contract and to return or destroy all information at the completion of the contract.

2. To assist the Department of Justice (DOJ), court or adjudicatory body when

a. The Agency or any component thereof; or

b. Any employee of the Agency in his or her official capacity; or

c. Any employee of the Agency in his or her individual capacity where the DOJ has agreed to represent the employee; or

d. The United States Government; is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation.

Whenever CMS is involved in litigation, or occasionally when another party is involved in litigation and CMS's policies or operations could be affected by the outcome of the litigation, CMS would be able to disclose information to the DOJ, court or adjudicatory body involved. A determination would be made in each instance that, under the circumstances involved, the purposes served by the use of the information in the particular litigation is compatible with a purpose for which CMS collects the information.

IV. Safeguards

CMS has safeguards in place for authorized users and monitors such users to ensure against unauthorized use. Personnel having access to the system have been trained in the Privacy Act and information security requirements. Employees who maintain records in this system are instructed not to release data until the intended recipient agrees to implement appropriate management, operational and technical safeguards sufficient to protect the confidentiality, integrity and availability of the information and information systems and to prevent unauthorized access.

This system will conform to all applicable Federal laws and regulations and Federal, HHS, and CMS policies and standards as they relate to information security and data privacy. These laws and regulations include but are not limited to: the Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer Fraud and Abuse Act of 1986; the Health Insurance Portability and Accountability Act of 1996; the E-Government Act of 2002, the Clinger-Cohen Act of 1996; the Medicare Modernization Act of 2003, and the corresponding implementing regulations. OMB Circular A–130, Management of Federal Resources, Appendix III, Security of Federal Automated Information Resources also applies. Federal, HHS, and CMS policies and standards include but are not limited to: all pertinent National Institute of Standards and Technology publications; HHS Information Systems Program Handbook and the CMS Information Security Handbook.

V. Effects of the Modified System of Records on Individual Rights

CMS proposes to establish this system in accordance with the principles and requirements of the Privacy Act and will collect, use, and disseminate information only as prescribed therein. Data in this system will be subject to the authorized releases in accordance with the routine uses identified in this system of records.

CMS will take precautionary measures to minimize the risks of unauthorized access to the records and the potential harm to individual privacy or other personal or property rights of patients whose data are maintained in the system. CMS will collect only that information necessary to perform the system's functions. In addition, CMS will make disclosure from the modified system only with consent of the subject individual, or his/her legal representative, or in accordance with an applicable exception provision of the Privacy Act. CMS, therefore, does not anticipate an unfavorable effect on individual privacy as a result of the disclosure of information relating to individuals.

Dated: November 7, 2007.

Charlene Frizzera,

Chief Operating Officer, Centers for Medicare & Medicaid Services.

System No.: 09–70–0538

SYSTEM NAME:

''Individuals Authorized Access to Centers for Medicare & Medicaid Services (CMS) Computer Services (IACS), HHS/CMS/OIS''.

SECURITY CLASSIFICATION:

Level 3 Privacy Act Sensitive.

SYSTEM LOCATION:

Centers for Medicare & Medicaid Services Data Center, 7500 Security Boulevard, North Building, First Floor, Baltimore, Maryland 21244–1850.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Information for this system is collected and maintained on individuals who voluntarily apply for access to the Web-based Application Systems and individuals with an approved need for access to the computer resources and information maintained by CMS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information collected for this system will include, but is not limited to, name, social security number (SSN), date of birth, current Resource Access Control Facility Identification (RACF ID), e-mail address, telephone number, company name, and geographic location.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system is given under Executive Order 9397, the Debt Collection Improvement Act, 31 United States Code (U.S.C.) § 7701(c)(1), and 5 U.S.C. 552a(b)(1).

PURPOSE(S) OF THE SYSTEM:

The primary purpose of the system has been to collect and maintain individually identifiable information to assign, control, track, and report authorized access to and use of CMS's computerized information and resources, for those individuals who apply for and are granted access across multiple CMS systems and business contexts. Information in this system will also be used to: (1) Support regulatory and policy functions performed within the Agency or by a contractor, consultant, or CMS grantee; and (2) support litigation involving the Agency related to this system.

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

A. The Privacy Act allows us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such compatible use of data is known as a ''routine use.'' The proposed routine uses in this system meet the compatibility requirement of the Privacy Act. We are proposing to establish the following routine use disclosures of information maintained in the system:

1. To support Agency contractors, consultants, or CMS grantee who have been contracted by the Agency to assist in accomplishment of a CMS function relating to the purposes for this system and who need to have access to the records in order to assist CMS.

2. To assist the Department of Justice (DOJ), court or adjudicatory body when

a. The Agency or any component thereof; or

b. Any employee of the Agency in his or her official capacity; or

c. Any employee of the Agency in his or her individual capacity where the DOJ has agreed to represent the employee; or

d. The United States Government;

is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation.

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

STORAGE:

All records are stored on magnetic media.

RETRIEVABILITY:

Information can be retrieved by assigned User ID, user name, and user e-mail address.

SAFEGUARDS:

CMS has safeguards in place for authorized users and monitors such users to ensure against unauthorized use. Personnel having access to the system have been trained in the Privacy Act and information security requirements. Employees who maintain records in this system are instructed not to release data until the intended recipient agrees to implement appropriate management, operational and technical safeguards sufficient to protect the confidentiality, integrity and availability of the information and information systems and to prevent unauthorized access.

This system will conform to all applicable Federal laws and regulations and Federal, HHS, and CMS policies and standards as they relate to information security and data privacy. These laws and regulations include but are not limited to: the Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer Fraud and Abuse Act of 1986; the Health Insurance Portability and Accountability Act of 1996; the E-Government Act of 2002, the Clinger-Cohen Act of 1996; the Medicare Modernization Act of 2003, and the corresponding implementing regulations. OMB Circular A–130, Management of Federal Resources, Appendix III, Security of Federal Automated Information Resources also applies. Federal, HHS, and CMS policies and standards include but are not limited to: all pertinent National Institute of Standards and Technology publications; HHS Information Systems Program Handbook and the CMS Information Security Handbook.

RETENTION AND DISPOSAL:

CMS will retain information for the duration the user needs access to CMS' computer systems or until no longer needed for administrative, legal, audit or other operations services, whichever is longer. All claims-related records are encompassed by the document preservation order and will be retained until notification is received from DOJ.

SYSTEM MANAGER AND ADDRESS:

Director, Division of Development & Engineering, Information Services Design & Development Group, Office of Information Services, CMS, Mail Stop N2–15–18, 7500 Security Boulevard, Baltimore, Maryland, 21244–1850.

NOTIFICATION PROCEDURE:

For purpose of access, the subject individual should write to the system manager who will require the system name, and for verification purposes, the subject individual's name (woman's maiden name, if applicable), and SSN (furnishing the SSN is voluntary, but it may make searching for a record easier and prevent delay).

RECORD ACCESS PROCEDURE:

For purpose of access, use the same procedures outlined in Notification Procedures above. Requestors should also reasonably specify the record contents being sought. (These procedures are in accordance with Department regulation 45 CFR 5b.5(a)(2).)

CONTESTING RECORD PROCEDURES:

The subject individual should contact the system manager named above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These procedures are in accordance with Department regulation 45 CFR 5b.7.)

RECORD SOURCE CATEGORIES:

Sources of information contained in this records system include data collected from applications submitted by the individuals requiring access to computer services.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. E7–22079 Filed 11–9–07; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Report of a Modified or Altered System

AGENCY: Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS).

ACTION: Notice of a Modified or Altered System of Records (SOR).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to modify or alter an SOR titled ''Home Health Agency (HHA) Outcome and Assessment Information Set (OASIS),'' System No. 09–70–9002, last modified at 66 **Federal Register** 66903 (December 27, 2001). We propose to assign a new CMS identification number to this system to simplify the obsolete and confusing numbering system originally designed to identify the Bureau, Office, or Center that maintained information in the Health Care Financing Administration systems of records. The new assigned identifying number for this system should read: System No. 09–70–0522.

We propose to modify existing routine use number 1 that permits disclosure to agency contractors and consultants to include disclosure to CMS grantees who perform a task for the agency. CMS grantees, charged with completing projects or activities that require CMS data to carry out that activity, are classified separate from CMS contractors and/or consultants. The modified routine use will remain as routine use number 1. We will modify existing routine use number 4 that permits disclosure to Peer Review Organizations (PRO). Organizations previously referred to as PROs will be renamed to read: Quality Improvement Organizations (QIO). Information will be disclosed to QIOs relating to assessing and improving HHA quality of care. The modified routine use will remain as routine use number 4.

CMS proposes to broaden the scope of the disclosure requirement for routine use number 5, authorizing disclosure to national accrediting organizations that have been approved by CMS for deeming authority for Medicare requirements for home health services. Information will be released to these organizations for only those facilities that they accredit and that participate in the Medicare program and if they meet the following requirements: (1) Provide identifying information for HHAs that have an accreditation status with the requesting deemed organization, (2) submission of a finder file identifying beneficiaries/patients receiving HHA services, (3) safeguard the confidentiality of the data and prevent unauthorized access, and (4) upon completion of a signed data exchange agreement or a CMS data use agreement.

We will delete routine use number 7 authorizing disclosure to support constituent requests made to a congressional representative. If an authorization for the disclosure has been obtained from the data subject, then no routine use is needed. The Privacy Act allows for disclosures with the ''prior written consent'' of the data subject. We will broaden the scope of published routine uses number 8 and 9, authorizing disclosures to combat fraud and abuse in the Medicare and Medicaid programs to include combating ''waste'' which refers increasingly more to specific beneficiary or recipient practices that result in unnecessary cost to Federally-funded health benefit programs.

We are modifying the language in the remaining routine uses to provide a proper explanation as to the need for the routine use and to provide clarity to CMS's intention to disclose individual-specific information contained in this system. The routine uses will then be prioritized and reordered according to their usage. We will also take the opportunity to update any sections of the system that were affected by the recent reorganization or because of the impact of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108–173) provisions and to update language in the administrative sections to correspond with language used in other CMS SORs.

The primary purposes of the SOR are to collect and maintain information to: (1) Study and help ensure the quality of care provided by home health agencies (HHA); (2) aid in administration of the survey and certification of Medicare/Medicaid HHAs; (3) enable regulators to provide HHAs with data for their internal quality improvement activities; (4) support agencies of the state government to determine, evaluate and assess overall effectiveness and quality of HHA services provided in the state; (5) provide for the validation, and refinements of the Medicare Prospective Payment System; (6) aid in the administration of Federal and state HHA programs within the state; and (7) monitor the continuity of care for patients who reside temporarily outside of the state. Information maintained in this system will also be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the Agency or by a contractor, consultant, or grantee; (2) assist another Federal and/or state agency, agency of a state government, an agency established by state law, or its fiscal agent, for evaluating and monitoring the quality of home health care and contribute to the accuracy of health insurance operations; (3) support research, evaluation, or epidemiological projects related to the prevention of disease or disability, or the restoration or maintenance of health, and for payment related projects; (4) support the functions of Quality Improvement Organizations (QIO); (5) support the functions of national accrediting organizations; (6) support litigation involving the Agency; (7) combat fraud, waste, and abuse in certain health care programs. We have provided background information about the modified system in the **SUPPLEMENTARY INFORMATION** section below. Although the Privacy Act requires only that CMS provide an opportunity for interested persons to comment on the routine uses, CMS invites comments on all portions of this notice. See **EFFECTIVE DATES** section for comment period.

EFFECTIVE DATES: CMS filed a modified or altered system report with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Homeland Security & Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on November 6, 2007. To ensure that all parties have adequate time in which to comment, the modified system, including routine uses, will become effective 30 days from the publication of the notice, or 40 days from the date it was submitted to OMB and Congress, whichever is later, unless CMS receives comments that require alterations to this notice.

ADDRESSES: The public should address comments to: CMS Privacy Officer, Division of Privacy Compliance, Enterprise Architecture and Strategy Group, Office of Information Services, CMS, Room N2–04–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during regular business

hours, Monday through Friday from 9 a.m.–3 p.m., eastern time zone.

FOR FURTHER INFORMATION CONTACT: Patricia Sevast, Nurse Consultant, Division of Continuing Care Providers, Survey and Certification Group, Center for Medicaid and State Operations, CMS, 7500 Security Boulevard, S2–12–25, Baltimore, Maryland 21244–1850. The telephone number is (410) 786–8135, or via e-mail at patricia.sevast@cms.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Description of the Modified or Altered System of Records

A. Statutory and Regulatory Basis for System

Authority for maintenance of this system is given under Sections 1102(a), 1154, 1861(m), 1861(o), 1861(z), 1863, 1864, 1865, 1866, 1871, 1891, and 1902 of the Social Security Act. These provisions of the Act authorize the Administrator of CMS to require HHAs participating in the Medicare and Medicaid programs to complete a standard, valid, patient assessment data set; i.e., the OASIS, as part of their comprehensive assessments and updates when evaluating adult, non-maternity patients as required by section 484.55 of the Conditions of Participation. Authority is also given under section 951 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Pub. L. 108–173).

B. Collection and Maintenance of Data in the System

The system collects and maintains information on all patients, except those in a category exempted by administrative policies and procedures, who receive services from an HHA certified for Medicare and Medicaid payments. The OASIS data set includes identifiers. It also includes information on: (1) Patient History, (2) Living Arrangements, (3) Supportive Assistance, (4) Sensory Status, (5) Integumentary Status, (6) Respiratory Status, (7) Elimination Status, (8) Neuro/Emotional/Behavioral Status, (9) Activities of Daily Living/Instrumental Activities of Daily Living (ADL/IADL), (10) Medications, (11) Equipment Management, (12) Emergent Care, and (13) Discharge. Identifiers are patient name, social security number, Medicare number and Medicaid number. A masked identifier is one in which an encrypted value is permanently substituted for an identifier to prevent recipients of the information from identifying the individual.

The OASIS information will be submitted by the HHA to the government for all patients, except pre-partum and postpartum patients, patients under 18 years of age, and patients receiving other than personal care or health care services; i.e., housekeeping services and chore services. Identifiers will be included for all patients receiving services paid for by Medicare traditional fee-for-service, Medicaid traditional fee-for-service, Medicare HMO/managed care or Medicaid HMO/managed care. For patients with only a non-Medicare or non-Medicaid payment source, the HHA will submit OASIS information with masked identifiers and will retain the identifier and masked identifier at the HHA. In other words, the patient identifier for non-Medicare and non-Medicaid patients will only be known and retained by the HHA and not by the government.

II. Agency Policies, Procedures, and Restrictions on Routine Uses

A. The Privacy Act permits us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such disclosure of data is known as a ''routine use.'' The government will only release OASIS information that can be associated with an individual as provided for under ''Section III. Proposed Routine Use Disclosures of Data in the System.'' Both identifiable and non-identifiable data may be disclosed under a routine use.

We will only collect the minimum personal data necessary to achieve the purpose of OASIS. CMS has the following policies and procedures concerning disclosures of information that will be maintained in the system. Disclosure of information from this system will be approved only to the extent necessary to accomplish the purpose of the disclosure and only after CMS:

1. Determines that the use or disclosure is consistent with the reason that the data is being collected, e.g., to evaluate and monitor the quality of home health care and contribute to the accuracy of health insurance operations.

2. Determines:

a. That the purpose for which the disclosure is to be made can only be accomplished if the record is provided in individually identifiable form;

b. That the purpose for which the disclosure is to be made is of sufficient importance to warrant the potential effect and/or risk on the privacy of the individual that additional exposure of the record might bring; and

c. That there is a strong probability that the proposed use of the data would in fact accomplish the stated purpose(s).

3. Requires the information recipient to:

a. Establish administrative, technical, and physical safeguards to prevent unauthorized use of disclosure of the record; and

b. Remove or destroy at the earliest time all patient-identifiable information.

4. Determines that the data are valid and reliable.

III. Proposed Routine Use Disclosures of Data in the System

A. The Privacy Act allows us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such compatible use of data is known as a ''routine use.'' The proposed routine uses in this system meet the compatibility requirement of the Privacy Act. We are proposing to establish the following routine use disclosures of information maintained in the system:

1. To support agency contractors, consultants, or grantees, who have been engaged by the agency to assist in the performance of a service related to this collection and who need to have access to the records in order to perform the activity.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contractual or similar agreement with a third party to assist in accomplishing CMS function relating to purposes for this system.

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor, consultant or grantee whatever information is necessary for the contractor or consultant to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor, consultant or grantee from using or disclosing the information for any purpose other than that described in the contract and requires the contractor, consultant or grantee to return or destroy all information at the completion of the contract.

2. To assist another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent to:

a. Contribute to the accuracy of CMS's proper payment of Medicare benefits,

b. Enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with federal funds, and/or

c. Evaluate and monitor the quality of home health care and contribute to the accuracy of health insurance operations.

Other Federal or state agencies in their administration of a Federal health program may require OASIS information in order to support evaluations and monitoring of reimbursement for services provided.

3. To assist an individual or organization for research, evaluation or epidemiological projects related to the prevention of disease or disability, or the restoration or maintenance of health, and for payment-related projects.

The collected data will provide the research, evaluation and epidemiological projects a broader, longitudinal, national perspective of the data. CMS anticipates that many researchers will have legitimate requests to use these data in projects that could ultimately improve the care provided to Medicare patients and the policy that governs the care. CMS understands the concerns about the privacy and confidentiality of the release of data for a research use. Disclosure of data for research and evaluation purposes may involve aggregate data rather than individual-specific data.

4. To support Quality Improvement Organizations (QIO) in order to assist the QIO to perform Title XI and Title XVIII functions relating to assessing and improving HHA quality of care.

QIOs will work with HHAs to implement quality improvement programs, provide consultation to CMS, its contractors, and to state agencies. The QIOs will provide a supportive role to HHAs in their endeavors to comply with Medicare Conditions of Participation; will assist the state agencies in related monitoring and enforcement efforts; assist CMS and help regional home health intermediaries in home health program integrity assessment; and prepare summary information about the nation's home health care for release to beneficiaries.

5. To support national accrediting organizations with approval for deeming authority for Medicare requirements for home health services (i.e., the Joint Commission on Accreditation of Healthcare Organizations, Accreditation Commission for Health Care, Inc., and the Community Health Accreditation Program). Information will be released to these organizations upon specific request, and only for those facilities that they accredit and that participate in the Medicare program and if they meet the following requirements:

a. Provide identifying information for HHAs that have an accreditation status with the requesting deemed organization,

b. submit a finder file identifying beneficiaries/patients receiving HHA services,

c. complete a signed data exchange agreement or a CMS data use agreement, and

d. safeguard the confidentiality of the data and prevent unauthorized access.

CMS anticipates providing these national accrediting organizations with OASIS information to enable them to target potential or identified problems during the organization's accreditation review process of that facility.

6. To support the Department of Justice (DOJ), court or adjudicatory body when:

a. The agency or any component thereof, or

b. any employee of the agency in his or her official capacity, or

c. any employee of the agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. the United States Government is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation and that the use of such records by the DOJ, court or adjudicatory body is compatible with the purpose for which the agency collected the records.

Whenever CMS is involved in litigation, and occasionally when another party is involved in litigation and CMS' policies or operations could be affected by the outcome of the litigation, CMS would be able to disclose information to the DOJ, court or adjudicatory body involved.

7. To assist a CMS contractor (including, but not necessarily limited to fiscal intermediaries and carriers) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste, or abuse in such program.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contractual relationship or grant with a third party to assist in accomplishing CMS functions relating to the purpose of combating fraud, waste, and abuse.

CMS occasionally contracts out certain of its functions and makes grants when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor or grantee whatever information is necessary for the contractor or grantee to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor or grantee from using or disclosing the information for any purpose other than that described in the contract and requiring the contractor or grantee to return or destroy all information.

8. To assist another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any State or local governmental agency), that administers, or that has the authority to investigate potential fraud, waste, or abuse in, a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste, or abuse in such programs.

Other agencies may require OASIS information for the purpose of combating fraud, waste, and abuse in such Federally-funded programs.

B. Additional Provisions Affecting Routine Use Disclosures. To the extent this system contains Protected Health Information (PHI) as defined by HHS regulation ''Standards for Privacy of Individually Identifiable Health Information'' (45 CFR Parts 160 and 164, Subparts A and E) 65 Fed. Reg. 82462 (12–28–00). Disclosures of such PHI that are otherwise authorized by these routine uses may only be made if, and as, permitted or required by the ''Standards for Privacy of Individually Identifiable Health Information.'' (See 45 CFR 164–512(a)(1)).

In addition, our policy will be to prohibit release even of data not directly identifiable, except pursuant to one of the routine uses or if required by law, if we determine there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that individuals could, because of the small size, use this information to deduce the identity of the beneficiary).

IV. Safeguards

CMS has safeguards in place for authorized users and monitors such users to ensure against unauthorized use. Personnel having access to the system have been trained in the Privacy Act and information security requirements. Employees who maintain records in this system are instructed not to release data until the intended recipient agrees to implement appropriate management, operational and technical safeguards sufficient to protect the confidentiality, integrity and availability of the information and information systems and to prevent unauthorized access.

This system will conform to all applicable Federal laws and regulations and Federal, HHS, and CMS policies and standards as they relate to information security and data privacy. These laws and regulations may apply but are not limited to: The Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer Fraud and Abuse Act of 1986; the Health Insurance Portability and Accountability Act of 1996; the E-Government Act of 2002, the Clinger-Cohen Act of 1996; the Medicare Modernization Act of 2003, and the corresponding implementing regulations. OMB Circular A–130, Management of Federal Resources, Appendix III, Security of Federal Automated Information Resources also applies. Federal, HHS, and CMS policies and standards include but are not limited to: All pertinent National Institute of Standards and Technology publications; the HHS Information Systems Program Handbook and the CMS Information Security Handbook.

V. Effects of the Modified System of Records on Individual Rights

CMS proposes to modify this system in accordance with the principles and requirements of the Privacy Act and will collect, use, and disseminate information only as prescribed therein. Data in this system will be subject to the authorized releases in accordance with the routine uses identified in this system of records.

CMS will take precautionary measures (see item IV above) to minimize the risks of unauthorized access to the records and the potential harm to individual privacy or other personal or property rights of patients whose data are maintained in the system. CMS will collect only that information necessary to perform the system's functions. In addition, CMS will make disclosure from the proposed system only with consent of the subject individual, or his/her legal representative, or in accordance with an applicable exception provision of the Privacy Act. CMS, therefore, does not anticipate an unfavorable effect on individual privacy as a result of information relating to individuals.

Dated: November 7, 2007.

Charlene Frizzera,

Chief Operating Officer, Centers for Medicare & Medicaid Services.

SYSTEM NO. 09–70–0522

SYSTEM NAME:

''Home Health Agency (HHA) Outcome and Assessment Information Set (OASIS),'' HHS/CMS/CMSO.

SECURITY CLASSIFICATION:

Level Three Privacy Act Sensitive Data.

SYSTEM LOCATION:

The Centers for Medicare & Medicaid Services (CMS) Data Center, 7500 Security Boulevard, North Building, First Floor, Baltimore, Maryland 21244–1850 and South Building, Baltimore, Maryland 21244–1850.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system of records (SOR) will contain clinical assessment information (OASIS) for all patients receiving the services of a Medicare and/or Medicaid approved HHA, except pre-partum and post-partum patients, patients under 18 years of age, and patients receiving other than personal care or health care services; i.e., housekeeping services and chore services. Identifiable information will be maintained in the SOR only for those individuals whose payments come from Medicare or Medicaid.

CATEGORIES OF RECORDS IN THE SYSTEM:

This SOR will contain individual-level demographic and identifying data, as well as clinical status data for patients with the payment sources of Medicare traditional fee for service, Medicaid traditional fee for service, Medicare HMO/managed care or Medicaid HMO/managed care.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of this system is given under Sections 1102(a), 1154, 1861(m), 1861(o), 1861(z), 1863, 1864, 1865, 1866, 1871, 1891, and 1902 of the Social Security Act. These provisions of the Act authorize the Administrator of CMS to require HHAs participating in the Medicare and Medicaid programs to complete a standard, valid, patient assessment data set; i.e., the OASIS, as part of their comprehensive assessments and updates when evaluating adult, non-maternity patients as required by section 484.55 of the Conditions of Participation. Authority is also given under section 951 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Pub. L. 108–173).

PURPOSE(S) OF THE SYSTEM:

The primary purposes of the SOR are to collect and maintain information to: (1) Study and help ensure the quality of care provided by home health agencies (HHA); (2) aid in administration of the survey and certification of Medicare/Medicaid HHAs; (3) enable regulators to provide HHAs with data for their internal quality improvement activities; (4) support agencies of the state government to determine, evaluate and assess overall effectiveness and quality of HHA services provided in the state; (5) provide for the validation, and refinements of the Medicare Prospective Payment System; (6) aid in the administration of Federal and state HHA programs within the state; and (7) monitor the continuity of care for patients who reside temporarily outside of the state. Information maintained in this system will also be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the Agency or by a contractor, consultant, or grantee; (2) assist another Federal and/or state agency, agency of a state government, an agency established by state law, or its fiscal agent, for evaluating and monitoring the quality of home health care and contribute to the accuracy of health insurance operations; (3) support research, evaluation, or epidemiological projects related to the prevention of disease or disability, or the restoration or maintenance of health, and for payment related projects; (4) support the functions of Quality Improvement Organizations (QIO); (5) support the functions of national accrediting organizations; (6) support litigation involving the Agency; (7) combat fraud, waste, and abuse in certain health care programs.

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

A. The Privacy Act allows us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such compatible use of data is known as a ''routine use.'' The proposed routine uses in this system meet the compatibility requirement of the Privacy Act. We are proposing to establish the

following routine use disclosures of information maintained in the system:

1. To support agency contractors, consultants, or grantees, who have been engaged by the agency to assist in the performance of a service related to this collection and who need to have access to the records in order to perform the activity.

2. To assist another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent to:

a. contribute to the accuracy of CMS's proper payment of Medicare benefits,

b. enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with federal funds, and/or

c. evaluate and monitor the quality of home health care and contribute to the accuracy of health insurance operations.

3. To assist an individual or organization for research, evaluation or epidemiological projects related to the prevention of disease or disability, or the restoration or maintenance of health, and for payment related projects.

4. To support Quality Improvement Organizations (QIO) in order to assist the QIO to perform Title XI and Title XVIII functions relating to assessing and improving HHA quality of care.

5. To support national accrediting organizations with approval for deeming authority for Medicare requirements for home health services (i.e., the Joint Commission on Accreditation of Healthcare Organizations, Accreditation Commission for Health Care, Inc., and the Community Health Accreditation Program). Information will be released to these organizations upon specific request, and only for those facilities that they accredit and that participate in the Medicare program and if they meet the following requirements:

a. Provide identifying information for HHAs that have an accreditation status with the requesting deemed organization,

b. Submit a finder file identifying beneficiaries/patients receiving HHA services,

c. Complete a signed data exchange agreement or a CMS data use agreement, and

d. Safeguard the confidentiality of the data and prevent unauthorized access.

6. To support the Department of Justice (DOJ), court or adjudicatory body when:

a. The agency or any component thereof, or

b. any employee of the agency in his or her official capacity, or

c. any employee of the agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. the United States Government is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation and that the use of such records by the DOJ, court or adjudicatory body is compatible with the purpose for which the agency collected the records.

7. To assist a CMS contractor (including, but not necessarily limited to fiscal intermediaries and carriers) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste, or abuse in such program.

8. To assist another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any State or local governmental agency), that administers, or that has the authority to investigate potential fraud, waste, or abuse in, a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste, or abuse in such programs.

B. Additional Provisions Affecting Routine Use Disclosures. To the extent this system contains Protected Health Information (PHI) as defined by HHS regulation ''Standards for Privacy of Individually Identifiable Health Information'' (45 CFR Parts 160 and 164, Subparts A and E) 65 Fed. Reg. 82462 (12–28–00). Disclosures of such PHI that are otherwise authorized by these routine uses may only be made if, and as, permitted or required by the ''Standards for Privacy of Individually Identifiable Health Information.'' (See 45 CFR 164–512(a)(1)).

In addition, our policy will be to prohibit release even of data not directly identifiable, except pursuant to one of the routine uses or if required by law, if we determine there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that individuals could, because of the small size, use this information to deduce the identity of the beneficiary).

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

STORAGE:

All records are stored on paper and magnetic disk.

RETRIEVABILITY:

The Medicare and Medicaid records are retrieved by health insurance claim number, Social Security number (SSN) or by state assigned Medicaid number.

SAFEGUARDS:

CMS has safeguards in place for authorized users and monitors such users to ensure against unauthorized use. Personnel having access to the system have been trained in the Privacy Act and information security requirements. Employees who maintain records in this system are instructed not to release data until the intended recipient agrees to implement appropriate management, operational and technical safeguards sufficient to protect the confidentiality, integrity and availability of the information and information systems and to prevent unauthorized access.

This system will conform to all applicable Federal laws and regulations and Federal, HHS, and CMS policies and standards as they relate to information security and data privacy. These laws and regulations may apply but are not limited to: The Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer Fraud and Abuse Act of 1986; the Health Insurance Portability and Accountability Act of 1996; the E-Government Act of 2002, the Clinger-Cohen Act of 1996; the Medicare Modernization Act of 2003, and the corresponding implementing regulations. OMB Circular A–130, Management of Federal Resources, Appendix III, Security of Federal Automated Information Resources also applies. Federal, HHS, and CMS policies and standards include but are not limited to: All pertinent National Institute of Standards and Technology publications; the HHS Information Systems Program Handbook and the CMS Information Security Handbook.

RETENTION AND DISPOSAL:

CMS will retain identifiable OASIS assessment data for a total period not to exceed fifteen (15) years.

SYSTEM MANAGER AND ADDRESS:

Director, Division of Continuing Care Providers, Survey and Certification

Group, Center for Medicaid and State Operations, CMS, 7500 Security Boulevard, S2–12–25, Baltimore, Maryland 21244–1850.

NOTIFICATION PROCEDURE:

For purpose of access, the subject individual should write to the system manager who will require the system name, health insurance claim number, and for verification purposes, the subject individual's name (woman's maiden name, if applicable), SSN (furnishing the SSN is voluntary, but it may make searching for a record easier and prevent delay), address, date of birth, and sex.

RECORD ACCESS PROCEDURE:

For purpose of access, use the same procedures outlined in Notification Procedures above. Requestors should also specify the record contents being sought. (These procedures are in accordance with department regulation 45 CFR 5b.5(a)(2)).

CONTESTING RECORDS PROCEDURES:

The subject individual should contact the system manager named above, and reasonably identify the records and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These Procedures are in accordance with Department regulation 45 CFR 5b.7).

RECORDS SOURCE CATEGORIES:

The data contained in this system of records are obtained from The Outcome and Assessment Information Set.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. E7–22083 Filed 11–9–07; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Office of Community Services (OCS) Evaluation Initiative: Community Economic Development (CED) and Job Opportunities for Low-Income (JOLI) Individuals.

OMB Control No. 0907–0317.

Description: The Office of Community Services (OCS) is a component of the Administration for Children and Families (ACF), which is part of the U.S. Department of Health and Human Services (HHS). Part of OCS' responsibilities is the program administration of Federal grants awarded through an annual competitive process to support urban and rural community economic development projects carried out by local, non-profit, community-based organizations. OCS is collecting key program information about the CED and the JOLI projects in the United States. The legislative requirement for these two programs is in Title IV of the Community Opportunities, Accountability and Training and Educational Services Act (COATES Human Services Reauthorization Act) of October 27, 1998, Pub. L. 105–285, section 680(b) as amended. The information collection questionnaire will gather significant updated information concerning program outcomes and management. OCS will use the data to critically review and improve the overall design and effectiveness of each program.

Respondents: OCS Grantees.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Questionnaire for OCS–CED Grantees in the United States	147	1	1.5	220.5
Questionnaire for OCS–JOLI Grantees in the United States	25	1	1.5	37.5

Estimated Total Annual Burden Hours: 258.

In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: November 6, 2007.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 07–5609 Filed 11–9–07; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects:

Title: Data Collection Plan for the Customer Satisfaction Evaluation of Child Welfare Information Gateway.

OMB No.: 0970–0303.

Description: The National Clearinghouse on Child Abuse and Neglect Information (NCCAN) and the National Adoption Information Clearinghouse (NAIC) received OMB approval to collect data for a customer satisfaction evaluation under OMB control number 0970–0303. On June 20, 2006, NCCAN and NAIC were consolidated into Child Welfare Information Gateway (CWIG). In response to this consolidation, the

proposed information collection activities include revisions to the Customer Satisfaction Evaluation approved under OMB control number 0970–0303.

CWIG is a service of the Children's Bureau, a component within the Administration for Children and Families, and CWIG is dedicated to the mission of connecting professionals and concerned citizens to information on programs, research, legislation, and statistics regarding the safety, permanency, and well-being of children and families. CWIG's main functions are identifying information needs, locating and acquiring information, creating information, organizing and storing information, disseminating information, and facilitating information exchange among professionals and concerned citizens. A number of vehicles are employed to accomplish these activities, including, but not limited to, Web site hosting, discussions with customers, and dissemination of publications (both print and electronic).

The Customer Satisfaction Evaluation was initiated in response to Executive Order 12862 issued on September 11, 1993. The order calls for putting customers first and striving for a customer-driven government that matches or exceeds the best service available in the private sector. To that end, CWIG's evaluation is designed to better understand the kind and quality of services customers want, as well as customers' level of satisfaction with existing services. The proposed data collection activities for the evaluation include customer satisfaction surveys, customer comment cards, selected publication surveys, and focus groups.

Respondents: Child Welfare Information Gateway customers.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per survey respondent	Average burden hours per survey response	Total burden hours
Customer Satisfaction Survey—Web site Delivery	1,545	16	.0048	118.7
Customer Satisfaction Survey—E-mail Delivery	29	14	.0048	1.9
Customer Satisfaction Survey—Print Delivery	31	14	.0048	2.1
Customer Satisfaction Survey—Phone Delivery	171	14	.0063	15.1
Comment Card	264	3	.0048	3.8
Selected Publications Survey	85	11	.0048	4.5
Focus Group Guide	28	16	.0625	28

Estimated total annual burden hours: 174.1.

In compliance with the requirements of Section 3506(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, CW, Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *infocollection@acf.hhs.gov*. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collection; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: November 6, 2007.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 07–5610 Filed 11–9–07; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Community-Based Abstinence Education Program (CBAE).

OMB No.: 0970–0272.

Description: The discretionary funding Community-Based Abstinence Education Program (CBAE) is authorized by Title XI, Section 1110, of the Social Security Act (using the definitions contained in Title V, Section 510(b)(2) of the Social Security Act).

Performance Progress Report/Program Narrative

The CBAE *Performance Progress Report/Program Narrative* is a semiannual report form through which grantees report performance information used by the Administration for Children and Families (ACF) to evaluate each grantee's compliance with Federal law and progress toward achieving its goals. Performance information includes:

- Description of major activities and accomplishments during the reporting period;
- Description of deviations or departures from the original project;
- Description of significant findings and events;
- Description of dissemination activities;
- Description of other activities; and
- Description of activities planned for the next reporting period, including goals and objectives.

Program-Specific Performance Measure

The CBAE program is developing a program-specific performance measure in response to the PART review (a process by which the Office of Management and Budget analyzes and rates a Federal program's procedures and strategies for evaluating its effectiveness), for which the program received a rating of Adequate. In an effort to gather program-specific data on rates of abstinence pre- and post-program participation, ACF and the Office of Management and Budget determined that a program-specific performance measure should be developed to assess key outcomes among program participants. The CBAE office convened a panel of abstinence education experts to gather input on the measure, and, based on the input

provided, the CBAE office is developing the measure. CBAE grantees will be required to ask ten to fifteen questions of the youth served in a pre- and post-survey, as well as a representative sample of the youth served in a post-post-survey.

The questions are being carefully constructed by an experienced evaluator to measure initiation and discontinuation of sexual intercourse as well as two key predictors of initiation: Sexual values and behavioral intentions.

The program office will collect and compile data to establish baselines and ambitious targets for the program-specific performance measure. The data will be aggregated and results will be shared with the public as they become available.

Respondents: Performance Progress Report/Program Narrative—Non-profit community-based organizations, faith-based organizations, schools/school districts, universities/colleges, hospitals, public health agencies, local governments, Tribal councils, small businesses/for-profit entities, housing authorities, etc. *Program-Specific Performance Measure*—Youth Participants

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Community-Based Abstinence Education Performance Progress Report/Program Narrative	60	2	50	6,000
Community-Based Abstinence Education Program-Specific Performance Measure	1,000,000	3	1/6	500,000

Estimated Total Annual Burden Hours: 506,000.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: November 6, 2007.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 07–5611 Filed 11–9–07; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Social Services Block Grant (SSBG) Post-expenditure Report.

OMB No.: 0970–0234.

Description: The purpose of this information collection is to (1) extend the collection of post-expenditure data using the current OMB approved reporting form (OMB No. 0970–0234) past the current expiration date of May 31, 2008; and (2) request that States voluntarily use the post-expenditure report format to estimate expenditures and recipients, by service category, as part of the required annual intended use plan.

The Social Services Block Grant program (SSBG) provides funds to assist States in delivering critical services to vulnerable older adults, persons with disabilities, at-risk adolescents and young adults, and children and families in the State. Funds are allocated to the States in proportion to their populations. States have substantial discretion in their use of funds and may determine what services will be provided, who will be eligible, and how funds will be distributed among the various services. State or local SSBG agencies (i.e., county, city, regional offices) may provide the services or may purchase them from qualified agencies, organizations or individuals. States report as recipients of SSBG-funded services any individuals who receive a service funded in whole or in part by SSBG.

States are required to report their annual SSBG expenditures on a standard post-expenditure report. This request seeks approval to continue the use of the current form with no changes. This standard post-expenditure report form includes a yearly total of adults and children served and annual expenditures in each of 29 service categories. The annual report is to be submitted within six months of the end of the period covered by the report, and must address: (1) The number of individuals (as well as the number of children and the number of adults) who receive services paid for, in whole or in part, with Federal funds under the SSBG; (2) the amount of SSBG funds spent in providing each service; (3) the total amount of Federal, State, and local funds spent in providing each service, including SSBG funds; and (4) the method(s) by which each service is provided, showing separately the services provided by public and private agencies. These reporting requirements can be found at 45 CFR 96.74.

Information collected on the post-expenditure report is analyzed and described in an annual report on SSBG expenditures and recipients produced by the Office of Community Services (OCS), Administration for Children and Families (ACF). The information contained in this report is used for program planning and management. The data establish how SSBG funding is used for the provision of services in each State to each of many specific populations of needy individuals.

Federal regulation and reporting requirements for the SSBG also require each State to develop and submit an

annual intended use plan that describes how the State plans to administer its SSBG funds for the coming year. This report is to be submitted 30 days prior to the start of the fiscal year (June 1 if the State operates on a July–June fiscal year, or September 1 if the State operates on a Federal fiscal year).

No specific format is required for the intended use plan. The intended use of SSBG funds, including the types of activities to be supported and the categories and characteristics of individuals to be served, must be provided. States vary greatly in the information they provide and the structure of the report. States are required to submit a revised intended use plan if the planned use of SSBG funds changes during the year.

In order to provide a more accurate analysis of the extent to which funds are spent ''in a manner consistent'' with each of the States' plan for their use, as required by 42 USC 1397e(a), ACF is requesting that States voluntarily use the format of the post-expenditure report form to provide estimates of the amount of expenditures and the number of recipients by service category, that the State plans to use SSBG funds to support as part of the intended use plan. Many states are already using the format of the post-expenditure report form as part of their pre-expenditure report.

Respondents: States.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Post-Expenditure Report	56	1	110	6,160
Use of Post-Expenditure Report Form as Part of the Intended Use Plan	56	1	2	112

Estimated Total Annual Burden Hours: 6,272.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: November 6, 2007

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 07–5612 Filed 11–9–07; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: April 2008 Current Population Survey Supplement on Child Support.

OMB No.: 0992–0003.

Description: Collection of these data will assist legislators and policymakers in determining how effective their policymaking efforts have been over time in applying the various child support legislation to the overall child support enforcement picture. This information will help policymakers determine to what extent individuals on welfare would be removed from the welfare rolls as a result of more stringent child support enforcement efforts.

Respondents: Individuals and Households.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Child Support Survey	41,300	1	.0241666	998

Estimated Total Annual Burden Hours: 998.

In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, *Attn:* ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the

agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to the comments and suggestions submitted within 60 days of this publication.

Dated: November 6, 2007.

Bob Sargis,

Reporting Clearance Officer.

[FR Doc. 07–5626 Filed 11–9–07; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Office of Family Assistance; Notice to Award Single-Source Expansion Supplement Grant

AGENCY: Office of Family Assistance, ACF, HHS.

ACTION: Notice.

C.F.D.A. Number: 93.086.

Statutory Authority: This action is authorized under the Deficit Reduction Act of 2005 (Pub. L. 109–171) which amends Title IV, Section 403(a)(2)(C) of the Social Security Act (42.U.S.C. 603(a)(2)); Section 1110 of the Social Security Act governing Social Services Research and Demonstration activities; Title IV–B, Subpart 2 of the Social Security Act, Promoting Safe and Stable Families; and Section 452(j) of the Social Security Act.

SUMMARY: Notice is hereby given that a single-source program expansion is being made to Public Strategies, Inc., as the National Healthy Marriage Resource Center (NHMRC), located in Oklahoma City, OK, in the amount of $1,250,000 to conduct a national media campaign on the value of marriage and the skills needed to increase marital stability and health. Public Strategies, Inc. and their collaborative partners were competitively awarded on September 30, 2006 to operate the NHMRC. The goal of the NHMRC is to be the ''first stop shop'' for marriage education information, an experienced provider of training and technical assistance, and a major catalyst in advancing the healthy marriage field.

Since healthy marriage is a nascent field, it is necessary for the NHMRC to promote healthy marriage on a broad, national level in order to achieve these stated goals. Research has repeatedly shown that a healthy marriage brings about good outcomes for individuals, families, and especially, for children. A national media campaign would significantly raise the awareness of the benefits of healthy marriage and the benefits of marriage education. The campaign would disseminate information that explains how marriage education can enhance a couple's ability to form and sustain a healthy marriage and describe the benefits to children being raised in healthy, married two parent households.

Additionally, by promoting healthy marriage and marriage education on a national level, the NHMRC will encourage a national discussion and further the mission of ACF's Healthy Marriage Initiative to help couples and individuals, who have chosen marriage for themselves, gain greater access to marriage education services, on a voluntary basis, where they can acquire the skills and knowledge necessary to form and sustain a healthy marriage.

After the appropriate reviews, it has been determined that this single-source expansion qualifies for funding.

The period of this funding will extend from September 30, 2007 through September 29, 2011.

FOR FURTHER INFORMATION CONTACT: Michelle Clune, Office of Family Assistance, Administration for Children and Families, 370 L'Enfant Promenade, SW., Washington, DC 20447, Telephone: 202–401–5467, e-mail: *michelle.clune@acf.hhs.gov*.

Dated: November 6, 2007.

Sidonie Squier,

Director, Office of Family Assistance.

[FR Doc. E7–22101 Filed 11–9–07; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Alternative Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section is 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 Complementary and Alternative Medicine Special Emphasis Panel Omics.

Date: December 7, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Martina Schmidt, PhD, Scientific Review Administrator, Office of Scientific Review, National Center for Complementary, & Alternative Medicine, NIH, 6707 Democracy Blvd., Suite 401, Bethesda, MD 20892, 301–594–3456, *schmidma@mail.nih.gov.*

Dated: November 2, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5621 Filed 11–9–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institutes; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the Sleep Disorders Research Advisory Board.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Sleep Disorders Research Advisory Board.

Date: December 4, 2007.

Time: 8 a.m. to 4 p.m.

Agenda: To discuss sleep research, education priorities, and programs.

Place: National Institutes of Health, Building 31, 31 Center Drive, 6C Room 6, Bethesda, MD 20892.

Contact Person: Michael J. Twery, PhD, Director, National Center on Sleep Disorders Research, Division of Lung Diseases, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Suite 10038, Bethesda, MD 20892–7952, 301–435–0199, *twerym@nhlbi.nih.gov.*

Information is also available on the Institute's/Center's home page: *http://www.nhlbi.nih.gov/meetings/index.htm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS).

Dated: November 2, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5620 Filed 11–9–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed 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 Neurological Disorders and Stroke Special Emphasis Panel, Stroke Prevention/Intervention Program.

Date: November 30, 2007.

Time: 8 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: The Ritz Carlton, Atlanta, 181 Peachtree Street, NE., Atlanta, GA 30303.

Contact Person: Shanta Rajaram, PhD, Scientific Review Administrator, Scientific Review Branch, NIH/NINDS/Neuroscience Center, 6001 Executive Blvd., Suite 3208, Msc 9529, Bethesda, MD 20892, (301) 435–6033, *rajarams@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: November 1, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5614 Filed 11–9–07; 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 PAR 05–031, P01s.

Date: November 28–29, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Peter Zelazowski, PhD, Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, National Inst. of Dental and Craniofacial Research, National Institutes of Health, Bethesda, MD 20892–6402, 301–593–4861, *peter.zelazowski@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: November 1, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5615 Filed 11–9–07; 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. To review T32s received under PAR–05–101 & PAR–07–332.

Date: February 25, 2008.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Mary Kelly, Scientific Review Officer, National Institute of Dental and Crainofacial Res., 45 Center Drive, Natcher Bldg., RM 4AN38F, Bethesda, MD 20892–6402, (301) 594–4809, *mary_kelly@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: November 2, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5617 Filed 11–9–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development

Special Emphasis Panel Institutional Research Training Grant (T32) applications.

Date: December 3, 2007.

Time: 4 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, 5B01, Rockville, MD 20852. (Telephone Conference Call.)

Contact Person: Anne Krey, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, Bethesda, MD 20892, 301–435–6908.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: November 2, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5618 Filed 11–09–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel Special Emphasis Panel Review—Shultz P01.

Date: December 7, 2007.

Time: 11 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, 5B01, Rockville, MD 20852. (Telephone Conference Call.)

Contact Person: Anne Krey, Scientific review Administrator, Division of Scientific review, National Institute of Child Health, and Human Development, National Institutes of Health, Bethesda, MD 20892, 301–435–6908.

(Catalogue of federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: November 2, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5619 Filed 11–09–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The 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, Phenome Project.

Date: November 30, 2007.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817. (Telephone Conference Call).

Contact Person: Ellen S. Buczko, PhD, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–451–2676, *ebuczko1@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: November 2, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5622 Filed 11–9–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Recombinant DNA Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Recombinant DNA Advisory Committee.

Date: December 3–5, 2007.

Time: December 3, 2007, 8 a.m. to 1 p.m.

Agenda: The Recombinant DNA Advisory Committee will review and discuss selected human gene transfer protocols as well as related data management activities. There will also be follow-ups on Consideration of a Proposed Major Action under section III–A–1 of the NIH Guidelines for Research Involving Recombinant DNA Molecules and on a serious adverse event on a gene transfer trial using an AAV vector.

Place: National Institutes of Health, Building 31, Floor 6C, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

Time: December 4, 2007, 8 a.m. to 3 p.m.

Agenda: Continued.

Place: National Institutes of Health, Building 31, Floor 6C, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

Time: December 5, 2007, 8 a.m. to 10:30 a.m.

Agenda: Continued.

Place: National Institutes of Health, Building 31, Floor 6C, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

Contact Person: Laurie Lewallen, Advisory Committee Coordinator, Office of Biotechnology Activities, National Institutes of Health, 6705 Rockledge Drive, Room 750, Bethesda, MD 20892–7985, 301–496–9838, *lewallla@od.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://www4.od.nih.gov/oba/,* where an agenda and any additional information for the meeting will be posted when available.

OMB's ''Mandatory Information Requirements for Federal Assistance Program Announcements'' (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers virtually every NIH and Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: November 2, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5616 Filed 11–9–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Notice Announcing Public Workshop

AGENCY: Privacy Office, Department of Homeland Security (DHS).

ACTION: Notice Announcing Public Workshop.

SUMMARY: The Department of Homeland Security Privacy Office will host a public workshop, *CCTV: Developing Privacy Best Practices.*

DATES: The two-day workshop will be held on December 17, 2007, from 8:30 a.m. to 5 p.m. and on December 18, 2007, from 8:30 a.m. to 12:30 p.m.

ADDRESSES: The workshop will be held in the Gallery Ballroom at the Hilton Arlington Hotel, Arlington, VA (Ballston Metro).

FOR FURTHER INFORMATION CONTACT: Toby Milgrom Levin, DHS Privacy Office, Department of Homeland Security, Washington, DC 20528; by telephone 703–235–0780; by facsimile 703-235–0790; or by e-mail at *privacyworkshop@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Department of Homeland Security (DHS) Privacy Office is holding a public workshop to bring together leading government, academic, policy, and international experts to discuss the impact on privacy and civil liberties of closed circuit television (CCTV). This workshop will provide a forum to begin a discussion to inform development of best practices for the use of CCTV by government agencies. This public workshop is particularly timely given that government agencies at all levels are expressing interest in the use of CCTV, and DHS has awarded a number of grants that have been used to facilitate its use. The workshop will explore how CCTV technology can be used in a manner that respects the privacy and civil liberties of the American public. Development of best practices for the use of this technology will aid in building public trust that privacy and civil liberties will be considered when making decisions to use CCTV. The two-day workshop will consist of a series of panel discussions exploring a variety of perspectives regarding the use of CCTV, including technology, law enforcement, community, international, and legal and policy perspectives. The workshop will culminate in a panel discussion on best practices for CCTV, during which panelists will share their various perspectives and individual recommendations. Workshop attendees will have an opportunity to ask questions after each panel.

The workshop is open to the public, and no fee is required for attendance.

Topics for Comment: To develop a comprehensive record regarding best practices for CCTV, the DHS Privacy Office also invites interested parties to submit written comments as described below. Comments should be received on or before Friday, November 30, 2007, and should be as specific as possible. The Privacy Office is particularly interested in receiving comments on the following topics:

1. Are there existing state, local, or international programs that have developed privacy and civil liberties guidelines for CCTV that can serve as resources for the development of best practices?

2. How can CCTV systems be designed in a manner that respects privacy and civil liberties?

3. What measures are necessary to protect privacy and civil liberties when governments have the ability to link into privately owned CCTV networks or have access to images and footage that such networks have captured?

4. How can Privacy Impact Assessments (PIAs) be used as a means of protecting privacy in this area? What would make for an effective PIA? How can government agencies incorporate the findings of PIAs into their CCTV networks and guidelines?

5. What are the privacy and civil liberties best practices you would recommend for government use of CCTV?

All submissions received must include the docket number: DHS–2007–0076. Written comments may be submitted by any *one* of the following methods:

- *E-mail: privacyworkshop@dhs.gov.* Include ''CCTV Workshop Comment'' in the subject line of the message.
- *Facsimile:* 703–235–0442.
- *Mail:* Toby Milgrom Levin, Department of Homeland Security, Washington, DC 20528.

All written comments received will be posted without alteration on the *http://www.dhs.gov/privacy* Web page for this workshop, including any personal contact information provided.

Registration: In order to assist us in planning for the workshop, we ask that attendees register in advance. To register, please send an e-mail to *privacyworkshop@dhs.gov* with ''CCTV Workshop Registration'' in the subject line, and your name and organizational affiliation, if any, in the body of the e-mail. Alternatively, you may call 703–235–0780 to register and to provide the DHS Privacy Office with your name and organizational affiliation, if any. The Privacy Office will only use this information for purposes of planning this workshop and to contact you in the event of any logistical changes. An agenda and logistical information will be posted on the workshop web page shortly before the event. A written transcript will be posted on the web page following the event.

Special Assistance: Persons with disabilities who require special assistance should indicate this in their

registration request and are encouraged to identify anticipated special needs as early as possible.

Dated: November 5, 2007.

Hugo Teufel III,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. E7–22127 Filed 11–9–07; 8:45 am]

BILLING CODE 4410–10–P

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 Houston, TX; Providence, RI; Chicago, IL; Port Arthur, TX; and Savannah, GA

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 Houston, TX; Providence, RI; Chicago, IL; Port Arthur, TX; and Savannah, GA.

DATES: TWIC enrollment in Houston and Providence will begin on November 14, 2007; TWIC enrollment in Chicago, Port Arthur and Savannah will begin on November 15, 2007.

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 *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), Public Law 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 Houston, TX; Providence, RI; Chicago, IL; Port Arthur, TX; and Savannah, GA only. Enrollment in Houston and Providence will begin on November 14, 2007. Enrollment in Chicago, Port Arthur, and Savannah will begin on November 15, 2007. The Coast Guard will publish a separate notice in the **Federal Register** indicating when facilities within the Captain of the Port Zone Houston-Galveston, including those in the Port of Houston, TX; Captain of the Port Zone Southeastern New England, including those in the Port of Providence, RI; Captain of the Port Zone Lake Michigan, including those in the Port of Chicago, IL; Captain of the Port Zone Port Arthur, including those in the Port of Port Arthur, TX; and Captain of the Port Zone Savannah, including those in the Port of Savannah, GA 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 November 6, 2007.

Stephen Sadler,

Director, Maritime and Surface Credentialing, Office of Transportation Threat Assessment and Credentialing, Transportation Security Administration.

[FR Doc. E7–22072 Filed 11–9–07; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5130–N–14]

Privacy Act of 1974; Amendment to Existing Systems of Records, Debt Collection Asset Management System

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice of an amendment to two existing Systems of Records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), HUD is amending one of Privacy Act record systems, the Debt Collection Asset Management System (DCAMS, HUD/HS 54) notice published in the **Federal Register** on July 26, 2006 (71 FR 36353), to include a new routine. The routine use will permit the disclosure of data transferred from DCAMS to HUD's Credit Alert Interactive Verification Response System (CAIVRS) that makes federal debtor's delinquency and claim information available to program agencies and approved lenders to verify the creditworthiness of loan applicant's.

DATES: *Effective Date:* This action shall be effective without further notice on December 13, 2007 unless comments are received which will result in a contrary determination.

Comments Due Date: December 13, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: The Departmental Privacy Act Officer, 451 Seventh St., SW., Room 4156, Washington, DC 20410, telephone number (202) 619–9057. (This is not a toll-free number.) A telecommunication device for hearing- and speech-impaired individuals (TTY) is available at (800) 877–8339 (Federal Information Relay Service).

SUPPLEMENTARY INFORMATION: Title 5 U.S.C. 552a(e)(4) and (11) provides that the public be afforded a 30-day period in which to comment on the new systems of records, and require published notice of the existence and character of the system of records.

The new system report was submitted to the Office of Management and Budget

(OMB), the Senate Committee on Homeland Security and Governmental Affairs, and the House Committee on Oversight and Government Reform pursuant to paragraph 4c of Appendix 1 to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' July 25, 1994 (59 FR 37914).

Authority: 5 U.S.C. 552a 88 Stat. 1896; 342 U.S.C. 3535(d).

Dated: November 1, 2007.

Mile Milazzo,

Acting Deputy CIO for IT Operations.

HUD/HS–55

SYSTEM NAME:

Debt Collection and Asset Management System (DCAMS), which consists of two sister systems identified as F71 and F71A.

SYSTEM LOCATION:

Mainframe maintained in HUD Headquarters, 451 Seventh Street, SW., Suite P–7110, Washington, DC 20410. Records management performed by HUD's Financial Operations Center, 52 Corporate Circle, Albany, New York 12203.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals who have debts resulting from default on HUD/FHA-insured Title I loans and from other HUD/FHA loan programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains data fields pertaining to defaulted borrowers that include defaulted borrowers' names, addresses, Social Security Numbers, and phone numbers. The system also contains data fields for records relating to payment and other financial account data such as debt balance; loan origination information such as date and amount of loan; date of default; and collection and account statuses. The system also contains narrative remarks (called Case Remarks) that may include notes pertaining to discussions with defaulted borrowers and other parties; information obtained from public and court records, such as assessed property values, lien histories, case information from probate, state, and bankruptcy courts; and employer information for defaulted borrowers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

HUD is granted the authority in 24 CFR 17.60 through 17.170 to collect on claims for money or property arising out of the program activities of the Department. HUD's statutory authority for collecting and managing claims is found at 5 U.S.C. 5514, 28 U.S.C. 2672, and 31 U.S.C. 3711, 3716–18, and 3721. The implementing regulations pertaining to HUD's debt collection activities and collection and use of personal data to support those activities are found at 24 CFR 17.60 through 17.170.

PURPOSES:

The primary purpose of DCAMS is to collect and maintain data needed to support activities related to the collection and servicing of various HUD/FHA debts. Debt collection and servicing activities include sending both automated and manually generated correspondence; making official phone calls; reporting consumer data to the credit bureaus; supporting collection initiatives, such as wage garnishment, offset of federal payments, pursuit of judgments, and foreclosure; and supporting defensive litigation related to foreclosure and actions to quiet title. It contains information on individuals who have debts resulting from default on HUD/FHA insured Title I loans and from other HUD/FHA loan programs.

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

In addition to those disclosures generally permitted under subsection (b) of the Privacy Act of 1974, 5 U.S.C. 522a(b), records may also be disclosed routinely to other users under the following circumstances:

1. Records may be disclosed to individuals under contract, cooperative agreement, or working agreement with HUD to assist the Department in fulfilling its statutory financial and asset management responsibilities.

2. Records may be disclosed during the course of an administrative proceeding, where HUD is a party, to an Administrative Law Judge and to the interested parties to the extent necessary for conducting the proceeding.

3. Records may be disclosed to the Department of Justice for litigation purposes associated with the representation of HUD or other Federal agency before the courts.

4. Records may be disclosed to the Department of Treasury who provides collection services for HUD.

5. Records may be provided to the national credit bureaus for credit reporting purposes.

6. Records may be disclosed to a confidential source to the extent necessary to assist the Office of the Inspector General or the Government Accounting Office in an investigation or audit.

7. Records may be disclosed to employers to effect wage garnishment.

8. Records may be disclosed in asset sale transactions to third party debt purchasers.

9. Records may be transmitted to CAIVRS (Credit Alert Interactive Verification Reporting System) which is a HUD-sponsored database that makes a federal debtor's delinquency and claim information available to federal lending and assistance agencies and private lenders who issue federally insured or guaranteed loans for the purpose of evaluating a loan applicant's creditworthiness.

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

STORAGE:

Records are stored electronically in computer hardware devices and in hard copy in file cabinets or other secure storage units.

RETRIEVABILITY:

Records may be retrieved by computer search via the name, address, or Social Security Number of the defaulted borrower and manually by combination of account number and name of primary defaulted borrower.

SAFEGUARDS:

Records are maintained in a secure computer network and in locked file cabinets in office space with controlled access.

RETENTION AND DISPOSAL:

Computer records for all active cases are available online in DCAMS. Computer records on inactive cases retired from the system are removed from the DCAMS online files and retained in batch files. The case remarks for these cases remain available online. Some reports can be generated based on the information stored in the batch files. Computer records for inactive cases that have been purged from the system are not retained in a batch file. The financial histories for these cases have been printed to microfiche. No other reports are available for purged cases. Records stored in paper files for inactive cases are retained in a Federal Records Center. Records are disposed of and archived in a manner that is consistent with the applicable official HUD Records Disposition Schedules and guidelines.

SYSTEM MANAGER AND ADDRESS:

Lester J. West, Director, HUD, Financial Operations Center, 52 Corporate Circle, Albany, New York 12203.

NOTIFICATION AND RECORD ACCESS PROCEDURES:

Individuals seeking to determine whether this system of records contains information about them, or those seeking access to such records, should address inquiries to the Project Manager of OHHLHC–CIEF, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Suite P–7110, Washington, DC 20410. Written requests must include the full name, current address, and telephone number of the individual making the request, proof of identity, including a description of the requester's relationship to the information in question. The System Manager will accept inquiries from individuals seeking notification of whether the system contains records pertaining to them.

CONTESTING RECORD PROCEDURES:

The procedures for requesting amendment or correction of records and appealing initial denials appear in 24 CFR part 16. If additional information or assistance is required, contact:

(i) In relation to contesting the content of records, the Departmental Privacy Act Officer at HUD, 451 Seventh Street, SW., Room 4156, Washington, DC 20410; and

(ii) In relation to appeals of initial denials, the Departmental Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

RECORD SOURCE CATEGORIES:

Information may be collected from a variety of sources, including HUD, other federal, state, and local agencies, public records, credit reports, and HUD-insured lenders and other program participants.

EXEMPTIONS FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. E7–22077 Filed 11–9–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Take of Migrant Peregrine Falcons in the United States for Use in Falconry

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: This notice is to announce the availability of a *Draft Environmental Assessment and Management Plan (DEA)* for take of migrant peregrine falcons (*Falco peregrinus*) in the United States for use in falconry.

DATES: Comments on the *Draft Environmental Assessment and Management Plan* are due by February 11, 2008.

ADDRESSES: The document is available from, and written comments about it should be submitted to, Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 634, Arlington, VA 22203–1610. The fax number for a request or for comments is 703–358–2272. You can request a copy of the DEA by calling 703–358–1714. The *DEA* also is available on the Division of Migratory Bird Management Web site *at http://www.fws.gov/migratorybirds/.*

FOR FURTHER INFORMATION CONTACT: Dr. George Allen, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, at 703–358–1714.

SUPPLEMENTARY INFORMATION: The peregrine falcon is found almost worldwide. It is found throughout much of North America from the subarctic boreal forests of Alaska and Canada south to Mexico. The Arctic peregrine falcon (*F. p. tundrius*) nests in the tundra of Alaska, Canada, and Greenland, and is typically a long-distance migrant, wintering as far south as South America. The American peregrine falcon (*F. p. anatum*) occurs throughout much of North America from the subarctic boreal forests of Alaska and Canada south to Mexico. The American peregrine falcon nests from central Alaska, central Yukon Territory, and northern Alberta and Saskatchewan, east to the Maritimes and south throughout western Canada and the United States to Baja California, Sonora, and the highlands of central Mexico. However, it is not found in areas of the Pacific Northwest occupied by the Peales's peregrine falcon (*F. p. pealei*), a year-round resident of the northwest Pacific coast from northern Washington to the Aleutian Islands.

Peregrine falcons declined precipitously in North America following World War II, a decline attributed largely to organochlorine pesticides, mainly DDT, applied in the United States and Canada. Because of the decline, we listed the Arctic and American peregrine falcon subspecies were listed as endangered under the Endangered Species Act (16 U.S.C. 1531 *et seq.* on October 13, 1970 (35 FR 16047).

We removed the Arctic peregrine from the Federal List of Endangered and Threatened Wildlife on October 5, 1994 (59 FR 50796) but still regulated this species under the Act in the contiguous U.S. due to the similarity of appearance provision for all peregrine falcons; the American peregrine falcon remained listed as endangered. However, on August 25, 1999, we removed the American peregrine from the list (64 FR 46541) because the subspecies had considerably exceeded the recovery goals set for it in most areas.

Anticipating delisting, in June 1999, the States, through the International Association of Fish and Wildlife Agencies, had proposed allowing take of migrant peregrines for falconry. In an October 4, 1999, **Federal Register** notice (64 FR 53686), we stated that we would consider a conservative level of take of migrant peregrine falcons in the United States. The *DEA* we announce in this notice is required as part of our consideration of allowing the take of migrant peregrines.

In the *DEA,* we considered six alternatives to address potential take of migrant peregrine falcons in the United States and Alaska. Under the No-Action Alternative, no legal take of migrant peregrine falcons for falconry could occur. We also evaluated alternatives that would allow take in different locations and at different times.

The preferred alternative is to allow take of peregrine falcons between September 20th and October 20th from areas of the continental areas south of 31degrees North latitude and east of 100 degrees West longitude, and within the State of Alaska. The allowed take would be consistent with management goals outlined in the *DEA,* and would be very unlikely to have negative effects on any portion of the populations of peregrine falcons in North America or Greenland.

Most of the alternatives would require reductions in the allowed take of nestling American peregrine falcons in the 12 western States in which it is allowed. We propose to allow the decisions on allocation of the reduced take of nestlings to the States themselves, with the recommendations made through the Flyway Councils.

Kenneth Stansell,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. E7–21936 Filed 11–9–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Final Recirculated Environmental Impact Report/Supplemental Environmental Impact Statement for the Coachella Valley Multiple Species Habitat Conservation Plan and Natural Community Conservation Plan, Riverside County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; final recirculated environmental impact report/supplemental environmental impact statement and multiple species habitat conservation plan.

SUMMARY: Pursuant to the National Environmental Policy Act, this notice announces the availability of the Final Recirculated Coachella Valley Multiple Species Habitat Conservation Plan/ Natural Community Conservation Plan (MSHCP), Final Recirculated Environmental Impact Report/ Supplemental Environmental Impact Statement (Final EIR/EIS), and Implementing Agreement. The Coachella Valley Association of Governments, Coachella Valley Conservation Commission, County of Riverside, Riverside County Flood Control and Water Conservation District, Riverside County Parks and Open Space District, Riverside County Waste Management District, Coachella Valley Water District, Imperial Irrigation District, California Department of Transportation, California Department of Parks and Recreation, Coachella Valley Mountains Conservancy, and the cities of Cathedral City, Coachella, Indian Wells, Indio, La Quinta, Palm Desert, Palm Springs, and Rancho Mirage (Applicants) applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The permit is needed to authorize incidental take of listed animal species due to development and certain other activities in the approximately 1.1 million acre Plan Area in the Coachella Valley of Riverside County, California. The Service is publishing this notice to inform the public of the proposed action and to make available for review the Final EIR/EIS, which includes responses to public comments received on the March 2007, Recirculated Draft EIR/ Supplemental Final EIS.

The MSHCP also incorporates a Public Use and Trails Plan, which includes proposals that address non-motorized recreation activities on Federal and non-Federal lands in the Santa Rosa and San Jacinto Mountains. The Bureau of Land Management (BLM) is a Cooperating Agency in this planning process and will use this Final EIR/EIS to make decisions on BLM-administered public lands pertaining to trail use in the Santa Rosa and San Jacinto Mountains. The proposals constitute activity (implementation) level actions in furtherance of the California Desert Conservation Area Plan (1980), as amended, and the Santa Rosa and San Jacinto Mountains National Monument Management Plan (2004). The BLM will issue a separate Record of Decision regarding non-motorized recreation activities on public lands.

DATES: A Record of Decision will be signed no sooner than 30 days after the publication date of the EPA notice. Comments on the Final EIR/EIS must be received on or before December 13, 2007.

ADDRESSES: Comments should be sent to Mr. Jim Bartel, Field Supervisor, U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Carlsbad, California 92011. You may also submit comments by facsimile to 760–431–9624.

FOR FURTHER INFORMATION CONTACT: Ms. Therese O'Rourke, Assistant Field Supervisor, at the Carlsbad Fish and Wildlife Office above; telephone 760–431–9440.

SUPPLEMENTARY INFORMATION:

Availability of Documents

Copies of the Final Recirculated MSHCP, Implementation Agreement, and Final EIR/EIS are available for public review, by appointment, during regular business hours, at the Carlsbad Fish and Wildlife Office or at the Coachella Valley Association of Governments (see **ADDRESSES**). Copies are also available for viewing on the World Wide Web at *http://www.cvmshcp.org* and at the following locations:

(1) Riverside County Planning Department: 4080 Lemon Street, 9th Floor, Riverside, California 92502.

(2) Riverside County Planning: 82675 Hwy 111, Room 209, Indio, California 92201.

(3) U.S. Bureau of Land Management: 690 Garnet Avenue, North Palm Springs, California 92258.

(4) City of Palm Springs: 3200 E. Tahquitz Canyon Way, Palm Springs, California 92262.

(5) City of Cathedral City: 68–700 Avenida Lalo Guerrero, Cathedral City, California 92234.

(6) City of La Quinta: 78–495 Calle Tampico, La Quinta, California 92253.

(7) City of Rancho Mirage: 69825 Highway 111, Rancho Mirage, California 92270.

(8) City of Palm Desert: 73–510 Fred Waring Drive, Palm Desert, California 92260.

(9) City of Indio: 100 Civic Center Mall, Indio, California 92201.

(10) City of Indian Wells: 44950 El Dorado Drive, Indian Wells, California 92210.

(11) City of Coachella: 1515 Sixth Street, Coachella, California 92236.

(12) Cathedral City Public Library: 33520 Date Palm Drive, Cathedral City, California 92234.

(13) Coachella Branch Library: 1538 7th Street, Coachella Valley, California 92260.

(14) Indio Public Library: 200 Civic Center Mall, Indio, California 92201.

(15) Lake Tamarisk Branch Library: Lake Tamarisk Drive, Desert Center, California 92239.

(16) La Quinta Public Library: 78080 Calle Estado, La Quinta, California 92253.

(17) Mecca-North Shore Branch Library: 65250 Cahuilla, Mecca, California 92254.

(18) Palm Springs City Library: 300 South Sunrise Way, Palm Springs, California 92262.

(19) Rancho Mirage Public Library: 42–520 Bob Hope Drive, Rancho Mirage, California 92270.

(20) Riverside County Library: Palm Desert Branch, 73–300 Fred Waring Drive Palm Desert, California 92260.

(21) Thousand Palms Library: 72–715 La Canada Way, Thousand Palms, California 92276.

(22) Coachella Valley Association of Governments: 73–710 Fred Waring Drive, Suite 200, Palm Desert, California 92260.

Background Information

A permit is needed because section 9 of the Act and Federal regulations prohibit the ''take'' of animal species listed as endangered or threatened. Take of listed animal species is defined under the Act to include kill, harm, or harass. Harm includes significant habitat modification or degradation that actually kills or injures listed animals by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering [50 CFR 17.3(c)]. Under limited circumstances, the Service may issue permits to authorize incidental take; i.e., take that is incidental to, and not the purpose of, otherwise lawful activity. Although take of plant species is not prohibited under the Act, and therefore cannot be

authorized under an incidental take permit, plant species are proposed to be included on the permit in recognition of the conservation benefits provided to them under the MSHCP. Assurances provided under the No Surprises Rule at 50 CFR 17.3, 17.22(b)(5), and 17.32(b)(5) would extend to all species named on the permit. Regulations governing incidental take permits for threatened and endangered species are found in 50 CFR 17.32 and 17.22, respectively.

The EIR/EIS analyzes the impacts of the proposed implementation of the MSHCP by the Applicants. The Applicants seek an incidental take permit and assurances to incidentally take 22 animal species and assurances for 5 plants. Collectively, the 27 listed and unlisted species are referred to as ''Covered Species'' by the MSHCP and include 5 plant species (2 endangered, 3 unlisted); 2 insect species (both unlisted); 1 fish species (endangered); 1 amphibian species (endangered); 3 reptile species (2 threatened, 1 unlisted); 11 bird species (3 endangered, 8 unlisted); and 4 mammal species (1 endangered and 3 unlisted).

The federally listed species include the Coachella Valley milk-vetch (*Astragalus lentiginosus* var. *coachellae*), triple-ribbed milk-vetch (*Astragalus tricarinatus*), desert pupfish (*Cyprinodon macularius*), arroyo toad (*Bufo californicus*), desert tortoise (*Gopherus agassizii*), Coachella Valley fringe-toed lizard (*Uma inornata*), Yuma clapper rail (*Rallus longirostris yumanensis*), southwestern willow flycatcher (*Empidonax traillii extimus*), least Bell's vireo (*Vireo bellii pusillus*), and Peninsular bighorn sheep (*Ovis canadensis cremnobates*). The Coachella Valley round-tailed ground squirrel (*Spermophilus tereticaudus chlorus*) is a Federal Candidate. The unlisted species include the Mecca aster (*Xylorhiza cognate*), Orocopia sage (*Salvia greatae*), Little San Bernardino Mountains linanthus (*Linanthus maculates*) or (*Gilia maculata*), Coachella Valley giant sand-treader cricket (*Macrobaenetes valgum*), Coachella Valley Jerusalem cricket (*Stenopelmatus cahuilaensis*), flat-tailed horned lizard (*Phrynosoma mcalli*), burrowing owl (*Athene cunicularia*), crissal thrasher (*Toxostoma crissale*), Le Conte's thrasher (*Toxostoma lecontei*), gray vireo (*Vireo vicinior*), yellow warbler (*Dendroica petechia brewsteri*), yellow-breasted chat (*Icteria virens*), summer tanager (*Piranga rubra*), California black rail (*Laterallus jamaicensis*), southern yellow bat (*Lasiurus ega xanthinus*), and Palm Springs pocket mouse (*Perognathus longimembris bangsi*).

The Coachella Valley Association of Government's Executive Committee approved the Final Recirculated MSHCP on September 10, 2007. The MSHCP is intended to protect and sustain viable populations of native plant and animal species and their habitats in perpetuity through the creation of a reserve system, while accommodating continued economic development and quality of life for residents of the Coachella Valley. The MSHCP plan area includes the following eight incorporated cities: Cathedral City, Coachella, Indian Wells, Indio, La Quinta, Palm Desert, Palm Springs, and Rancho Mirage. It is one of two large, multiple-jurisdictional habitat-planning efforts in Riverside County, each of which constitutes a ''subregional'' plan under the State of California's NCCP Act, as amended.

The MSHCP identifies the proposed reserve system, which would be established from lands within 21 conservation areas that are either adjacent or linked by biological corridors. When completed, the reserve system would include core habitat for Covered Species, essential ecological processes, and biological corridors and linkages to provide for the conservation of the proposed Covered Species.

The MSHCP includes measures to avoid and minimize incidental take of the proposed Covered Species, emphasizing project design modifications to protect both habitats and species' individuals. A monitoring and reporting plan would measure the MSHCP's success based on achieving biological goals and objectives; thus, ensuring conservation keeps pace with development. The MSHCP also includes a management program, with adaptive management, which allows for changes in the conservation program if the biological species objectives are not met, or new information becomes available to improve the efficacy of the MSHCP's conservation strategy.

Covered Activities, as described in the MSHCP, would include public and private development within the plan area that require discretionary actions by an Applicant, making them subject to consistency with MSHCP, regional transportation facilities, maintenance of and safety improvements on existing roads, the Circulation Elements of the Applicants, maintenance and construction of flood control facilities, and compatible uses in the reserve. The MSHCP makes provision for the inclusion of special districts and other non-Applicant entities in the permit with a certificate of inclusion.

Public Review

The Service and the cooperating agency issued a notice of intent to prepare an EIR/EIS for the proposed MSHCP, on June 28, 2000 (65 FR 39920); a notice of availability of the Draft Environmental Impact Report/ Environmental Impact Statement for the proposed MSHCP on November 5, 2004 (69 FR 64581); a notice of availability of the Final Environmental Impact Report/ Environmental Impact Statement for the proposed MSHCP on April 21, 2006 (71 FR 20719); and a notice of availability of the Recirculated Draft EIR/ Supplemental Final EIS for the proposed MSHCP on March 30, 2007 (72 FR 15148) for a 60-day public comment period.

The Recirculated Draft EIR/ Supplemental Final EIS analyzed the potential environmental impacts that may result from the Federal action of authorizing incidental take anticipated to occur with implementation of the MSHCP, and identified various alternatives. We received 67 comment letters on the Recirculated Draft EIR/ Supplemental Final EIS. A response to each comment received in these letters has been included in Volume 5 of the Final EIR/EIS. The analysis provided in the Final EIR/EIS is intended to accomplish the following: inform the public of the Service's proposed action and alternatives; address public comments received on the Recirculated Draft EIR/Supplemental Final EIS; disclose the direct, indirect, and cumulative environmental effects of our proposed action and alternatives; and indicate any irreversible commitment of resources that would result from implementation of the proposed action and alternatives. This notice is provided pursuant to section 10(a) of the Act and Service regulations for implementing National Environmental Policy Act (40 CFR 1506.6).

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 may 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.

We will evaluate the permit application, associated documents, and public comments to determine whether the application meets the requirements of section 10(a) of the Act. The Service will then prepare a Record of Decision. A permit decision will be made no

sooner than 30 days after the publication of this notice and completion of the Record of Decision.

Dated: October 26, 2007.

Ken McDermond,

Deputy Manager, California/Nevada Operations Office, Sacramento, California.

[FR Doc. E7–22087 Filed 11–9–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proclaiming Certain Lands as Reservation for the Nottawaseppi Huron Band of Potawatomi Indians of Michigan

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Reservation Proclamation.

SUMMARY: This notice informs the public that the Assistant Secretary—Indian Affairs proclaimed approximately 78.26 acres, more or less, as the Nottawaseppi Huron Band of Potawatomi Indian Reservation for the Nottawaseppi Huron Band of Potawatomi Indians of Michigan.

FOR FURTHER INFORMATION CONTACT: Ben Burshia, Bureau of Indian Affairs, Division of Real Estate Services, 1849 C Street, NW., Mail Stop-4639-MIB, Washington, DC 20240, telephone (202) 208–7737.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by part 209 of the Departmental Manual.

A proclamation was issued according to the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 467), for the land described below. The land was proclaimed to be the Nottawaseppi Huron Band of Potawatomi Indian Reservation for the exclusive use of Indians on that reservation who are entitled to reside at the reservation by enrollment or tribal membership.

Michigan Meridian

Calhoun County, State of Michigan; Sackrider Parcel

Commencing at the West ¼ post of Section 13, Town 2 South, Range 7 West, Emmett Township, Calhoun County, Michigan; thence North 00 degrees 03′ 28″ East along the West line of said Section, 46.99 feet to the Southerly line of the exit ramp for I–94, as recorded in Liber 898 on page 4, in the Office of the Register of Deeds for Calhoun County, Michigan; thence North 89 degrees 06′ 09″ East along said Southerly line, 214.69 feet; thence 362.37 feet along the arc of a curve to the left whose radius measures 362.0 feet and whose chord bears North 60 degrees 2′ 31″ East, 347.43 feet; thence North 31 degrees 44′ 56″ East, 263.62 feet; thence North 59 degrees 52′ 54″ East, 81.39 feet to the place of beginning; thence continuing North 59 degrees 52′ 54″ East, 181.87 feet; thence South 78 degrees 01′ 12″ East, 472.30 feet; thence South 76 degrees 27′ 00″ East 1357.31 feet; thence South 00 degrees 04′ 24″ West, 205.69 feet to the Northwest corner of Lot 21 of the Supervisor's plat of Wagner Acres, as recorded in Liber 11 of plats, on page 21, in the Office of the Register of Deeds for Calhoun County, Michigan; thence South 00 degrees 4′ 24″ West along the West line of said Plat, 1992.58 feet to the centerline of Michigan Avenue; thence North 55 degrees 29′ 21″ West along said centerline, 2350.98 feet; thence North 00 degrees 03′ 28″ East, 1191.07 feet to the place of beginning.

The above-described lands contain a total of 78.26 acres, more or less, which is subject to all valid rights, reservations, rights-of-way, and easements of record.

This proclamation does not affect title to the land described above, nor does it affect any valid existing easements for public roads and highways, public utilities and for railroads and pipelines and any other rights-of-way or reservations of record.

Dated: October 15, 2007.

Carl J. Artman,

Assistant Secretary—Indian Affairs.

[FR Doc. E7–22158 Filed 11–9–07; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–116–5882–PA; HAG–07–0130]

Emergency Closures and Restrictions on Public Land in Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Emergency Closures and Restrictions.

SUMMARY: Pursuant to Title 43 Code of Federal Regulations (CFR), § 8364.1 and 43 CFR 8341.2(a), the Bureau of Land Management (BLM) Medford District Office is publishing these closures and restrictions for motorized vehicles on certain public lands in Jackson County Oregon. These lands are located within the Timber Mountain Off-Highway Vehicle (OHV) Area, under the jurisdiction of the BLM Medford District Office. The closures and restrictions are needed in order to protect the area's natural resources and provide for public health and safety and address ongoing resource damage, vehicles and off-road vehicles, and conduct.

EFFECTIVE DATE: These closures and restrictions are effective at the time of this publication, November 13, 2007, and will remain in effect until the adverse effects are eliminated and measures are implemented to prevent their reoccurrence. Comments may still be submitted and are welcome.

Comments, including names, street addresses, and other contact information of respondents, will be available for public review at the office of the Bureau of Land Management, Medford, Oregon, during regular business hours (7:45 a.m. to 4:30 p.m.), Monday through Friday, except Federal holidays. Before including your address, telephone number, email address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

ADDRESSES: Address all comments concerning these closures and restrictions to: John Gerritsma, Bureau of Land Management, Medford District Office, 3040 Biddle Road, Medford, Oregon 97504. Comments may also be submitted electronically to *Medford_Mail@blm.gov.*

FOR FURTHER INFORMATION CONTACT: John Gerritsma, Medford District Office, Medford, Oregon, telephone (541) 618–2438. Persons who use a telecommunications device for the deaf (TDD) may contact this individual by calling the Federal Information Relay Service (FIRS) at (800) 877–8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION: The BLM's Medford District Office has closed Bunny Meadows (a gravel stockpile site) and the surrounding public lands to camping and off-road vehicle use. Off-road (or off-highway) vehicle off-loading in a designated area, and motorized vehicle use on BLM road 38S–3W–14.0 will continue to be allowed to facilitate OHV access to trails and roads located to the west of Bunny Meadows on BLM-administered lands. The purpose of the closure is to protect soils, water, and fisheries resources that

are suffering adverse impacts due to OHV use. In addition, this closure is needed to protect public health and safety. The legal description of the Bunny Meadows closure area is BLM-administered land in the W½ of Section 14, the NE¼ NE¼ of Section 15, and the SE¼ NE¼ of Section 15, T. 38 S., R. 3 W., Willamette Meridian (WM). This closure involves about 200 acres of BLM-administered lands.

OHV use, and associated dispersed camping, has increased tremendously in the past year in the Bunny Meadows area resulting in a user-created OHV track (used to ride laps) within streamside Riparian Reserves of Forest Creek and immediately adjacent to homes on private land. Forest Creek is designated Coho Critical Habitat, and unmanaged OHV use and dispersed camping in streamside Riparian Reserves in the Bunny Meadows area is contributing to increased sediment in Forest Creek. Coho salmon are listed as a Threatened species under the Endangered Species Act. OHVs are also crossing Forest Creek County Road along a curve with poor visibility in order to access BLM-administered lands to the north of Bunny Meadows.

The BLM Medford District Office has closed about 1,524-acres of BLM-administered lands to OHVs in the northeastern corner of the Timber Mountain OHV Area. Closed lands include portions of Sections 1, 2, 11, 12, and 13, T. 37 S., R. 3 W., and portions of Sections 5, 6, 7, 8, and 17, T. 37 S., R. 2 W., W.M. The purpose of the closure is to protect soils, water, and fisheries resources that are being adversely impacted by OHV use.

Stream surveys were conducted on a reach of Kane Creek in September 2005. Habitat conditions have changed substantially since the last survey in 2001 and are declining. Kane Creek is identified as Critical Habitat for coho salmon. Decomposed granitic sand accounts for 80–100% of all substrates in pool habitats, with deposits as much as 10 inches in depth observed. Many of the pools have accumulated so much sand that they no longer function as pools. Decomposed granitic sand now accounts for 70% of all substrates, followed by cobble (13%) and boulder (10%). Suitable aquatic habitat capable of supporting populations of salmonids has been reduced in this section of Kane Creek due to the large accumulation of sand. The deposition of sediment (granitic sand) throughout this reach is so extensive that the reach is no longer capable of storing any additional inputs. Any additional sediment inputs will be transported downstream to other aquatic habitats and stored where conditions permit, potentially impacting the entire fish bearing reach of Kane Creek. In 2001, substrate composition was described for this same reach as 10% silt, 30% sand, 25% gravel, 25% cobble, and 10% boulder. The major sources of this sediment are old skid trails and roads now used as an OHV trail system located upstream on BLM-managed lands and adjacent private lands. These roads and trails are located in highly erodible granitic soils. OHV riders are accessing these trails from both private and BLM-managed lands. One of the main access points is located on BLM-managed lands located off of Kane Creek road.

The closures, located within the Timber Mountain OHV Area, have been posted on the ground with signs. Maps of the closures are available upon request in the office of the Bureau of Land Management, 3040 Biddle Road, Medford, Oregon. Maps of the closures are also posted on BLM's Web site: *http://www.blm.gov/or/districts/medford/recreation/timberedmountain.php*.

The BLM designated the 16,250-acre Timber Mountain OHV Area to provide for ''limited'' OHV use in the 1995 Medford District Resource Management Plan (RMP). The Medford District BLM is in the process of developing the Timber Mountain Off-highway Vehicle Management Plan and Environmental Impact Statement to guide OHV use in the area.

These closures and restrictions are necessary to protect the area's natural resources, provide for the public's health and safety, and provide needed guidance in the areas of camping, occupancy, and recreation. The authorities for these closures and restrictions are 43 CFR 8341.2(a), 43 CFR 8360.0–7, and 43 CFR 8364.1. Closures and restrictions for the above-described public lands managed by the BLM are as follows:

Definitions

Off Road Vehicle (ORV) or Off-highway Vehicle (OHV): These terms are used interchangeably in this document. ORV as defined by 43 CFR section 8340.0–5(a): ''any motorized vehicle capable of, or designed for, travel on or immediately over land, water, or other natural terrain, excluding:

(1) Any nonamphibious registered motorboat;

(2) Any military, fire, emergency, or law enforcement vehicle while being used for emergency purposes;

(3) Any vehicle whose use is expressly authorized by the authorized officer, or otherwise officially approved;

(4) Vehicles in official use; and

(5) Any combat or combat support vehicle when used in times of national defense emergencies.''

Closures and Restrictions for Bunny Meadows and Timber Mountain

You must not enter areas that are posted or otherwise delineated as closed areas with any motorized vehicle.

You must not camp in the Bunny Meadows closure area.

Exceptions

Exceptions to these closures and restrictions include emergency personnel (law enforcement, fire, medical), authorized BLM personnel and persons authorized to access private lands and rights-of-way within the closure boundary, any person traveling along Forest Creek County road in accord with State and County rules (non-street legal motorized vehicles are not allowed on county roadways), anyone who is off-loading OHVs in the designated parking area at Bunny Meadows gravel stockpile area or traveling in a motorized vehicle along BLM road 38S–3W–14.0 to trails and roads located to the west of Bunny Meadows on BLM-administered lands, and any person who is off-loading OHVs or traveling in a motorized vehicle along BLM road 37S–3W–11.0 to trails and roads located on BLM-administered lands southwest of the closure area.

Penalties

On public lands subject to the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701 *et seq.*, any person who violates this closure order may be tried before a United States Magistrate and fined no more than $1,000 or imprisoned for no more than 12 months, or both. 43 U.S.C. 1733(a); 43 CFR 8360.0–7. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

On public lands in grazing districts (see 43 U.S.C. 315a) and on public lands leased for grazing under 43 U.S.C. 315m, any person who violates this closure order may be tried before a United States Magistrate and fined no more than $500.00. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

On public lands subject to a conservation and rehabilitation program implemented by the Secretary under 16 U.S.C. 670g *et seq.* (Sikes Act), any person who violates this closure order may be tried before a United States Magistrate and fined no more than $500.00 or imprisoned for no more than six months, or both. 16 U.S.C. 670j(a)(2). Such violations may also be subject to

the enhanced fines provided for by 18 U.S.C. 3571.

John Gerritsma,

Field Manager, Ashland Resource Area, Medford District Bureau of Land Management.

[FR Doc. E7–22170 Filed 11–9–07; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–140–08–1610–DP]

Notice of Public Meeting, Northwest Colorado Resource Advisory Council Subcommittees for the Kremmling Resource Management Plan Revision

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of Public Meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Northwest Colorado Resource Advisory Council (RAC) Subcommittee on the Kremmling Resource Management Plan (RMP) Revision will meet as indicated below.

DATES: Nov. 27, 2007, from 5 p.m. to 7 p.m.

ADDRESSES: The Kremmling Subcommittee will meet at the Kremmling Field Office, 2103 E. Park Ave., Kremmling, CO.

FOR FURTHER INFORMATION CONTACT: Joe Stout, Lead Planner, 2103 E. Park Ave., Kremmling, CO; telephone 970–724–3003.

SUPPLEMENTARY INFORMATION: The Northwest Colorado RAC advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of public land issues in northwestern Colorado. Two subcommittees have been formed under this RAC to advise it regarding the joint Glenwood Springs and Kremmling Field Offices' RMP Revisions. The individuals on each subcommittee represent a broad range of interests and have specific knowledge of the Field Offices. The Glenwood Springs subcommittee is comprised of up to 14 individuals and will focus on all aspects of the Glenwood Springs RMP Revision. The Kremmling Subcommittee is comprised of 10 individuals who will focus specifically on travel management and recreation issues for the Kremmling RMP Revision. Recommendations developed by these subcommittees will be presented formally for discussion to the NW RAC at publicly announced meetings of the full NW RAC.

Dated: November 2, 2007.

David Boyd,

Acting Glenwood Springs Field Manager, Lead Designated Federal Officer for the Northwest Colorado RAC.

[FR Doc. 07–5598 Filed 11–9–07; 8:45 am]

BILLING CODE 4310–JB–M

DEPARTMENT OF INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before October 27, 2007. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St., NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St., NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by November 28, 2007.

J. Paul Loether,

Chief, National Register of Historic Places/ National Historic Landmarks Program.

DISTRICT OF COLUMBIA

District of Columbia

Armed Forces Retirement Home—Washington, 3700 N Capitol St, NW, Washington, 07001237.

ILLINOIS

Cook County

Lumber Exchange Building and Tower Addition, 11 S LaSalle, Chicago, 07001238.

West Burton Place Historic District, 143–161 W Burton Pl, Chicago, 07001239.

MASSACHUSETTS

Bristol County

Spring Brook Cemetery, Spring St, Mansfield, 07001240.

Middlesex County

Revere Beach Parkway—Metropolitan Park System of Greater Boston, (Metropolitan Park System of Greater Boston MPS), Revere Beach Pkwy, Chelsea, 07001241.

MINNESOTA

Dodge County

Kasson Public School, 101 3rd Ave, NW, Kasson, 07001242.

MONTANA

Musselshell County

Roundup Central School, 600 1st St W, Roundup, 07001243.

NORTH DAKOTA

Burleigh County

Camp Hancock, 101 Main Ave, Bismarck, 07001244.

[FR Doc. 07–5613 Filed 11–09–07; 8:45 am]

BILLING CODE 4312–51–M

INTERNATIONAL TRADE COMMISSION

[USITC SE–07–024]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: November 16, 2007 at 11 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meetings: None.

2. Minutes.

3. Ratification List.

4. Inv. Nos. 701–TA–451 and 731–TA–1126–1128 (Preliminary) (Certain Lightweight Thermal Paper from China, Germany, and Korea)—briefing and vote. (The Commission is currently scheduled to transmit its determinations to the Secretary of Commerce on or before November 27, 2007; Commissioners' opinions are currently scheduled to be transmitted to the Secretary of Commerce on or before December 4, 2007.)

5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: November 6, 2007.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. E7–22081 Filed 11–9–07; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1103–0096]

Office of Community Oriented Policing Services; Agency Information Collection Activities: Extension of a Previously Approved Collection, With Change; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: COPS Application Guide.

The Department of Justice (DOJ) Office of Community Oriented Policing Services (COPS), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The extension of a previously approved information collection is published to obtain comments from the public and affected agencies.

The purpose of this notice is to allow for 60 days for public comment until January 14, 2008. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Rebekah Dorr, Department of Justice Office of Community Oriented Policing Services, 1100 Vermont Avenue, NW., Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the 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 previously approved collection, with change; comments requested.

(2) *Title of the Form/Collection:* COPS Application Guide.

(3) *Agency Form Number, if any, and the applicable component of the Department sponsoring the collection:* None. U.S. Department of Justice Office of Community Oriented Policing Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Law enforcement agencies and other public and private entities that apply for COPS Office grants or cooperative agreements will be asked to review the COPS Application Guide. The COPS Application Guide provides instructions for all applicants and is the result of a COPS Office business process reengineering effort aimed at standardization as required under the grant streamlining requirements of Public Law 106–107, the Federal Financial Assistance Management Improvement Act of 1999, as well as the President's Management Agenda E-grants Initiative. This collection combines the previously approved collection COPS Application Guide: Targeted/Invited Programs (1103–0096) with the collection COPS Application Guide: Open/Competitive Programs (1103–0095).

(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 6,200 respondents annually will complete the form within 1 hour.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 6,200 total annual burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

November 6, 2007.

Lynn Bryant,

Department Clearance Officer, PRA, Department of Justice.

[FR Doc. E7–22075 Filed 11–9–07; 8:45 am]

BILLING CODE 4410–AT–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–0006]

Office on Violence Against Women Agency Information Collection Activities: Revision of a Currently Approved Collection

ACTION: 60-Day Notice of Information Collection Under Review: Semi-Annual Progress Report for the Grants To Encourage Arrest Policies and Enforcement of Protection Orders Program.

The Department of Justice, Office on Violence Against Women (OVW) 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. Comments are encouraged and will be accepted for ''sixty days'' until January 14, 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:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* Semi-Annual Progress Report for Grants to Encourage Arrest Policies and Enforcement of Protection Orders Program.

(3) *Agency Form Number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* 1122–0006. U.S. Department of Justice, Office on Violence Against Women.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes the approximately 200 grantees of the Grants to Encourage Arrest Policies and Enforcement of Protection Orders Program (Arrest Program) whose eligibility is determined by statute. The Arrest Program was authorized through the Violence Against Women Act (VAWA) and reauthorized and amended by the Violence Against Women Act of 2000 (VAWA 2000) and by the Violence Against Women Act of 2005 (VAWA 2005). The Arrest Program promotes mandatory or pro-arrest policies and encourages jurisdictions to treat domestic violence and sexual assault as a serious crime, establish coordinated community responses and facilitate the enforcement of protection orders. By statute, eligible grantees for the Arrest Program are States, Indian tribal governments, State and local courts including juvenile courts, tribal courts, and units of local government. For the purpose of this Program, a unit of local government is any city, county, township, town, borough, parish, village, or other general-purpose political subdivision of a State; an Indian tribe that performs law enforcement functions as determined by the Secretary of Interior; or, for the purpose of assistance eligibility, any agency of the District of Columbia government or the United States Government performing law enforcement functions in and for the District of Columbia, and any Trust Territory of the U.S.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that it will take the 200 respondents (Arrest Program grantees) approximately one hour to complete a semi-annual progress report. The semi-annual progress report is divided into sections that pertain to the different types of activities that grantees may engage in, i.e. training or developing a protection order registry, and the different types of grantees that receive funds, *i.e.* law enforcement agencies, prosecutors' offices, courts, victim services agencies, etc. An Arrest Program grantee will only be required to complete those sections of the form that pertain to their own specific activities.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 400 hours, that is 200 grantees completing a form twice a year with an estimate completion time for the form being one hour.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Suite 1600, Patrick Henry Building, 601 D Street, NW., Washington, DC 20530.

Dated: November 6, 2007.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E7–22076 Filed 11–9–07; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–NEW]

Office on Violence Against Women; Agency Information Collection Activities: New Collection

ACTION: 60-Day Notice of Information Collection Under Review: Semi-Annual Progress Report for the Grants to Indian Tribal Governments Program.

The Department of Justice, Office on Violence Against Women (OVW) 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. Comments are encouraged and will be accepted for ''sixty days'' until January 14, 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:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New Collection.

(2) *Title of the Form/Collection:* Semi-Annual Progress Report for Grants to Indian Tribal Governments Program.

(3) *Agency Form Number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* None. U.S. Department of Justice, Office on Violence Against Women.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes the approximately 85 grantees of the Grants to Indian Tribal Governments Program (Tribal Governments Program), a new grant program authorized by the Violence Against Women Act of 2005. This discretionary grant program is designed to enhance the ability of tribes to respond to violent crimes against Indian women, enhance victim safety, and develop education and prevention strategies. Eligible applicants are recognized Indian tribal governments or their authorized designees.

(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 it will take the approximately 85 respondents (Tribal Governments Program grantees) approximately one hour to complete a semi-annual progress report. The semi-annual progress report is divided into sections that pertain to the different types of activities in which grantees may engage. A Tribal Governments

Program grantee will only be required to complete the sections of the form that pertain to its own specific activities.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 170 hours, that is 85 grantees completing a form twice a year with an estimated completion time for the form being one hour.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Suite 1600, Patrick Henry Building, 601 D Street, NW., Washington, DC 20530.

Dated: November 6, 2007.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E7–22078 Filed 11–9–07; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

October 26, 2007.

The Department of Labor (DOL) hereby announces the submission the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation; including among other things a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Darrin King on 202–693–4129 (this is not a toll-free number)/e-mail: *king.darrin@dol.gov.*

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: Katherine Astrich, OMB Desk Officer for the Employment and Training Administration (ETA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–7316 / Fax: 202–395–6974 (these are not a toll-free numbers), E-mail: *OIRA_submission@omb.eop.gov* within 30 days from the date of this publication in the **Federal Register.** In order to ensure the appropriate consideration, comments should reference the OMB Control Number (see below).

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment and Training Administration.

Type of Review: Revision of a currently approved collection.*

Title: Benefits Timeliness and Quality Review System.

OMB Control Number: 1205–0359.

Form Numbers: ETA–9050; ETA; 9051; ETA–9052; ETA–9054; ETA–9055; ETA–9056; and ETA–9057 (*the previously used Form ETA–9053 is being eliminated).

Affected Public: State Governments.

Estimated Number of Respondents: 53.

Estimated Total Annual Burden Hours: 37,532.

Estimated Total Annual Costs Burden: $0.

Description: The information collected under the Benefits Timeliness and Quality (BTQ) Review System and associated forms (see above) is one of the primary means used by the Department to assess state Unemployment Insurance (UI) program performance levels and to ensure that the Secretary's oversight responsibilities for determining the proper and efficient administration of the UI program are carried out pursuant to the Social Security Act Title III, section 303(a)(1). State Workforce Agencies also use the BTQ performance measures for their internal UI program assessment.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. E7–22080 Filed 11–9–07; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

[TA–W–61,897]

Employment and Training Administration

Management Business Solutions, LLC, Applications Support Department, Fort Collins, Colorado; Notice of Negative Determination Regarding Application for Reconsideration

By application dated October 17, 2007, workers requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of Management Business Solutions, LLC, Applications Support Department, Fort Collins, Colorado (subject firm) to apply for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA). The determination was issued on September 6, 2007. The Notice of determination was published in the **Federal Register** on September 21, 2007 (72 FR 54076).

The worker-filed TAA/ATAA petition was denied because the subject firm does not produce an article within the meaning of section 222(a)(2) of the Act. The determination stated that, because the workers did not produce an article, and did not support a firm or appropriate subdivision that produced an article domestically, the workers cannot be considered import impacted or affected by a shift of production abroad. Workers are engaged in support of internal business applications for the subject firm's clients.

Pursuant to 29 CFR 90.18(c), administrative reconsideration may be granted if:

(1) It appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The request for reconsideration alleges that (1) the subject firm shifted production of an article (''application management service'') overseas and (2) consulting firms, such as the subject firm, are covered by the Trade Act because it ''does not differentiate between types of businesses that it covers.''

It is the Department's policy that the subject firm must produce an article domestically. The Department's policy

is supported by current regulation. 29 CFR section 90.11(c)(7) requires that the petition includes a ''description of the articles produced by the workers' firm or appropriate subdivision, the production or sales of which are adversely affected by increased imports, and a description of the imported articles concerned. If available, the petition should also include information concerning the method of manufacture, end uses, and wholesale or retail value of the domestic articles produced and the United States tariff provision under which the imported articles are classified.''

In order to determine whether the subject firm is a manufacturing firm, the Department consulted the Web site for the North American Industry Classification System (NAICS). The NAICS Web site (*http://www.naics.com/faq.htm#q1*) states that ''The North American Industry Classification System * * * was developed as the standard for use by Federal statistical agencies in classifying business establishments for the collection, analysis, and publication of statistical data related to the business economy of the U.S.'' The NAICS designation identifies the primary activity of the company, which is useful in understanding what a firm does for its customers, which, in turn, aids in determining whether a firm produces an article or provides services for its customers.

The subject firm is categorized in NAICS subsection 541611 (''Administrative Management and General Management Consulting Services''). This category consists of ''establishments primarily engaged in providing operating advice and assistance to businesses and other organizations on administrative management issues, such as financial planning and budgeting, equity and asset management, records management, office planning, strategic and organizational planning, site selection, new business startup, and business process improvement'' and includes ''establishments of general management consultants that provide a full range of administrative; human resource; marketing; process, physical distribution, and logistics; or other management consulting services to clients.''

After careful review of the request for reconsideration and previously submitted information, the Department determines that the subject firm is a service firm and not a manufacturing firm. As a corollary, the Department determines that there was no shift of production abroad.

The Department operates the program in accordance with current law, and while the Department has discretion to issue regulations and guidance on the operation of a program that it is charged with implementing, the Department cannot expand the program to include workers that Congress did not intend to cover.

In 2002, while amending the Trade Act, the Senate explained the purpose and history of TAA:

> Since it began, TAA for workers has covered mostly manufacturing workers, with a substantial portion of program participants being steel and automobile workers in the mid- to late-1970s to early 1980s, and light industry and apparel workers in the mid- to late-1990s. In fiscal years 1995 through 1999, the estimated number of workers covered by certifications under the two TAA for workers programs averaged 167,000 annually, reaching a high of about 228,000 in 1999, despite a falling overall unemployment rate. During the same period, approximately 784 firms were certified under the TAA for firms program. Participating firms represent a broad array of *industries producing manufactured products,* including auto parts, agricultural equipment, electronics, jewelry, circuit boards, and textiles, as well as some producers of agricultural and forestry products.

S. Rep. 107–134, S. Rep. No. 134, 107th Cong., 2nd Sess. 2002, 2002 WL 221903 (February 4, 2002)(emphasis added). Clearly, the language suggests that the focus of TAA is the manufacture of marketable goods.

Congress has recognized the difference between manufacturers and service firms and that an amendment to the Trade Act is needed to cover workers in service firms. It has recently rejected at least two attempts to amend the Trade Act to expand TAA coverage to service firms. It did not pass the ''Trade Adjustment Assistance Equity for Service Workers Act of 2005'' or the ''Fair Wage, Competition, and Investment Act of 2005.'' Most recently, Senator Baucus introduced the ''Trade and Globalization Adjustment Assistance Act of 2007'' which provides for an expansion of coverage to workers in a ''service sector firm'' when there are increased imports of services like or directly competitive with articles produced or services provided in the United States, or a shift in provision of like or directly competitive articles or services to a foreign country, and Congressman Rangel introduced a similar bill in the House of Representatives that was discussed in late October 2007.

Until Congress amends the Trade Act to cover service workers, in order to be considered eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974, the worker group seeking certification (or on whose behalf certification is being sought) must work for a firm or appropriate subdivision that produces an article and there must be a relationship between the workers' work and the article produced by the workers' firm or appropriate subdivision that produces an article domestically.

After careful review of the request for reconsideration and previously submitted materials, the Department determines that there is no new information that supports a finding that section 222(a)(2) of the Trade Act of 1974 was satisfied and that there was no mistake or misinterpretation of the facts or the law.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC this 5th day of November 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–22062 Filed 11–9–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,322]

Precision Industries Fayetteville, AR; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on October 23, 2007 in response to a worker petition filed by an official of the United Auto Workers on behalf of workers at Precision Industries, Fayetteville, Arkansas.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 5th day of November, 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–22058 Filed 11–9–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–61,960]

Solutia, Inc., Sauget, IL; Notice of Negative Determination Regarding Application for Reconsideration

By application dated October 16, 2007, a worker requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of Solutia, Inc., Sauget, Illinois (subject firm) to apply for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA). The negative determination was issued on September 18, 2007, and the Department's Notice of negative determination was published in the **Federal Register** on October 3, 2007 (72 FR 56385). The subject workers produce chemicals (phosphorous pentasulfide, santoflexes, and ACL). Workers are not separately identifiable by product line.

The TAA/ATAA petition was denied because the subject firm did not separate or threaten to separate a significant number or proportion of workers as required by section 222 of the Trade Act of 1974. Significant number or proportion of the workers in a firm or appropriate subdivision means at least three workers in a workforce of fewer than 50 workers, five percent of the workers in a workforce of over 50 workers, or at least 50 workers.

In the request for reconsideration, the worker asserted that the Department's determination was erroneous (''My congressman Jerry Costello (D–IL) received confirmation from the U.S. Department of Labor for all workers of Solutia, Inc., Sauget, IL who become separated from employment to receive additional unemployment benefits, job training, and other services''). The request included news articles about Solutia's foreign operations (''Solutia starts building new plant in China,'' September 1, 2005; ''Solutia Begins Construction of New Saflex (R) PVB Plant in China,'' September 1, 2005; ''Solutia unit expands manufacturing in China,'' September 20, 2005; ''Solutia Expands Therminol Manufacturing in China,'' September 20, 2005; ''Solutia completes buyout of Mexican plant, plans expansion,'' March 2, 2006; ''Solutia boosts manufacturing capacity,'' June 21, 2006; ''Solutia starts Belgian plant expansion,'' March 26, 2007; ''Solutia Expands Presence in China by Opening New Saflex Manufacturing Plant in Suzhou,'' September 21, 2007; and ''Solutia opens Saflex plant in China,'' September 21, 2007) and a document titled ''Krummrich Products and Applications'' that identifies several chemicals and their applications.

The worker also submitted an article (''Costello Announces Benefits for Solutia, Inc. Workers,'' released June 4, 2004 by Congressman Jerry F. Costello, 12th District, Illinois) that explains the assertion in the request for reconsideration.

Pursuant to 29 CFR 90.18(c), administrative reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The TAA certification alluded to in the request for reconsideration is Solutia, Inc., Sauget, Illinois (TA–W–54,902; covering subject firm workers separated on or after May 11, 2003 through May 28, 2006). Because the certification for TA–W–54,902 has expired, facts which were the basis for the certification applicable to workers covered by that petition cannot be a basis for certification for workers covered by this petition.

After careful review of the request for reconsideration, the support documentation, and previously submitted materials, the Department determines that there is no new information that supports a finding that section 222 of the Trade Act of 1974 was satisfied and that no mistake or misinterpretation of the facts or of the law with regards to the number or proportion of workers separated from the subject firm during the relevant period.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC this 1st day of November 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–22060 Filed 11–9–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–61,881]

Southern Weaving Company, Tarboro Plant 5, Tarboro, NC; Notice of Negative Determination Regarding Application for Reconsideration

By letter dated October 1, 2007, a company official requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to the workers of the subject firm. The denial notice was published in the **Federal Register** on October 3, 2007 (72 FR 56385).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The initial investigation resulted in a negative determination signed on September 21, 2007 was based on the finding that imports of tie down and tubular webbing did not contribute importantly to worker separations at the subject plant and no shift of production to a foreign source occurred. The ''contributed importantly'' test is generally demonstrated through a survey of the workers' firm's declining customers. The survey revealed negligible declining imports of tie down and tubular webbing as reported by major declining customers during the relevant period. The subject firm did not import tie down and tubular webbing.

The petitioner states that the affected workers lost their jobs as a direct result of a loss of customers and alleges that the customers ''are getting their orders from some other country.''

The Department conducted an additional investigation to determine

whether imports of tie down and tubular webbing indeed impacted production at the subject firm and consequently caused workers separations. Upon further review of the previous investigation the Department contacted the major declining customer of the subject firm, which initially reported negligible increases in imports of tie down and tubular webbing. This customer reported that the imports they are buying are not like or directly competitive with the tie down and tubular webbing previously purchased from the subject firm. The customer imports final products, which contain tie down and tubular webbing as components.

In order to establish import impact, the Department must consider imports that are like or directly competitive with those produced at the subject firm. The Department conducted a survey of the subject firm's major declining customers regarding their purchases of tie down and tubular webbing during 2005, 2006 and January through June 2007 over the corresponding 2006 period. The survey revealed that the declining customers did not import tie down and tubular webbing during the relevant period.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed in Washington, DC this 31st day of October 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–22059 Filed 11–9–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,161]

Tifton Aluminum Company, a Subsidiary of ALCOA, Inc., Tifton, GA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on September 19, 2007 in response to a petition filed by a company official on behalf of workers of Tifton Aluminum Company, a subsidiary of Alcoa, Inc., Tifton, Georgia.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated. Further investigation in this case would serve no purpose.

Signed at Washington, DC, this 5th day of November, 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–22061 Filed 11–9–07; 8:45am]

BILLING CODE 4510–FN–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act; Notice of Meeting

TIME AND DATE: 10 a.m., Thursday, November 15, 2007.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Request from Shell New Orleans Federal Credit Union to Convert to a Community Charter.
2. NCUA's 2008 Annual Performance Budget.
3. NCUA's 2008/2009 Operating Budget.
4. NUCA's Overhead Transfer Rate.
5. NCUA's Operating Fee Scale.
6. Final Rule: Section 701.23 of NCUA's Rules and Regulations, Eligible Obligations.

RECESS: 11 a.m.

TIME AND DATE: 11:15 a.m., Thursday, November 15, 2007.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. One (1) Administrative Action under Sections 205, 207, and 208 of the Federal Credit Union Act. Closed pursuant to Exemptions (8), (9)(A)(ii), and (9)(B).
2. One (1) Administrative Action under Sections 206 and 208 of the Federal Credit Union Act. Closed pursuant to Exemptions (8), (9)(A)(ii), and (9)(B).
3. One (1) Personnel Matter. Closed pursuant to Exemptions (2).

FOR FURTHER INFORMATION CONTACT: Mary Rupp, Secretary of the Board, Telephone: 703–518–6304.

Mary Rupp,

Secretary of the Board.

[FR Doc. 07–5650 Filed 11–8–07; 3:11 pm]

BILLING CODE 7535–01–M

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB Review; Comment Request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. This is the second notice for public comment; the first was published in the **Federal Register** at 72 FR 11912, and no comments were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. The full submission may be found at: *http://www.reginfo.gov/public/do/PRAMain.* 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; or (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: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725–17th Street, NW., Room 10235, Washington, DC 20503, and to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230 or send e-mail to *splimpto@nsf.gov.* 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 703–292–7556.

FOR FURTHER INFORMATION CONTACT: Suzanne Plimpton at (703) 292–7556 or send e-mail to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

NSF 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.

SUPPLEMENTARY INFORMATION:

Title of Collection: Evaluation of the National Science Foundation-National Institutes for Health Bioengineering and Bioinformatics Summer Institutes (BBSI) Program.

OMB Number: 3145–NEW.

Abstract: The National Science Foundation (NSF) and the National Institute of Bioinformatics and Bioengineering (NIBIB), a new component of the National Institutes of Health, established a jointly funded program run by NSF called the Bioengineering and Bioinformatics Summer Institutes (BBSI) Program to begin creating a supply of professionals trained in bioengineering and bioinformatics. This workforce initiative complements research and education efforts in these fields funded by both agencies and constitutes a high profile effort to meet the anticipated human resource needs for bioengineering and bioinformatics.

The program is designed to provide students majoring in the biological sciences, computer sciences, engineering, mathematics, and physical sciences with well-planned interdisciplinary experiences in bioengineering or bioinformatics research and education, in very active 'Summer Institutes'; thereby increasing the number of young people considering careers in bioengineering and bioinformatics at the graduate level and beyond.

NIBIB and NSF's Division of Engineering Education and Centers (EEC) wish to learn whether the BBSI Program as originally conceived is achieving its objectives and program-level outcomes, and to collect lessons learned for improvement of program design and implementation. This short-term evaluation is expected to provide information on what educational and career decisions have been affected by participation in a Summer Institute, what elements of the students' BBSI affect student outcomes, and how the program can be improved, e.g., through changes in specific program-wide design components, expected outcomes, proposal review criteria, etc. The survey data collection will be done on the World Wide Web.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 30 minutes per response.

Respondents: Individuals.

Estimated Number of Responses: 765.

Estimated Total Annual Burden on Respondents: 387 hours.

Frequency of Response: Once.

Dated: November 7, 2007.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 07–5629 Filed 11–9–07; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–271; License No. DPR–28]

Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc.; Receipt of Request for Action Under 10 CFR 2.206

Notice is hereby given that by petition dated August 27, 2007, the New England Coalition (NEC or the petitioner) has requested that the Nuclear Regulatory Commission (NRC or the Commission) take action with regard to the Vermont Yankee Nuclear Power Station (Vermont Yankee). The NEC petition requested that NRC promptly restore reasonable assurance of adequate protection of public health and safety that is now degraded by the failure of the licensee and its employees to report adverse conditions leading to a reduction in plant safety margins at the Vermont Yankee Nuclear Power Station (Vermont Yankee), or otherwise to order a derate or shutdown of Vermont Yankee until it can be determined to what extent Vermont Yankee is being operated in an unanalyzed condition. Specifically, the petition requested the following actions: (1) NRC completion of a Diagnostic Evaluation Team examination or Independent Safety Assessment of Vermont Yankee to determine the extent of condition of non-conformances, reportable items, hazards to safety, and the root causes thereof; (2) NRC completion of a safety culture assessment to determine why worker safety concerns were not previously reported and why assessments of safety culture under the Reactor Oversight Process failed to capture the fact or reasons that safety concerns have gone unreported; (3) derate Vermont Yankee to 50% of licensed thermal power with a mandatory hold at 50% until a thorough and detailed structural and performance analysis of the cooling towers, including the alternate cooling system, has been completed by the licensee; reviewed and approved by NRC; and until the above steps (1) and (2) have been completed; and (4) NRC investigation and determination of whether or not similar non-conforming conditions and causes exist at other Entergy-run nuclear power plants.

As a basis for the request, the petition cited problems related to the inadequate performance of Vermont Yankee Inservice Inspection, Maintenance, Engineering, and Quality Assurance leading to a cooling tower cell collapse coupled with the employees' assertion of degrading plant conditions inimical to public health.

The request is being treated pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) section 2.206 of the Commission's regulations. The request has been referred to the Director of the Office of Nuclear Reactor Regulation. As provided by 10 CFR 2.206, appropriate action will be taken on this petition within a reasonable time. Mr. Raymond Shadis, in his capacity as the petitioner's Staff Technical Advisor, participated in two telephone conference calls with the NRC's Petition Review Board (PRB) on September 12, 2007, and October 3, 2007, to discuss the petition and provide any additional explanation in light of the PRB's initial recommendation. The results of those discussions were considered in the PRB's determination regarding the petitioner's request for action and in establishing the schedule for the review of the petition. The PRB confirmed its initial recommendation to reject action items (1), (2), and (4), which are the diagnostic evaluation team examination, safety culture assessment, and the NRC investigation at other Entergy facilities. These action items were rejected for review under the 2.206 process because these actions are not enforcement-related. However, the PRB has determined that the petition meets the criteria for review in Management Directive 8.11 with respect to a portion of action item (3). Specifically, the PRB found that the facts presented in the petition related to the cooling tower cell collapse in action (3) were credible and sufficient to warrant further inquiry.

A copy of the petition and supplement and the transcripts of the telephone conference calls are available for inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland and from the NRC's Agencywide Documents Access and Management System (ADAMS)

Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html* (ADAMS Accession Nos. ML072420194, ML072780363, ML072610466, and ML07830584). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 6th day of November 2007.

For the Nuclear Regulatory Commission.

J. T. Wiggins,

Deputy Director, Office of Nuclear Reactor Regulation.

[FR Doc. E7–22093 Filed 11–9–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8905]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for Cell 2 Expansion Reclamation Plan License Amendment; Rio Algom Mining LLC, Ambrosia Lake, NM

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

FOR FURTHER INFORMATION CONTACT: Thomas McLaughlin, Project Manager, Materials Decommissioning Branch, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC, 20555. Telephone: (301) 415–5869; fax number: (301) 415–5369; e-mail: *tgm@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Nuclear Regulatory Commission (NRC) proposes to issue a license amendment of Source Materials License No. SUA–1473 held by Rio Algom Mining LLC (Rio Algom/the licensee), to approve a Cell 2 Expansion Reclamation Plan for its uranium mill tailings site in Ambrosia Lake, New Mexico. The NRC has prepared an Environmental Assessment (EA) for this amendment in accordance with the requirements of 10 CFR Part 51, and has concluded that a Finding of No Significant Impact (FONSI) is appropriate. The amendment will be issued following the publication of this Notice.

The Ambrosia Lake site is in the Ambrosia Lake mining district of New Mexico, 25 miles north of Grants, New Mexico. Rio Algom began processing ore in 1958, and processed approximately 33 million tons of ore through 1985. The site continued to be an active uranium production facility through December 2002. Site reclamation activities commenced in 1989 with some work on the top surface of the largest tailings cell. There are three tailings/waste cells situated adjacent to each other at the Rio Algom site: The large Tailings Cell 1, Tailings Cell 2 to the west of Cell 1, and a small Cell 3 east of Cell 1 that was used to dispose of contaminated windblown material. Reclamation of Cell 1 is complete, and cover construction of Cells 2 and 3 is still ongoing. Reclamation activities have at times included unlined evaporation pond residue excavation and disposal, contaminated windblown soil cleanup, tailings impoundment reclamation, surface water erosion protection feature construction, and mill building demolition.

The licensee has indicated that this proposed cell expansion design is one component of the overall site reclamation plan. The licensee previously has addressed, and NRC has approved, the remaining site-wide reclamation plan elements through separate licensing actions, including the original reclamation plan for Tailings Cells 1, 2, and 3 (approved in September 1990), mill demolition, relocation of lined evaporation pond sediments, soil decommissioning plan, and groundwater remediation.

II. EA Summary

In April 2005, Rio Algom sent the NRC a Reclamation Plan for disposal of evaporation pond sediments for its Ambrosia Lake uranium mill tailings facility. In a followup to the proposed plan, Rio Algom submitted, under letter dated May 31, 2007, Revision 1 of the plan and a response to NRC's request for additional information. The Uranium Mill Tailings Radiation Control Act of 1978, as amended, and regulations in Title 10 of the Code of Federal Regulations, Part 40 (10 CFR Part 40) require that material at uranium mill tailings sites be disposed of in a manner that protects human health and the environment.

Rio Algom proposes to excavate its lined evaporation ponds (Ponds 9 and 11 through 21), and place all the contaminated sediments, dikes, and underlying materials onto the existing Tailings Cell 2. The expanded Cell 2 will then be closed as part of the facility decommissioning plan. Rio Algom estimates that up to 3 million cubic yards of materials will be excavated, hauled, and compacted as part of this action. The reclamation of the expanded Tailings Cell 2 is intended to: (1) Control radiological hazards for 1,000 years to the extent reasonably achievable; (2) limit the release of radon-222 from uranium by-product, and radon-220 from thorium by-product materials to the atmosphere so as not to exceed an average of 20 $pCi/m^2/sec$; (3) reduce direct gamma exposure from the reclaimed tailings cell to background levels; (4) avoid proliferation of small waste disposal sites; and (5) provide a final site that is geotechnically stable and provides protection of water resources for the long term.

The NRC staff has prepared the EA in support of the proposed license amendment. The New Mexico Environment Department was consulted during the EA preparation. The staff considered impacts that the licensee's amended Reclamation Plan will have on ground water, surface water, socioeconomic conditions, threatened and endangered species, transportation, land use, public and occupational health, and historic and cultural resources.

The EA supports a FONSI based on the following conclusions. The potential impacts of the proposed action are limited to the land surface and are temporary during the construction activity. The direct impacts to the surface primarily will be dust generation due to excavating material, hauling it to the disposal area, and working it at the disposal area. Fugitive dust from heavy equipment operation will be mitigated through the use of dust suppression methods on haul roads. Impacts at the expansion cell area itself are minimal, since the area is already disturbed from site reclamation activities. The licensee's implementation of its National Pollutant Discharge Elimination System (NPDES) permits, its Storm Water Pollution Prevention Plan for the site, its site Health, Safety and Environment Management System, and NRC license requirements provide adequate assurances to control impacts to the environment. Additional ambient air monitoring stations have been installed to collect data to demonstrate that control measures are implemented and effective.

III. Finding of No Significant Impact

On the basis of the EA, NRC has concluded that there are no significant environmental impacts from the proposed amendment, and there is no

need to prepare an environmental impact statement.

IV. Further Information

Documents related to this action, including the application for amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html*. From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession numbers for the documents related to this notice are as follows:

Document	ADAMS accession No.	Date
NUREG–1748, ''Environmental Review Guidance for Licensing Actions Associated With NMSS Programs—Final Report,'' Nuclear Regulatory Commission, Washington, DC.	ML031000403	April 10, 2003.
NUREG–1620, Rev. 1, ''Standard Review Plan for Review of a Reclamation Plan for Mill Tailings Sites Under Title II of the Uranium Mill Tailings Radiation Control Act of 1978,'' Nuclear Regulatory Commission, Washington, DC.	ML040560561	February 19, 2004.
Rio Algom Mining LLC, 2004, ''Closure Plan-Lined Evaporation Ponds''	ML050240058	November 1, 2004.
Rio Algom, 2005; Reclamation Plan for Disposal of Pond Sediments and Ancillary Materials, Tailings Cell 2 Expansion.	ML051290050	April 30, 2005.
Rio Algom 2007; Reclamation Plan for Disposal of Pond Sediments and Ancillary Materials, Tailings Cell 2 Expansion, Revision 1.	ML071790245 ML071790250	May 31, 2007.
Environmental Assessment for the Tailings Cell 2 Expansion Reclamation Plan, Rio Algom Mining LLC's Uranium Mill Facility, Ambrosia Lake, New Mexico, Final Report.	ML072670278	September, 2007.

If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*.

These documents may also be viewed electronically on the public computers located at the NRC's PDR, O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Rockville, Maryland, this 2nd day of November, 2007.

For the Nuclear Regulatory Commission.

Keith I. McConnell,

Deputy Director, Decommissioning and Uranium Recovery Licensing Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. E7–22114 Filed 11–9–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Availability of Model Application Concerning Technical Specification Improvement To Revise Control Rod Notch Surveillance Frequency, Clarify SRM Insert Control Rod Action, and Clarify Frequency Example

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: Notice is hereby given that the staff of the Nuclear Regulatory Commission (NRC) has prepared a model safety evaluation (SE) relating to the revision of Standard Technical Specifications (STS), NUREG–1430 (B&W), NUREG–1431 (Westinghouse), NUREG–1432 (CE), NUREG–1433 (BWR/4) and NUREG–1434 (BWR/6). Specifically the SE addresses: (1) The revision of the technical specification (TS) surveillance requirement (SR) 3.1.3.2 frequency in STS 3.1.3, ''Control Rod OPERABILITY,'' (NUREG–1433 and NUREG–1434), (2) a clarification to the requirement to fully insert all insertable control rods for the limiting condition for operation (LCO) in STS 3.3.1.2, Required Action E.2, ''Source Range Monitor Instrumentation'' (NUREG–1434 only), and (3) the revision of Example 1.4–3 in STS Section 1.4 ''Frequency'' to clarify the applicability of the 1.25 surveillance test interval extension (NUREG–1430 through NUREG–1434). The NRC staff has also prepared a model license amendment request and a model no significant hazards consideration (NSHC) determination relating to this matter. The purpose of these models is to permit the NRC to efficiently process amendments that propose to modify TS control rod SR testing frequency, clarify TS control insertion requirements, and clarify SR frequency discussions. Licensees of nuclear power reactors to which the models apply can request amendments, confirming the applicability of the SE and NSHC determination to their plant licensing basis.

DATES: The NRC staff issued a **Federal Register** notice (72 FR 46103; August 16, 2007) which provided a model SE, model application, and model NSHC related to BWR plant control rod notch surveillance frequency, BWR SRM control rod insertion action, and clarification of a surveillance frequency example for all plant types. Similarly, the NRC staff herein provides a revised model SE, model LAR, and model NSHC incorporating changes based upon the public comments received. The NRC staff can most efficiently consider applications based upon the model LAR, which references the model SE, if the LAR is submitted within one year of this **Federal Register** Notice.

FOR FURTHER INFORMATION CONTACT: Timothy Kobetz, *Mail Stop:* O–12H2, Technical Specifications Branch, Division of Inspection & Regional Support, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, *telephone:* 301–415–1932.

SUPPLEMENTARY INFORMATION:

Background

Regulatory Issue Summary 2000–06, ''Consolidated Line Item Improvement Process for Adopting Standard Technical Specification Changes for Power Reactors,'' was issued on March 20, 2000. The consolidated line item improvement process (CLIIP) is intended to improve the efficiency of NRC licensing processes by processing proposed changes to the standard technical specifications (STS) in a manner that supports subsequent license amendment applications. The CLIIP includes an opportunity for the public to comment on proposed changes to the STS following a preliminary assessment by the NRC staff and finding that the change will likely be offered for adoption by licensees. The CLIIP directs the NRC staff to evaluate any comments received for a proposed change to the STS and to either reconsider the change or to proceed with announcing the availability of the change for proposed

adoption by licensees. Those licensees opting to apply for the subject change to technical specifications are responsible for reviewing the staff's evaluation, referencing the applicable technical justifications, and providing any necessary plant-specific information. Each amendment application made in response to the notice of availability will be processed and noticed in accordance with applicable rules and NRC procedures.

This notice involves the modification of BWR TS control rod SR testing frequency, clarification of BWR TS control insertion requirements, and clarification of SR frequency discussions for all pant types. This change was proposed for incorporation into the standard technical specifications by the Owners Groups participants in the Technical Specification Task Force (TSTF) and is designated TSTF–475 Revision 1. TSTF–475 Revision 1 can be viewed on the NRC's Web page at *http://www.nrc.gov/reactors/operating/licensing/techspecs.html.*

***** Reviewer's Note *****

TSTF–475 involves three changes to the Standard Technical Specifications NUREGs that, depending upon the adopting plant, may or may not be adopted by a plant. The first changes the surveillance frequency for control rod notch testing from 7 to 31 days, and applies to BWR/4 and BWR/6 plants (NUREG–1433 & NUREG–1434). The second adds the word ''fully'' to a Required Action statement to clarify that control rods should be fully inserted, and applies to only the BWR/6 plants (NUREG–1434). The third change clarifies the usage of the 1.25 surveillance frequency interval extension, and applies to all plants (NUREG–1430 through NUREG–1434). The model application and model safety evaluation will need to be tailored (where brackets indicate) for plant specific applications.

Applicability

This proposed TS change modifies TS control rod SR testing frequency and clarifies TS control insertion requirements for BWR plants, and clarifies SR frequency discussions for all NSSS plant types. The CLIIP does not prevent licensees from requesting an alternative approach or proposing the changes without the attached model SE and the NSHC. Variations from the approach recommended in this notice may, however, require additional review by the NRC staff and may increase the time and resources needed for the review.

To efficiently process the incoming license amendment applications, the staff requests that each licensee applying for the changes proposed in TSTF–475, Revision 1, include TS Bases for the proposed TS consistent with the TS Bases proposed in TSTF–475, Revision 1 (*note:* the change to STS Section 1.4 does not entail a Bases change). The staff is requesting that the TS Bases be included with the proposed license amendments in this case because the changes to the TS and the changes to the associated TS Bases form an integral change to a plant's licensing basis. To ensure that the overall change, including the TS Bases, includes appropriate regulatory controls, the staff plans to condition the issuance of each license amendment on the licensee's incorporation of the changes into the TS Bases document and that the licensee control changes to the TS Bases in accordance with the licensees TS Bases Control Program. The CLIIP does not prevent licensees from requesting an alternative approach or proposing the changes without the requested TS Bases. However, deviations from the approach recommended in this notice may require additional review by the NRC staff and may increase the time and resources needed for the review. Significant variations from the approach, or inclusion of additional changes to the license, will result in staff rejection of the submittal. Instead, licensees desiring significant variations and/or additional changes should submit a LAR that does not request to adopt TSTF–475, Revision 1, under CLIIP.

Public Notices

The staff issued a **Federal Register** Notice (72 FR 46103, August 16, 2007) that requested public comment on the NRC's pending action to approve the modification of BWR TS control rod SR testing frequency, clarification of BWR TS control insertion requirements, and clarification of SR frequency discussions for all pant types, as proposed in TSTF–475, Revision 1. The TSTF–475, Revision 1, can be viewed on the NRC's web page at *http://www.nrc.gov/reactors/operating/licensing/techspecs.html.* TSTF–475, Revision 1, may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records are accessible electronically from the ADAMS Public Library component on the NRC Web site, (the Electronic Reading Room) at *http://www.nrc.gov/reading-rm/adams.html.*

In response to the notice soliciting comments from interested members of the public about the modification of BWR TS control rod SR testing frequency, clarification of BWR TS control insertion requirements, and clarification of SR frequency discussions for all pant types, the staff received one set of comments (from the TSTF Owners Groups, representing licensees). The specific comments are provided and discussed below:

1. *Comment:* TSTF–475 contains three changes: The revision to SR 3.1.3.2 which is applicable to NUREG–1433 and NUREG–1434 (the Improved Standard Technical Specifications, or ISTS, for BWR/4 and BWR/6 plants), the change to Specification 3.3.1.2, Required Action E.2 which is applicable to NUREG–1434 (the ISTS for BWR/6 plants), and the change to Example 1.4–3 which is applicable to NUREG–1430 through –1434 (the ISTS for all plant types). The applicability of the third change to all plant types is clearly indicated on the Traveler cover page and in the justification (last paragraph of Section 2.0, ''Proposed Change.'') However, the Notice for Comment, model Safety Evaluation, model application, and No Significant Hazards Considerations Determination (NSHC) incorrectly state that TSTF–475 is only applicable to BWR plants.

The Notice, the model application, model Safety Evaluation, and NSHC should be revised to state that the change to Example 1.4–3 is applicable to all plant types. The model Safety Evaluation, model application, and NSHC should be revised to bracket (e.g., indicate as optional) the BWR/4 and BWR/6 specific changes so that the documents are applicable to a BWR/6 plant adopting all three changes, a BWR/4 plant adopting the SR 3.1.3.2 and Example 1.4–3 changes, or a pressurized water reactor (PWR) plant adopting only the Example 1.4–3 change.

Response: The staff agrees with the comment and the model application, model Safety Evaluation, and NSHC have been revised accordingly.

2. *Comment:* In Section 3.0, ''Technical Evaluation,'' of the Notice, reference is made three times to the ''BWROG TSTF'' or ''BWROG TSTF–475.'' The Technical Specifications Task Force (TSTF) is sponsored by the Boiling Water Reactor Owners Group and the Pressurized Water Reactor Owners Group. The proper designation is either ''TSTF'' or ''Owners Group TSTF.''

Response: The staff agrees with the comment and Section 3.0 of the model Safety Evaluation has been revised by removing explicit reference to the BWROG in referring to TSTF–475.

3. *Comment:* In Section 3.0, ''Technical Evaluation,'' the model Safety Evaluation states, ''Therefore, the NRC staff finds the change acceptable

with the commitment to implement GE water quality for the CRD system recommendations.'' In the model application, a regulatory commitment is included which states, ''[LICENSEE] will establish the water quality controls as recommended by SIL No. 148, Water Quality Control for the Control Rod System,'' September 15, 1975.'' This commitment should be removed.

The TSTF's justification for TSTF–475 made no mention of and did not rely on water quality controls. The TSTF's July 3, 2006 response to the NRC's March 21, 2003 Request for Additional Information (RAI) did not credit water chemistry controls. As stated in the justification and the Staff's model Safety Evaluation, 30 years of operating experience at BWRs without a control rod drive failure detected by the weekly notch testing is sufficient to demonstrate the acceptability of the change.

The reference is technically incorrect. Supplement 1 to SIL No. 148 was issued in June 2004 and updates the SIL to bring it into alignment with current Electric Power Research Institute (EPRI) BWR water chemistry requirements, which were in conflict with the 1975 version of SIL.

The NRC's Technical Evaluation in the draft Safety Evaluation did not reference SIL No. 148 (either the 1975 version or the current version).

It is not appropriate for the NRC to require commitments to documents that were not relied on in the licensee's application, were not reviewed by the NRC, and were not discussed in the NRC's technical evaluation. Therefore, the reference to water chemistry controls in the model Safety Evaluation and the commitment in the model application should be removed.

Response: The staff agrees with the comment and the requirements for a commitment to establish water quality controls as recommended by SIL No. 148, Water Quality Control for the Control Rod System, in the model Safety Evaluation and in the model application have been removed.

4. *Comment:* Model Application: Attachment 5, ''Proposed Technical Specification Bases,'' should be marked as optional. There are no Bases changes associated with the PWR-applicable changes to Section 1.4. Furthermore, the Bases changes associated with TSTF–475 simply reflect the changes made to the specifications. It should be left to the licensee whether to submit Bases changes with the amendment request. The third paragraph omits Attachment 5, which is shown in the list of attachments below the signature. Attachment 3, ''Proposed Technical Specification Pages,'' should also be marked as optional as not all licensee's submit retyped Technical Specification pages as attachments to their amendment requests.

Response: The staff does not agree with the comment. For those sections of the technical specifications that are changed in accordance with TSTF–475 and that have Bases, the Bases must be changed to reflect the change in accordance with TSTF–475. TS Section 1.4, that does not have Bases, does not need to have Bases changes submitted, and for those plants that are only adopting the TS Section 1.4 change, the Model Application Attachment 5, ''Proposed Technical Specification Bases,'' will be revised to indicate that the submittal of revised Bases pages is optional in that case. The staff does not see a need to revise Model Application Attachment 3. The staff expects to see the licensee's Bases changes associated with the adoption of TSTF–475.

5. *Comment:* Model Application: The Model Application states, ''I declare under penalty of perjury under the laws of the United States of America that I am authorized by [LICENSEE] to make this request and that the foregoing is true and correct.'' This statement is not consistent with the recommended statement given in RIS 2001–18, ''Requirements for Oath or Affirmation.'' RIS 2001–18 recommends the statement, ''I declare [or certify, verify, state] under penalty of perjury that the foregoing is true and correct.'' Note that RIS 2001–18 states that this statement must be used verbatim. We recommend that the Model Application be revised to be consistent with RIS 2001–18.

Response: The staff agrees with the comment and the requirement in the model application for oath or affirmation has been reworded to be consistent with RIS 2001–18.

6. *Comment:* Attachment 4: The regulatory commitment states ''[LICENSEE] will establish the Technical Specification Bases for [TS B 3.1.3, TS B 3.1.4, and TS B 3.3.1.2] as adopted with the applicable license amendment.'' This statement is incorrect as the Bases changes included for information with the license amendment request are not ''adopted'' with the license amendment. Bases changes are made under licensee control under the Technical Specification Bases Control Program. We recommend revising the commitment to state ''[LICENSEE] will implement Technical Specification Bases for TS [3.1.3, 3.1.4, and 3.3.1.2] consistent with those shown in TSTF–475, Revision 1, ''Control Rod Notch Testing Frequency and SRM Insert Control Rod Action.'' The commitment should also be marked as optional consistent with Comments 1 and 4, as the PWR-applicable change to Section 1.4 has no associated Bases changes.

Response: The staff agrees with the comment in the sense that the Bases are not adopted as a license amendment is adopted, and therefore the wording of the commitment will be revised to state, ''[LICENSEE] will establish the Technical Specification Bases for [TS B 3.1.3, TS B 3.1.4, and TS B 3.3.1.2] consistent with those shown in TSTF–475, Revision 1, ''Control Rod Notch Testing Frequency and SRM Insert Control Rod Action.'' The staff does not agree with the comment with respect to the Bases being provided purely for information and that the commitment is optional. The staff will review the Bases changes to ensure they are acceptable. If a licensee is only adopting the TS Section 1.4 portion of the TSTF–475 change, then the commitment would not apply, otherwise it would apply.

7. *Comment:* Model NSHC: To be consistent with 10 CFR 50.91(a), the title of Criterion 2 should be revised to add the word ''Accident'' before ''Previously Evaluated.'' Specifically, it should state, ''The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident from any Accident Previously Evaluated.''

Response: The staff agrees with the comment and the model NSHC Criterion 2 statement has been reworded accordingly.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 5th day of November, 2007.

Timothy J. Kobetz,

Chief, Technical Specifications Branch, Division of Inspection and Regional Support, Office of Nuclear Reactor Regulation.

Model Safety Evaluation, U.S. Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Consolidated Line Item Improvement, Technical Specification Task Force (TSTF) Change TSTF–475, Revision 1, Control Rod Notch Testing Frequency, Source Range Monitor Technical Specification Action to Insert Control Rods, and Surveillance Frequency Discussions

1.0 Introduction

By letter dated August 30, 2004, the TSTF submitted a request (Reference 1) for changes to the Standard Technical Specifications (STS): NUREG–1430 Standard Technical Specifications B&W Plants (Reference 2); NUREG–1431 Standard Technical Specifications Westinghouse Plants (Reference 3); NUREG–1432 Standard Technical

Specifications Combustion Engineering Plants (Reference 4); NUREG–1433, Standard Technical Specifications General Electric Plants, BWR/4 (Reference 5); and NUREG–1434, Standard Technical Specifications General Electric Plants, BWR/6 (Reference 6). The proposed changes would: (1) Revise the TS control rod notch surveillance frequency in TS 3.1.3, ''Control Rod OPERABILITY,'' (NUREG–1433 and NUREG–1434), (2) clarify the TS requirement for inserting control rods for one or more inoperable SRMs in MODE 5 (NUREG–1434 only), and (3) revise one Example in Section 1.4 ''Frequency'' to clarify the applicability of the 1.25 surveillance test interval extension (NUREG–1430 through NUREG–1434).

These changes are based on Technical Specifications Task Force (TSTF) change traveler TSTF–475, Revision 1, that proposes revisions to the reference STS by: (1) revising the frequency of SR 3.1.3.2, notch testing of each fully withdrawn control rod, from ''7 days after the control rod is withdrawn and THERMAL POWER is greater than the LPSP of RWM'' to ''31 days after the control rod is withdrawn and THERMAL POWER is greater than the LPSP of the RWM'' (NUREG–1433 and NUREG–1434), (2) adding the word ''fully'' to LCO 3.3.1.2 Required Action E.2 (NUREG–1434 only) to clarify the requirement to fully insert all insertable control rods in core cells containing one or more fuel assemblies when the associated SRM instrument is inoperable, and (3) revising Example 1.4–3 in Section 1.4 ''Frequency'' to clarify that the 1.25 surveillance test interval extension in SR 3.0.2 is applicable to time periods discussed in NOTES in the ''SURVEILLANCE'' column in addition to the time periods in the ''FREQUENCY'' column (NUREG–1430 through NUREG–1434).

[The purpose of the surveillances is to confirm control rod insertion capability which is demonstrated by inserting each partially or fully withdrawn control rod at least one notch and observing that the control rod moves. Control rods and control rod drive (CRD) Mechanism (CRDM), by which the control rods are moved, are components of the CRD System, which is the primary reactivity control system for the reactor. By design, the CRDM is highly reliable with a tapered design of the index tube which is conducive to control rod insertion.

A stuck control rod is an extremely rare event and industry review of plant operating experience did not identify any incidents of stuck control rods while performing a rod notch surveillance test.

The purpose of these revisions is to reduce the number of control rod manipulations and, thereby, reduce the opportunity for reactivity control events.]

The purpose of the change to Example 1.4–3 in Section 1.4 ''Frequency'' is to clarify the applicability of the 25% allowance of SR 3.0.2 to time periods discussed in NOTES in the ''SURVEILLANCE'' column as well as to time periods in the ''FREQUENCY'' column.

2.0 Regulatory Evaluation

Title 10 of the Code of Federal Regulations (CFR), part 50, Appendix A, General Design Criterion (GDC) 29, Protection against anticipated occurrence, requires that the protection and reactivity control systems be designed to assure an extremely high probability of accomplishing their safety functions in an event of anticipated operational occurrences. The design relies on the CRDS to function in conjunction with the protection systems under anticipated operational occurrences, including loss of power to all recirculation pumps, tripping of the turbine generator, isolation of the main condenser, and loss of all offsite power. The CRDS provides an adequate means of inserting sufficient negative reactivity to shut down the reactor and prevent exceeding acceptable fuel design limits during anticipated operational occurrences. Meeting the requirements of GDC 29 for the CRDS prevents occurrence of mechanisms that could result in fuel cladding damage such as severe overheating, excessive cladding strain, or exceeding the thermal margin limits during anticipated operational occurrences. Preventing excessive cladding damage in the event of anticipated transients ensures maintenance of the integrity of the cladding as a fission product barrier.

3.0 Technical Evaluation

In order to perform this SE, the NRC staff reviewed the following information provided by the TSTF to justify the submitted license amendment request to [revise the weekly control rod notch frequency to monthly (STS NUREG–1433 and NUREG–1434)], [clarify the SRM TS action for inserting control rods (NUREG–1434 only), and] revise the discussion of the applicability of the 25% allowance in Example 1.4–3. Specifically, the following documents were reviewed during the NRC staff's evaluation:

- TSTF letter TSTF–04–07 (Reference 1)—Provided a description of the proposed changes in TSTF–475 that changes the weekly rod notch frequency to monthly, clarify the SRM TS actions for inserting control rods, and clarify the applicability of the 25% allowance in Example 1.4–3.
- [TSTF letter TSTF–06–13 (Reference 8)—Provided responses to NRC staff request for additional information (RAI) on (1) industry experience with identifying stuck rods, (2) tests that would identify stuck rods, (3) continue compliance with SIL 139, (4) industry experience on collet failures, and (4) applying the 25% grace period to the 31 day control rod notch SR test frequency.
- BWROG letter BWROG–06036 (Reference 9)—Provided the GE Nuclear Energy Report, ''CRD Notching Surveillance Testing for Limerick Generating Station,'' in which CRD notching frequency and CRD performance were evaluated.
- TSTF letter TSTF–07–19 (Reference 10)—Provided response to NRC staff RAI on CRD performance in Control Cell Core (CCC) designed plants, including TSTF–475, Revision 1.

The CRD System is the primary reactivity control system for the reactor. The CRD System, in conjunction with the Reactor Protection System, provides the means for the reliable control of reactivity changes to ensure under all conditions of normal operation, including anticipated operational occurrences that specified acceptable fuel design limits are not exceeded. Control rods are components of the CRD System that have the capability to hold the reactor core subcritical under all conditions and to limit the potential amount and rate of reactivity increase caused by a malfunction in the CRD System.

The CRD System consists of a CRDM, by which the control rods are moved, and a hydraulic control unit (HCU) for each control rod. The CRDM is a mechanical hydraulic latching cylinder that positions the control blades. The CRDM is a highly reliable mechanism for inserting a control rod to the full-in position. The collet piston mechanism design feature ensures that the control rod will not be inadvertently withdrawn. This is accomplished by engaging the collet fingers, mounted on the collet piston, in notches located on the index tube. Due to the tapered design of the index tube notches, the collet piston mechanism will not impede rod insertion under normal insertion or scram conditions.

The collet retainer tube (CRT) is a short tube welded to the upper end of the CRD which houses the collet mechanism which consist of the locking

collet, collet piston, collet return spring and an unlocking cam. The collet mechanism provides the locking/unlocking mechanism that allows the insert/withdraw movement of the control rod. The CRT has three primary functions: (a) To carry the hydraulic unlocking pressure to the collet piston, (b) to provide an outer cylinder, with a suitable wear surface for the metal collet piston rings, and (c) to provide mechanical support for the guide cap, a component which incorporates the cam surface for holding the collet fingers open and also provides the upper rod guide or bushing.

According to the BWROG, at the time of the first CRT crack discovery in 1975 each partially or fully withdrawn operable control rod was required to be exercised one notch at least once each week. It was recognized that notch testing provided a method to demonstrate the integrity of the CRT. Control rod insertion capability was demonstrated by inserting each partially or fully withdrawn control rod at least one notch and observing that the control rod moves. The control rod may then be returned to its original position. This ensures the control rod is not stuck and is free to insert on a scram signal.

It was determined that during scrams, the CRT temperature distribution changes substantially at reactor operating conditions. Relatively cold water moves upward through the inside of the CRT and exits via the flow holes into the annulus on the outside. At the same time hot water from the reactor vessel flows downward on the outside surface of the CRT. There is very little mixing of the cold water flowing from the three flow holes into the annulus and the hot water flowing downward. Thus, there are substantial through wall and circumferential temperature gradients during scrams which contribute to the observed CRT cracking.

Subsequently, many BWRs have reduced the frequency of notch testing for partially withdrawn control rods from weekly to monthly. The notch test frequency for fully withdrawn control rods are still performed weekly. The change, for partially withdrawn control rods, was made because of the potential power reduction required to allow control rod movement for partially withdrawn control rods, the desire to coordinate scheduling with other plant activities, and the fact that a large sample of control rods are still notch tested on the weekly basis. The operating experience related to the changes in CRD performance also provided additional justification to reduce the notch test frequency for the partially withdrawn control rods.

In response to the NRC staff RAIs and to support their position to reduce the CRD notch testing frequency, the BWROG provided plant data and GE Nuclear Energy report, CRD Notching Surveillance Testing for Limerick Generating Station (CRDNST). The GE report provided a description of the cracks noted on the original design CRT surfaces. These cracks, which were later determined to be intergranular, were generally circumferential, and appeared with greatest frequency below and between the cooling water ports, in the area of the change in wall thickness. Subsequently, cracks associated with residual stresses were also observed in the vicinity of the attachment weld. Continued circumferential cracking could lead to 360 degree severance of the CRT that would render the CRD inoperable which would prevent insertion, withdrawal or scram. Such failure would be detectable in any fully or partially withdrawn control rod during the surveillance notch testing required by the Technical Specifications. To a lesser degree, cracks have also been noted at the welded joint of the interim design CRT but no cracks haven been observed in the final improved CRT design. In a request for additional information, BWROG response of being unable to find a collet housing failure since 1975 supported the NRC staff review of not finding a collet housing failure. To date, operating experience data shows no reports of a severed CRT at any BWR. No collet housing failures have been noted since 1975. On a numerical basis for instance, based on BWROG assumption that there are 137 control rods for a typical BWR/4 and 193 control rods for a typical BWR/6, the yearly performance would be 6590 rod notch tests for a BWR/4 plant and 9284 for a BWR/6 plant. For example, if all BWRs operating in the U.S. are taken into consideration, the yearly performances of rod notch data would translate into approximately 240,000 rod notch tests without detecting a failure.

In addition, the IGSCC crack growth rates were evaluated, at Limerick Generating Station, using GE's PLEDGE model with the assumption that the water chemistry condition is based on GE recommendations. The model is based on fundamental principles of stress corrosion cracking which can evaluate crack growth rates as a function of water oxygen level, conductivity, material sensitization and applied loads. It was determined that the additional time of 24 days represented an additional 10 mils of growth in total crack length. The small difference in growth rate would have little effect on the behavior between one notch test and the next subsequent test. Therefore, from the materials perspective based on low crack growth rates, a decrease in the notch test frequency would not affect the reliability of detecting a CRDM failure due to crack growth.

Also, the BWR scram system has extremely high reliability. In addition to notch testing, scram time testing can identify failure of individual CRD operation resulting from IGSCC-initiated cracks and mechanical binding. Unlike the CRD notch tests, these single rod scram tests cover the other mechanical components such as scram pilot solenoid operated valves, the scram inlet and outlet air operated valves, and the scram accumulator, as well as operation of the control rods. Thus, the primary assurance of scram system reliability is provided by the scram time testing since it monitors the system scram operation and the complete travel of the control rod.

Also, the HCUs, CRD drives, and control rods are also tested during refueling outages, approximately every 18–24 months. Based on the data collected during the preceding cycle of operation, selected control rod drives, are inspected and, as required, their internal components are replaced. Therefore, increasing the CRD notch testing frequency to monthly would have very minimal impact on the reliability of the scram system.

The NRC staff has reviewed the TSTF–475 proposal to amend the (NUREG–1433 and NUREG–1434) TS SR 3.1.3.2, ''Control Rod OPERABILTY'' from seven days to monthly. Based on the following evaluation condition: (1) Slow crack growth rate of the CRT; (2) the improved CRT design; (3) a higher reliable method (scram time testing) to monitor CRD scram system functionality; (4) GE chemistry recommendations; and (5) no known CRD failures have been detected during the notch testing exercise, the NRC staff concluded that the changes would reduce the number of control rod manipulations thereby reducing the opportunity for potential reactivity events while having a very minimal impact on the extremely high reliability of the CRD system. The utilities should consider the replacement of the CRT, when possible, with the GE CRT improved design.

The NRC staff has reviewed the TSTF–475 proposal to amend the NUREG–1434, Specification 3.3.1.2, Required Action E.2 from ''Initiate action to insert all insertable control rods in core cells containing one or

more fuel assemblies'' to ''Initiate action to fully insert all insertable control rods in core cells containing one or more fuel assemblies.'' The NRC staff finds the revision acceptable because the requirement to insert control rods is meant to require control rods to be fully inserted and adding ''fully'' does not change but clarifies the intent of the action.

The NRC staff has reviewed the TSTF–475 proposal to amend (NUREG–1430 through NUREG–1434) Example 1.4–3 in Section 1.4 ''Frequency,'' to make the 1.25 provision in SR 3.0.2 to be equally applicable to time periods specified in the ''FREQUENCY'' column and in the NOTE in the ''SURVEILLANCE'' column. The NRC staff finds this change acceptable since the revision would make it consistent with the definition of specified ''Frequency'' provided in the second paragraph of Section 1.4 which states that the specified ''Frequency'' is referred to throughout this section and each of the Specifications of Section 3.0, Surveillance Requirement (SR) Applicability. The specified ''Frequency'' consists of the requirements of the Frequency column of each SR, as well as certain Notes in the Surveillance column that modify performance requirements.''

3.1 Conclusion

The NRC staff has reviewed the licensee's proposal to amend existing [(NUREG–1433 and NUREG–1434) TS sections SR 3.1.3.2, ''Control Rod OPERABILTY,'' (NUREG–1434) LCO 3.3.1.2 Required Action E.2, ''Source Range Monitor (SRM) Instrumentation,'' and] (NUREG–1430 through NUREG–1434) Example 1.4–3, ''Frequency'' applicable to SR 3.0.2. The NRC staff has concluded that the TS revisions [will have a minimal affect on the high reliability of the CRD system while reducing the opportunity for potential reactivity events; thus, meeting the requirement of CFR, Part 50, Appendix A, GDC 29, and] will clarify the 1.25 provision in SR 3.0.2. Therefore, the staff concludes that the amendment request is acceptable.

Based on the considerations discussed above, the Commission has concluded that: (1) There is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) such activities will be conducted in compliance with the Commission's regulations, and (3) the issuance of the amendments will not be inimical to the common defense and security or to the health and safety of the public.

4.0 State Consultation

In accordance with the Commission's regulations, the [ ] State official was notified of the proposed issuance of the amendment. The State official had [(1) no comments or (2) the following comments—with subsequent disposition by the staff].

5.0 Environmental Consideration

The amendments change a requirement with respect to the installation or use of a facility component located within the restricted area as defined in 10 CFR part 20 and change surveillance requirements. The NRC staff has determined that the amendments involve no significant increase in the amounts and no significant change in the types of any effluents that may be released offsite, and that there is no significant increase in individual or cumulative occupational radiation exposure. The Commission has previously issued a proposed finding that the amendments involve no significant hazards considerations, and there has been no public comment on the finding [FR]. Accordingly, the amendments meet the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9) [and (c)(10)]. Pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the issuance of the amendments.

6.0 Conclusion

The Commission has concluded, on the basis of the considerations discussed above, that (1) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) such activities will be conducted in compliance with the Commission's regulations, and (3) the issuance of the amendments will not be inimical to the common defense and security or to the health and safety of the public.

7.0 References

1. Letter TSTF–04–07 from the Technical Specifications Task Force to the NRC, TSTF–475 Revision 0, ''Control Rod Notch Testing Frequency and SRM Insert Control Rod Action,'' August 30, 2004, ADAMS accession number ML042520035.

2. NUREG–1430, ''Standard Technical Specifications Babcock and Wilcox Plants, Revision 3,'' August 31, 2003.

3. NUREG–1431, ''Standard Technical Specifications Westinghouse Plants, Revision 3,'' August 31, 2003.

4. NUREG–1432, ''Standard Technical Specifications Combustion Engineering Plants, Revision 3,'' August 31, 2003.

5. NUREG–1433, ''Standard Technical Specifications General Electric Plants, BWR/4, Revision 3,'' August 31, 2003.

6. NUREG–1434, ''Standard Technical Specifications General Electric Plants, BWR/6, Revision 3,'' August 31, 2003.

7. Letter TSTF–07–19, Response from the Technical Specifications Task Force to the NRC, ''Request for Additional Information (RAI) Regarding TSTF–475 Revision 0,'' Control Rod Notch Testing Frequency and SRM Insert Control Rod Action,'' dated February 28, 2007, (TSTF–475 Revision 1 is an enclosure), ADAMS accession number ML071420428.

8. Letter TSTF–06–13 from the Technical Specifications Task Force to the NRC, ''Response to NRC Request for Additional Information Regarding TSTF–475, Revision 0,'' dated July 3, 2006, ADAMS accession number ML0618403421.

9. Letter BWROG–06036 from the BWR Owners Group to the NRC, ''Response to NRC Request for Additional Information Regarding TSTF–475, Revision 0,'' dated November 16, 2006, with Enclosure of the GE Nuclear Energy Report, ''CRD Notching Surveillance Testing for Limerick Generating Station,'' dated November 2006, ADAMS accession number ML063250258.

10. Letter TSTF–07–19 from the Technical Specifications Task Force to the NRC, ''Response to NRC Request for Additional Information Regarding TSTF–475, Revision 0,'' dated May 22, 2007, ADAMS accession number ML071420428].

THE FOLLOWING EXAMPLE OF AN APPLICATION WAS PREPARED BY THE NRC STAFF TO FACILITATE USE OF THE CONSOLIDATED LINE ITEM IMPROVEMENT PROCESS (CLIIP). THE MODEL PROVIDES THE EXPECTED LEVEL OF DETAIL AND CONTENT FOR AN APPLICATION TO REVISE TECHNICAL SPECIFICATIONS REGARDING REVISION OF CONTROL ROD NOTCH SURVEILLANCE TEST FREQUENCY, CLARIFICATION OF SRM INSERT CONTROL ROD ACTION, AND A CLARIFICATION OF A FREQUENCY EXAMPLE. LICENSEES REMAIN RESPONSIBLE FOR ENSURING THAT THEIR ACTUAL APPLICATION FULFILLS THEIR ADMINISTRATIVE REQUIREMENTS AS WELL AS NUCLEAR REGULATORY COMMISSION REGULATIONS.

U.S. Nuclear Regular Commission
Document Control Desk
Washington, DC 20555

SUBJECT: PLANT NAME, DOCKET NO. 50— APPLICATION FOR TECHNICAL SPECIFICATION CHANGE REGARDING REVISION OF CONTROL ROD NOTCH SURVEILLANCE TEST FREQUENCY, CLARIFICATION OF SRM INSERT CONTROL ROD ACTION, AND A

CLARIFICATION OF A FREQUENCY EXAMPLE USING THE CONSOLIDATED LINE ITEM IMPROVEMENT PROCESS

Gentleman:

In accordance with the provisions of 10 CFR 50.90 [LICENSEE] is submitting a request for an amendment to the technical specifications (TS) for [PLANT NAME, UNIT NOS.].

The proposed amendment would: (1) [revise the TS surveillance requirement (SR) frequency in TS 3.1.3, ''Control Rod OPERABILITY'', (2) clarify the requirement to fully insert all insertable control rods for the limiting condition for operation (LCO) in TS 3.3.1.2, required Action E.2, ''Source Range Monitoring Instrumentation,'' and (3)] revise Example 1.4–3 in Section 1.4 ''Frequency'' to clarify the applicability of the 1.25 surveillance test interval extension.

Attachment 1 provides a description of the proposed change, the requested confirmation of applicability, and plant-specific verifications. Attachment 2 provides the existing TS pages marked up to show the proposed change. Attachment 3 provides revised (clean) TS pages. Attachment 4 provides a summary of the regulatory commitments made in this submittal.

[LICENSEE] requests approval of the proposed License Amendment by [DATE], with the amendment being implemented [BY DATE OR WITHIN X DAYS].

In accordance with 10 CFR 50.91, a copy of this application, with attachments, is being provided to the designated [STATE] Official.

I declare [or certify, verify, state] under penalty of perjury that the foregoing is true and correct.

If you should have any questions regarding this submittal, please contact [NAME, TELEPHONE NUMBER].

Sincerely,

[Name, Title]

Attachments:
1. Description and Assessment
2. Proposed Technical Specification Changes
3. Revised Technical Specification Pages
4. Regulatory Commitments
5. Proposed Technical Specification Bases Changes]

cc:
NRC Project Manager
NRC Regional Office
NRC Resident Inspector
State Contact

Attachment 1—Description and Assessment

1.0 Description

The proposed amendment would: (1) [Revise the TS surveillance requirement (SR 3.1.3.2) frequency in TS 3.1.3, ''Control Rod OPERABILITY'', (2) clarify the requirement to fully insert all insertable control rods for the limiting condition for operation (LCO) in TS 3.3.1.2, Required Action E.2, ''Source Range Monitoring Instrumentation'', and (3)] revise Example 1.4–3 in Section 1.4 ''Frequency'' to clarify the applicability of the 1.25 surveillance test interval extension.

The changes are consistent with Nuclear Regulatory Commission (NRC) approved Industry/Technical Specification Task Force (TSTF) STS change TSTF–475, Revision 1. The **Federal Register** notice published on [DATE] announced the availability of this TS improvement through the consolidated line item improvement process (CLIIP).

2.0 Assessment

2.1 Applicability of Published Safety Evaluation

[LICENSEE] has reviewed the safety evaluation dated [DATE] as part of the CLIIP. This review included a review of the NRC staff's evaluation, as well as the supporting information provided to support TSTF–475, Revision 1. [LICENSEE] has concluded that the justifications presented in the TSTF proposal and the safety evaluation prepared by the NRC staff are applicable to [PLANT, UNIT NOS.] and justify this amendment for the incorporation of the changes to the [PLANT] TS.

2.2 Optional Changes and Variations

[LICENSEE] is not proposing any variations or deviations from the TS changes described in the modified TSTF–475, Revision 1 and the NRC staff's model safety evaluation dated [DATE].

3.0 Regulatory Analysis

3.1 No Significant Hazards Consideration Determination

[LICENSEE] has reviewed the proposed no significant hazards consideration determination (NSHCD) published in the **Federal Register** as part of the CLIIP. [LICENSEE] has concluded that the proposed NSHCD presented in the **Federal Register** notice is applicable to [PLANT] and is hereby incorporated by reference to satisfy the requirements of 10 CFR 50.91(a).

3.2 Verification and Commitments

As discussed in the notice of availability published in the **Federal Register** on [DATE] for this TS improvement, the [LICENSEE] verifies the applicability of TSTF–475 to [PLANT], and commits to establishing Technical Specification Bases for TS as proposed in TSTF–475, Revision 1.

These changes are based on TSTF change traveler TSTF–475 (Revision 1) that proposes revisions to the STS by: (1) [Revising the frequency of SR 3.1.3.2, notch testing of fully withdrawn control rod, from ''7 days after the control rod is withdrawn and THERMAL POWER is greater than the LPSP of RWM'' to ''31 days after the control rod is withdrawn and THERMAL POWER is greater than the LPSP of the RWM'', (2) adding the word ''fully'' to LCO 3.3.1.2 Required Action E.2 to clarify the requirement to fully insert all insertable control rods in core cells containing one or more fuel assemblies when the associated SRM instrument is inoperable, and (3)] revising Example 1.4–3 in Section 1.4 ''Frequency'' to clarify that the 1.25 surveillance test interval extension in SR 3.0.2 is applicable to time periods discussed in NOTES in the ''SURVEILLANCE'' column in addition to the time periods in the ''FREQUENCY'' column.

4.0 Environmental Evaluation

[LICENSEE] has reviewed the environmental evaluation included in the model safety evaluation dated [DATE] as part of the CLIIP. [LICENSEE] has concluded that the staff's findings presented in that evaluation are applicable to [PLANT] and the evaluation is hereby incorporated by reference for this application.

ATTACHMENT 2—PROPOSED TECHNICAL SPECIFICATION CHANGES (MARK-UP)

ATTACHMENT 3—PROPOSED TECHNICAL SPECIFICATION PAGES

ATTACHMENT 4—LIST OF REGULATORY COMMITMENTS

The following table identifies those actions committed to by [LICENSEE] in this document. Any other statements in this submittal are provided for information purposes and are not considered to be regulatory commitments. Please direct questions regarding these commitments to [CONTACT NAME].

Regulatory commitments	Due date/event
[[LICENSEE] will establish the Technical Specification Bases for [TS B 3.1.3, TS B 3.1.4, and TS B 3.3.1.2] consistent with those shown in TSTF–475, Revision 1, ''Control Rod Notch Testing Frequency and SRM Insert Control Rod Action.''].	[Complete, implemented with amendment OR within X days of implementation of amendment].

ATTACHMENT 5—PROPOSED CHANGES TO TECHNICAL SPECIFICATION BASES PAGES

[Not required for plants only adopting portion of TSTF–475 change pertaining to TS Section 1.4 that provides example to SR Frequency]

Proposed No Significant Hazards Consideration Determination

Description of Amendment Request: [Plant Name] requests adoption of an approved change to the Standard Technical Specifications (STS) for [General Electric (GE) Plants (NUREG–1433, BWR/4 and NUREG–1434, BWR/6) and] plant specific technical specifications (TS), that allows: (1) [revising the frequency of SR 3.1.3.2, notch testing of fully withdrawn control rod, from ''7 days after the control rod is withdrawn and THERMAL POWER is greater than the LPSP of RWM'' to ''31 days after the control rod is withdrawn and THERMAL POWER is greater than the LPSP of the RWM'', (2) adding the word ''fully'' to LCO 3.3.1.2 Required Action E.2 to clarify the requirement to fully insert all insertable control rods in core cells containing one or more fuel assemblies when the associated SRM instrument is inoperable, and (3)] revising Example 1.4–3 in Section 1.4 ''Frequency'' to clarify that the 1.25 surveillance test interval extension in SR 3.0.2 is applicable to time periods discussed in NOTES in the ''SURVEILLANCE'' column in addition to the time periods in the ''FREQUENCY'' column. The staff finds that the proposed STS changes are acceptable [because the number of control rod manipulations is reduced thereby reducing the opportunity for potential reactivity events while having a very minimal impact on the extremely high reliability of the CRD system as discussed in the technical evaluation section of this safety evaluation and] the discussion of the SR Frequency example provides clarification.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change generically implements TSTF–475, Revision 1, ''Control Rod Notch Testing Frequency and SRM Insert Control Rod Action.'' TSTF–475, Revision 1 modifies NUREG–1433 (BWR/4) and NUREG–1434 (BWR/6) STS. The changes: (1) revise TS testing frequency for surveillance requirement (SR) 3.1.3.2 in TS 3.1.3, ''Control Rod OPERABILITY'', (2) clarify the requirement to fully insert all insertable control rods for the limiting condition for operation (LCO) in TS 3.3.1.2, Required Action E.2, ''Source Range Monitoring Instrumentation'' (NUREG–1434 only), and (3) revise Example 1.4–3 in Section 1.4 ''Frequency'' to clarify the applicability of the 1.25 surveillance test interval extension. The consequences of an accident after adopting TSTF–475, Revision 1 are no different than the consequences of an accident prior to adoption. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident from any Accident Previously Evaluated

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. The proposed change will not introduce new failure modes or effects and will not, in the absence of other unrelated failures, lead to an accident whose consequences exceed the consequences of accidents previously analyzed. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

TSTF–475, Revision 1 will: (1) [revise the TS SR 3.1.3.2 frequency in TS 3.1.3, ''Control Rod OPERABILITY'', (2) clarify the requirement to fully insert all insertable control rods for the limiting condition for operation (LCO) in TS 3.3.1.2, ''Source Range Monitoring Instrumentation,'' and (3)] revise Example 1.4–3 in Section 1.4 ''Frequency'' to clarify the applicability of the 1.25 surveillance test interval extension. [The GE Nuclear Energy Report, ''CRD Notching Surveillance Testing for Limerick Generating Station,'' dated November 2006, concludes that extending the control rod notch test interval from weekly to monthly is not expected to impact the reliability of the scram system and that the analysis supports the decision to change the surveillance frequency.] Therefore, the proposed changes in TSTF–475, Revision 1 are acceptable and do not involve a significant reduction in a margin of safety.

Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration.

Dated at Rockville, Maryland, this 5th day of November, 2007.

For the Nuclear Regulatory Commission.

Timothy J. Kobetz,

Section Chief, Technical Specifications Branch, Division of Inspection & Regional Support, Office of Nuclear Reactor Regulation.

[FR Doc. E7–22159 Filed 11–9–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

NUREG–1556, Volume 21, ''Consolidated Guidance About Materials Licenses Program-Specific Guidance About Possession Licenses for Production of Radioactive Material Using an Accelerator''

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: The Nuclear Regulatory Commission (NRC) is announcing the completion and availability of NUREG–1556, Volume 21, ''Consolidated Guidance About Materials Licenses, Program-Specific Guidance About Possession Licenses for Production of Radioactive Material Using an Accelerator,'' dated October 2007.

ADDRESSES: Copies of NUREG–1556, Volume 21, may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20402–9328; *www.access.gpo.gov/su_docs,* 202–512–1800 or The National Technical Information Service, Springfield, Virginia 22161–0002; *www.ntis.gov;* 1–800–533–6847 or, locally, 703–805–6000.

A copy of the document is also available for inspection and/or copying for a fee in the NRC Public Document Room, 11555 Rockville Pike, Rockville, Maryland. Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/NRC/ADAMS/index.html.* From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of the NRC's public documents. The ADAMS Accession Number for NUREG–1556, Volume 21 is ML072900058. 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.* The document will also be posted on NRC's public Web site at: *http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1556/* on the ''Consolidated Guidance About Materials Licenses (NUREG–1556)'' Web site page, and on the Office of Federal and State Materials and Environmental Management Programs' NARM (Naturally-Occurring and Accelerator-Produced Radioactive Material) Toolbox Web site page at: *http://nrc-stp.ornl.gov/*

narmtoolbox.html under the heading of ''Licensing Guidance.'' Some publications in the NUREG series that are posted at NRC's Web site address *www.nrc.gov* are updated regularly and may differ from the last printed version.

A free single copy, to the extent of supply, may be requested by writing to Office of the Chief Information Officer, Reproduction and Distribution Services, U.S. Nuclear Regulatory Commission, Printing and Graphics Branch, Washington, DC 20555–0001; facsimile: (301) 415–2289; e-mail: *Distribution@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Torre Taylor, Division of Intergovernmental Liaison and Rulemaking, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–7900, e-mail: *tmt@nrc.gov;* or Duane White, Division of Materials Safety and State Agreements, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6272, e-mail: *dew2@nrc.gov.*

SUPPLEMENTARY INFORMATION: On August 8, 2005, the President signed into law the Energy Policy Act of 2005 (EPAct). Among other provisions, Section 651(e) of the EPAct expanded the definition of byproduct material as defined in Section 11e. of the Atomic Energy Act of 1954 (AEA), placing additional byproduct material under the NRC's jurisdiction, and required the Commission to provide a regulatory framework for licensing and regulating these additional byproduct materials.

Specifically, Section 651(e) of the EPAct expanded the definition of byproduct material by: (1) Adding any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after the date of enactment of the EPAct for use for a commercial, medical, or research activity; or any material that has been made radioactive by use of a particle accelerator and is produced, extracted, or converted after extraction, before, on, or after the date of enactment of the EPAct for use for a commercial, medical, or research activity (Section 11e.(3) of the AEA); and (2) adding any discrete source of naturally occurring radioactive material, other than source material, that the Commission, in consultation with the Administrator of the Environmental Protection Agency (EPA), the Secretary of the Department of Energy (DOE), the Secretary of the Department of Homeland Security (DHS), and the head of any other appropriate Federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium–226 to the public health and safety or the common defense and security; and is extracted or converted after extraction before, on, or after the date of enactment of the EPAct for use in a commercial, medical, or research activity (Section 11e.(4) of the AEA).

NRC revised its regulations to provide a regulatory framework that includes these newly added radioactive materials. See **Federal Register** notice 72 FR 55864, dated October 1, 2007. As part of the rulemaking effort to address the mandate of the EPAct, the NRC also evaluated the need to revise certain licensing guidance to provide necessary guidance to applicants in preparing license applications to include the use of the newly added radioactive materials as byproduct material. Two NUREG–1556 documents are being revised to provide additional guidance to licensees: (1) NUREG–1556, Volume 13, Revision 1, ''Consolidated Guidance About Materials Licenses—Program-Specific Guidance About Commercial Radiopharmacy Licenses,'' and (2) NUREG–1556, Volume 9, Revision 2, ''Consolidated Guidance About Materials Licenses—Program-Specific Guidance About Medical Use Licenses.'' Additionally, a new NUREG–1556 volume was developed to address production of radioactive material using an accelerator. This NUREG–1556 volume is entitled: Volume 21, ''Consolidated Guidance About Materials Licenses—Program-Specific Guidance About Possession Licenses for Production of Radioactive Material Using an Accelerator.''

NUREG–1556, Volume 21, ''Consolidated Guidance About Materials Licenses—Program-Specific Guidance About Possession Licenses for Production of Radioactive Material Using an Accelerator'' was noticed for public comment on May 29, 2007 (72 FR 29555). Six comment letters were received and these comments were considered by the staff as this NUREG was finalized.

NUREG–1556, Volume 21, provides guidance on preparing a license application for the production of radioactive material using an accelerator(s). It also includes the criteria that NRC staff will use in evaluating license applications for this use. This document includes guidance that is specific to the activities that take place once radioactive materials are produced by the accelerator, which include material in the target and associated activation products. This document does not include information for the operation of the accelerator as NRC does not regulate the accelerator or its operation.

Volume 21 provides guidance related to each of the items that applicants should address in their materials license application, which includes items such as radioactive material that will be produced and its purpose; information on individuals responsible for the radiation safety program; training for individuals that will handle radioactive material; description of the facilities and equipment used; and the radiation safety program. There are some aspects of producing radioactive materials using an accelerator that are unique to this type of use and are discussed in the document. Some examples include training and experience for individuals who will handle radioactive material during the maintenance and repair of the accelerator and other associated equipment, and guidance on the facility design and type of equipment needed to transfer and handle large radioactive materials with high activities. This document also includes guidance on the production and noncommercial distribution of positron emission tomography radioactive drugs to consortium members.

The remaining two NUREG–1556 volumes were noticed separately: (1) NUREG–1556, Volume 13, Revision 1, on July 3, 2007 (72 FR 36526), and (2) NUREG–1556, Volume 9, Revision 2, on August 2, 2007 (72 FR 42442). These two NUREGs are being finalized and will be available in the near future.

Dated at Rockville, Maryland, this 1st day of November, 2007.

For the Nuclear Regulatory Commission.

Patrice M. Bubar,

Deputy Director, Division of Intergovernmental Liaison and Rulemaking, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. E7–22157 Filed 11–9–07; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56749; File No. SR–CBOE–2007–128]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Related to the Marketing Fee Program

November 6, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 1, 2007, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. On November 2, 2007, the CBOE submitted Amendment No. 1 to the proposed rule change. CBOE has designated this proposal as one establishing or changing a due, fee, or other charge imposed by CBOE 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, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to amend its Marketing Fee Program. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *www.cboe.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. CBOE has substantially prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

CBOE proposes to amend its Marketing Fee Program as follows. First, CBOE proposes to increase the fee from $.10 to $.30 in the following Penny Pilot classes: Equity classes, OIH, and SMH. CBOE also proposes to begin to assess the marketing fee at the rate of $.30 in XLE and XLF, which are also Penny Pilot classes. As a result of this change, CBOE's marketing fee in these classes will be more competitive with the payment for order flow fee other options exchanges assess in these option classes, and allow CBOE market-makers to compete better for order flow in these option classes. CBOE will continue to collect the marketing fee at the rate of $.10 per contract in DIA and SPY, and not collect the marketing fee in QQQQ and IWM.

Second, CBOE also proposes to begin to assess the marketing fee, at the current rate of 65 cents per contract, in all ETF and index option classes in which CBOE currently does not assess the marketing fee, except for the following option classes in which CBOE does not intend to assess the fee: DJX, DXL, EEM, EWC, EWT, IWM, MNX, MVR, OEX, QQQQ, RSP, SPX, VIX, VPL, VWO, XBI, XEO, XSP, credit default options, and credit default basket options. Similar to the proposed change relating to certain Penny Pilot classes, CBOE believes that collecting the marketing fee in these option classes will allow CBOE market-makers to compete better for order flow in these option classes.

CBOE proposes to implement these changes to the marketing fee program beginning on November 1, 2007. CBOE is not amending its marketing fee program in any other respects.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[5] in general, and furthers the objectives of Section 6(b)(4) of the Act[6] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE 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

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has been designated as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act[7] and Rule 19b–4(f)(2)[8] thereunder, because it establishes or changes a due, fee, or other charge imposed by the Exchange. Accordingly, the proposal will take effect upon filing with the Commission. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[9]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *(http://www.sec.gov/rules/sro.shtml);* or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2007–128 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.

[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] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 240.19b–4(f)(2).

[9] For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change, the Commission considers the period to commence on November 2, 2007, the date on which the Exchange filed Amendment No. 1.

All submissions should refer to File Number SR–CBOE–2007–128. 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 am and 3 pm. Copies of such 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 File Number SR–CBOE–2007–128 and should be submitted on or before December 4, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–22098 Filed 11–9–07; 8:45 am]

BILLING CODE 8011–01–P

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56742; File No. SR–FINRA–2007–008]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving Proposed Rule Change To Amend the Definition of Office of Supervisory Jurisdiction in NASD Rule 3010(g)(1) To Exempt Locations That Solely Conduct Final Approval of Research Reports

November 5, 2007.

I. Introduction

On August 30, 2007, the Financial Industry Regulatory Authority, Inc. (''FINRA'') (f/k/a the National Association of Securities Dealers, Inc. (''NASD'')) 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 proposed rule change to amend the definition of Office of Supervisory Jurisdiction (''OSJ'') in NASD Rule 3010(g)(1) to exempt locations that solely conduct final approval of research reports. The proposed rule change was published for comment in the **Federal Register** on October 5, 2007.[3] The Commission received two comment letters in support of the proposal.[4] This order approves the proposed rule change.

II. Description of the Proposal

NASD Rule 3010(g)(1) currently defines OSJ to mean any office of a member at which any one or more of the following functions takes place: (a) Order execution and/or market making; (b) structuring of public offerings or private placements; (c) maintaining custody of customers' funds and/or securities; (d) final acceptance (approval) of new accounts on behalf of the member; (e) review and endorsement of customer orders, pursuant to paragraph (d) above; (f) final approval of advertising or sales literature for use by persons associated with the member, pursuant to NASD Rule 2210(b)(1); or (g) responsibility for supervising the activities of persons associated with the member at one or more other branch offices of the member.

In July 2006, amendments to the branch office definition under NASD Rule 3010(g)(2) went into effect (''Uniform Branch Office Definition'').[5] The Uniform Branch Office Definition was developed collectively by FINRA (then known as NASD), the New York Stock Exchange LLC (''NYSE'') and the North American Securities Administrators Association to establish a national standard. In conjunction with the new Uniform Branch Office Definition, a Form BR was introduced to provide a more efficient, standardized method for members to register branch office locations.

Although FINRA and NYSE sought to adopt consistent interpretations of the new Uniform Branch Office Definition, there were nevertheless different classifications of a location where final approval of research reports by a principal occurs. Under NASD's current rules, final review of advertising or sales literature (which includes research reports) makes a location an OSJ, and therefore a branch office. NYSE's rules, however, do not include an OSJ definition,[6] and NYSE stated in an *Information Memo* that it deems a location where a member stations a qualified supervisory analyst solely to review research reports as a ''non-sales location,'' which is an express exclusion from the Uniform Branch Office Definition.[7]

Due to this inconsistency, NASD published *Notice to Members* 07–12 in February 2007 seeking comment on a rule harmonization proposal to eliminate the definition of OSJ from the NASD manual. After reviewing the twenty comments received on the original proposal set forth in its *Notice to Members* 07–12, FINRA determined not to move forward with the broad proposal to eliminate the definition of OSJ and adopt new classifications for office locations. Instead, consistent with many of its commenters' recommendation, FINRA proposed to amend the definition of OSJ in the NASD rules to exclude locations that solely conduct final approval of research reports, thereby enabling

[1] 15 U.S.C. 78s(b)(l).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 56585 (October 1, 2007), 72 FR 57081.

[4] *See* letters to Nancy M. Morris, Secretary, Commission, from Marian H. Desilets, President, Association of Registration Management, Inc., dated October 25, 2007, and Jill Ostergaard and Christopher Mahon, Co-Chairs, Securities Industry and Financial Markets Association Self Regulation and Supervisory Practices Committee, dated October 30, 2007.

[5] *See* Securities Exchange Act Release No. 52403 (September 9, 2005), 70 FR 54782 (September 16, 2005) (SR–NASD–2003–104) (order approving Uniform Branch Office Definition).

[6] *See* NYSE Rule 342 (Offices—Approval, Supervision and Control), which contains the Uniform Branch Office Definition.

[7] *See* NYSE *Information Memo* 06–13 (March 22, 2006) (Joint Interpretive Guidance from NYSE and NASD Relating to the Uniform Branch Office Definition, Question and Answer #5).

FINRA to deem such locations to be ''non-sales locations.''

III. Discussion and Commission Findings

The Commission has carefully reviewed the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[8] In particular, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act,[9] which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The Commission believes that the proposed rule change will resolve the conflicting provisions in NASD and NYSE rules over the classification of locations that solely conduct final approval of research reports, and promote greater consistency in the application of the Uniform Branch Office Definition. The Commission also believes that providing an exemption from the definition of OSJs to such locations will reduce regulatory inefficiencies and eliminate unnecessary costs to member firms.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR–FINRA–2007–008), be, and hereby is, approved. FINRA will announce the effective date of the proposed rule change in a *Regulatory Notice* to be published no later than 60 days following Commission approval. The effective date will be the date of publication of the *Regulatory Notice* announcing Commission approval.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–22064 Filed 11–9–07; 8:45 am]

BILLING CODE 8011–01–P

[8] 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).

[9] 15 U.S.C. 78o–3(b)(6).

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56747; File No. SR–NYSE–2006–99]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change and Amendment Nos. 2 and 3 Thereto Relating to Rule 104 (Dealings by Specialists)

November 5, 2007.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on November 9, 2006, the New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed and withdrew Amendment No. 1 to the proposal on October 24, 2007 and October 29, 2007, respectively. The Exchange filed Amendment Nos. 2 and 3 on October 29, 2007 and November 5, 2007, respectively. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE is proposing an amendment to Exchange Rule 104 (Dealings by Specialists) to allow the specialist's algorithm systems to generate trading messages that provide supplemental specialist volume to partially or completely fill an order at a sweep price. The text of the proposed rule change is available at the NYSE, 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. 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to allow the specialist proprietary algorithm (''Specialist Algorithm'') to generate trading messages that provide supplemental specialist volume to partially or completely fill an order at a sweep price. Through the NYSE HYBRID MARKET℠ (''Hybrid Market'')[4] the Exchange permitted specialists to establish electronic connections to the Display Book®[5] (''Display Book''). Specifically, the Specialist Algorithm generates quote and trade messages based on predetermined parameters to electronically participate in the Hybrid Market. The Specialist Algorithm is designed to communicate with the Display Book system via an Exchange-owned external Application Program Interface (''API'').

In the Hybrid Market, the Specialist Algorithm is permitted to send messages to the Display Book via the API to quote or trade on behalf of the specialist's proprietary interest. The Specialist Algorithm may generate these quoting or trading messages in reaction to specific types of information. This information includes specialist dealer position, existing quotes, publicly available information the specialist chooses to supply to the algorithm, incoming orders as they are entering Exchange systems, and information about orders on the Display Book, which include limit orders, and percentage orders. This latter information stream is known as ''state of the book'' information.

Based on discussions of Hybrid Market features with members and advisory committees the Exchange has effected selective changes to certain aspects of the Hybrid Market to produce a trading venue that best addresses the various needs of our members and customers.

The Exchange seeks to amend Rule 104(b)(i)(F) to allow the Specialist Algorithm to provide supplemental specialist volume to partially or completely fill an order at a sweep price

[4] *See* Securities Exchange Act Release No. 53539 (March 22, 2006), 71 FR 16353 (March 31, 2006) (SR–NYSE–2004–05).

[5] The Display Book is an order management and execution facility. It receives and displays orders to the specialist, contains the orders received by the specialist (the ''Book''), and provides a mechanism to execute and report transactions to the Consolidated Tape.

as described further below.[6] Currently, Rule 104(b)(i)(F) permits the Specialist Algorithm to generate a trading message to provide supplemental specialist volume at the Exchange published best bid or offer (''BBO''). This supplemental specialist volume is not displayed and is not part of the specialist reserve interest. With respect to priority and parity, supplemental specialist volume yields to displayed and reserve interest (*i.e.,* supplemental specialist volume will not trade before customer limit orders, Floor broker agency interest and specialist interest). However, supplemental specialist volume are on parity with member organizations' off-Floor proprietary orders entered by Floor brokers pursuant to Section 11(a)(1)(G) of the Act,[7] and Rule 11a1–1(T)[8] thereunder (''G'' orders). Additionally, Exchange systems do not permit a trading message to provide supplemental specialist volume that would trade-through a protected quotation in violation of the Regulation National Market System's Order Protection Rule.[9]

This trading message enables specialists, through the use of their algorithms, to provide more volume where, technically, there is no other interest available to trade with the customer order. For example, if 5,000 shares of an automatically executing market order to sell remain unfilled after trading with the displayed volume at the Exchange best bid and any reserve interest at that price, the Specialist Algorithm can send a trading message to buy all or some of the remaining 5,000 shares at the same price (*i.e.*, the Exchange best bid). If the specialist buys less than the full size remaining, the order will sweep the orders on the Display Book including customer limit orders, Floor broker agency and specialist interest files to the extent permitted, until filled, its limit, if any, is reached or a Liquidity Replenishment Point (''LRP'') is triggered, whichever comes first.

The Exchange seeks to further provide its customers with additional opportunities for a better priced execution by allowing the specialist to also partially or completely fill an order beyond the Exchange published best bid or offer at a sweep price. The Specialist Algorithm will generate this trading message in reaction to one order at a time and only as that order is entering Exchange systems. Additionally, this trading message will only be able to interact with the targeted order to add volume at one place, either at the Exchange best bid or offer or at a particular sweep price. In other words, the specialist will not have two opportunities to provide supplemental specialist volume to the incoming order at the Exchange best bid or offer and also at a particular price point should the order sweep the Display Book. There will be no change with respect to priority and parity. The supplemental specialist volume will continue to yield to displayed and reserve interest at each price point and will be on parity with G orders. The specialist's algorithm will make a determination about where and how much supplemental specialist volume to provide based on the state of the book information when the order is received by Exchange systems. An example of the proposed amendment to permit a trading message to provide supplemental specialist volume to partially or completely fill an order at a sweep price is set forth below:

The Exchange best bid is $5.05 and 4,000 shares (2,000 shares displayed and 2,000 shares of non-displayed reserved interest) are available. The Exchange best offer is $5.10 and 2,000 shares (1,000 shares displayed and 1,000 shares of non-displayed reserve interest) are available.

Supplemental specialist volume	Reserve interest	Buy LMT	100ths	Sell LMT	Reserve interest
	.....	.....	5.12	.....	.....
	.....	.....	5.11	.....	.....
	.....	.....	5.10	1,000	1,000
	2,000	2,000	5.05	.....	.....
	1,000	1,000	5.04	.....	.....
1,000	2,000	.....	5.03	.....	.....
	1,000	.....	5.02	.....	.....

1. An automatically executing market order to sell for 9,000 shares is received by Exchange systems.

2. Based on the state of the book, the Specialist Algorithm has determined based on the state of the book, *not* to provide supplemental specialist volume at the bid (i.e., buy all or some of the 5,000 shares at the same price, $5.05). However, the Specialist Algorithm determines to provide supplemental volume at the price of $5.03 and accordingly sends a trading message to provide 1,000 shares of supplemental specialist volume to interact with the sell order at $5.03.

3. 4,000 shares of the automatically executing sell order will execute against the Exchange best bid at a price of $5.05 leaving 5,000 shares of the sell order unfilled after trading with the 2,000 shares of displayed volume at the Exchange best bid and the 2,000 shares of reserve interest at that price.

4. In the absence of any other available interest at the Exchange bid, the order will start to sweep the orders on the Display Book and Floor broker agency and specialist interest files at each price point beyond the Exchange best bid.

5. At the price point of $5.04, there is another 1,000 shares of displayed and 1,000 shares of reserve buy interest. The sell order executes first against the displayed buy interest and then against the reserve buy interest. Therefore, 2,000 shares are executed, leaving 3,000 shares of the sell order unfilled.

6. At the price point of $5.03, there is another 2,000 shares of reserve buy interest. The sell order executes against that buy interest. Therefore, 2,000 shares of the sell order are filled leaving a balance of 1,000 shares unfilled. No other customer interest exists at this price point.

7. At the price point of $5.03, the Specialist Algorithm has previously determined to provide supplemental volume and sent a trading message to provide 1,000 shares of supplemental specialist volume to interact with the sell order at the same price point.

8. Having exhausted all the available displayed and reserve buy interest at the price point of $5.03; the sell order now interacts with the specialist's trading message to buy the remaining 1,000 shares of the sell order completing the execution.

In this example, the supplemental specialist volume provided the sell order with an opportunity for a better priced execution and also aided in dampening volatility by limiting how far the order swept down to lower price

[6] The instant filing was initially filed with the Commission on November 9, 2006. The Exchange states that the proposed functionality inadvertently became operational in Exchange systems without Commission approval on or about January 24, 2007. The proposed rule change, as amended, is intended to codify the current Exchange system functionality.

[7] 15 U.S.C. 78k(a)(1)(G).

[8] 17 CFR 240.11a–1(T).

[9] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005), 17 CFR 242.611.

points before it was fully executed. Thus, if the Specialist Algorithm had not determined to provide supplemental specialist volume at the price point of $5.03, the sell order would have continued its sweep down the Display Book and interacted with the available interest at the next price point of $5.02 completing the execution. If the specialist trading message did not provide enough supplemental volume to complete the order it would have continued to sweep the orders on the Display Book to the extent permitted until: (a) Filled; (b) its limit, if any was reached; or (c) an LRP was triggered, whichever occurred first.

It should be noted that the specialist is not required to buy the full size remaining of the sell order at the particular sweep price. The Exchange states that there is no disadvantage to the customer in allowing the specialists to partially fill an order at a particular sweep price especially when applicable rules only allow the supplemental specialist volume to interact with the order when no other interest exists. Under these circumstances, the order is afforded a better priced execution that it otherwise would not have.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) [10] that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change is consistent with these objectives in that it provides additional trading messages to the Specialist Algorithm, which will further enable the specialist to meet its obligation of maintaining a fair and orderly market.

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.

[10] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Exchange Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2006–99 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.

All submissions should refer to File Number SR–NYSE–2006–99. 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 NYSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2006–99 and should be submitted on or before December 4, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–22066 Filed 11–9–07; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56753; File No. SR–NYSE–2007–97]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Clarify That a Member Organization May Still Use the Express Consent Procedure for Obtaining Consent From a Customer To Trade Along on an Order-By-Order Basis Under Rule 92(b)

November 6, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 31, 2007, the New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by NYSE. The Exchange has designated this proposal as one constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule under Section 19(b)(3)(A)(i) of the Act [3] and Rule 19b–4(f)(1) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[11] 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)(i).

[4] 17 CFR 240.19b–4(f)(1).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to clarify the consent provisions for trading along under NYSE Rule 92 in an NYSE Regulation, Inc. (''NYSE Regulation'') Information Memo (''Information Memo''). The text of the proposed rule change is available at NYSE, the Commission's Public Reference Room, and *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

On July 5, 2007, the Commission approved amendments to NYSE Rule 92 that, among other things, expanded the consent provisions for trading along under Rule 92(b).[5] Under the pre-amended version of the rule, members or member organizations could trade along with a customer order that could be executed at the same price so long as the customer had given express permission, including an understanding of the relative price and size of allocated execution reports (''express consent procedure''). Under the express consent procedure, members or member organizations needed to obtain and document such consent on an order-by-order basis.

As amended, a member or member organization can trade along with a customer order under Rule 92(b) so long as the member organization ''periodically provides written disclosures to its customers and obtains and documents affirmative consent'' (''affirmative consent procedure''). Because the affirmative consent procedure is broader than the express consent procedure, the Exchange did not keep the text of the express consent procedure in the rule.

As explained in the Information Memo, in expanding the consent procedures under Rule 92(b), the Exchange did not intend to prohibit the use of the express consent procedure for obtaining trade-along consent in a given instance. The Information Memo clarifies that a member organization may still use the express consent procedure for obtaining consent from a customer to trade along on an order-by-order basis under Rule 92(b). Accordingly, if a customer does not want to provide blanket affirmative consent, a member organization may still obtain consent on an order-by-order basis to trade along with an order from that customer.

In addition, the Information Memo advises member organizations of a recent NYSE Regulation Hearing Panel decision concerning the express consent procedure. In that decision, a member organization was fined for failing to adhere to principles of good business practice because it did not record both the customer contact name and the percentage split when documenting whether a customer provided trade-along consent under the Rule 92(b) express consent procedure.[6] The Information Memo informs member organizations that NYSE Regulation considers the failure to document the contact name of the person who provided the express consent to be a violation not only of NYSE Rule 401, but of NYSE Rule 92 as well.

The Information Memo also addresses the September 30, 2007 deadline that was part of the original filing. The purpose of that deadline was to provide member organizations with a grace period to make the written disclosures required under amended Rule 92. That three-month grace period provided firms with the opportunity to use the new affirmative consent process immediately upon approval of the amended rule, even before their written disclosures were finalized, so long as the process of making written disclosures and documenting the orally-provided consents was completed by September 30, 2007. Because the grace period has expired, member organizations must provide written disclosures to their customers and document the customers' affirmative consents *before* they may trade along with such customers.[7]

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[8] that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

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 become effective pursuant to Section 19(b)(3)(A)(i) of the Act[9] and subparagraph (f)(1) of Rule 19b–4 thereunder,[10] because it constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

[5] *See* Securities Exchange Act Release No. 56017 (July 5, 2007), 72 FR 38110 (July 12, 2007) (SR–NYSE–2007–21).

[6] *See In re Merrill Lynch, Pierce, Fenner & Smith Incorporated,* NYSE Hearing Board Decision 07–005 (January 12, 2007).

[7] In addition, the Information Memo answers inquiries that NYSE Regulation has received from a number of member organizations regarding the scope and application of amended Rule 92(b). That portion of the Information Memo is not subject to this rule filing.

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A)(i).

[10] 17 CFR 240.19b–4(f)(1).

• Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2007–97 on the subject line.

Paper Comments

• Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2007–97. 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, 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 NYSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2007–97 and should be submitted on or before December 4, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–22099 Filed 11–9–07; 8:45 am]

BILLING CODE 8011–01–P

SOCIAL SECURITY ADMINISTRATION

[Document No. SSA–2007–0087]

The Ticket to Work and Work Incentives Advisory Panel Meeting

AGENCY: Social Security Administration (SSA).

ACTION: Notice of Teleconference.

DATE: November 26, 2007—4:30 p.m. to 8:30 p.m. Eastern Standard Time, Ticket to Work and Work Incentives Advisory Panel Conference Call, Call-in number: 1–888–790–4158, Pass code: PANEL TELECONFERENCE, Leader/Host: Berthy De la Rosa-Aponte.

SUPPLEMENTARY INFORMATION:

Type of meeting: On November 26, 2007, the Ticket to Work and Work Incentives Advisory Panel (the ''Panel'') will hold a teleconference. This teleconference meeting is open to the public.

Purpose: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, the Social Security Administration (SSA) announces this teleconference meeting of the Ticket to Work and Work Incentives Advisory Panel. The publication of this announcement may not meet the 15 day advance notice requirement provided in CFR 102.3.150. The need for this teleconference was not previously anticipated and therefore not scheduled, but will be required to allow further deliberation on the Panel's final report. Section 101(f) of Public Law 106–170 establishes the Panel to advise the President, the Congress, and the Commissioner of SSA on issues related to work incentive programs, planning, and assistance for individuals with disabilities as provided under section 101(f)(2)(A) of the Act.

The Panel is also to advise the Commissioner on matters specified in section 101(f)(2)(B) of that Act, including certain issues related to the Ticket to Work and Self-Sufficiency Program established under section 101(a).

Agenda: The agenda for the meeting will be posted on the Internet at *http://www.ssa.gov/work/panel* at least one week before the starting date or can be received, in advance, electronically or by fax upon request.

Contact Information: Records are kept of all proceedings and will be available for public inspection by appointment at the Panel office. Anyone requiring information regarding the Panel should contact the staff by:

• Mail addressed to the Social Security Administration, Ticket to Work and Work Incentives Advisory Panel Staff, 400 Virginia Avenue, SW., Suite 700, Washington, DC 20024. Telephone contact with Debra Tidwell-Peters at (202) 358–6126.

• Fax at (202) 358–6440

• E-mail to *TWWIIAPanel@ssa.gov*.

Dated: November 6, 2007.

Chris Silanskis,

Designated Federal Officer.

[FR Doc. E7–22171 Filed 11–9–07; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 5989]

Culturally Significant Objects Imported for Exhibition Determinations: ''Projects 86: Gert & Uwe Tobias''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''Projects 86: Gert & Uwe Tobias,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Museum of Modern Art, New York, New York, from on or about November 28, 2007, until on or about February 25, 2008, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/453–8052). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: November 2, 2007.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E7–22152 Filed 11–9–07; 8:45 am]

BILLING CODE 4710–05–P

[11] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 5988]

Fine Arts Committee Notice of Meeting

The Fine Arts Committee of the Department of State will meet on November 16, 2007 at 11 a.m. in the Henry Clay Room of the Harry S. Truman Building, 2201 C Street, NW., Washington, DC. The meeting will last until approximately 12 p.m. and is open to the public.

The agenda for the committee meeting will include a summary of the work of the Fine Arts Office since its last meeting on April 20, 2007 and the announcement of gifts and loans of furnishings as well as financial contributions from January 1, 2007 through September 30, 2007.

Public access to the Department of State is strictly controlled and space is limited. Members of the public wishing to take part in the meeting should telephone the Fine Arts Office at (202) 647–1990 or send an e-mail to *Craighillmf@state.gov* by November 12 to make arrangements to enter the building. The public may take part in the discussion as long as time permits and at the discretion of the chairman.

Dated: October 22, 2007.

Marcee F. Craighill,

Secretary, Fine Arts Committee, Department of State.

[FR Doc. E7–22143 Filed 11–9–07; 8:45 am]

BILLING CODE 4710–35–P

DEPARTMENT OF STATE

[Public Notice 5963]

Announcement of Meetings of the International Telecommunication Advisory Committee

SUMMARY: This notice announces meetings of the International Telecommunication Advisory Committee (ITAC) to prepare advice on U.S. positions for meeting of the Advisory and Study Groups of the International Telecommunication Union—Telecommunication Standardization Sector (ITU–T).

The ITAC will meet as the ITAC–T to prepare for the ITU–T December 2007 Advisory Group meeting on November 14 and 19, 2007, in the Washington, DC metro area. Both meetings are from 10 a.m.–1 p.m. Eastern Time. A conference bridge will be provided. Meeting details will be posted on the mailing list *itac-t@state.gov*. People desiring to participate on this list may apply to the secretariat at *minardje@state.gov*.

The ITAC will meet as the ITAC Study Group B to prepare for the January 2008 meeting of ITU–T Study Groups 11, 13, and 19 hosted by COMTECH Telecommunications Corporation in Chantilly, Virginia. The meeting will start at 10 a.m. Eastern Time on December 14, 2007. A conference bridge will be provided. Meeting details will be posted on the mailing list *sgb@state.gov*. People desiring to participate on this list may apply to the secretariat at *minardje@state.gov*.

The meetings are open to the public.

Dated: October 18, 2007.

James G. Ennis,

International Communications & Information Policy, Department of State.

[FR Doc. E7–22140 Filed 11–9–07; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF STATE

[Public Notice 5967]

U.S. Department of State Advisory Committee on Private International Law: Public Meeting on the United Nations Commission on International Trade Law (UNCITRAL) Draft Legislative Guide on Secured Transactions and its Treatment of Security Rights in Intellectual Property (IP)

The Department of State Advisory Committee on Private International Law (ACPIL) will hold a public meeting to discuss the treatment of IP secured financing practices in the UNCITRAL Draft Legislative Guide on Secured Transactions (Guide). At the 40th Session of the UNCITRAL (held June 25 through July 12, 2007), the Commission adopted a portion of the draft Guide, and scheduled adoption of the remaining portion for a second meeting of the Commission to take place in Vienna, Austria December 10–14, 2007. The Commission at its July 2007 session adopted recommendations dealing with the scope of the draft Guide as it relates to IP law and secured financing, as well as the inclusion in the commentary to the Guide of explanatory statements on the treatment of IP as secured financing. The Commission also tentatively approved a new work project on IP law matters as they relate to secured financing law, which would be initiated after conclusion of the Guide in its present scope. The first meeting on the new IP related project may occur in the spring of 2008. A top priority for the resumed Session is final adoption of the revised commentary and draft Guide. The ACPIL will use this public meeting to exchange thoughts on the draft Guide as it relates to IP secured financing matters with a view to determining what areas would need to be addressed in UNCITRAL's second phase of work. The draft UNCITRAL Legislative Guide on Secured Transactions and relevant information can be obtained at *http://www.uncitral.org/english/commission/sessions*.

Time: The public meeting will take place at the Department of State, Office of Private International Law, 2430 E Street, NW., Washington, DC on Wednesday November 28, 2007 from 1 p.m. EDT to 5:30 p.m. EDT. Public Participation: Advisory Committee Study Group meetings are open to the public, subject to the capacity of the meeting room. Access to the meeting building is controlled; persons wishing to attend should contact Tricia Smeltzer or Maya Garrett of the Department of State's Legal Adviser's Office at *SmeltzerTK@State.gov* or *GarrettM@State.gov* and provide your name, e-mail address, mailing address, and affiliation(s) to get admission to the meeting and to get directions to the office. Additional meeting information can also be obtained from Rachel Wallace at *WallaceRA@state.gov* or telephone (202) 647–2324. Persons who cannot attend but who wish to comment on any of the proposals are welcome to do so by e-mail to Michael Dennis at *DennisMJ@state.gov*. If you are unable to attend the public meeting and you would like to participate by teleconferencing, please contact Tricia Smeltzer or Maya Garrett at 202–776–8420 to receive the conference call-in number and the relevant information.

Dated: November 6, 2007.

Michael Dennis,

Attorney-Adviser, Office of the Legal Adviser, Office of Private International Law, Department of State.

[FR Doc. E7–22139 Filed 11–9–07; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

[Docket Nos. OST–2007–0004, FHWA–2007–0004, and FTA–2007–0004]

Solicitation of Applications for Funding of Congestion-Reduction Demonstration Initiatives

AGENCIES: Office of the Secretary of Transportation (''OST''); Federal Highway Administration (''FHWA''); Federal Transit Administration (''FTA''), Department of Transportation (''DOT'').

ACTION: Notice of solicitation for applications to enter into agreements with the U.S. Department of Transportation (the ''Department'') for funding under any or all of the following programs (collectively, the ''Funding Programs'') to support qualified congestion-reduction demonstration initiatives: (i) FHWA's Delta Region Transportation Development Program (§ 1308 of Public Law 109–59) (the ''Delta Region Program''); (ii) FHWA's Ferry Boat Discretionary Program (23 U.S.C. 147) (the ''Ferry Boat Program''); (iii) FHWA's Highways for Life Pilot Program (§ 1502 of Public Law 109–59) (the ''HfL Program''); (iv) FHWA's Innovative Bridge Research and Deployment Program (23 U.S.C. 503(b)) (the ''Innovative Bridge Program''); (v) FHWA's Interstate Maintenance Discretionary Program (23 U.S.C. 118(c)) (the ''IMD Program''); (vi) FHWA's Public Lands Highway Discretionary Program (23 U.S.C. 202–204) (the ''Public Lands Program''); (vii) FHWA's Transportation, Community, and System Preservation Program (§ 1117 of Public Law 109–59) (the ''TCSP Program''); (viii) FHWA's Truck Parking Facilities Pilot Program (§ 1305 of Public Law 109–59) (the ''Truck Parking Program''); (ix) FTA's capital program for Bus and Bus-Related Facilities (49 U.S.C. 5309) (the ''Bus Program''); (x) FTA's capital program for New Fixed Guideway Facilities, including ''Small Starts'' projects (49 U.S.C. 5309, 49 U.S.C. 5309(e)) (the ''Small Starts Program''); (xi) FTA's Alternatives Analysis Program (49 U.S.C. 5339); and (xii) any other discretionary program administered by the Department and designated by the Secretary as a source of funding under such agreements.

SUMMARY: This Notice solicits proposals to enter into certain agreements with the U.S. Department of Transportation (the ''Department''). Through these agreements, the Department intends to support congestion pricing along with complementary transportation solutions proposed by jurisdictions designated as recipients of Federal assistance in accordance with this Notice (each, a ''qualified jurisdiction''). Funds made available by the Department to qualified jurisdictions may include such sums as may be available for obligation in the Department's discretion during Fiscal Year 2008, including funds designated by law to support the Department's Congestion Initiative, as proposed in the President's Fiscal Year 2008 Budget.[1]

The Department reserves the right to solicit candidates for funding described herein by means other than this Notice. The Department expects to implement the procedures and criteria set forth in this Notice; however, such procedures and criteria shall not be binding on the Department.

DATES: Applicants wishing to become qualified jurisdictions must submit their applications on or before December 31, 2007. Late-filed applications will be considered to the extent practical. The Department intends to announce agreements with qualified jurisdictions in Fiscal Year 2008.

ADDRESSES: Applicants wishing to become qualified jurisdictions may file their applications electronically via e-mail to Thomas M. McNamara at *thomas.mcnamara@dot.gov* or through ''grants.gov'' at *http://www.grants.gov.* (Please note that solely for purposes of this solicitation, the Department prefers, but does not require, submission of applications by means of the e-mail address above). In the event that either of the forgoing options for submission would impose a hardship on an applicant, the applicant may request an exception by email to the email address above. If an exception is granted, the applicant may send a single copy of its application by U.S. Post or express mail to: Thomas M. McNamara, Office of the Assistant Secretary for Transportation Policy, U.S. Department of Transportation, 1200 New Jersey Ave., SE., W84–322, Washington, DC 20590. The Department shall only deem applications received via email or through grants.gov (or by U.S. Post or express mail pursuant to an exception) as provided above to be properly filed with the Department. The Department shall deem a single application filed pursuant to this Notice to be properly filed with each of the Funding Programs identified therein, and will not require separate applications to each such program, unless the Department determines otherwise in its discretion. Before using grants.gov for the first time, each organization must register and create an institutional profile at the grants.gov Web site. Applicants planning to apply electronically are encouraged to begin the process of registration on the grants.gov Web site well in advance of the submission deadline. Registration is a multi-step process, which may take several weeks to complete before an application can be submitted.

FOR FURTHER INFORMATION CONTACT: Please address questions concerning this Notice to David B. Horner, Deputy Assistant Secretary for Transportation Policy, U.S. Department of Transportation, at 202–689–4464 (or by e-mail at *david.horner@dot.gov*). Please address technical questions concerning project development to Thomas M. McNamara at 202–366–4462 (or by e-mail at *thomas.mcnamara@dot.gov*).

SUPPLEMENTARY INFORMATION:

A. Background

Crisis of Congestion. Traffic congestion affects people in nearly every aspect of their daily lives—where they live, where they work, where they shop, and how much they pay for goods and services. According to 2005 figures, in certain metropolitan areas the average rush hour driver loses as many as 60 hours per year to travel delay—the equivalent of one and a half full work weeks, amounting annually to a ''congestion tax'' of approximately $1,200 per peak time traveler in wasted time and fuel.[2] Nationwide, congestion imposes costs on the economy of at least $78 billion per year.[3] The costs of congestion are higher, however, after taking into account the significant cost of unreliability to drivers and businesses, the environmental impacts of idle-related auto emissions, increased gasoline prices and the immobility of labor markets that result from congestion, all of which substantially affect interstate commerce.

Traffic congestion also has a substantial negative impact upon the quality of life of many American families. In a 2005 survey, for example, 52% of Northern Virginia commuters reported that their travel times to work had increased in the past year,[4] leading 70% of working parents to report having insufficient time to spend with their children and 63% of respondents to report having insufficient time to spend with their spouses.[5] Nationally, in a 2005 survey conducted by the National League of Cities, 35% of U.S. citizens reported traffic congestion as the most deteriorated living condition in their cities over the past five years; 85% responded that traffic congestion was as bad as, or worse than, it was in the previous year.[6] Similarly, in a 2001

[1] Budget of the United States Government, Fiscal Year 2008 (*http://www.whitehouse.gov/omb/budget/fy2008/transportation.html*).

[2] Texas Transportation Institute (''TTI''), 2007 Urban Mobility Report, September 2007.

[3] TTI, 2007 Urban Mobility Report.

[4] Northern Virginia Transportation Alliance 2005 Survey (*http://www.nvta.org/content.asp?contentid=1174*).

[5] Virginia Department of Transportation.

[6] National League of Cities survey of cities (2005).

survey conducted by the U.S. Conference of Mayors, 79% of Americans from ten metropolitan areas reported that congestion had worsened in the prior five years; 50% believe it has become ''much worse.'' [7]

Solicitation. This Notice solicits proposals to enter into certain agreements with the U.S. Department of Transportation (the ''Department''). Through these agreements, the Department intends to support congestion pricing along with complementary transportation solutions proposed by jurisdictions designated as recipients of Federal assistance in accordance with this Notice (each, a ''qualified jurisdiction''). Funds made available by the Department to qualified jurisdictions may include such sums as may be available for obligation in the Department's discretion during Fiscal Year 2008, including funds designated by law to support the Department's Congestion Initiative, as proposed in the President's Fiscal Year 2008 Budget.[8]

The Department expects to award funding only for those proposals that integrate innovative transit strategies, new transportation technologies and direct highway pricing during congested periods. In return for their agreement to adopt such strategies, the Department will support qualified jurisdictions with financial resources identified in this Notice, regulatory flexibility, and dedicated expertise and personnel. Because the Secretary generally allocates discretionary highway grant funds to State DOTs, applicants that are non-State DOTs applying for discretionary highway funds made available under any of the specified Funding Programs should partner with or submit an application through the State DOT for these funds.

B. Funding Programs

The Department proposes to support qualified jurisdictions through the following programs:

(i) *FHWA's Delta Region Program.* The Department may obligate all or part of such sums available for obligation in its discretion under the Delta Region Program in Fiscal Year 2008 to support eligible projects sponsored by qualified jurisdictions. Under section 1308 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (or ''SAFETEA–LU'') (Pub. L. 109–59, August 10, 2005), the FHWA Administrator, acting on behalf of the Secretary, may fund projects that support and encourage multi-state transportation planning and corridor development, provide for transportation project development, facilitate transportation decision making, and support transportation construction in the 240 counties and parishes within the eight states comprising the Delta Regional Authority's region (Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee). Eligible projects must either (a) traverse more than one State and carry interstate commerce or (b) have been identified by the Delta Regional Authority as highways of regional significance, (i.e., on or expected to be on the Delta Development Highway System).

Applicants must address the standard requirements for an application to the Delta Region Transportation Development Program as described in last year's request for applications, found at *http://www.fhwa.dot.gov/planning/s1308fy07drtdp.htm.* The application procedures and deadlines provided in this Notice supersede those set forth in the forgoing hyperlink.

(ii) *FHWA's Ferry Boat Program.* The Department may obligate all or part of such sums available for obligation in its discretion under the Ferry Boat Program in Fiscal Year 2008 to support eligible projects sponsored by qualified jurisdictions. Under section 1801 of SAFETEA–LU, the FHWA Administrator, acting on behalf of the Secretary, may fund projects that involve the construction of ferry boats and ferry terminal facilities in accordance with 23 U.S.C. 147.

Ferry Boat Program Funds are available for construction/improvement to ferry boats or ferry boat terminals where, among other things: (a) It is not feasible to build a bridge, tunnel, combination thereof, or other normal highway structure in lieu of the use of such ferry; (b) the operation of the ferry shall be on a route classified as a public road within the State or Territory and which has not been designated as a route on the Interstate System; and (c) such ferry boat or ferry terminal facility shall be publicly owned or operated or majority publicly owned if the Secretary determines, with respect to a majority publicly owned ferry or ferry terminal facility, that such ferry boat or ferry terminal facility provides substantial public benefits. Eligible projects may include either ferry boats that carry both cars and passengers, or ferry boats carrying passengers only.

Applicants must address the standard requirements for an application to the Ferry Boat Program found at: *http://www.fhwa.dot.gov/discretionary/fbdinfo.cfm.* The application procedures and deadlines provided in this Notice supersede those set forth in the forgoing hyperlink.

(iii) *FHWA's HfL Program.* The Department may obligate all or part of such sums available for obligation in its discretion under the HfL Program in Fiscal Year 2008 to support eligible projects sponsored by qualified jurisdictions. Under section 1502 of SAFETEA–LU, the FHWA Administrator, acting on behalf of the Secretary, may fund projects otherwise eligible for assistance under chapter 1 of title 23, United States Code that, among other things, (a) use innovative technologies, manufacturing processes, financing or contracting methods that improve safety, reduce congestion due to construction, and improve quality, and (b) constructs, reconstructs or rehabilitates a route or connection on an eligible Federal-aid highway.

Applicants must address the standard requirements for an application to the HfL Program as described in an earlier solicitation for projects, found at *http://www.fhwa.dot.gov/hfl/application_memo.cfm.* The application procedures and deadlines provided in this Notice supersede those set forth in the forgoing hyperlink.

(iv) *FHWA's Innovative Bridge Program.* The Department may obligate all or part of such sums available for obligation in its discretion under the Innovative Bridge Program in Fiscal Year 2008 to support eligible projects sponsored by qualified jurisdictions. Under section 5202(b) of SAFETEA–LU, the FHWA Administrator, acting on behalf of the Secretary, may fund projects that promote, demonstrate, evaluate, and document the application of innovative designs, materials, and construction methods in the construction, repair, and rehabilitation of bridge and other highway structures, for purposes including—but not limited to—increasing safety and reducing construction time and traffic congestion. Detailed Innovative Bridge Program goals are identified in 23 U.S.C. 503(b)(2). Eligible projects may be on any public roadway, including State and locally funded projects. Funds may be used for costs of preliminary engineering, repair, rehabilitation, or construction of bridges or other highway structures, and costs of project performance evaluation and performance monitoring of the structure following construction.

Applicants must address the standard requirements for an application to the Innovative Bridge Program found at *http://www.fhwa.dot.gov/bridge/ibrd/032807.cfm.* The application procedures and deadlines provided in this Notice

[7] U.S. Conference of Mayors survey on traffic congestion (2001).

[8] Budget of the United States Government, Fiscal Year 2008 (*http://www.whitehouse.gov/omb/budget/fy2008/transportation.html*).

supersede those set forth in the forgoing hyperlink.

(v) *FHWA's IMD Program.* The Department may obligate all or part of such sums available for obligation in its discretion under the IMD Program in Fiscal Year 2008 to support eligible projects sponsored by qualified jurisdictions. Under 23 U.S.C. 118(c), the FHWA Administrator, acting on behalf of the Secretary, may fund projects that involve resurfacing, restoration, rehabilitation and reconstruction (''4R'') work, including added lanes to increase capacity, on most existing Interstate System routes. Ineligible projects include those that are located on (a) any highway designated as a part of the Interstate System under 23 U.S.C. 139, as in effect before the enactment of TEA–21, (b) any toll road on the Interstate System not subject to an agreement under 23 U.S.C. 119(e), as in effect on December 17, 1991, or (c) any highway added to the Interstate System under 23 U.S.C. 103(c)(4) and section 1105(e)(5)(A) of the Intermodal Surface Transportation Efficiency Act of 1991. Any proposed or future Interstate route is also not eligible for IMD funds. A full listing of the statutory criteria for eligibility of IMD projects is provided in 23 U.S.C. 118(c).

Applicants must address the standard requirements for an application to the Interstate Maintenance Program found at *http://www.fhwa.dot.gov/discretionary/imdinfo.cfm*. The application procedures and deadlines provided in this Notice supersede those set forth in the forgoing hyperlink.

(vi) *FHWA's Public Lands Program.* The Department may obligate all or part of such sums available for obligation in its discretion under the Public Lands Program in Fiscal Year 2008 to support eligible projects sponsored by qualified jurisdictions. Under 23 U.S.C. 204(b)(5), the FHWA Administrator, acting on behalf of the Secretary, may fund ''any kind of transportation project eligible for assistance under title 23, United States Code, that is within, adjacent to, or provides access to'' Federal lands or facilities. Under the provisions of 23 U.S.C. 204(b)(1)(A), Public Lands Program funds are available for transportation planning, research, engineering, and construction of the highways, roads, and parkways, and of transit facilities within the Federal public lands. Under the provisions of 23 U.S.C. 204(b)(1)(B), Public Lands Program funds are also available for operation and maintenance of transit facilities located on Federal public lands.

Applicants must address the standard requirements for an application to the Public Lands Program found at *http://www.fhwa.dot.gov/discretionary/plhcurrsola3.cfm.* The application procedures and deadlines provided in this Notice supersede those set forth in the forgoing hyperlink.

(vii) *FHWA's TCSP Program.* The Department may obligate all or part of such sums available for obligation in its discretion under the TCSP Program in Fiscal Year 2008 to support eligible projects sponsored by qualified jurisdictions. Under section 1117 of SAFETEA–LU, the FHWA Administrator, acting on behalf of the Secretary, may fund planning grants, implementation grants, and research to investigate and address the relationships between transportation, community, and system preservation and to identify private sector-based initiatives to improve such relationships.

States, metropolitan planning organizations (''MPOs''), local governments (including, but not limited to, towns, cities, public transit agencies) and tribal governments are eligible for TCSP Program discretionary grants. Non-governmental organizations that have projects they wish to see funded under this program are encouraged to partner with an eligible recipient as the project sponsor. Activities eligible for TCSP Program funding include activities that are eligible for Federal highway and transit funding (title 23, U.S.C., or Chapter 53 of title 49, U.S.C.) or other activities determined by the Secretary to be appropriate. Grants may be used to plan and implement strategies which improve the efficiency of the transportation system, reduce environmental impacts of transportation, reduce the need for costly future public infrastructure investments, ensure efficient access to jobs, services and centers of trade, and examine development patterns and identify strategies to encourage private sector development patterns which achieve these goals.

Applicants must address the standard requirements for an application to the TCSP Program found at *http://www.fhwa.dot.gov/tcsp/pi_tcsp.htm.* The application procedures and deadlines provided in this Notice supersede those set forth in the forgoing hyperlink.

(viii) *FHWA's Truck Parking Program.* The Department may obligate all or part of such sums available for obligation in its discretion under the Truck Parking Program in Fiscal Year 2008 to support eligible projects sponsored by qualified jurisdictions. As directed by section 1305 of SAFETEA–LU, the Secretary established a pilot program to address the shortage of long-term parking for commercial motor vehicles on the National Highway System. States, MPOs and local governments are eligible to receive discretionary grants available under this pilot program. Section 1305 allows for a wide range of eligible projects, ranging from construction of spaces and other capital improvements to using intelligent transportation systems (ITS) technology to increase information on the availability of both public and private commercial vehicle parking spaces. Please note that applications to the Truck Parking Program with respect to ''Corridors of the Future'' may receive priority in consideration and funding under the program.

(ix) *FTA's Bus Program.* The Department may obligate all or part of such sums available for obligation in its discretion under the Bus Program in Fiscal Year 2008 to support eligible projects sponsored by qualified jurisdictions. Under 49 U.S.C. 5309, the Administrator of FTA, acting on behalf of the Secretary, may provide capital assistance for the acquisition of buses and bus-related equipment or facilities. Only capital projects that are eligible under the Bus Program and that improve existing transit service or provide new transit service in a corridor or area that is part of a congestion reduction demonstration shall be eligible for funding pursuant to this Notice.

Costs of a project eligible for funding under the Bus Program include the acquisition of buses for fleet and service expansion, bus maintenance and administrative facilities, transfer facilities, bus malls, transportation centers, inter-modal terminals, park-and-ride stations, acquisition of replacement vehicles, bus rebuilds, passenger amenities such as passenger shelters and bus stop signs, accessory and miscellaneous equipment such as mobile radio units, supervisory vehicles, fare boxes, computers and shop and garage equipment. Applicants must address FTA's standard requirements for an application for Section 5309 capital program assistance found in FTA's Circular C 9300.1A ''Capital Program: Grant Application Instructions'' [9] and FTA's Circular C 5010.1C ''Grant Management Guidelines.'' [10]

(x) *FTA's Small Starts Program.* The Department may obligate all or part of such sums available for obligation in its

[9] *See http://www.fta.dot.gov/funding/grants/grants_financing_3557.html.*

[10] *See http://www.fta.dot.gov/laws/circulars/leg_reg_4114.html.*

discretion under the Small Starts Program in Fiscal Year 2008 to support eligible projects sponsored by qualified jurisdictions. Under 49 U.S.C. 5309, the Administrator of FTA, acting on behalf of the Secretary, may provide up to $75 million per project for qualifying fixed guideway capital projects, including certain bus rapid transit projects. Pursuant to its guidance on the Small Starts Program,[11] FTA will facilitate worthy projects that are part of comprehensive congestion-reduction strategies, including strategies that incorporate congestion pricing. In its evaluation of projects proposed for funding under Small Starts pursuant to this Notice, an applicant's designation as a qualified jurisdiction will be an ''other factor'' taken into account by the FTA pursuant to 49 U.S.C. 5309(e)(4)(E).

(xi) *FTA's Alternatives Analysis Program.* The Department may obligate all or part of such sums available for obligation in its discretion under the Alternatives Analysis Program in Fiscal Year 2008 to support eligible projects sponsored by qualified jurisdictions. Under 49 U.S.C. 5339, the FTA Administrator, acting on behalf of the Secretary, may fund projects that support technical work conducted within an alternatives analysis, in which one of the alternatives is a major transit capital investment. FTA will give priority to proposals to develop and apply methods to estimate the time savings experienced by highway users that result from transit investments.

Applicants must address the standard requirements for an application to the Alternatives Analysis Program found in notice describing the Alternatives Analysis Program at *http://a257.g.akamaitech.net/7/257/2422/01jan20071800/edocket.access.gpo. gov/2007/pdf/E7–4830.pdf.* The application procedures and deadlines provided in this Notice supersede those set forth in the forgoing hyperlink.

(xii) *Other Assistance.* Under the Department's Private Activity Bond Program, the Department may allocate to qualified jurisdictions authority to issue private activity bonds for qualified projects in order to lower their cost of capital. As of the date of this Notice, the Department may allocate up to $9.5 billion in private activity bond authority not already allocated or applied for.

Under the Transportation Infrastructure Finance and Innovation Act (''TIFIA''), the Department may provide qualified jurisdictions direct loans, loan guarantees, and standby lines of credit for qualified projects. TIFIA allows for the support of approximately $10 billion in credit assistance.

The Department may provide qualified jurisdictions the authority to institute tolls on portions of their Interstate systems[12] and expedite project delivery by waiving certain FHWA regulations (in accordance with FHWA's Special Experimental Project (or ''SEP–15'') program or as otherwise permitted by law), and placing key projects on the Environmental Stewardship Executive Order,[13] allowing for the streamlining of some aspects of the environmental review process. Finally, the Department may offer extensive technical expertise and advice from world class engineers and economists.

C. Application Process

Applications to become qualified jurisdictions must be submitted on or before December 31, 2007 (with late-filed applications being considered to the extent practical).

The Department expects to sign agreements with qualified jurisdictions, once designated, as soon as possible thereafter. The Department expects implementation or pre-implementation efforts for the proposed congestion reduction activities to commence shortly after an agreement (or series of agreements) with the qualified jurisdiction is signed.

While the applicant for consideration as a qualified jurisdiction must be a public body, signatories to an agreement concerning congestion-reducing projects may include city and county governments, metropolitan planning organizations, State transportation departments, chambers of commerce, academic institutions, citizen advisory groups, or other responsible organizations that seek to resolve major congestion problems (any of whom may apply to become a qualified jurisdiction).

The Department shall deem a single application filed pursuant to this Notice to be an application properly filed with each of the Funding Programs. Separate applications to specific Funding Programs shall not be required.

D. Contents of Application

An application to become a qualified jurisdiction should briefly describe, with respect to the metropolitan area proposed, (i) why its traffic congestion is severe, (ii) the local public's acknowledgement of the problem, (iii) the readiness of the metropolitan area's political leadership to solve the problem and (iv) a solution to congestion that integrates innovative transit strategies, new transportation technologies and direct highway pricing during congested periods. In addition, an application should be responsive to the specifications and criteria set forth below. The Department recognizes that information provided in an application to become a qualified jurisdiction may be preliminary and incomplete. The Department, in its discretion, may ask certain applicants to supplement the data in their applications to the extent practical.

(i) *Length of Applications:* An application should not exceed 40 pages in length, including both the proposal details and appendix materials. Appendix materials may include maps of roadways and other affected facilities (such as bridges and parallel routes) and maps of BRT routes and other transit services or facilities that are directly involved.

(ii) *Participating Parties:* An application should provide a preliminary, non-binding list of the parties likely to participate in the agreement between a qualified jurisdiction and the Department.

(iii) *Comprehensive Congestion Reduction Strategy:* An application should generally describe the metropolitan area's proposed comprehensive congestion reduction strategy, and explain how different parts of that strategy, if any, would interact to reduce congestion.

[11] Please see the terms of the Small Starts program set forth in the Guidance on Small Starts at *http://a257.g.akamaitech.net/7/257/2422/01jan20071800/edocket.access.gpo.gov/2007/pdf/07–2774.pdf.*

[12] As enacted by SAFETEA–LU, the High Occupancy Vehicle (''HOV'') Facilities Program (23 U.S.C. 166) allows States and localities to convert HOV lanes to high Occupancy toll (''HOT'') lanes which allow low-occupant vehicle users to pay for the chance to travel on underutilized HOV lanes, shifting traffic from congested regular lanes to HOV lanes, while maintaining free-flowing travel speeds and vehicle throughput performance for all vehicles in the HOV lanes. When operated in parallel with general purpose lanes, HOT lanes offer drivers an option to pay for congestion-free predictable trips when they need it the most, while improving the performance of general purpose lanes. Consistent with 23 U.S.C. 166, FTA has recently published proposed guidance that, once adopted as final, would eliminate certain existing disincentives to jurisdictions to convert their HOV lanes to HOT lanes. In particular the proposed guidance describes the terms and conditions on which FTA would classify HOV lanes that are converted to HOT lanes as ''fixed guideway miles'' for purposes of the transit funding formulas administered by FTA. See ''Policy Statement on When High-Occupancy Vehicle Lanes Converted to High-Occupancy/Toll Lanes Shall Be Classified as Fixed Guideway Miles for FTA's Funding Formulas and When HOT Lanes Shall Not Be Classified as Fixed Guideway Miles for FTA's Funding Formulas'' (*http://a257.g.akamaitech.net/7/257/2422/01jan20061800/edocket.access.gpo.gov/2006/pdf/E6–14796.pdf*).

[13] *See* Executive Order 13274: Environmental Stewardship and Transportation Infrastructure Project Reviews (September 18, 2002) at *http://environment.fhwa.dot.gov/strmlng/eo091802.asp.*

(iv) *Congestion Pricing Measures and Affected Areas:* An application should describe the role pricing would play in the congestion reduction strategy. To the extent practical, an application should indicate, in specific terms, how traffic would be affected, what areas or routes would be priced, how congestion prices would be determined, and which vehicle categories would be affected (e.g., single occupant vehicles or all vehicles).

(v) *Transit Services:* An application should describe transit services, including BRT and other commuter transit services that are to be provided or supplemented, and the expected impacts of the expanded transit services on congestion. The application should also describe transit fare pricing policies to be adopted with the objective of increasing traveler throughput during peak traffic periods, while avoiding excessive congestion in the transit system.

(vi) *Use of Technology:* An application should clearly indicate the extent to which a locality plans to operationally test innovative technology in achieving its congestion reduction targets.

(vii) *Expedited Project Completion:* An application should indicate any major transportation projects or project components that are sought to be expedited through an agreement with the Department. The application should also indicate the expected effects on congestion from early completion of these projects.

(viii) *Travelers Affected Daily:* An application should indicate the estimated number of daily travelers that will be directly affected by priced facilities and by other measures expected to be adopted by the qualified jurisdiction. This should include the estimated number of persons (vehicles) that will pay congestion charges, as well as the likely number diverted to other travel times, routes, or other transportation services, such as transit.

(ix) *Research, Planning, and Experience To Date:* An application should indicate the prior work that participating parties (e.g., the candidate city or other jurisdictions) have already done to reduce congestion, including research, planning, and actual implementation of congestion related activities in the metropolitan area.

(x) *Other Time-Frame Considerations:* An application should indicate the dates during which applicants expect to conduct congestion reduction activities (e.g., a six-month trial from June 30, 2008 until December 31, 2008). If the applicant expects the activities to continue indefinitely, the application should indicate this fact. Similarly, if the pricing activity is adopted on a temporary, experimental basis and the applicant expects it to be voted on by citizens of the jurisdictions participating in an agreement with the Department or otherwise considered for continuation, the application should provide this information.

(xi) *Funding Support:* An application should indicate the estimated cost to implement the overall congestion reduction strategy. An application should also indicate the anticipated sources of those funds, including the amount requested to be covered by Federal sources.

(xii) *Contact Information:* An application should clearly indicate contact information, including name, organization, address, phone number, and e-mail address. The Department will use this information to inform parties of the Department's decision regarding selection of interested parties, as well as to contact parties in the event that the Department needs additional information about an application.

E. Evaluation Criteria

The Department will review and consider applications upon receipt, and will consider a variety of factors in reviewing applications seeking funding, including:

(i) The extent to which the congestion reduction plan is reasonably projected to reduce congestion from current levels on major highways and arterial facilities within the demonstration area, as measured by projected travel speeds, ''levels of service'' or other objective measures of performance during the hours when the congestion reduction demonstration is in effect;

(ii) The extent to which the congestion reduction plan is reasonably projected to enable improvements in transit service on major highways and arterial facilities within the demonstration area, as measured by projected reductions from current levels in scheduled running times or intervals between departures or other objective measures of performance during the hours when the congestion reduction plan is in effect;

(iii) The extent to which the congestion reduction plan demonstrates innovative and potentially far-reaching technology applications;

(iv) The project's national demonstration value; and

(v) The technical feasibility and political probability of the project being implemented in the near term.

The Department reserves the right to solicit candidates for agreements described herein by means other than this Notice. The Department expects to implement the procedures and criteria set forth in this Notice; however, such procedures and criteria shall not be binding on the Department.

Issued in Washington, DC on November 5, 2007.

D.J. Gribbin,

General Counsel, U.S. Department of Transportation.

[FR Doc. E7–22117 Filed 11–9–07; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

ITS Joint Program Office; Intelligent Transportation Systems Program Advisory Committee; Notice of Meeting

AGENCY: Research and Innovative Technology Administration, U.S. Department of Transportation.

ACTION: Notice.

This notice announces, pursuant to section 10(A)(2) of the Federal Advisory Committee Act (FACA) (Pub. L. 72–363; 5 U.S.C. app. 2), a meeting of the Intelligent Transportation Systems (ITS) Program Advisory Committee (ITSPAC). The meeting will be held November 26, 2007, 1 p.m. to 4 p.m. and November 27, 2007, 8 a.m. to 4 p.m. The meeting will take place at the U.S. Department of Transportation (U.S. DOT), 1200 New Jersey Avenue, SE., Washington DC, in Conference Room #6 on the lobby level of the West Building.

The ITSPAC, established under section 5305 of Public Law 109–59, Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, August 10, 2005, and chartered on February 24, 2006, was created to advise the Secretary of Transportation on all matters relating to the study, development and implementation of intelligent transportation systems. Through its sponsor, the ITS Joint Program Office, the ITSPAC will make recommendations to the Secretary regarding the ITS program needs, objectives, plans, approaches, contents, and progress.

The following is a summary of the meeting's tentative agenda. Day 1: (1) Welcome and Introductions; (2) ITS Program Overview; (3) Identifying Trends in ITS (Panel Session); and (4) A & A and Wrap-up. Day 2: (1) Reports on Results of ITSPAC Member Interviews; (2) Future Vision for ITS Program (Gaps and Opportunities, What Does Success Look Like?, Implications for the Future ITS Program); (3) Summary of Outcomes (Prioritizing Trends/Programs in Terms of JPO Role

and Opportunities); and (4) Next Steps in Strategic Planning Activities.

Since access to the U.S. DOT building is controlled, all persons who plan to attend the meeting must notify Ms. Marcia Pincus, the Committee Management Officer, at (202) 366–9230 not later than November 21, 2007. Individuals attending the meeting must report to the 1200 New Jersey Avenue entrance of the U.S. DOT Building for admission. Attendance is open to the public, but limited space is available. With the approval of Ms. Shelley Row, the Committee Designated Federal Official, members of the public may present oral statements at the meeting. Non-committee members wishing to present oral statements or obtain information should contact Ms. Pincus.

Questions about the agenda or written comments may be submitted by U.S. Mail to: U.S. Department of Transportation, Research and Innovative Technology Administration, ITS Joint Program Office, Attention: Marcia Pincus, Room E33–401, 1200 New Jersey Avenue, SE., Washington DC 20590 or faxed to (202) 493–2027. The ITS Joint Program Office requests that written comments be submitted prior to the meeting.

Persons with a disability requiring special services, such as an interpreter for the hearing impaired, should contact Ms. Pincus at least seven calendar days prior to the meeting.

Notice of this meeting is provided in accordance with the FACA and the General Service Administration regulations (41 CFR part 102–3) covering management of Federal advisory committees.

Issued in Washington, DC, on the 6th day of November, 2007.

John Augustine,

Managing Director, ITS Joint Program Office.

[FR Doc. E7–22148 Filed 11–9–07; 8:45 am]

BILLING CODE 4910–HY–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Supplemental Environmental Impact Statement: Shelby Avenue/ Demonbreun Street (Gateway Boulevard) Corridor, Davidson County, TN

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Supplemental notice of intent.

SUMMARY: The Federal Highway Administration (FHWA) is issuing this notice to advise the public of its intent to prepare a Supplemental Environmental Impact Statement in cooperation with the Tennessee Department of Transportation (TDOT) and the Metropolitan Government of Nashville and Davidson County for the Shelby Avenue/Demonbreun Street (Gateway Boulevard) Corridor in Davidson County, Tennessee.

FOR FURTHER INFORMATION CONTACT: Ms. Laurie S. Leffler, Assistant Division Administrator, Federal Highway Administration-Tennessee Division Office, 640 Grassmere Park Road, Suite 112, Nashville, TN 37211.

SUPPLEMENTARY INFORMATION: The U.S. Department of Transportation Federal Highway Administration (FHWA), in cooperation with the Tennessee Department of Transportation (TDOT) and the Metropolitan Government of Nashville and Davidson County, intends to prepare a Supplemental Environmental Impact Statement (Supplemental EIS) for Shelby Avenue/ Demonbreun Street (Gateway Boulevard) Corridor. This project is intended to enhance east-west transportation linkages and improve accessibility to the current Nashville Central Business District (CBD) and for future development in the CBD.

A Final Environmental Impact Statement (FEIS) (FHWA–TN–EIS–96–01–F) for the project was approved and released for public review on July 1, 1998, and a Record of Decision (ROD) was issued on September 15, 1998.

A portion of this project has been constructed. The Korean Veterans Memorial Bridge over the Cumberland River and the section of Gateway Boulevard from 1st Avenue South to 4th Avenue South have been completed and are open to traffic. The Supplemental EIS is being prepared to address the remaining unbuilt portion of the project's selected alignment (Alternative 8) between 4th Avenue South and 13th Avenue South.

Under the selected alternative identified in the ROD, the structurally deficient Demonbreun Street Viaduct would have been demolished and a new structure would have been built across the Railroad Gulch from west of 11th Avenue to the project's western terminus at 13th Avenue. Since issuance of the ROD, the Demonbreun Street Viaduct has been rehabilitated and is no longer considered structurally deficient.

As a result of major land use changes within the original project area since the ROD was issued, the environmental technical studies for the corridor must be updated before the remainder of the project between 4th and 13th Avenues can be advanced. Major new civic investments in the area include the Country Music Hall of Fame, the Frist Center for the Visual Arts, the Symphony Hall, and Hilton Park. In addition, the previously industrialized Railroad Gulch is being redeveloped with new commercial and office spaces, along with several major high-rise residential developments under construction, and more land use changes in the Gulch anticipated in the near future.

Letters describing the supplemental environmental studies and soliciting input will be sent to the appropriate Federal, State, regional and local agencies that have expressed or are known to have an interest or legal role in this proposal. Private organizations, citizens, and interest groups will have an opportunity to provide input into the development of the Supplemental EIS, and to identify issues that should be addressed. Notices of public meetings or public hearings will be given through various forums, providing the time and place of the meeting along with other relevant information. The Supplemental DEIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to the proposed action are identified and taken into account, comments and suggestions are invited from all interested parties. Comments and questions concerning the proposed action and Supplemental EIS should be directed to FHWA at the address provided above.

Laurie S. Leffler,

Assistant Division Administrator, Nashville, TN.

[FR Doc. E7–22126 Filed 11–9–07; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2007–0008]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel CROWN JEWEL.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws

under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2007–0008 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before December 13, 2007.

ADDRESSES: Comments should refer to docket number MARAD–2007–0008. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel CROWN JEWEL is:

Intended Use: ''Leisure charter.''

Geographic Region: ''Washington, SE British Columbia''.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–19478).

Dated: November 2, 2007.

By order of the Maritime Administrator.

Christine Gurland,

Acting Secretary, Maritime Administration.

[FR Doc. E7–21970 Filed 11–9–07; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for EFTPS Primary Contact Information Form

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning the EFTPS Primary Contact Information Form.

DATES: Written comments should be received on or before January 14, 2008 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: EFTPS Primary Contact Information Form.

OMB Number: 1545–XXXX.

Abstract: Currently, taxpayers can only obtain the Primary Contact Information Form by calling EFTPS Customer Service. The taxpayer calls EFTPS customer service requesting to change the contact information on their enrollment. As an alternative to faxing, we would like to offer the taxpayer the option of downloading it from *http://www.eftps.com.* This is a Treasury approved modification form that we fax to taxpayers when their contact information is invalid and re-mailing correspondence could result in an undeliverable piece of mail.

Current Actions: There are no changes being made to the form at this time.

Type of Review: New collection.

Affected Public: Individuals or households, Business or other for-profit organizations, and the Federal Government.

Estimated Number of Respondents: 12,000.

Estimated Time Per Respondent: 1 minute.

Estimated Total Annual Burden Hours: 204 hours.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 6, 2007.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–22138 Filed 11–9–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Advisory Committee on Environmental Hazards; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Veterans' Advisory Committee on Environmental Hazards will be held on December 3–4, 2007, in Room 630 at 810 Vermont Avenue, NW., Washington, DC. The sessions will be from 8 a.m. to 4:30 p.m. each day. The meeting is open to the public.

The purpose of the Committee is to provide advice to the Secretary of Veterans Affairs on adverse health effects that may be associated with exposure to ionizing radiation, and to make recommendations on proposed standards and guidelines regarding VA benefit claims based upon exposure to ionizing radiation.

The Committee agenda will include discussions of medical and scientific papers concerning the health effects of exposure to ionizing radiation. On the basis of the discussions, the Committee may make recommendations to the Secretary concerning the relationship of certain diseases to exposure. On December 3, VA's Public Health and Environmental Hazards staff will make a presentation. On December 4, the session will focus on planning for future Committee activities and assignment of tasks among members.

As open forum for oral statements from the public will be available for 30 minutes in the afternoon each day. People wishing to make oral statements before the Committee will be accommodated on a first-come, first-served basis and will be provided three minutes per statement.

Members of the public wishing to attend should contact Ms. Bernice Green at the Department of Veterans Affairs, Compensation and Pension Service, 810 Vermont Avenue, NW., Washington, DC 20420, by phone at (202) 461–9723, or by fax at (202) 275–1728. Individuals should submit written questions or prepared statements for the Committee's review to Ms. Green at least five days prior to the meeting. Those who submit material may be asked for clarification prior to submission to the Committee.

Dated: November 6, 2007.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 07–5633 Filed 11–9–07; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 72, No. 218

Tuesday, November 13, 2007

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974: New System of Records

Correction

This is a correction to **Federal Register** correction Z7–20797 that appeared in the issue of Thursday, October 25, 2007 at page 60718. The correction at 72 FR 60718 erroneously removed notice document E7-20797 appearing at pages 60041-60043 in the issue of Tuesday, October 23, 2007. Notice document E7–20797 correctly appeared in the issue of Tuesday, October 23, 2007 at pages 60041-60043.

[FR Doc. Z7–20797 Filed 11–9–07; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF STATE

[Public Notice: 5985]

60-Day Notice of Proposed Information Collection: DS-10, Birth Affidavit, OMB Control Number 1405-0132

Correction

In notice document E7–21855 beginning on page 62892 in the issue of Wednesday, November 7, 2007, make the following correction:

On page 62892, in the third column, in the **DATES** section, ''January 7, 2008'' should read ''November 7, 2007''.

[FR Doc. Z7–21855 Filed 11–9–07; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Tuesday,
November 13, 2007

Part II

The President

Notice of November 8, 2007—Continuation of Emergency Regarding Weapons of Mass Destruction

Notice of November 8, 2007—Continuation of the National Emergency With Respect to Iran

Federal Register
Vol. 72, No. 218
Tuesday, November 13, 2007

Presidential Documents

Title 3—

The President

Notice of November 8, 2007

Continuation of Emergency Regarding Weapons of Mass Destruction

On November 14, 1994, by Executive Order 12938, the President declared a national emergency with respect to the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States posed by the proliferation of nuclear, biological, and chemical weapons ''weapons of mass destruction'' and the means of delivering such weapons. On July 28, 1998, the President issued Executive Order 13094 amending Executive Order 12938 to respond more effectively to the worldwide threat of weapons of mass destruction proliferation activities. On June 28, 2005, I issued Executive Order 13382 which, *inter alia*, further amended Executive Order 12938 to improve our ability to combat proliferation. The proliferation of weapons of mass destruction and the means of delivering them continues to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States; therefore, the national emergency first declared on November 14, 1994, and extended in each subsequent year, must continue. In accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 12938, as amended.

This notice shall be published in the **Federal Register** and transmitted to the Congress.

THE WHITE HOUSE,
November 8, 2007.

[FR Doc. 07–5657
Filed 11–9–07; 8:54 am]
Billing code 3195–01–P

Presidential Documents

Notice of November 8, 2007

Continuation of the National Emergency With Respect to Iran

On November 14, 1979, by Executive Order 12170, the President declared a national emergency with respect to Iran pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the situation in Iran. Because our relations with Iran have not yet returned to normal, and the process of implementing the January 19, 1981 agreements with Iran is still underway, the national emergency declared on November 14, 1979, must continue in effect beyond November 14, 2007. Therefore, consistent with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year this national emergency with respect to Iran.

This notice shall be published in the **Federal Register** and transmitted to the Congress.

THE WHITE HOUSE,
November 8, 2007.

[FR Doc. 07–5658
Filed 11–9–07; 8:54 am]
Billing code 3195–01–P

Reader Aids

Federal Register

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Tuesday, November 13, 2007

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FEDERAL REGISTER PAGES AND DATE, NOVEMBER

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT NOVEMBER 13, 2007

AGRICULTURE DEPARTMENT

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ENERGY DEPARTMENT

Energy conservation:

Commercial and industrial equipment, energy efficiency program—

Distribution transformers; published 10-12-07

ENVIRONMENTAL PROTECTION AGENCY

Air programs; approval and promulgation; State plans for designated facilities and pollutants:

Minnesota; published 9-11-07

Air quality implementation plans; approval and promulgation; various States:

Florida; published 10-12-07

Indiana; published 9-13-07

Kentucky; published 9-13-07

North Carolina; published 9-12-07

West Virginia; published 9-13-07

Grants and cooperative agreements; availability, etc.:

Revising Budget Period Limitation for research Grants and Cooperative Agreements; published 9-12-07

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

Wireless telecommunications services—

Bell Operating Companies separate affiliate and related requirements; sunset; published 10-12-07

FEDERAL DEPOSIT INSURANCE CORPORATION

Membership advertisement:

New insurance logo to be used by all insured depository institutions, etc.; published 11-13-06

HOMELAND SECURITY DEPARTMENT

Federal Emergency Management Agency

Disaster assistance:

Robert T. Stafford Disaster Relief and Emergency Assistance Act; management costs provisions; implementation; published 10-11-07

LABOR DEPARTMENT

Employee Benefits Security Administration

Employee Retirement Income Security Act:

Individual account plans; annuity providers selection; published 9-12-07

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Aircraft:

Non fixed-winged aircraft; nationality and registration marks; published 9-14-07

Airworthiness directives:

Airbus; correction; published 11-13-07

Rolls-Royce plc; published 10-26-07

Airworthiness standards:

Special conditions—

Boeing Model 787-8 airplane; published 10-11-07

Boeing Model 878-8 airplane; published 10-11-07

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards:

Occupant protection in interior impact; side impact protection; phase-in reporting requirements; published 9-11-07

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Internal Revenue Service

Income taxes:

Employer-Owned Life Insurance Contracts; information reporting requirements; published 11-13-07

Railroad track maintenance credit; published 11-13-07

Procedure and administration:

Corporate income tax returns and organizations filing returns under section 6033; magnetic media requirement; published 11-13-07

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Exportation and importation of animals and animal products:

African swine fever; regions—

Georgia; comments due by 11-19-07; published 9-18-07 [FR E7-18315]

Plant-related quarantine, domestic:

Exotic fruit flies; regulations consolidation; comments due by 11-19-07; published 9-18-07 [FR E7-18316]

AGRICULTURE DEPARTMENT

Forest Service

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Unauthorized mineral operations; criminal citation issuance; clarification; comments due by 11-23-07; published 10-23-07 [FR E7-20758]

COMMERCE DEPARTMENT

Economic Analysis Bureau

International service surveys:

BE-12; foreign direct investment in the U.S.; benchmark survey; comments due by 11-20-07; published 9-21-07 [FR E7-18592]

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):

Cost or pricing data; definition; comments due by 11-22-07; published 11-1-07 [FR 07-05404]

DEFENSE DEPARTMENT

Navy Department

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Affirmative claims; administrative processing and consideration; comments due by 11-19-07; published 9-19-07 [FR E7-18199]

General claims; administrative processing and consideration; comments due by 11-19-07; published 9-19-07 [FR E7-18198]

Nonappropriated-funds claims; administrative processing and consideration; comments due by 11-19-07; published 9-19-07 [FR E7-18205]

Personnel claims; administrative processing and consideration; comments due by 11-19-07; published 9-19-07 [FR E7-18204]

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Western Area Power Administration

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Air quality implementation plans; limited approval under Clean Air Interstate Rule:

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Air quality implementation plans; approval and promulgation; various States:

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Pennsylvania; comments due by 11-23-07; published 10-24-07 [FR E7-20942]

Pesticides; tolerances in food, animal feeds, and raw agriculture commodities:

Amitraz, etc.; comments due by 11-19-07; published 9-19-07 [FR E7-18508]

Pesticides; tolerances in food, animal feeds, and raw agriculture comodities:

Chloroneb, etc.; comments due by 11-19-07; published 9-19-07 [FR E7-18496]

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

qualified plans; tax treatment of payments; comments due by 11-19-07; published 8-20-07 [FR E7-16084]

Partner's distributive share; comments due by 11-20-07; published 8-22-07 [FR E7-16189]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

Passed over the President's veto:

H.R. 1495/P.L. 110–114
Water Resources Development Act of 2007 (Nov. 8, 2007; 121 Stat. 1041)

Last List November 9, 2007

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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Title	Stock Number	Price	Revision Date
1	(869–062–00001–4)	5.00	[4] Jan. 1, 2007
2	(869–062–00002–2)	5.00	Jan. 1, 2007
3 (2006 Compilation and Parts 100 and 102)	(869–062–00003–1)	35.00	[1] Jan. 1, 2007
4	(869–062–00004–9)	10.00	[5] Jan. 1, 2007
5 Parts:			
1–699	(869–062–00005–7)	60.00	Jan. 1, 2007
700–1199	(869–062–00006–5)	50.00	Jan. 1, 2007
1200–End	(869–062–00007–3)	61.00	Jan. 1, 2007
6	(869–062–00008–1)	10.50	Jan. 1, 2007
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210–299	(869–062–00012–0)	62.00	Jan. 1, 2007
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10 Parts:			
1–50	(869–062–00027–8)	61.00	Jan. 1, 2007
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800–End	(869–062–00047–2)	42.00	Jan. 1, 2007
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0–999	(869–062–00048–1)	50.00	Jan. 1, 2007
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17 Parts:			
1–199	(869–062–00051–1)	50.00	Apr. 1, 2007
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18 Parts:			
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400–End	(869–062–00055–3)	26.00	Apr. 1, 2007
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1–140	(869–062–00056–1)	61.00	Apr. 1, 2007
141–199	(869–062–00057–0)	58.00	Apr. 1, 2007
200–End	(869–062–00058–8)	31.00	Apr. 1, 2007
20 Parts:			
1–399	(869–062–00059–6)	50.00	Apr. 1, 2007
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500–End	(869–062–00061–8)	63.00	Apr. 1, 2007
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200–299	(869–062–00065–1)	17.00	Apr. 1, 2007
300–499	(869–062–00066–9)	30.00	Apr. 1, 2007
500–599	(869–062–00067–7)	47.00	Apr. 1, 2007
600–799	(869–062–00068–5)	17.00	Apr. 1, 2007
800–1299	(869–062–00069–3)	60.00	Apr. 1, 2007
1300–End	(869–062–00070–7)	25.00	Apr. 1, 2007
22 Parts:			
1–299	(869–062–00071–5)	63.00	Apr. 1, 2007
300–End	(869–062–00072–3)	45.00	Apr. 1, 2007
23	(869–062–00073–7)	45.00	Apr. 1, 2007
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0–199	(869–062–00074–0)	60.00	Apr. 1, 2007
200–499	(869–062–00075–8)	50.00	Apr. 1, 2007
500–699	(869–062–00076–6)	30.00	Apr. 1, 2007
700–1699	(869–062–00077–4)	61.00	Apr. 1, 2007
1700–End	(869–062–00078–2)	30.00	Apr. 1, 2007
25	(869–062–00079–1)	64.00	Apr. 1, 2007
26 Parts:			
§§ 1.0–1–1.60	(869–062–00080–4)	49.00	Apr. 1, 2007
§§ 1.61–1.169	(869–062–00081–2)	63.00	Apr. 1, 2007
§§ 1.170–1.300	(869–062–00082–1)	60.00	Apr. 1, 2007
§§ 1.301–1.400	(869–062–00083–9)	47.00	Apr. 1, 2007
§§ 1.401–1.440	(869–062–00084–7)	56.00	Apr. 1, 2007
§§ 1.441–1.500	(869–062–00085–5)	58.00	Apr. 1, 2007
§§ 1.501–1.640	(869–062–00086–3)	49.00	Apr. 1, 2007
§§ 1.641–1.850	(869–062–00087–1)	61.00	Apr. 1, 2007
§§ 1.851–1.907	(869–062–00088–0)	61.00	Apr. 1, 2007
§§ 1.908–1.1000	(869–062–00089–8)	60.00	Apr. 1, 2007
§§ 1.1001–1.1400	(869–062–00090–1)	61.00	Apr. 1, 2007
§§ 1.1401–1.1550	(869–062–00091–0)	58.00	Apr. 1, 2007
§§ 1.1551–End	(869–062–00092–8)	50.00	Apr. 1, 2007
2–29	(869–062–00093–6)	60.00	Apr. 1, 2007
30–39	(869–062–00094–4)	41.00	Apr. 1, 2007
40–49	(869–062–00095–2)	28.00	[7] Apr. 1, 2007
50–299	(869–062–00096–1)	42.00	Apr. 1, 2007

Title	Stock Number	Price	Revision Date
300–499	(869–062–00097–9)	61.00	Apr. 1, 2007
500–599	(869–062–00098–7)	12.00	[6] Apr. 1, 2007
600–End	(869–062–00099–5)	17.00	Apr. 1, 2007
27 Parts:			
1–39	(869–062–00100–2)	64.00	Apr. 1, 2007
40–399	(869–062–00101–1)	64.00	Apr. 1, 2007
400–End	(869–062–00102–9)	18.00	Apr. 1, 2007
28 Parts:			
0–42	(869–062–00103–7)	61.00	July 1, 2007
43–End	(869–062–00104–5)	60.00	July 1, 2007
29 Parts:			
0–99	(869–062–00105–3)	50.00	[9] July 1, 2007
100–499	(869–062–00106–1)	23.00	July 1, 2007
500–899	(869–062–00107–0)	61.00	[9] July 1, 2007
900–1899	(869–062–00108–8)	36.00	July 1, 2007
1900–1910 (§§ 1900 to 1910.999)	(869–062–00109–6)	61.00	July 1, 2007
1910 (§§ 1910.1000 to end)	(869–062–00110–0)	46.00	July 1, 2007
1911–1925	(869–062–00111–8)	30.00	July 1, 2007
1926	(869–062–00112–6)	50.00	July 1, 2007
1927–End	(869–062–00113–4)	62.00	July 1, 2007
30 Parts:			
1–199	(869–062–00114–2)	57.00	July 1, 2007
200–699	(869–062–00115–1)	50.00	July 1, 2007
700–End	(869–062–00116–9)	58.00	July 1, 2007
31 Parts:			
0–199	(869–062–00117–7)	41.00	July 1, 2007
200–499	(869–062–00118–5)	46.00	July 1, 2007
500–End	(869–060–00118–2)	62.00	July 1, 2006
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–062–00120–7)	61.00	July 1, 2007
191–399	(869–060–00120–4)	63.00	July 1, 2006
400–629	(869–060–00121–2)	50.00	July 1, 2006
630–699	(869–062–00123–1)	37.00	July 1, 2007
700–799	(869–062–00124–0)	46.00	July 1, 2007
800–End	(869–062–00125–8)	47.00	July 1, 2007
33 Parts:			
1–124	(869–060–00125–5)	57.00	July 1, 2006
125–199	(869–060–00126–3)	61.00	July 1, 2006
200–End	(869–062–00128–2)	57.00	July 1, 2007
34 Parts:			
1–299	(869–062–00129–1)	50.00	July 1, 2007
300–399	(869–062–00130–4)	40.00	July 1, 2007
400–End & 35	(869–060–00130–1)	61.00	[8] July 1, 2006
36 Parts:			
1–199	(869–062–00132–1)	37.00	July 1, 2007
200–299	(869–062–00133–9)	37.00	July 1, 2007
300–End	(869–060–00133–6)	61.00	July 1, 2006
37	(869–062–00135–5)	58.00	July 1, 2007
38 Parts:			
0–17	(869–062–00136–3)	60.00	July 1, 2007
18–End	(869–060–00136–1)	62.00	July 1, 2006
39	(869–062–00138–0)	42.00	July 1, 2007
40 Parts:			
1–49	(869–060–00138–7)	60.00	July 1, 2006
50–51	(869–062–00140–1)	45.00	July 1, 2007
52 (52.01–52.1018)	(869–062–00141–0)	60.00	July 1, 2007
52 (52.1019–End)	(869–062–00142–8)	64.00	July 1, 2007
53–59	(869–060–00142–5)	31.00	July 1, 2006
60 (60.1–End)	(869–062–00144–4)	58.00	July 1, 2007
60 (Apps)	(869–062–00145–2)	57.00	July 1, 2007
61–62	(869–062–00146–1)	45.00	July 1, 2007
63 (63.1–63.599)	(869–060–00146–8)	58.00	July 1, 2006
63 (63.600–63.1199)	(869–060–00147–6)	50.00	July 1, 2006
63 (63.1200–63.1439)	(869–060–00148–4)	50.00	July 1, 2006
63 (63.1440–63.6175)	(869–060–00149–2)	32.00	July 1, 2006
63 (63.6580–63.8830)	(869–060–00150–6)	32.00	July 1, 2006
63 (63.8980–End)	(869–060–00151–4)	35.00	July 1, 2006
64–71	(869–062–00153–3)	29.00	July 1, 2007
72–80	(869–060–00153–1)	62.00	July 1, 2006
81–84	(869–062–00155–0)	50.00	July 1, 2007
85–86 (85–86.599–99)	(869–062–00156–8)	61.00	July 1, 2007
86 (86.600–1–End)	(869–060–00156–5)	50.00	July 1, 2006
87–99	(869–060–00157–3)	60.00	July 1, 2006
100–135	(869–062–00159–2)	45.00	July 1, 2007
136–149	(869–060–00159–0)	61.00	July 1, 2006
150–189	(869–060–00160–3)	50.00	July 1, 2006
190–259	(869–062–00162–2)	39.00	[9] July 1, 2007
260–265	(869–060–00162–0)	50.00	July 1, 2006
266–299	(869–060–00163–8)	50.00	July 1, 2006
300–399	(869–060–00164–6)	42.00	July 1, 2006
400–424	(869–062–00166–5)	56.00	[9] July 1, 2007
425–699	(869–060–00166–2)	61.00	July 1, 2006
700–789	(869–062–00168–1)	61.00	July 1, 2007
790–End	(869–060–00168–9)	61.00	July 1, 2006
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–060–00169–7)	24.00	July 1, 2006
101	(869–062–00171–1)	21.00	July 1, 2007
102–200	(869–062–00172–0)	56.00	July 1, 2007
201–End	(869–060–00172–7)	24.00	July 1, 2006
42 Parts:			
1–399	(869–060–00173–5)	61.00	Oct. 1, 2006
400–413	(869–060–00174–3)	32.00	Oct. 1, 2006
414–429	(869–060–00175–1)	32.00	Oct. 1, 2006
430–End	(869–060–00176–0)	64.00	Oct. 1, 2006
43 Parts:			
1–999	(869–060–00177–8)	56.00	Oct. 1, 2006
1000–end	(869–060–00178–6)	62.00	Oct. 1, 2006
44	(869–060–00179–4)	50.00	Oct. 1, 2006
45 Parts:			
1–199	(869–060–00180–8)	60.00	Oct. 1, 2006
200–499	(869–060–00181–6)	34.00	Oct. 1, 2006
500–1199	(869–060–00182–4)	56.00	Oct. 1, 2006
1200–End	(869–060–00183–2)	61.00	Oct. 1, 2006
46 Parts:			
1–40	(869–060–00184–1)	46.00	Oct. 1, 2006
41–69	(869–060–00185–9)	39.00	Oct. 1, 2006
70–89	(869–060–00186–7)	14.00	Oct. 1, 2006
90–139	(869–060–00187–5)	44.00	Oct. 1, 2006
140–155	(869–060–00188–3)	25.00	Oct. 1, 2006
156–165	(869–060–00189–1)	34.00	Oct. 1, 2006
166–199	(869–060–00190–5)	46.00	Oct. 1, 2006
200–499	(869–060–00191–3)	40.00	Oct. 1, 2006
500–End	(869–060–00192–1)	25.00	Oct. 1, 2006
47 Parts:			
0–19	(869–060–00193–0)	61.00	Oct. 1, 2006
20–39	(869–060–00194–8)	46.00	Oct. 1, 2006
40–69	(869–060–00195–6)	40.00	Oct. 1, 2006
70–79	(869–060–00196–4)	61.00	Oct. 1, 2006
80–End	(869–060–00197–2)	61.00	Oct. 1, 2006
48 Chapters:			
1 (Parts 1–51)	(869–060–00198–1)	63.00	Oct. 1, 2006
1 (Parts 52–99)	(869–060–00199–9)	49.00	Oct. 1, 2006
2 (Parts 201–299)	(869–060–00200–6)	50.00	Oct. 1, 2006
3–6	(869–060–00201–4)	34.00	Oct. 1, 2006

Title	Stock Number	Price	Revision Date
7–14	(869–060–00202–2)	56.00	Oct. 1, 2006
15–28	(869–060–00203–1)	47.00	Oct. 1, 2006
29–End	(869–060–00204–9)	47.00	Oct. 1, 2006
49 Parts:			
1–99	(869–060–00205–7)	60.00	Oct. 1, 2006
100–185	(869–060–00206–5)	63.00	Oct. 1, 2006
186–199	(869–060–00207–3)	23.00	Oct. 1, 2006
200–299	(869–060–00208–1)	32.00	Oct. 1, 2006
300–399	(869–060–00209–0)	32.00	Oct. 1, 2006
400–599	(869–060–00210–3)	64.00	Oct. 1, 2006
600–999	(869–060–00211–1)	19.00	Oct. 1, 2006
1000–1199	(869–060–00212–0)	28.00	Oct. 1, 2006
1200–End	(869–060–00213–8)	34.00	Oct. 1, 2006
50 Parts:			
1–16	(869–060–00214–6)	11.00	[10] Oct. 1, 2006
17.1–17.95(b)	(869–060–00215–4)	32.00	Oct. 1, 2006
17.95(c)–end	(869–060–00216–2)	32.00	Oct. 1, 2006
17.96–17.99(h)	(869–060–00217–1)	61.00	Oct. 1, 2006
17.99(i)–end and 17.100–end	(869–060–00218–9)	47.00	[10] Oct. 1, 2006
18–199	(869–060–00219–7)	50.00	Oct. 1, 2006
200–599	(869–060–00220–1)	45.00	Oct. 1, 2006
600–659	(869–060–00221–9)	31.00	Oct. 1, 2006
660–End	(869–060–00222–7)	31.00	Oct. 1, 2006
CFR Index and Findings Aids	(869–062–00050–2)	62.00	Jan. 1, 2007
Complete 2007 CFR set		1,389.00	2007
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Subscription (mailed as issued)		332.00	2007
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Complete set (one-time mailing)		325.00	2005

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2005, through January 1, 2006. The CFR volume issued as of January 1, 2005 should be retained.

[5] No amendments to this volume were promulgated during the period January 1, 2006, through January 1, 2007. The CFR volume issued as of January 6, 2006 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2006. The CFR volume issued as of April 1, 2000 should be retained.

[7] No amendments to this volume were promulgated during the period April 1, 2006 through April 1, 2007. The CFR volume issued as of April 1, 2006 should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 2005, through July 1, 2006. The CFR volume issued as of July 1, 2005 should be retained.

[9] No amendments to this volume were promulgated during the period July 1, 2006, through July 1, 2007. The CFR volume issued as of July 1, 2006 should be retained.

[10] No amendments to this volume were promulgated during the period October 1, 2005, through October 1, 2006. The CFR volume issued as of October 1, 2005 should be retained.