AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Federal Register

1–10–07 Wednesday
Vol. 72 No. 6 Jan. 10, 2007

Pages 1135–1266

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Washington, DC 20002

RESERVATIONS: (202) 741–6008

Printed on recycled paper.

Contents

Federal Register

Vol. 72, No. 6

Wednesday, January 10, 2007

Agriculture Department
See Animal and Plant Health Inspection Service
See Forest Service
See Rural Business-Cooperative Service
See Rural Utilities Service

Air Force Department
NOTICES
Environmental statements; notice of intent:
Panoramic Survey Telescope and Rapid Response System, HI; construction and operation, 1220

Animal and Plant Health Inspection Service
RULES
Plant-related quarantine, domestic:
Mediterranean fruit fly, 1135
PROPOSED RULES
Exportation and importation of animals and animal products:
Cattle export; pre-export tuberculosis and brucellosis testing requirement; elimination, 1192–1195
NOTICES
Environmental statements; availability, etc.:
Nonregulated status determinations—
Sygenta Seeds, Inc.; corn genetically engineered for resistance to insects, 1212–1214

Coast Guard
RULES
Drawbridge operations:
California, 1176–1177

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration

Committee for the Implementation of Textile Agreements
NOTICES
Textile and apparel categories:
Quota and visa requirements—
Vietnam; quota period and elimination of quota, visa and ELVIS into World Trade Organization; 2007 adjustments, 1219

Commodity Futures Trading Commission
RULES
Commodity Exchange Act:
Futures commission merchants; equity capital withdrawal limitations, 1148–1152

Comptroller of the Currency
PROPOSED RULES
Risk-based capital:
Domestic capital modifications; capital maintenance and capital adequacy guidelines; correction, 1266

Defense Department
See Air Force Department

Education Department
NOTICES
State educational agencies expenditure and revenue data submission, 1220–1221

Employment and Training Administration
NOTICES
Adjustment assistance; applications, determinations, etc.:
Colgate Palmolive Co., 1244
International Business Machines Corp., 1244
Kester, Inc., 1245
R & A Tool & Engineering, et al., 1245–1246
Rice Mills, Inc., 1246
Showood, Inc., 1246
Staktek Group L.P., 1246–1247
T.A. Service Corp., 1247
UGM, Inc., 1247

Employment Standards Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 1247–1249

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
RULES
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Beauveria Bassiana HF23, 1177–1183
Superfund program:
Toxic chemical release reporting; community-right-to-know—
Toxics Release Inventory Program Burden Reduction; correction, 1266
PROPOSED RULES
Air programs; approval and promulgation; State plans for designated facilities and pollutants:
Ohio, 1197–1200
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 1221–1223
Confidential business information and data transfer; correction, 1223–1224
Meetings:
Pesticide Program Dialogue Committee, 1224–1225

Export-Import Bank
NOTICES
Economic impact policy; finance applications:
Singapore; semiconductor manufacturing equipment, 1225

Farm Credit Administration
NOTICES
Meetings; Sunshine Act, 1225

Federal Aviation Administration
RULES
Airworthiness directives:
Empresa Brasileira de Aeronautica S.A. (EMBRAER), 1146–1148
McDonnell Douglas, 1143–1146
Sikorsky, 1139–1141
Turbomeca S.A., 1141–1143

Airworthiness standards:
Special conditions—
Dassault Aviation Model Falcon 7X airplane, 1135–1137
Gulfstream Aerospace Corp. Model G-1159A airplanes, 1137–1139
NOTICES
Aeronautical land-use assurance; waivers:
Myrtle Beach International Airport, SC, 1258
Passenger facility charges; applications, etc.:
Dubuque Regional Airport, IA, et al., 1258–1260
Lubbock International Airport, TX, et al., 1260–1262

Federal Communications Commission
RULES
Radio stations; table of assignments:
Illinois, 1183–1184
Oklahoma, 1183
PROPOSED RULES
Radio services, special:
Private land mobile services—
Nationwide, broadband, interoperable public safety network implementation in 700 MHz band, 1201–1204
Radio stations; table of assignments:
Connecticut, 1200–1201
Oklahoma and Texas, 1200
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 1225–1227

Federal Deposit Insurance Corporation
PROPOSED RULES
Risk-based capital:
Domestic capital modifications; capital maintenance and capital adequacy guidelines; correction, 1266

Federal Emergency Management Agency
NOTICES
Disaster and emergency areas:
Missouri, 1233

Federal Energy Regulatory Commission
RULES
Electric utilities (Federal Power Act):
Pricing reform; transmission investment promotion, 1152–1173
PROPOSED RULES
Natural Gas Policy Act:
Interstate natural gas pipelines; capacity release policies; comment request, 1195–1197

Federal Maritime Commission
NOTICES
Agreements filed, etc., 1227
Ocean transportation intermediary licenses:
A.W.E. Logistics Group LLC et al., 1227

Federal Railroad Administration
RULES
Railroad accidents/incidents; reports classifications, and investigations:
Monetary threshold adjustment (2007 CY), 1184–1186
NOTICES
Exemption petitions, etc.:
Twin Cities & Western Railroad, 1262

Federal Reserve System
PROPOSED RULES
Risk-based capital:
Domestic capital modifications; capital maintenance and capital adequacy guidelines; correction, 1266
NOTICES
Banks and bank holding companies:
Formations, acquisitions, and mergers, 1227–1228
Federal Open Market Committee:
Domestic policy directives, 1228

Federal Trade Commission
RULES
Industry guides:
Nurseries, 901-902 [**Editorial Note:** This document was inadvertantly placed under the Federal Transit Administration in the **Federal Register** table of contents of January 9, 2007.]

Fish and Wildlife Service
RULES
Endangered and threatened species:
Canada lynx, 1186–1189

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
Sponsor name and address changes—
ADM Alliance Nutrition, Inc., 1173–1174
Medical devices:
Immunology and microbiology devices—
Cystic fibrosis nucleic acid assays; quality control material classification, 1174–1176
NOTICES
Reports and guidance documents; availability, etc.:
Cystic fibrosis nucleic acid assays; quality control material; Class II special controls, 1231–1232

Forest Service
NOTICES
Appealable decisions; legal notice:
Northern Region; correction, 1266

General Services Administration
NOTICES
Privacy Act; system of records, 1228–1231

Health and Human Services Department
See Food and Drug Administration

Homeland Security Department
See Coast Guard
See Federal Emergency Management Agency
NOTICES
Meetings:
National Infrastructure Advisory Council, 1232–1233

Housing and Urban Development Department
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 1233–1234

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See Reclamation Bureau
NOTICES
Meetings:
Blackstone River Valley National Heritage Corridor Commission, 1234

Internal Revenue Service
NOTICES
Meetings:
Taxpayer Advocacy Panels, 1264–1265

International Trade Administration
NOTICES
Antidumping:
Corrosion-resistant carbon steel flat products from—
Canada, 1214
Foundry coke products from—
China, 1214–1215
Oil country tubular goods, other than drill pipe, from—
Argentina, 1215–1216
Polyethylene retail carrier bags from—
China, 1216
Polyethylene terephthalate film, sheet and strip from—
India, 1216–1217

International Trade Commission
NOTICES
Import investigations:
Baseband processor chips and chipsets, transmitter, receiver, and power control chips, and products containing same including cellular telephone handsets, 1240–1241
Laminated floor panels, 1241–1242
Peripheral devices and components and products containing same, 1242
Silicon metal from—
Russia, 1242–1243
Stainless steel bar from—
Various countries, 1243

Labor Department
See Employment and Training Administration
See Employment Standards Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 1243–1244

Land Management Bureau
NOTICES
Meetings:
Resource Advisory Councils—
Alaska, 1235
Withdrawal and reservation of lands:
Nevada, 1235–1239

National Highway Traffic Safety Administration
NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
Foreign Tire Sales, Inc., 1262–1264

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
Northeastern United States fisheries—
Atlantic herring, 1206–1211
NOTICES
Environmental statements; availability, etc.:
Alaska Coastal Management Program, 1217–1218
Marine mammal permits applications, determinations, etc., 1218
Meetings:
South Atlantic Fishery Management Council, 1218–1219

Nuclear Regulatory Commission
NOTICES
Applications, hearings, determinations, etc.:
U.S. Army Jefferson Proving Ground Site, IN, 1249

Overseas Private Investment Corporation
NOTICES
Meetings; Sunshine Act, 1249–1250

Pipeline and Hazardous Materials Safety Administration
PROPOSED RULES
Hazardous materials transportation:
Rail transportation safety and security; enhancement; public meeting, 1204–1206

Postal Service
NOTICES
Meetings; Sunshine Act, 1250

Reclamation Bureau
NOTICES
Environmental statements; availability, etc.:
Gila Project; Wellton-Mohwak Irrigation and Drainage District, AZ; facilities, works, and lands title transfer, 1239–1240

Rural Business-Cooperative Service
PROPOSED RULES
African American farmers and homeowners; heir property, 1190–1192

Rural Utilities Service
PROPOSED RULES
African American farmers and homeowners; heir property, 1190–1192

Securities and Exchange Commission
NOTICES
Investment Company Act of 1940:
New River Funds and New River Advisers LLC, 1250–1252
Meetings; Sunshine Act, 1252
Self-regulatory organizations; proposed rule changes:
Fixed Income Clearing Corp., 1252–1253
NYSE Arca, Inc., 1253–1257

Small Business Administration
NOTICES
Disaster loan areas:
New York, 1257
Pennsylvania, 1257–1258

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Thrift Supervision Office
PROPOSED RULES
Risk-based capital:
Domestic capital modifications; capital maintenance and capital adequacy guidelines; correction, 1266

Transportation Department
See Federal Aviation Administration
See Federal Railroad Administration
See National Highway Traffic Safety Administration
See Pipeline and Hazardous Materials Safety Administration

Treasury Department
See Comptroller of the Currency
See Internal Revenue Service
See Thrift Supervision Office
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 1264

Veterans Affairs Department
NOTICES
Meetings:
Homeless Veterans Advisory Committee, 1265

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

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.

7 CFR
301 1135
Proposed Rules:
4200 1190

9 CFR
Proposed Rules:
91 1192

12 CFR
Proposed Rules:
3 1266
208 1266
225 1266
325 1266
567 1266

14 CFR
25 (2 documents) 1135, 1137
39 (4 documents) ... 1139, 1141, 1143, 1146

17 CFR
1 1148

18 CFR
35 1152
Proposed Rules:
284 1195

21 CFR
510 1173
520 1173
558 1173
866 1174

33 CFR
117 (3 documents) 1176, 1177

40 CFR
180 1177
372 1266
Proposed Rules:
62 1197

47 CFR
73 (2 documents) 1183
Proposed Rules:
73 (2 documents) 1200
90 1201

49 CFR
225 1184
Proposed Rules:
172 1204
174 1204

50 CFR
17 1186
Proposed Rules:
648 1206

Rules and Regulations

Federal Register

Vol. 72, No. 6

Wednesday, January 10, 2007

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

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. APHIS–2005–0116]

Mediterranean Fruit Fly; Remove Portions of Los Angeles, San Bernardino, and Santa Clara Counties, CA, From the List of Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the Mediterranean fruit fly regulations by removing portions of Los Angeles, San Bernardino, and Santa Clara Counties, CA, from the list of quarantined areas and by removing restrictions on the interstate movement of regulated articles from those areas. The interim rule was necessary to relieve restrictions that were no longer needed to prevent the spread of the Mediterranean fruit fly into noninfested areas of the United States.

DATES: *Effective Date:* Effective on January 10, 2007, we are adopting as a final rule the interim rule published at 71 FR 53963–53964 on September 13, 2006.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne D. Burnett, National Fruit Fly Program Manager, PPQ, APHIS, 4700 River Road, Unit 134, Riverdale, MD 20737–1236; (301) 734–4387.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule [1] effective on February 7, 2006, and published in the **Federal Register** on February 13, 2006 (71 FR 7393–7395, Docket No. APHIS–2005–0116), we amended the Mediterranean fruit fly regulations contained in 7 CFR 301.78 through 301.78–10 (referred to below as the regulations) by adding portions of Los Angeles, San Bernardino, and Santa Clara Counties, CA, to the list of quarantined areas in § 301.78–3(c) and restricting the interstate movement of regulated articles from those areas. The February 2006 interim rule was necessary to prevent the spread of Mediterranean fruit fly into noninfested areas of the United States. Comments on the interim rule were required to be received on or before April 14, 2006. We did not receive any comments.

In a second interim rule [2] effective September 7, 2006, and published in the **Federal Register** on September 13, 2006 (71 FR 53963–53964, Docket No. APHIS–2005–0116), we amended the regulations by removing those same portions of Los Angeles, San Bernardino, and Santa Clara Counties, CA, from the list of quarantined areas and removing restrictions on the interstate movement of regulated articles from those areas. We took that action based on trapping surveys conducted by inspectors of California State and county agencies that showed that the Mediterranean fruit fly had been eradicated from the quarantined portions of Los Angeles, San Bernardino, and Santa Clara Counties, CA. As a result of that action, there are no longer any areas in the continental United States quarantined for the Mediterranean fruit fly.

Comments on the interim rule were required to be received on or before November 13, 2006. We did not receive any comments. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rules concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 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 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

■ Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 301 and that was published at 71 FR 53963–53964 on September 13, 2006.

Done in Washington, DC, this 3rd day of January 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–110 Filed 1–9–07; 8:45 am]

BILLING CODE 3410–34–P

[1] To view the interim rule, go to *http://www.regulations.gov*, click on the ''Advanced Search'' tab, and select ''Docket Search.'' In the Docket ID field, enter APHIS–2005–0116, then click ''Submit.'' Clicking on the Docket ID link in the search results page will produce a list of all documents in the docket.

[2] See footnote 1.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM348; Special Conditions No. 25–343–SC]

Special Conditions: Dassault Aviation Model Falcon 7X Airplane, Windshield Coating in Lieu of Wipers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: This special condition is issued for the Dassault Aviation Model Falcon 7X airplane. This airplane will have a novel or unusual design feature associated with use of a hydrophobic windshield coating, rather than windshield wipers, as the means to maintain a clear portion of the windshield during precipitation conditions, as required by the airworthiness standards for transport category airplanes. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. This special condition contains the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: *Effective Date:* December 29, 2006.

FOR FURTHER INFORMATION CONTACT: John McConnell, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1365; facsimile (425) 227–1320; e-mail *john.mcconnell@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

On June 4, 2002, Dassault Aviation, 9 rond Point des Champs Elysées, 75008, Paris, France, applied for a type certificate for its new Model Falcon 7X airplane. The Model Falcon 7X is a 19 passenger transport category airplane, powered by three aft mounted Pratt & Whitney PW307A high bypass ratio turbofan engines. Operation of the airplane is accomplished using a fly-by-wire (FBW) primary flight control system. This will be the first application of a FBW primary flight control system in a private/corporate use airplane.

The Dassault Aviation Model Falcon 7X flightdeck design incorporates a hydrophobic windshield coating to provide adequate pilot compartment view in the presence of precipitation. Primary reliance on such a coating, without windshield wipers, constitutes a novel or unusual design feature for which the applicable airworthiness regulations do not contain adequate or appropriate safety standards. Therefore, a special condition is required that provides the level of safety equivalent to that established by the regulations.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Dassault Aviation must show that the Model Falcon 7X airplane meets the applicable provisions of part 25, as amended by Amendment 25–1 through Amendment 25–108.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Model Falcon 7X because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Model Falcon 7X must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36. The FAA must also issue a finding of regulatory adequacy under § 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in § 11.19, under § 11.38, and they become part of the type certification basis under § 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

Novel or Unusual Design Features

The Model Falcon 7X will incorporate the following novel or unusual design feature: Hydrophobic windshield coating to provide adequate pilot compartment view in the presence of precipitation. Sole reliance on such a coating, without windshield wipers or a windshield blower, constitutes a novel or unusual design feature for which the applicable airworthiness regulations do not contain adequate or appropriate safety standards.

Discussion

Section 25.773(b)(1) requires that both pilots of a transport category airplane be provided a means to maintain a sufficiently clear portion of the windshield during precipitation conditions, and that this clear portion of the windshield must have a sufficiently extensive view along the flight path. The regulations require this means to maintain such an area during precipitation in heavy rain at speeds up to 1.5 V_{SR1}.

This requirement has existed in principle since 1953 in Part 4b of the Civil Air Regulations (CAR). Section 4b.351(b)(1) of CAR 4b required that ''Means shall be provided for maintaining a sufficient portion of the windshield clear so that both pilots are afforded a sufficiently extensive view along the flight path in all normal flight attitudes of the airplane. Such means shall be designed to function under the following conditions without continuous attention on the part of the crew: (i) In heavy rain at speeds up to 1.6 V_{S1}, flaps retracted.'' Effective December 26, 2002, Amendment 25–108 changed the speed for effectiveness of the means to maintain an area of clear vision from up to 1.6 V_{S1} to 1.5 V_{SR1} to accommodate the redefinition of the reference stall speed from the minimum speed in the stall, V_{S1}, to greater than or equal to the 1-g stall speed. As noted in the preamble to the final rule for that amendment, the reduced factor of 1.5 on V_{SR1} is to maintain approximately the same speed as the 1.6 factor on V_{S1}.

The requirement that the means to maintain a clear area of forward vision must function at high speeds and high precipitation rates is based on the use of windshield wipers as the means to maintain an adequate area of clear vision in precipitation conditions. The requirement in 14 CFR 121.313(b), and in 14 CFR 125.213(b), to provide ''a windshield wiper or equivalent for each pilot station'' has remained unchanged since at least 1953.

The effectiveness of windshield wipers to maintain an area of clear vision normally degrades as airspeed and precipitation rates increase. It is assumed that because high speeds and high precipitation rates represent limiting conditions for windshield wipers, they will also be effective at lower speeds and precipitation levels. Accordingly, § 25.773(b)(1)(i) does not require maintenance of a clear area of forward vision at lower speeds or lower precipitation rates.

A forced airflow blown directly over the windshield has also been used to maintain an area of clear vision in precipitation. The limiting conditions for this technology are comparable to those for windshield wipers. Accordingly, introduction of this technology did not present a need for special conditions to maintain the level of safety embodied in the existing regulations.

Hydrophobic windshield coatings may depend to some degree on airflow directly over the windshield to maintain a clear vision area. The heavy rain and high-speed conditions specified in the current rule do not necessarily represent the limiting conditions for this new technology. For example, airflow over the windshield, which may be necessary to remove moisture from the windshield, may not be adequate to maintain a sufficiently clear area of the windshield in low speed flight or during ground operations. Alternatively, airflow over the windshield may be disturbed during such critical times as the approach to land, where the airplane is at a higher than normal pitch attitude. In these cases, areas of airflow disturbance or separation on the windshield could cause failure to maintain a clear vision area on the windshield.

In addition to potentially depending on airflow to function effectively, hydrophobic coatings may also be dependent on water droplet size for effective precipitation removal. For example, precipitation in the form of a light mist may not be sufficient for the

coating's properties to result in maintaining a clear area of vision.

In summary, the current regulations identify speed and precipitation rate requirements that represent limiting conditions for windshield wipers and blowers, but not for hydrophobic coatings, so it is necessary to issue special conditions to maintain the level of safety represented by the current regulations.

These special conditions provide an appropriate safety standard for the hydrophobic coating technology as the means to maintain a clear area of vision by requiring it to be effective at low speeds and precipitation rates as well as the higher speeds and precipitation rates identified in the current regulation. These are the only new or changed requirements relative to those in § 25.773(b)(1) at Amendment 25–108.

Discussion of Comments

Notice of proposed special condition No. 25–06–07 for the Dassault Aviation Model Falcon 7X airplane was published in the **Federal Register** on July 12, 2006 (71 FR 39235). No comments were received and this special condition is adopted as proposed.

Applicability

As discussed above, this special condition is applicable to the Model Falcon 7X. Should Dassault Aviation apply at a later date for a change to the type certificate to include another model on the same type certificate incorporating the same novel or unusual design feature, the special condition would apply to that model as well.

Effective Upon Issuance

Under standard practice, the effective date of final special conditions would be 30 days after the date of publication in the **Federal Register**; however, as the certification date for the Dassault Model Falcon 7X is imminent, the FAA finds that good cause exists to make this special condition effective upon issuance.

Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for this special condition is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Condition

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special condition is issued as part of the type certification basis for Dassault Aviation Model Falcon 7X airplanes.

Pilot Compartment View—Hydrophobic Coatings in Lieu of Windshield Wipers

The airplane must have a means to maintain a clear portion of the windshield, during precipitation conditions, enough for both pilots to have a sufficiently extensive view along the ground or flight path in normal taxi and flight attitudes of the airplane. This means must be designed to function, without continuous attention on the part of the crew, in conditions from light misting precipitation to heavy rain at speeds from fully stopped in still air, to 1.5 V_{SR1} with lift and drag devices retracted.

Issued in Renton, Washington, on December 29, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–200 Filed 1–9–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM363; Special Conditions No. 25–344–SC]

Special Conditions: Gulfstream Aerospace Corporation Model G–1159A Airplanes; High-Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: The FAA issues these special conditions for a Gulfstream Aerospace Corporation Model G–1159A airplane modified by AeroMech Incorporated. This modified airplane will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The modification incorporates the installation of Innovative Solutions and Support integrated air data display units (ADDU). These systems perform critical functions. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of high-intensity radiated fields (HIRF). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is December 29, 2006. We must receive your comments on or before February 9, 2007.

ADDRESSES: You may mail or deliver comments on these special conditions in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM–113), Docket No. NM363, 1601 Lind Avenue, SW., Renton, Washington 98057–3356. You must mark your comments Docket No. NM363.

FOR FURTHER INFORMATION CONTACT: Greg Dunn, FAA, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2799; facsimile (425) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA has determined that notice and opportunity for prior public comment for these special conditions is impracticable because these procedures would significantly delay certification and delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. We therefore find that good cause exists for making these special conditions effective upon issuance. However, we invite interested persons to take part in this rulemaking by submitting written comments. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel about these special conditions. You may inspect the docket before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for

comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

If you want the FAA to acknowledge receipt of your comments on these special conditions, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

On September 29, 2006, AeroMech Incorporated, 1616 Hewitt Avenue, Suite 312, Everett, Washington 98201, applied for a supplemental type certificate (STC) to modify a Gulfstream Aerospace Corporation model G–1159A airplane. The Gulfstream Aerospace Corporation Model G–1159A airplane is a small transport category airplane powered by two turbine engines. It operates with a 2-pilot crew and can seat up to 15 passengers. The modification incorporates the installation of Innovative Solutions and Support integrated air data display units. These systems have a potential to be vulnerable to high-intensity radiated fields (HIRF) external to the airplane.

Type Certification Basis

Under the provisions of 14 CFR 21.101, AeroMech Incorporated must show that Gulfstream Aerospace Corporation Model G–1159A airplane, as changed, continues to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A12EA, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The specific regulations are 14 CFR part 25 as amended by Amendments 25–1 through 25–8, 25–10, 25–12, 25–16 through 25–22, 25–24, 25–26, 25–27, 25–29 through 25–34, 25–37, 25–40 (as applicable to a new APU installation); § 25.1309 as amended by Amendment 25–41, and § 25.1329 (as applied to a new autopilot installation), § 25.994 (crashworthiness fuel system components), and § 25.581 (lightning protection), as amended by Amendment 25–23; and Special part 27, as amended by Amendment 27–2 (fuel venting emission). The special conditions contained in the FAA's letter to Grumman dated September 27, 1965, applicable to the Gulfstream Model G–1159 airplane, are also applicable to the Gulfstream Model G–1159A airplane, except that reference to Civil Air Regulations 4b.450 in the ''Cooling Systems'' special conditions is replaced by § 25.1043, effective February 1, 1965. In addition, the special conditions pertaining to dynamic gust loads contained in the FAA AEA–212 letter dated July 22, 1980.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25, as amended) do not contain adequate or appropriate safety standards for the Gulfstream Aerospace Corporation Model G–1159A airplane because of a novel or unusual design feature, special conditions are prescribed under § 21.16.

In addition to the applicable airworthiness regulations and special conditions, Gulfstream Aerospace Corporation Model G–1159A airplane must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in § 11.19, under § 11.38, and they become part of the type certification basis under the provisions of § 21.101.

Novel or Unusual Design Features

As noted earlier, Gulfstream Aerospace Corporation G–1159A airplane modified by AeroMech Incorporated will incorporate Innovative Solutions and Support integrated air data display units that will perform critical functions. These systems may be vulnerable to high-intensity radiated fields external to the airplane. Current airworthiness standards of part 25 do not contain adequate or appropriate safety standards for protecting this equipment from adverse effects of HIRF. So this system is considered to be a novel or unusual design feature.

Discussion

There is no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground-based radio transmitters and the growing use of sensitive avionics/electronics and electrical systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, special conditions are needed for the Gulfstream Aerospace Corporation G–1159A airplane modified by AeroMech Incorporated. These special conditions require that new avionics/electronics and electrical systems that perform critical functions be designed and installed to preclude component damage and interruption of function because of HIRF.

High-Intensity Radiated Fields (HIRF)

High-power radio frequency transmitters for radio, radar, television, and satellite communications can adversely affect operation of airplane electric and electronic systems. Therefore, the immunity of critical avionics/electronics and electrical systems to HIRF must be established.

Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when airplane system immunity is demonstrated when exposed to the HIRF environments in either paragraph 1 OR 2 below:

1. A minimum threat of 100 volts rms (root-mean-square) per meter electric field strength from 10 KHz to 18 GHz.

a. System elements and their associated wiring harnesses must be exposed to the environment without benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. An environment external to the airframe of the field strengths shown in the table below for the frequency ranges indicated. Immunity to both peak and average field strength components from the table must be demonstrated.

Frequency	Field strength (volts per meter)	
	Peak	Average
10 kHz–100 kHz	50	50
100 kHz–500 kHz	50	50
500 kHz–2 MHz	50	50
2 MHz–30 MHz	100	100
30 MHz–70 MHz	50	50
70 MHz–100 MHz	50	50
100 MHz–200 MHz	100	100
200 MHz–400 MHz	100	100
400 MHz–700 MHz	700	50
700 MHz–1 GHz	700	100
1 GHz–2 GHz	2000	200
2 GHz–4 GHz	3000	200
4 GHz–6 GHz	3000	200
6 GHz–8 GHz	1000	200
8 GHz–12 GHz	3000	300
12 GHz–18 GHz	2000	200
18 GHz–40 GHz	600	200

The field strengths are expressed in terms of peak of the root-mean-square (rms) over the complete modulation period.

The environmental levels identified above are the result of an FAA review of existing studies on the subject of HIRF and of the work of the Electromagnetic Effects Harmonization Working Group of the Aviation Rulemaking Advisory Committee.

Applicability

These special conditions are applicable to a Gulfstream Aerospace

Corporation Model G–1159A airplane modified by AeroMech Incorporated. Should AeroMech Incorporated apply at a later date for a supplemental type certificate to modify any other similar model included on Type Certificate No. A12EA to incorporate the same or similar novel or unusual design feature, these special conditions would apply to that model as well under § 21.101.

Conclusion

This action affects only certain novel or unusual design features on a Gulfstream Aerospace Corporation Model G–1159A airplane modified by AeroMech Incorporated. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Therefore, under the authority delegated to me by the Administrator, the following special conditions are issued as part of the supplemental type certification basis for the Gulfstream Aerospace Corporation Model G–1159A airplane modified by AeroMech Incorporated.

1. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields.

2. For the purpose of these special conditions, the following definition applies:

Critical Functions: Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on December 29, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–197 Filed 1–9–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25824; Directorate Identifier 2004–SW–23–AD; Amendment 39–14876; AD 2007–01–05]

RIN 2120–AA64

Airworthiness Directives; Sikorsky Aircraft Corporation Model S–61L, N, R, and NM Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for the specified Sikorsky Aircraft Corporation (Sikorsky) model helicopters that requires, within a specified time, creating a component history card or equivalent record. The AD also requires recording the hours time-in-service (TIS) and the external lift cycles (lift cycles) for each main gearbox input left and right freewheel unit (IFWU) assembly. Also, the AD requires calculating a moving average of lift cycles per hour TIS at specified intervals on each IFWU assembly. The moving average is used to determine if an IFWU assembly is used in repetitive external lift (REL) or non-REL helicopter operations. If an IFWU assembly is used in REL operations, this AD requires a visual and dimensional inspection of the IFWU assembly at specified intervals. This AD also requires recording certain information and replacing each part that is beyond the wear limits or that exhibits visual surface distress with an airworthy part. In addition, this AD requires permanently marking the REL IFWU camshafts and gear housings with the letters ''REL'' on the surface of these parts. This amendment is prompted by an accident in which the left and right IFWU assembly on a helicopter slipped or disengaged resulting in both engines over speeding, engine shutdowns, and loss of engine power to the transmissions. The actions specified by this AD are intended to prevent slipping in the IFWU assembly, loss of engine power to the transmissions, and subsequent loss of control of the helicopter.

DATES: Effective February 14, 2007.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 14, 2007.

ADDRESSES: You may get the service information identified in this AD from Sikorsky Aircraft Corporation, Attn: Manager, Commercial Tech Support, 6900 Main Street, Stratford, Connecticut 06614, phone (203) 386–3001, fax (203) 386–5983.

Examining the Docket

You may examine the docket that contains this AD, any comments, and other information on the Internet at *http://dms.dot.gov*, or at the Docket Management System (DMS), U.S. Department of Transportation, 400 Seventh Street, SW., Room PL–401, on the plaza level of the Nassif Building, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Kirk Gustafson, Aviation Safety Engineer, Boston Aircraft Certification Office, Engine and Propeller Directorate, FAA, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238–7190, fax (781) 238–7170.

SUPPLEMENTARY INFORMATION: A proposal to amend 14 CFR part 39 to include an AD for the specified model helicopters was published in the **Federal Register** on September 15, 2006 (71 FR 54443). That action proposed to require, within a specified time, creating a component history card or equivalent record and counting and recording the hours TIS and the lift cycles for each IFWU assembly. A lift cycle is defined as an external load lift and subsequent release of that load. Also, the AD proposed calculating a moving average of lift cycles per hour TIS at specified intervals on the IFWU assembly. The moving average would determine if an IFWU assembly is designated as an REL or non-REL IFWU assembly. Once an IFWU assembly is designated as an REL IFWU assembly, the moving average would no longer need to be calculated for that IFWU assembly. For an IFWU assembly designated as an REL IFWU assembly, the AD proposed a repetitive visual and dimensional inspection of the IFWU assembly at 500 hours TIS or 7500 lift cycles whichever occurs first. The AD proposed recording inspection information, providing a copy of the information to the FAA, and replacing each part that is beyond the wear or surface distress limits with an airworthy part. In addition, the AD proposed permanently marking the IFWU camshaft and gear housing with the letters ''REL'' on the surface of these parts.

Sikorsky has issued Alert Service Bulletin No. 61B35–67B, Revision B, dated August 11, 2003 (ASB). The ASB specifies implementing a moving average procedure for determining REL

status. Tracking lift cycles and the moving average procedure is contained in Sikorsky All Operators Letter CCS–61–AOL–04–0005. Further, the ASB describes procedures for establishing an inspection interval for REL and non-REL operations, which are defined in section 1.B. of the ASB. The ASB defines operations as REL when the average number of lift cycles exceeds 6 per flight hour during any 250 flight-hour period based on a moving average calculated at intervals not to exceed 50 hours of operations. The ASB defines operations as non-REL when the number of moving average lift cycles per hour is 6 or less.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received. Sikorsky states there are three typographical errors in the NPRM. Under the heading ''Discussion,'' paragraph 3, Alert Service Bulletin No. 61835–67B should be 61B35–67B, and All Operators Letter CCS–61AOL–04–0005 should be CCS–61–AOL–04–0005. Also, in the Compliance Section, within the last sentence in paragraph (d) ''with oil'' should read ''and oil.'' The FAA agrees that the three typographical errors should be corrected in this AD.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require adopting the rule with the changes described previously. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

We estimate that this AD will affect 21 helicopters of U.S. registry and will take about:

- 4 work hours to measure and record the inspected dimensions;
- 1 work hour to mark the REL parts;
- 3 work hours per year per helicopter to do the cycle counting, recording the lift cycle count, and inspecting each IFWU assembly;
- Cost about $80 per work hour; and
- Cost about $600 to replace the IFWU rollers and $980 per helicopter to replace the IFWU Oilite bushings at each overhaul.

Based on these figures, the estimated total cost impact of the AD on U.S. operators will be $46,620, assuming you replace the IFWU rollers and Oilite bushings on every helicopter and every IFWU assembly is determined to be an REL IFWU assembly based on the first lift cycle calculation.

Regulatory Findings

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared an economic evaluation of the estimated costs to comply with this AD. See the DMS to examine the economic evaluation.

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.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (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. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2007–01–05 Sikorsky Aircraft Corporation: Amendment 39–14876. Docket No. FAA–2006–25824; Directorate Identifier 2004–SW–23–AD.

Applicability

Model S–61L, N, R, and NM helicopters, certificated in any category.

Compliance

Required as indicated.

To prevent slipping of the main gearbox input freewheel unit (IFWU) assembly, loss of engine power, and subsequent loss of control of the helicopter, do the following:

(a) Within 10 hours time-in-service (TIS), (1) Create an external lift component history card or equivalent record for each IFWU assembly, part number (P/N) 61074–35000–041 through 61074–35000–063, unless accomplished previously, and

(2) Count and, at the end of each days operations, record the number of external lift cycles (lift cycles) performed and the hours TIS. A ''lift cycle'' is defined as the lifting of an external load and subsequent release of the load.

(b) Determine whether the IFWU assembly is an REL or non-REL IFWU assembly by using a 250-hour TIS moving average as follows:

(1) Upon reaching 250 hours TIS after the effective date of this AD, calculate the first moving average of lift cycles by following the instructions in Section I of Appendix I of this AD.

(i) If the calculation under paragraph (b)(1) of this AD results in more than 6 lift cycles per hour TIS, the IFWU assembly is an REL IFWU assembly.

(ii) If the calculation under paragraph (b)(1) of this AD results in 6 or less lift cycles per hour TIS, the IFWU assembly is a Non-REL IFWU assembly.

(2) If you determine the IFWU assembly is a Non-REL IFWU assembly based on the first calculation of the 250-hour TIS moving average for lift cycles, thereafter at intervals of 50 hour TIS, recalculate the average lift cycles per hour TIS by following the instructions in Section II of Appendix 1 of this AD.

(i) If the calculation under paragraph (b)(2) of this AD results in more than 6 lift cycles per hour TIS, the IFWU assembly is an REL IFWU assembly.

(ii) If the calculation under paragraph (b)(2) of this AD results in 6 or less lift cycles per hour TIS, the IFWU assembly is a Non-REL IFWU assembly.

(3) Once an IFWU assembly is determined to be an REL IFWU assembly, it remains an REL IFWU assembly for the rest of its service life and is subject to the AD inspection requirements for REL IFWU assemblies.

(4) Once an IFWU assembly is determined to be an REL IFWU assembly, you no longer need to perform the 250-hour TIS moving average calculation, but you must continue to count and record the lift cycles.

Note 1: Sikorsky Aircraft Corporation issued an All Operators Letter (AOL) CCS–61–AOL–04–0005, dated May 18, 2004, with an example and additional information about tracking cycles and the moving average procedure. You can obtain this AOL from the manufacturer at the address stated in the **ADDRESSES** portion of this AD.

(c) For each REL IFWU assembly, at intervals not to exceed 500 hours TIS or 7500 lift cycles, whichever occurs first, since the last IFWU assembly inspection:

(1) Inspect for wear, surface distress, and endplay by following paragraphs B.(1) through B.(6) of the Accomplishment Instructions of Sikorsky Aircraft Corporation Alert Service Bulletin No. 61B35–67B, Revision B, dated August 11, 2003 (ASB). Record all the information specified in Figures 1 through 3 attached to the ASB. You may record this information on any suitable maintenance record, or you may use the Sikorsky evaluation forms provided in the ASB. This AD does not require you to contact Sikorsky.

(2) Replace any IFWU assembly part whose average wear, wear marks, surface distress, or endplay exceeds the limits stated in paragraph B.(1) through B.(6) of the Accomplishment Instructions of the ASB with an airworthy IFWU assembly part.

Note 2: Sikorsky S–61 Overhaul Manual, Number SA 4045–83, Revision 20, dated August 15, 2003, as revised by Temporary Revisions 65–193, –194, –195, and –196, contains the overhaul procedures for the IFWU assembly.

(d) For each REL IFWU assembly, permanently mark IFWU camshafts, P/N S6135–20611, S6135–20614 and S6137–23075, and IFWU gear housings, P/N S6135–20695 and S6137–23057, with the letters ''REL''. Mark the camshafts by applying etching ink on the surface of the part that is 0.5 inch square with the depth of the letters not to exceed 0.001 inch. After etching, neutralize the etched surface and oil to prevent corrosion.

(e) For the next 24 months and within 10 days after completing the requirements of paragraph (c)(1) of this AD, provide a copy of the recorded information to the Manager of the Boston Aircraft Certification Office, Engine and Propeller Directorate, FAA, 12 New England Executive Park, Burlington, MA 01803.

Note 3: In the ASB, Sikorsky requests copies of the completed inspection forms, Figures 1 through 3 to their ASB. This AD does not require you to provide these forms to Sikorsky.

(f) Information collection requirements contained in this AD have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(g) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Manger, Boston Aircraft Certification Office, Engine and Propeller Directorate, FAA, ATTN: Kirk Gustafson, Aviation Safety Engineer, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238–7190, fax (781) 238–7170, for information about previously approved alternative methods of compliance.

(h) The inspections shall be done by following the specified portions of Sikorsky Aircraft Corporation Alert Service Bulletin No. 61B35–67B, Revision B, dated August 11, 2003. The Director of the Federal Register approved this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Sikorsky Aircraft Corporation, Attn: Manager, Commercial Tech Support, 6900 Main Street, Stratford, Connecticut 06614, phone (203) 386–3001, fax (203) 386–5983. Copies may be inspected at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(i) This amendment becomes effective on February 14, 2007.

Appendix I

Section I: The first moving average of lift cycles per hour TIS.

The first moving average calculation is performed on the IFWU assembly when the external lift component history card record reflects that the IFWU assembly has reached its first 250 hours TIS. To perform the calculation, divide the total number of lift cycles performed during the first 250 hours TIS by 250. The result will be the first moving average calculation of lift cycles per hour TIS.

Section II: Subsequent moving average of lift cycles per hour TIS.

Subsequent moving average calculations are performed on the IFWU assembly at intervals of 50 hour TIS after the first moving average calculation. Subtract the total number of lift cycles performed during the first 50-hour TIS interval used in the previous moving average calculation from the total number of lift cycles performed on the IFWU assembly during the previous 300 hours TIS. Divide this result by 250. The result will be the next or subsequent moving average calculation of lift cycles per hour TIS.

Section III: Sample calculation for subsequent 50 hour TIS intervals.

Assume the total number of lift cycles for the first 50 hour TIS interval used in the previous moving average calculation = 450 lift cycles and the total number of lift cycles for the previous 300 hours TIS = 2700 lift cycles. The subsequent moving average of lift cycles per hour TIS = (2700–450) divided by 250 = 9 lift cycles per hour TIS.

Issued in Fort Worth, Texas, on December 26, 2006.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. E7–40 Filed 1–9–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26128; Directorate Identifier 2006–NE–34–AD; Amendment 39–14875; AD 2007–01–04]

RIN 2120–AA64

Airworthiness Directives; Turbomeca Artouste III B and III B1 Turboshaft Engines

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

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

3 cases of cracking due to exfoliation corrosion on the unions of fuel pipes P/N 0 202 12 800 0, connecting the Fuel Control Unit to the start electrovalve, were reported. These cases of cracking, if they had not previously been detected, could have caused a loss of integrity of the union conveying fuel under pressure. A fuel leakage could then have happened and would have led to an uncommanded loss of power and to a fire hazard. This AD requires the fuel pipe to be inspected for cracking.

This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective January 25, 2007.

The Director of the Federal Register approved the incorporation by reference of Turbomeca Mandatory Service Bulletin No. A218 73 0803, dated May 2, 2006, listed in the AD as of January 25, 2007.

We must receive comments on this AD by February 9, 2007.

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

- *DOT Docket Web Site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Fax:* (202) 493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building,

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

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Christopher Spinney, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; telephone (781) 238–7175; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Streamlined Issuance of AD

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

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

Discussion

The European Aviation Safety Agency (EASA), which is the aviation authority for the European Union, has issued Airworthiness Directive No. 2006–0154, dated June 1, 2006, (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> 3 cases of cracking due to exfoliation corrosion on the unions of fuel pipes P/N 0 202 12 800 0, connecting the Fuel Control Unit to the start electrovalve, were reported. These cases of cracking, if they had not previously been detected, could have caused a loss of integrity of the union conveying fuel under pressure. A fuel leakage could then have happened and would have led to an uncommanded loss of power and to a fire hazard. This AD requires the fuel pipe to be inspected for cracking.

You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Turbomeca has issued Mandatory Service Bulletin No. A218 73 0803, dated May 2, 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 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 this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all the information provided by the State of Design Authority and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between the 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 required different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are described in a separate paragraph of the AD. These requirements take precedence over the actions copied from the MCAI.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because undetected cracking could cause loss of integrity of the union conveying fuel under pressure. This could result in a fuel leak and an uncommmanded loss of power and a fire hazard. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2006–26128; Directorate Identifier 2006–NE–34–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this AD.

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 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 this AD:

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2007–01–04 Turbomeca: Amendment 39–14875. Docket No. FAA–2006–26128; Directorate Identifier 2006–NE–34–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective January 25, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Artouste III B and III B1 turboshaft engines fitted with a fuel pipe, part number 0 202 12 800 0. These engines are installed on SA 315 B LAMA and SA 316 B Alouette III helicopters.

Reason

(d) European Aviation Safety Agency, (EASA), Airworthiness Directive No. 2006–0154, dated June 1, 2006, states:

3 cases of cracking due to exfoliation corrosion on the unions of fuel pipes P/N 0 202 12 800 0, connecting the Fuel Control Unit to the start electrovalve, were reported. These cases of cracking, if they had not previously been detected, could have caused a loss of integrity of the union conveying fuel under pressure. A fuel leakage could then have happened and would have led to an uncommanded loss of power and to a fire hazard. This AD requires the fuel pipe to be inspected for cracking.

FAA AD Differences

(e) None.

Actions and Compliance

(f) At the next maintenance action on the engine or airframe, but no later than 30 days after the effective date of this AD, unless already done, do the following action.

(1) Inspect for cracks in the lower union of the flexible fuel pipe between the electric fuel cock and the start valve.

(2) Use the instructions contained in paragraph 2 of Turbomeca Mandatory Service Bulletin No. A218 73 0803, dated May 2, 2006, to do the inspection.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Engine Certification Office, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(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 the EASA Airworthiness Directive 2006–0154, dated June 1, 2006, and Turbomeca Mandatory Service Bulletin A218 73 0803, dated May 2, 2006, for related information.

(i) Contact Christopher Spinney, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; telephone (781) 238–7175; fax (781) 238–7199, for more information about this AD.

Material Incorporated by Reference

(j) You must use Turbomeca Mandatory Service Bulletin No. A218 73 0803, dated May 2, 2006, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Turbomeca, 40220 Tarnos, France; telephone (33) 05 59 74 40 00; fax (33) 05 59 74 45 15.

(3) You may review copies at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Burlington, Massachusetts, on December 27, 2006.

Ann C. Mollica,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. E6–22533 Filed 1–9–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25089; Directorate Identifier 2006–NM–091–AD; Amendment 39–14873; AD 2007–01–02]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 and –11F Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD), which applies to certain McDonnell Douglas Model MD–11 and –11F airplanes. That AD currently requires an initial general visual inspection of the power feeder cables of the integrated drive generator (IDG) and the fuel feed lines of engine pylons No. 1 and No. 3 on the wings for proper clearance and damage; corrective actions if necessary; and repetitive general visual inspections and a terminating action for the repetitive inspections. This new AD requires the existing actions, and for certain airplanes, this AD requires installation of new clamps on the power feeder cables of the IDG of engine pylons No. 1 and No. 3. This AD results from reports of IDG power feeder cables riding against structure and fuel lines in the No. 1 and No. 3 pylons. We are issuing this AD to prevent potential chafing of the power feeder cables of the IDG in engine pylons No. 1 and No. 3 on the wings, and consequent arcing on the fuel lines in the engine pylons and possible fuel fire.

DATES: This AD becomes effective February 14, 2007.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of February 14, 2007.

On February 24, 2004 (69 FR 2657, January 20, 2004), the Director of the Federal Register approved the incorporation by reference of Boeing Alert Service Bulletin MD11–54A011, Revision 02, dated May 31, 2002.

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

Contact Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024), for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5350; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Examining the Docket

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

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that supersedes AD 2004–01–17, amendment 39–13431 (69 FR 2657, January 20, 2004). The existing AD applies to certain McDonnell Douglas Model MD–11 and –11F airplanes. That NPRM was published in the **Federal Register** on June 21, 2006 (71 FR 35578). That NPRM proposed to continue to require the existing actions, and for certain airplanes, the NPRM proposed to require installation of new clamps on the power feeder cables of the integrated drive generator (IDG) of engine pylons No. 1 and No. 3.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments that have been received on the NPRM.

Request to Incorporate by Reference Certain Service Information

One commenter, the Modification and Replacement Parts Association (MARPA), states that if a service document is used as a mandatory element of compliance it should not simply be referenced, but should be incorporated into the regulatory document.

We understand MARPA's comment concerning incorporation by reference. The Office of the Federal Register (OFR) requires that documents that are necessary to accomplish the requirements of the AD be incorporated by reference during the final rule phase of rulemaking. This final rule incorporates by reference the document necessary for the accomplishment of the requirements mandated by this AD. Further, we point out that while documents that are incorporated by reference do become public information, they do not lose their copyright protection. For that reason, we advise the public to contact the manufacturer to obtain copies of the referenced service information.

Request To Publish Service Information

This same commenter, MARPA, also requests that service documents referenced in ADs be made available to the public by publishing the service documents in either the **Federal Register** or the Docket Management System (DMS). MARPA states that incorporation by reference was authorized to reduce the volume of material published in the **Federal Register**. MARPA contends that, with service information readily available in electronic formats, it is no longer necessary to have the high concern for brevity.

In regard to the commenter's request that service documents be made available to the public by publication in the **Federal Register**, we acknowledge that incorporation by reference was authorized to reduce the volume of material published in the **Federal Register** and the Code of Federal Regulations. However, as specified in the Federal Register Document Drafting Handbook, the Director of the OFR decides when an agency may incorporate material by reference. As the commenter is aware, the OFR files documents for public inspection on the workday before the date of publication of the rule at its office in Washington, DC. As stated in the Federal Register Document Drafting Handbook, when documents are filed for public inspection, anyone may inspect or copy file documents during the OFR's hours of business. Further questions regarding publication of documents in the **Federal Register** or incorporation by reference should be directed to the OFR.

In regards to the commenter's request to post service bulletins on the Department of Transportation's DMS, we are currently in the process of reviewing issues surrounding the posting of service bulletins on the DMS as part of an AD docket. Once we have thoroughly examined all aspects of this issue and have made a final determination, we will consider whether our current practice needs to be revised. No change to the final rule is necessary in response to this comment.

Conclusion

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

Costs of Compliance

There are about 195 airplanes of the affected design in the worldwide fleet. This AD will affect about 98 Model MD–11 and –11F airplanes of U.S. registry.

The inspections that are required by AD 2004–01–17 and retained in this AD take about 1 work hour per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the currently required actions is $80 per airplane, per inspection cycle.

The new required inspection will take about 1 work hour per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the new inspections required in this AD for U.S. operators is $7,840, or $80 per airplane, per inspection cycle.

The new required terminating action will take approximately 4 work hours per airplane to accomplish, at an average labor rate of $80 per work hour. The vendor states that it will supply the parts at no cost to the operator. Based on these figures, the estimated cost of the terminating action specified in this AD for U.S. operators is $31,360, or $320 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, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–13431 (69 FR 2657, January 20, 2004) and by adding the following new airworthiness directive (AD):

2007–01–02 McDonnell Douglas: Amendment 39–14873. Docket No. FAA 2006–25089; Directorate Identifier 2006–NM–091–AD.

Effective Date

(a) This AD becomes effective February 14, 2007.

Affected ADs

(b) This AD supersedes AD 2004–01–17.

Applicability

(c) This AD applies to McDonnell Douglas Model MD–11 and –11F airplanes, as identified in Boeing Alert Service Bulletin MD11–54A011, Revision 3, dated November 9, 2005; certificated in any category.

Unsafe Condition

(d) This AD results from reports of integrated drive generator (IDG) power feeder cables riding against structure and fuel lines in the No. 1 and No. 3 pylons. We are issuing this AD to prevent potential chafing of the power feeder cables of the IDG in engine pylons No. 1 and No. 3 on the wings, and consequent arcing on the fuel lines in the engine pylons and possible fuel fire.

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.

Restatement of Requirements of AD 2004–01–17

Note 1: Boeing has issued Information Notice MD11–54A011 R02 IN 02, dated July 11, 2002. The information notice informs operators of a typographical error for the string tie part number (P/N) specified in Boeing Alert Service Bulletin MD11–54A011, Revision 02, dated May 31, 2002. The service bulletin specifies string tie P/N 190L0F21G/A; the correct P/N is 109 LOF 21G/A.

Initial Inspection

(f) Within 30 days after February 24, 2004 (the effective date of AD 2004–01–17), do a general visual inspection of the power feeder cables of the IDG and the fuel feed lines of engine pylons No. 1 and No. 3 on the wings for proper clearance and damage, per Boeing Alert Service Bulletin MD11–54A011, Revision 02, dated May 31, 2002; or Boeing Alert Service Bulletin MD11–54A011, Revision 3, dated November 9, 2005.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Condition 1: Proper Clearance and No Damage

(g) If proper clearance exists and no damage is detected during any inspection required by paragraph (f) of this AD, do the action(s) specified in paragraphs (g)(1), (g)(2), and (g)(3) of this AD, as applicable, per Boeing Alert Service Bulletin MD11–54A011, Revision 02, dated May 31, 2002; or Boeing Alert Service Bulletin MD11–54A011, Revision 3, dated November 9, 2005.

(1) For Group 1 and Group 2 airplanes identified in the service bulletin: Repeat the inspection required by paragraph (f) of this AD every 6 months until the modification required by paragraph (g)(2) or (g)(3) of this AD, as applicable, has been done.

(2) For Group 1 airplanes identified in the service bulletin: Within 18 months after February 24, 2004, install the brackets to support the IDG harness, and install new clamps on the power feeder cables of the IDG of the No. 1 and No. 3 pylons.

(3) For Group 2 airplanes identified in the service bulletin: Within 18 months after February 24, 2004, replace the existing fairlead with a new clamp, and install new tape.

Condition 2: Improper Clearance and No Damage

(h) If improper clearance exists and no damage is detected during any inspection required by paragraph (f) of this AD, do the action(s) specified in paragraphs (h)(1), (h)(2), and (h)(3) of this AD, as applicable, per Boeing Alert Service Bulletin MD11–54A011, Revision 02, dated May 31, 2002; or Boeing Alert Service Bulletin MD11–54A011, Revision 3, dated November 9, 2005.

(1) For Group 1 and Group 2 airplanes identified in the service bulletin: Before further flight, reposition cables, and repeat the inspection required by paragraph (f) of this AD every 6 months until the modification required by paragraph (h)(2) or (h)(3) of this AD, as applicable, has been done.

(2) For Group 1 airplanes identified in the service bulletin: Within 18 months after February 24, 2004, install the brackets to support the IDG harness, and install new clamps on the power feeder cables of the IDG of engine pylons No. 1 and No. 3.

(3) For Group 2 airplanes identified in the service bulletin: Within 18 months after February 24, 2004, replace the existing fairlead with a new clamp, and install new tape.

Condition 3: Improper Clearance and Damage Detected

(i) If improper clearance exists and any damage is detected during any inspection required by paragraph (f) of this AD, do the action(s) specified in paragraphs (i)(1), (i)(2), and (i)(3) of this AD, as applicable, per Boeing Alert Service Bulletin MD11–54A011, Revision 02, dated May 31, 2002; or Boeing Alert Service Bulletin MD11–54A011, Revision 3, dated November 9, 2005.

(1) For Group 1 and Group 2 airplanes identified in the service bulletin: Before further flight, reposition cables; repair damage or replace damaged cables or fuel feed lines with new or serviceable cables or fuel feed lines; and repeat the inspection required by paragraph (f) of this AD every 6 months until the modification required by paragraph (i)(2) or (i)(3) of this AD, as applicable, has been done.

(2) For Group 1 airplanes identified in the service bulletin: Within 18 months after February 24, 2004, install the brackets to support the IDG harness, and install new clamps on the power feeder cables of the IDG of engine pylons No. 1 and No. 3.

(3) For Group 2 airplanes identified in the service bulletin: Within 18 months after February 24, 2004, replace the existing fairlead with a new clamp, and install new tape.

New Requirements of This AD

General Visual Inspection

(j) For airplanes identified as Group 1, configurations 3 and 4, and Group 2, configuration 2, in Boeing Alert Service Bulletin (ASB) MD11–54A011, Revision 3, dated November 9, 2005: Within 30 days after the effective date of this AD, do a general visual inspection for proper clearance and damage of the power feeder cables of the IDG and the fuel feed lines of engine pylons No. 1 and No. 3 on the wings, in accordance with the Accomplishment Instructions of Boeing ASB MD11–54A011, Revision 3, dated November 9, 2005.

Condition 1: Proper Clearance and No Damage

(k) For airplanes identified as Group 1, configurations 3 and 4, and Group 2, configuration 2, in Boeing ASB MD11–54A011, Revision 3, dated November 9, 2005: If proper clearance exists and no damage is detected during any inspection required by paragraph (j) of this AD, do the actions specified in paragraphs (k)(1), (k)(2), and (k)(3) of this AD, as applicable, in accordance with the Accomplishment Instructions of Boeing ASB MD11–54A011, Revision 3, dated November 9, 2005. Accomplishment of the actions specified in paragraph (k)(2) or (k)(3) of this AD, as applicable, terminates the inspection requirements of paragraph (k)(1) of this AD.

(1) For Group 1 airplanes, configurations 3 and 4, and Group 2, configuration 2: Repeat the inspection required by paragraph (j) of this AD thereafter at intervals not to exceed 6 months, until the actions specified in paragraph (k)(2) or (k)(3) of this AD, as applicable, are accomplished.

(2) For Group 1 airplanes, configuration 3: Within 18 months after the effective date of this AD, install IDG harness support brackets and modify the IDG power feeder cable installations.

(3) For Group 1 airplanes, configuration 4, and Group 2, configuration 2: Within 18 months after the effective date of this AD, modify the IDG power feeder cable installations.

Condition 2: Improper Clearance and No Damage

(l) For airplanes identified as Group 1, configurations 3 and 4, and Group 2, configuration 2, in Boeing ASB MD11–54A011, Revision 3, dated November 9, 2005: If improper clearance exists and no damage is detected during any inspection required by paragraph (j) of this AD, do the actions specified in paragraphs (l)(1), (l)(2), and (l)(3) of this AD, as applicable, in accordance with the Accomplishment Instructions of Boeing ASB MD11–54A011, Revision 3, dated November 9, 2005. Accomplishment of the actions specified in paragraph (l)(2) or (l)(3) of this AD, as applicable, terminates the repetitive inspections required in paragraph (l)(1) of this AD.

(1) Before further flight, reposition the cables. Repeat the inspection required by paragraph (j) of this AD thereafter at intervals not to exceed 6 months, until the actions specified by paragraph (l)(2) or (l)(3) of this AD, as applicable, are accomplished.

(2) For Group 1 airplanes, configuration 3: Within 18 months after the effective date of this AD, install IDG harness support brackets and modify the IDG power feeder cable installations.

(3) For Group 1 airplanes, configuration 4, and Group 2 airplanes, configuration 2: Within 18 months after the effective date of this AD, modify the IDG power feeder cable installations.

Condition 3: Improper Clearance and Damage Detected

(m) For airplanes identified as Group 1, configurations 3 and 4, and Group 2, configuration 2, in Boeing ASB MD11–54A011, Revision 3, dated November 9, 2005: If improper clearance exists and there is any damage to the cables, structure, or fuel feed line, do the actions specified in paragraphs (m)(1), (m)(2), and (m)(3) of this AD, as applicable, in accordance with the Accomplishment Instructions of Boeing ASB MD11–54A011, Revision 3, dated November 9, 2005. Accomplishment of the actions specified in paragraph (m)(2) or (m)(3) of this AD, as applicable, terminates the repetitive inspection requirements of paragraph (m)(1) of this AD.

(1) Before further flight, reposition cables and repair damage or replace damaged cables or fuel feed lines with new or serviceable cables or fuel feed lines. Repeat the inspection required by paragraph (j) of this AD thereafter at intervals not to exceed 6 months, until the actions specified by paragraph (m)(2) or (m)(3) of this AD, as applicable, are accomplished.

(2) For Group 1 airplanes, configuration 3: Within 18 months after the effective date of this AD, install IDG harness support brackets, and modify the IDG power feeder cable installations.

(3) For Group 1 airplanes, configuration 4, and Group 2 airplanes, configuration 2: Within 18 months after the effective date of this AD: Modify the IDG power feeder cable installations.

Alternative Methods of Compliance (AMOCs)

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

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

(3) AMOCs approved previously in accordance with AD 2004–01–17, are not approved as AMOCs with this AD.

(4) 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, Los Angeles ACO, to make those findings. For a repair method to be approved, and the approval must specifically refer to this AD.

Material Incorporated by Reference

(o) You must use Boeing Alert Service Bulletin MD11–54A011, Revision 02, dated May 31, 2002, or Boeing Alert Service Bulletin MD11–54A011, Revision 3, dated November 9, 2005, to perform the actions that are required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of Boeing Alert Service Bulletin MD11–54A011, Revision 3, dated November 9, 2005, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) On February 24, 2004 (69 FR 2657, January 20, 2004), the Director of the Federal Register approved the incorporation by reference of Boeing Alert Service Bulletin MD11–54A011, Revision 02, dated May 31, 2002.

(3) Contact Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024), for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov;* or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on December 21, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–22536 Filed 1–9–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–26797; Directorate Identifier 2006–NM–195–AD; Amendment 39–14878; AD 2006–20–14]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 and ERJ 190 Airplanes

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

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting airworthiness directive (AD) 2006–20–14 that was sent previously to all known U.S. owners and operators of certain EMBRAER Model ERJ 170 and ERJ 190 airplanes by individual notices. This AD requires modification of certain flight deck door electronic equipment. This AD is prompted by a report indicating that this equipment is defective. We are issuing this AD to prevent failure of this equipment, which could jeopardize flight safety.

DATES: This AD becomes effective January 16, 2007 to all persons except those persons to whom it was made immediately effective by AD 2006–20–14, issued October 10, 2006, which contained the requirements of this amendment.

We must receive comments on this AD by March 12, 2007.

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

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

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

FOR FURTHER INFORMATION CONTACT: Tom Groves, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1503; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: On October 10, 2006, we issued emergency AD 2006–20–14, which applies to certain EMBRAER Model ERJ 170 and ERJ 190 airplanes. AD 2006–20–14 was sent to affected operators having airplanes that have certain affected flight deck door electrical equipment.

Background

We have received a report indicating that certain flight deck door electrical equipment is defective. The defect, if not corrected, could result in a failure of the equipment, which could jeopardize flight safety.

Relevant Service Information

EMBRAER has issued Service Bulletin 170–52–0029, dated August 21, 2006 (for Model ERJ 170 airplanes); and Service Bulletin 190–52–0011, dated August 21, 2006 (for Model ERJ 190 airplanes). The service bulletins describe procedures for correcting the defect in the flight deck door electrical equipment. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The Agência Nacional de Aviacão Civil (ANAC), which is the airworthiness authority for Brazil, approved these service bulletins.

FAA's Determination and Requirements of This AD

These airplane models are manufactured in Brazil and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the ANAC has kept the FAA informed of the situation described above. We have evaluated all pertinent information and determined that we need to issue an AD for products of this type design that are certificated for operation in the United States.

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design, we issued emergency AD 2006–20–14 to prevent failure of certain flight deck door electronic equipment, which could jeopardize flight safety. The AD requires modifying the flight deck door electronic equipment using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. The applicable EMBRAER service bulletin previously described has been approved for this purpose.

We found that immediate corrective action was required; therefore, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual notices issued on October 10, 2006, to all known U.S. owners and operators of certain EMBRAER Model ERJ 170 and ERJ 190 airplanes. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons. We are publishing this AD to ensure that, in the event that persons who did not receive an individual notice acquire an affected airplane that has not been modified, these persons are aware of the AD, so they can make the necessary modification.

Interim Action

This is considered to be interim action until final action is identified, at which time we may consider further rulemaking.

Clarification of Alternative Method of Compliance (AMOC) Paragraph

We have revised this action to clarify the appropriate procedure for notifying the principal inspector before using any approved AMOC on any airplane to which the AMOC applies.

Comments Invited

This AD is a final rule that involves requirements that affect flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any relevant written data, views, or arguments regarding this AD. Send your comments to an address listed in the **ADDRESSES** section. Include ''Docket No. FAA–2007–26797; Directorate Identifier 2006–NM–195–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD that might suggest a need to modify it.

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

Examining the Docket

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

level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the Docket Management System receives them.

Authority for This Rulemaking

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

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

Regulatory Findings

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

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If this emergency regulation is later deemed significant under DOT Regulatory Policies and Procedures, we will prepare a final regulatory evaluation and place it in the AD Docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation, if filed.

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 FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2006–20–14 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39–14878. Docket No. FAA–2007–26797; Directorate Identifier 2006–NM–195–AD.

Effective Date

(a) This AD becomes effective January 16, 2007, to all persons except those persons to whom it was made immediately effective by AD 2006–20–14, issued on October 10, 2006, which contained the requirements of this amendment.

Affected ADs

(b) None.

Applicability

(c) This AD applies to EMBRAER Model ERJ 170–100 LR, –100 STD, –100 SE, –100 SU, –200 STD, –200 LR, and –200 SU airplanes, and Model ERJ 190–100 STD, –100 LR, and –100 IGW airplanes; certificated in any category; as identified in EMBRAER Service Bulletins SB No. 170–52–0029 and SB No. 190–52–0011, both dated August 21, 2006.

Unsafe Condition

(d) This AD results from a report indicating that this equipment is defective. We are issuing this AD to prevent failure of this equipment, which could jeopardize flight safety.

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.

Transfer of Airplane and Requirement To Inform New Operator of This AD

(f) When an operator of an affected airplane sells or otherwise transfers the airplane to another operator, the new operator must be informed of this AD in a manner consistent with the procedures found in 49 CFR part 15.

Replacement

(g) Within 60 days after the effective date of this AD, modify the flight deck door electronic equipment in accordance with a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Doing all actions in the Accomplishment Instructions of the applicable EMBRAER service bulletin identified in Table 1 of this AD is one approved method; except where the applicable service bulletin specifies to send the removed flight deck door electronic equipment to the manufacturer in paragraph 3.C., that action is not necessary.

TABLE 1.—SERVICE BULLETINS

For model—	EMBRAER service bulletin—
(1) ERJ 170 airplanes	170–52–0029, dated August 21, 2006.
(2) ERJ 190 airplanes	190–52–0011, dated August 21, 2006.

Parts Installation

(h) As of the effective date of this AD, no person may install on any airplane any cockpit door control panel identified in paragraph 1.A. of the applicable service bulletin in Table 1 of this AD.

Alternative Methods of Compliance (AMOCs)

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

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

Issued in Renton, Washington, on December 21, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–147 Filed 1–9–07; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

RIN 3038—AC27

Limitations on Withdrawals of Equity Capital

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission (''Commission'') is amending its regulations to provide that the Commission may, by written order, temporarily prohibit a futures commission merchant (''FCM'') from carrying out equity withdrawal transactions that would reduce excess adjusted net capital by 30 percent or more. The proposed orders would be based on the Commission's determination that such withdrawal

transactions could be detrimental to the financial integrity of FCMs or could adversely affect their ability to meet customer obligations. The proposed amendments also would provide that an FCM may file with the Commission a petition for rescission of an order temporarily prohibiting equity withdrawals from the FCM.

DATES: Effective March 12, 2007.

FOR FURTHER INFORMATION CONTACT: Thomas J. Smith, Deputy Director and Chief Accountant, at (202) 418–5430, or Thelma Diaz, Special Counsel, at (202) 418–5137, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Electronic mail: *tsmith@cftc.gov* or *tdiaz@cftc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The Commission issued a release with proposed amendments to Part 1 of the Commission's regulations in September of 2006, as published for notice and comment in the **Federal Register** (the ''Proposing Release'').[1] The Commission received comment letters from the Joint Audit Committee (''JAC'') [2] and two designated contracts markets, the Chicago Mercantile Exchange, Inc. and the Minneapolis Grain Exchange.[3] All of the commenters endorsed the proposed amendments to Regulation 1.17(g), which would provide for Commission orders that temporarily restrict equity capital withdrawals from FCMs if the Commission finds that such withdrawals may be detrimental to the financial integrity of the FCM or may unduly jeopardize its ability to meet customer obligations or other liabilities that may cause a significant impact on the markets. The Proposing Release also included other proposed amendments to Regulations 1.12 and 1.17, which would update these regulations by adding references to ''limited liability companies'' and ''limited liability company members.'' [4] For the reasons discussed below, the Commission is adopting each of these amendments as proposed in the Proposing Release.

II. Background

Commission Regulation 1.17(e) prohibits all equity withdrawal transactions that would reduce the adjusted net capital of FCMs or introducing brokers (''IBs'') beyond the amounts permitted by the regulation.[5] The transactions affected by the regulation include any withdrawals made by the action of a stockholder or partner or by redemption or repurchase of shares of stock by ''consolidated entities'',[6] dividend payments or similar distributions, or through unsecured advances or loans made to stockholders, partners, sole proprietors, or employees. When determining the effect of the proposed equity withdrawal transaction on the firm's capital, the firm also must take into account other pending equity withdrawal transactions and scheduled liability payments that will reduce its capital within six months after the subject equity withdrawal transaction.[7] The proposed equity withdrawal transaction is prohibited if, when added together with such other planned capital reductions, it would result in capital levels that are less than required by Regulation 1.17(e).

The purpose of these equity withdrawal restrictions is to help preserve and enhance the required compliance by FCMs and IBs with the minimum financial requirements set forth in the Commission's regulations.[8] As the Commission has explained elsewhere, the Commission's minimum financial requirements protect customers and other market participants by requiring FCMs and IBs to maintain minimum levels of liquid assets in excess of their liabilities to finance their business activities.[9] Moreover, pursuant to Section 4d of the Act,[10] FCMs are required to segregate from their own assets all money, securities, and other property held for customers as margin for their commodity futures and option contracts, as well as any gains accruing to customers from their open futures and option positions. Part 30 of the Commission's regulations also calls for FCMs to set aside funds, called the ''foreign futures and foreign options secured amount'', to help protect the funds of U.S. customers trading on non-U.S. futures markets.[11] In the event of a shortfall in the Section 4d segregated funds or the Part 30 secured funds that an FCM must hold, the Commission's minimum net capital requirements provide protection to customers by requiring each FCM to maintain a minimum level of assets that are readily available to be contributed in the event of a shortfall in the customer funds. The minimum capital requirements also protect customers and market participants by ensuring that an FCM remains solvent while waiting for margin calls to be met.

As an additional measure to ensure capital compliance by FCMs, Commission Regulation 1.12(g)(2) requires each FCM to provide notice to the Commission of certain equity withdrawal transactions.[12] In particular, Regulation 1.12(g)(2) requires each FCM to provide notice at least two business days prior to an action to withdraw equity from the FCM, or a subsidiary or affiliate consolidated pursuant to Regulation 1.17(f), if the equity withdrawal transaction would cause, on a net basis, a reduction in the FCM's excess adjusted net capital of 30 percent or more. In response to the receipt of such a notice, Regulation 1.12(g)(3) provides that the Director of the Commission's Division of Clearing and Intermediary Oversight (''Division''), or the Director's designee, may require that the FCM provide, within three business

[1] *See* 71 FR 57451 (September 29, 2006).

[2] The JAC is a committee formed by U.S. commodity futures and options exchanges and the National Futures Association to coordinate audit and financial surveillance activities of FCMs.

[3] The comment letters are available for inspection and copying at the Commission's Washington office in its public reading room, Room 4072, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. The telephone number for the public reading room is (202) 418–5025. The comment letters are also available on the Commission's public Web site, at *http://www.cftc.gov/foia/comment06/foi06-007_1.htm.*

[4] The Commission has revised other regulations to reflect the development of limited liability companies (''LLCs''). *See, e.g.* 69 FR 49784, 49793–4 (August 12, 2004). The amendments adopted in 2004 related to the management of LLCs, in order to determine persons with appropriate signature authority to file financial reports for the FCM or IB.

[5] Commission regulations cited in this release may be found at 17 CFR Ch. I (2006). Generally speaking, Regulation 1.17(e) prohibits equity withdrawal transactions if such withdrawals would reduce the firm's adjusted net capital to less than 120 percent of its minimum adjusted net capital requirement under Regulation 1.17(a)(1). Such transactions also are prohibited if they would result in less than the minimum amount of equity required under Regulation 1.17(d), which provides that FCMs and IBs must maintain a debt-equity ratio of at least 30 percent equity.

[6] Commission Regulation 1.17(f) requires, and in other circumstances permits, FCMs and IBs to consolidate the assets and liabilities of their subsidiaries and/or affiliates in a single computation of adjusted net capital for the FCM or IB and its consolidated entities.

[7] Regulation 1.17(e) specifically requires the firm to combine the amount of the subject equity withdrawal transaction with any of the following that are scheduled to occur within six months after the subject withdrawal: any other proposed equity withdrawal; any payments under satisfactory subordination agreements under Regulation 1.17(h); and any payments of the liabilities identified in Regulation 1.17(c)(4)(vi).

[8] Section 4f(b) of the Commodity Exchange Act (''Act'') authorizes the Commission, by regulation, to impose minimum financial and related reporting requirements on FCMs and IBs. The Act is codified at 7 U.S.C. 1 *et seq.* (2000), and Section 4f(b) of the Act is codified at 7 U.S.C. 6f(b).

[9] 68 FR 40835, 40836 (July 9, 2003) (Minimum Financial and Related Reporting Requirements for Futures Commission Merchants and Introducing Brokers).

[10] Section 4d of the Act is codified at 7 U.S.C. 6d (2000).

[11] The term ''foreign futures and foreign options secured amount'' is defined in Regulation 1.3(rr).

[12] Regulation 1.12(g) applies only to FCMs and not IBs.

days from the date of the request or such shorter period as the Director or designee may specify, such other information as the Director or designee determines to be necessary based upon market conditions, reports provided by the FCM, or other available information.[13]

When first proposing the notification provision eventually adopted as Regulation 1.12(g)(2), the Commission noted that it could serve as ''early warning'' of impending financial difficulties at an FCM or at its holding company.[14] The only consequence that the regulation expressly contemplates as a result of the warning is that the Commission may require additional information from the FCM, with the response to be provided in a period of three days or less, as directed by the Commission. At the time that Regulation 1.2(g)(2) was adopted, the Commission determined that it was not necessary to adopt additional limitations within the Commission's regulations on equity withdrawal transactions.[15]

However, the recent precipitous decline of a large FCM holding company has confirmed that expedited action may be necessary to protect FCM capital in the face of increasing financial pressures experienced by its parent and/or affiliated entities. In this recent example, the FCM registrant was part of a complex organizational group consisting of several layers of holding companies and their subsidiaries. In October of 2005, the parent company for the group announced that its chief executive officer had been placed on leave, and that its financial statements for the years 2002 through 2005 should not be relied upon. The next day, federal authorities charged the chief executive officer with securities fraud, and on the following day the holding company declared that certain liquidity difficulties were causing it to impose a 15-day moratorium for the activities of a nonregulated subsidiary. According to prior financial filings of the holding company, this nonregulated subsidiary had been responsible for a material portion of the holding company's business.

In response to these foregoing events, the Securities and Exchange Commission (''SEC'') issued an order to temporarily restrict withdrawals of capital from two other subsidiaries of the holding company, which were registered as securities broker-dealers.[16] In issuing the order, the SEC cited to its regulation, 17 CFR 240.15c3–1(e)(3)(i), which provides that the SEC may by order restrict, for a period up to twenty business days, any withdrawal by the broker or dealer of equity capital or unsecured loan or advance to a stockholder, partner, sole proprietor, employee or affiliate, if (1) such withdrawal, advance or loan when aggregated with all other withdrawals, advances or loans on a net basis during a 30 calendar day period, exceeds 30 percent of the broker or dealer's excess net capital; and (2) the SEC, based on the facts and information available, concludes that the withdrawal, advance or loan may be detrimental to the financial integrity of the broker or dealer, or may unduly jeopardize the broker or dealer's ability to repay its customer claims or other liabilities that may cause a significant impact on the markets or expose the customers or creditors of the broker or dealer to loss without taking into account the application of the Securities Investor Protection Act.[17] As described by the SEC, § 240.15c3–1(e)(3)(i) enables the SEC and its staff to examine further the financial condition of the broker-dealer, so as to determine whether, and under what circumstances, to permit the withdrawal, entirely or partially, or to prohibit the withdrawal for additional periods by issuing subsequent orders, with terms that are no longer than twenty business days.[18]

III. Amendments to Regulations 1.12 and 1.17

As proposed in the Proposing Release, the Commission is adding a new paragraph (g) to Regulation 1.17, which will enhance the Commission's ability, in the face of fast-developing events, to impose temporary restrictions on the flow of capital from an FCM to its holding company and other affiliated entities, as appropriate.[19] It is imperative that the Commission have the option to consider requiring such temporary delays of equity withdrawals whenever urgent circumstances so require. Under the amended regulation, the Commission may issue a written order to impose temporary restrictions on equity withdrawals for a period of up to twenty business days, and the Commission may continue to make the restrictions effective against the FCM by issuing subsequent orders, each with a term of no more than twenty business days. The order would restrict any withdrawal by the FCM of equity capital, or any unsecured advance or loan to a stockholder, partner, limited liability company member, sole proprietor, employee or affiliate, if:

(i) Such withdrawal, advance or loan, when aggregated with all other withdrawals, advances or loans during a 30 calendar day period from the FCM, or from a subsidiary or affiliate of the FCM consolidated pursuant to § 1.17(f), would cause a net reduction in the FCM's excess adjusted net capital of 30 percent or more; and

(ii) The Commission has concluded, in light of available facts and circumstances, that such withdrawal, advance or loan may be detrimental to the financial integrity of the FCM, or may unduly jeopardize its ability to meet customer obligations or other liabilities that may cause a significant impact on the markets.

During the periods that such orders are effective, Commission staff may evaluate the effect of the proposed withdrawals on the continuing adequacy of customer safeguards at the firm, including the continuing adequacy of the firm's liquid assets, in light of the most current information available from the FCM concerning its operations and those of its holding company and affiliates. These amendments to Regulation 1.17 may therefore serve to further enhance the security of customer funds and the overall financial integrity of the futures markets.[20]

[13] Regulation 1.12(g)(2) also provides that the Commission may require the FCM to cause a Material Affiliated Person, as that term is defined in Commission Regulation 1.14(a)(2), to respond to requests for information from the Division Director.

[14] The provisions of this regulation originally were included among several proposals made by the Commission in 1994 in response to the financial difficulties experienced by certain FCMs operating within holding company structures. These proposals were intended to provide the Commission with access to information concerning the activities of FCM affiliates whose activities were reasonably likely to have a material impact on the financial or operational condition of the FCM. The Commission subsequently determined, in response to the recommendations of several commenters, that the notice requirements in Regulation 1.12(g) should be applied broadly to all FCMs, and not just to those subject to reporting requirements with respect to their material affiliates. *See, generally*, 59 FR 9689, 9690–9691 (March 1, 1994) (Risk Assessment for Holding Company Systems).

[15] 61 FR 19177, 19180 (May 1, 1996).

[16] A copy of the SEC order, dated October 13, 2005, may be accessed electronically at *http://www.sec.gov/rules/other/34-52606.pdf*.

[17] This SEC regulation also provides that an order temporarily prohibiting the withdrawal of capital shall be rescinded if, sometime after a hearing that is to be held within two business days from the date of the request in writing by the broker or dealer, the SEC determines that the restriction on capital withdrawal should not remain in effect. *See* 17 CFR 240.15c3–1(e)(3)(ii).

[18] 55 FR 34027, 34030 (August 15, 1990) (proposing amendments to SEC Regulation 15c3–1 regarding withdrawals of equity capital).

[19] Paragraph (g) of Regulation 1.17 currently is reserved.

[20] In the years since the Commission last adopted rule amendments addressing equity withdrawal transactions, the amount of funds that FCMs are

The Commission also is amending Regulation 1.17(g)(2) to provide that an FCM may file a written petition with the Commission to request rescission of an order temporarily restricting equity withdrawals from the FCM. The Commission will notify the FCM in writing that its petition for rescission had been denied, or, if the Commission determined that the order should not remain in effect, the order would be rescinded. The petition filed by the FCM must specify the facts and circumstances supporting its request for rescission.

Finally, the Commission is also amending Commission Regulations 1.12(g)(2), 1.17(d)(1), and 1.17(e), as proposed in the Proposing Release. These regulations include references to FCMs and IBs that are organized as corporations, partnerships, or sole proprietorships, but currently lack a specific reference to firms organized as limited liability companies. By including applicable references for limited liability companies and their members, the amended regulations modernize the provisions of Regulations 1.12 and 1.17.

IV. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601 *et seq.*, requires that agencies, when amending their rules, consider the impact of those amendments on small businesses. The Commission included in the Proposing Release a certification from the Chairman that these rules would not have a significant economic impact on a substantial number of small entities.[21] The Commission received no comments on the certification.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (''PRA'')[22] imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. As noted in the Proposing Release,[23] these amended regulations do not require a new collection of information on the part of the entities that are subject to the amended regulations.

C. Cost-Benefit Analysis

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

Section 15(a) of the Act further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: Protection of market participants and the public; efficiency, competitiveness, and financial integrity of futures markets; price discovery; sound risk management practices; and other public interest considerations. Accordingly, the Commission could in its discretion give greater weight to any one of the five enumerated areas and could in its discretion determine that, notwithstanding its costs, a particular regulation was necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the Act. The amended Regulation 1.17(g) enables the Commission to issue orders temporarily restricting certain equity withdrawal transactions in circumstances that pose significant concerns for the financial condition of FCMs. The Commission has considered the costs and benefits of the amended regulation in light of the specific provisions of Section 15(a) of the Act, as follows:

1. *Protection of market participants and the public.* Under the amended Regulation 1.17(g), the Commission would be able, in exceptional circumstances, to temporarily delay certain withdrawals of FCM equity by their owners and other insiders, which would contribute to the benefit of ensuring that eligible FCMs can meet their financial obligations to customers and other market participants.

2. *Efficiency and competition.* The amended regulations should have no effect, from the standpoint of imposing costs or creating benefits, on the efficiency and competition of the futures markets.

3. *Financial integrity of futures markets and price discovery.* Amended Regulation 1.17(g) contributes to the financial integrity of futures markets by helping to confirm and preserve the capital of FCM registrants. The amended regulations should have no effect, from the standpoint of imposing costs or creating benefits, on the price discovery function of such markets.

4. *Sound risk management practices.* In order to avoid application of amended Regulation 1.17(g), FCMs may enhance existing risk management practices relating to the risks that practices of FCM affiliates may pose to the ability of FCMs to meet their obligations to customers and other participants in the futures markets.

5. *Other public interest considerations.* The amendments to Regulations 1.12(g), 1.17(d)(1) and 1.17(e), which add references to limited liability company members and their capital contributions, help modernize the Commission's regulations by taking into consideration new forms of business organizations used by FCMs and IBs.

The Commission invited, but did not receive, public comment on its application of the cost-benefit provision.[24] After considering these factors, the Commission has determined to issue this final rule.

List of Subjects in 17 CFR Part 1

Brokers, Commodity futures, Reporting and recordkeeping requirements.

■ Accordingly, 17 CFR Chapter I is hereby amended as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 1a, 2, 5, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 6p, 7, 7a, 7b, 8, 9, 12, 12a, 12c, 13a, 13a–1, 16, 16a, 19, 21, 23, and 24, as amended by the Commodity Futures Modernization Act of 2000, Appendix E of Pub. L. No. 106–554, 114 Stat. 2763 (2000).

■ 2. Section 1.12 is amended by revising paragraph (g)(2) to read as follows:

§ 1.12 Maintenance of minimum financial requirements by futures commission merchants and introducing brokers.

* * * * *

(g) * * *

(2) If equity capital of the futures commission merchant or a subsidiary or affiliate of the futures commission merchant consolidated pursuant to § 1.17(f) (or 17 CFR 240.15c3–1e) would be withdrawn by action of a stockholder or a partner or a limited liability company member or by redemption or repurchase of shares of stock by any of

required to hold as segregated funds has more than doubled. As of August 31, 1995, FCMs were required to hold approximately $25 billion as segregated funds, and $6 billion as secured funds. As of December 31, 2005, the amount that FCMs were required to hold as segregated funds had increased to over $95 billion, and the amount required to be held as secured funds had grown to almost $25 billion.

[21] 71 FR at 57452.

[22] 44 U.S.C. 3507(d).

[23] 71 FR at 57453.

[24] 71 FR at 5745.

the consolidated entities or through the payment of dividends or any similar distribution, or an unsecured advance or loan would be made to a stockholder, partner, sole proprietor, limited liability company member, employee or affiliate, such that the withdrawal, advance or loan would cause, on a net basis, a reduction in excess adjusted net capital (or, if the futures commission merchant is qualified to use the filing option available under § 1.10(h), excess net capital as defined in the rules of the Securities and Exchange Commission) of 30 percent or more, notice must be provided at least two business days prior to the withdrawal, advance or loan that would cause the reduction: *Provided, however,* That the provisions of paragraphs (g)(1) and (g)(2) of this section do not apply to any futures or securities transaction in the ordinary course of business between a futures commission merchant and any affiliate where the futures commission merchant makes payment to or on behalf of such affiliate for such transaction and then receives payment from such affiliate for such transaction within two business days from the date of the transaction.

* * * * *

■ 3. Section 1.17 is amended by revising paragraph (d)(1) introductory text; adding paragraph (d)(1)(ii)(D); revising paragraph (e) introductory text; and adding paragraph (g), to read as follows:

§ 1.17 Minimum financial requirements for futures commission merchants and introducing brokers.

* * * * *

(d) * * *

(1) Equity capital means a satisfactory subordination agreement entered into by a partner or stockholder or limited liability company member which has an initial term of at least 3 years and has a remaining term of not less than 12 months if:

* * * * *

(ii) * * *

(D) In the case of a limited liability company, the sum of its capital accounts of limited liability company members, and unrealized profit and loss.

* * * * *

(e) No equity capital of the applicant or registrant or a subsidiary's or affiliate's equity capital consolidated pursuant to paragraph (f) of this section, whether in the form of capital contributions by partners (including amounts in the commodities, options and securities trading accounts of partners which are treated as equity capital but excluding amounts in such trading accounts which are not equity capital and excluding balances in limited partners' capital accounts in excess of their stated capital contributions), par or stated value of capital stock, paid-in capital in excess of par or stated value, retained earnings or other capital accounts, may be withdrawn by action of a stockholder or partner or limited liability company member or by redemption or repurchase of shares of stock by any of the consolidated entities or through the payment of dividends or any similar distribution, nor may any unsecured advance or loan be made to a stockholder, partner, sole proprietor, limited liability company member, or employee if, after giving effect thereto and to any other such withdrawals, advances, or loans and any payments of payment obligations (as defined in paragraph (h) of this section) under satisfactory subordination agreements and any payments of liabilities excluded pursuant to paragraph (c)(4)(vi) of this section which are scheduled to occur within six months following such withdrawal, advance or loan:

* * * * *

(g)(1) The Commission may by order restrict, for a period up to twenty business days, any withdrawal by a futures commission merchant of equity capital, or any unsecured advance or loan to a stockholder, partner, limited liability company member, sole proprietor, employee or affiliate, if:

(i) Such withdrawal, advance or loan would cause, when aggregated with all other withdrawals, advances or loans during a 30 calendar day period from the futures commission merchant or a subsidiary or affiliate of the futures commission merchant consolidated pursuant to § 1.17(f) (or 17 CFR 240.15c3–1e), a net reduction in excess adjusted net capital (or, if the futures commission merchant is qualified to use the filing option available under § 1.10(h), excess net capital as defined in the rules of the Securities and Exchange Commission) of 30 percent or more, and

(ii) The Commission, based on the facts and information available, concludes that any such withdrawal, advance or loan may be detrimental to the financial integrity of the futures commission merchant, or may unduly jeopardize its ability to meet customer obligations or other liabilities that may cause a significant impact on the markets.

(2) The futures commission merchant may file with the Secretary of the Commission a written petition to request rescission of the order issued under paragraph (g)(1) of this section. The petition filed by the futures commission merchant must specify the facts and circumstances supporting its request for rescission. The Commission shall respond in writing to deny the futures commission merchant's petition for rescission, or, if the Commission determines that the order issued under paragraph (g)(1) of this section should not remain in effect, the order shall be rescinded.

* * * * *

Issued in Washington, DC, on January 5, 2007 by the Commission.

Eileen Donovan,

Acting Secretary of the Commission.

[FR Doc. E7–173 Filed 1–9–07; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM06–4–001; Order No. 679–A]

Promoting Transmission Investment Through Pricing Reform

Issued December 22, 2006.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; order on rehearing.

SUMMARY: In this order on rehearing, the Federal Energy Regulatory Commission (Commission) reaffirms its determinations in part and grants rehearing in part of *Promoting Transmission Investment through Pricing Reform, Order* No. 679. Order No. 679 amended Commission regulations to establish incentive-based (including performance-based) rate treatments for the transmission of electric energy in interstate commerce by public utilities for the purpose of benefiting consumers by ensuring reliability and reducing the cost of delivered power by reducing transmission congestion.

DATES: *Effective Date:* This final rule and order on rehearing will be effective on February 9, 2007.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Before Commissioners: Joseph T. Kelliher, Chairman; Suedeen G. Kelly, Marc Spitzer, Philip D. Moeller, and Jon Wellinghoff.

TABLE OF CONTENTS

	Paragraph numbers
I. Introduction	1
II. Background	9
III. Discussion	11
A. Procedural Matters	11
B. Statutory Arguments	13
1. Rehearing Requests	13
2. Commission Determination	14
C. Nexus Requirement	16
1. Rehearing Requests	17
2. Commission Determination	20
D. Cost-Benefit Analysis	28
1. Rehearing Requests	29
2. Commission Determination	35
E. Rebuttable Presumptions	41
1. Rehearing Requests	42
2. Commission Determination	46
F. ROE Sufficient to Attract Investment	51
1. Rehearing Requests	52
2. Commission Determination	59
G. Incentives Available to Transcos	71
1. Rehearing Requests	72
2. Commission Determination	76
H. Transmission Organization Incentive	79
1. Rehearing Requests	80
2. Commission Determination	86
I. Hypothetical Capital Structure	91
1. Rehearing Requests	92
2. Commission Determination	93
J. Single-Issue Ratemaking	94
1. Rehearing Requests	95
2. Commission Determination	97
K. Public Power	100
1. Rehearing Requests	101
2. Commission Determination	102
L. Other Issues	103
1. Recovery of Costs of Abandoned Facilities	104
2. Prudently Incurred Costs	108
3. Regional Planning	110
4. CWIP	112
5. Reporting Requirement: FERC–730	117
6. Miscellaneous	121
IV. Information Collection Statement	137
V. Document Availability	138
VI. Effective Date	141
APPENDIX	

Order on Rehearing

I. Introduction

1. On July 20, 2006, the Commission issued a Final Rule in this proceeding.[1] In the Final Rule, the Commission amended its regulations to establish incentive-based (including performance-based) rate treatments for the transmission of electric energy in interstate commerce by public utilities. These incentives are intended to benefit consumers by ensuring reliability and reducing the cost of delivered power by reducing transmission congestion. We took this action pursuant to section 1241 of the Energy Policy Act of 2005 (EPAct 2005),[2] which added a new section 219 to the Federal Power Act (FPA). The Final Rule identified ratemaking treatments available under section 219. The Final Rule did not grant incentives to any particular entity, but rather required each applicant to demonstrate that it could meet the requirements of section 219 and the Final Rule.

2. Many entities sought rehearing of the Final Rule.[3] The petitioners representing consumer interests argue that the Final Rule was too permissive in offering rate incentives. We have carefully reviewed these petitions and grant them in part in this order.

3. In doing so, we do not, however, depart from a fundamental commitment to provide incentives to support the development of transmission infrastructure. Section 219 was enacted

[1] *Promoting Transmission Investment through Pricing Reform,* Order No. 679, 71 FR 43294 (July 31, 2006), FERC Stats. & Regs. ¶ 31,222 (2006) (Order No. 679 or Final Rule).

[2] Energy Policy Act of 2005, Pub. L. No. 109–58, 119 Stat. 594, 315 and 1283 (2005).

[3] The parties who filed the requests for rehearing and/or clarification are listed in Appendix A.

because of a long decline in transmission investment that is threatening reliability and causing billions of dollars in congestion costs. To reverse this historical trend, section 219 directed the Commission to ''establish, by rule, incentive-based (including performance-based) rate treatments'' that: ''Promote reliable and economically efficient transmission and generation of electricity by promoting capital investment in the enlargement, improvement, maintenance, and operation of all facilities for the transmission of electric energy in interstate commerce, regardless of the ownership of the facilities; provide a return on equity that attracts new investment in transmission facilities (including related transmission technologies); encourage deployment of transmission technologies and other measures to increase the capacity and efficiency of existing transmission facilities and improve the operation of the facilities; and allow recovery of—(A) all prudently incurred costs necessary to comply with mandatory reliability standards issued pursuant to section 215 and (B) all prudently incurred costs related to transmission infrastructure development pursuant to section 216.'' [4] The Final Rule fulfilled that command by providing a range of rate treatments that remove impediments to new investment or otherwise attract that investment.

4. This order retains those rate treatments, but modifies the way in which they are applied in three principal respects to address the concerns of petitioners.

5. First, NARUC argues that we erred in rebuttably presuming that certain review processes (*e.g.*, state siting approvals and regional planning processes) satisfy section 219's requirement that a transmission project ensure reliability or reduce congestion. NARUC contends that these review processes do not, in all cases, establish the need for a particular facility. We grant rehearing in part on this issue. The Commission created the rebuttable presumption because we do not wish to duplicate the work of state siting authorities, regional planning processes, or the U.S. Department of Energy (DOE) under EPAct section 1221. However, we agree with NARUC to the extent that, if review processes do not include a determination of whether a project ensures reliability or reduces congestion, no rebuttable presumption should exist for that project. We will therefore require that each applicant explain whether any process being relied upon for a rebuttable presumption includes a determination that the project is necessary to ensure reliability or reduce congestion. Furthermore, we clarify that this rebuttable presumption applies only to whether the project reduces congestion or encourages reliability, not the additional requirements of the Final Rule. As discussed more fully elsewhere in this order, we also grant rehearing with respect to the Final Rule's rebuttable presumption concerning a National Interest Electric Transmission Corridor (NIETC) designation.

6. Second, the Final Rule required that each applicant demonstrate a nexus between the incentive being sought and the investment being made. Several petitioners argue that the nexus test is not sufficiently rigorous to protect consumers. We grant rehearing in part on this issue. The Final Rule stated that the nexus test is to be applied separately to each incentive, rather than to the package of incentives as a whole. We agree that this approach fails to protect consumers where an applicant both seeks incentives that reduce the risk of the project and seeks an enhanced rate of return on equity (ROE) for increased risk. We will therefore grant in part rehearing and require applicants to demonstrate that the total package of incentives is tailored to address the demonstrable risks or challenges faced by the applicant in undertaking the project.[5] If some of the incentives in the package reduce the risks of the project, that fact will be taken into account in any request for an enhanced ROE.

7. Third, several petitioners argue that the Final Rule erred in its treatment of incentive returns on equity. Specifically, they fear the Commission will routinely grant ROEs at the top end of the zone of reasonableness. Although the Commission has broad discretion to establish returns on equity anywhere within the zone of reasonableness, we must be careful in the manner we exercise this discretion. The Commission clarifies below that we do not intend to grant incentive returns ''routinely'' or that, when granted, they will always be at the ''top'' of the zone of reasonableness. Rather, each applicant will, first, be required to justify a higher ROE under the required nexus test and, second, to justify where in the zone of reasonableness that return should lie. Furthermore, we recognize that some investors may desire up-front certainty regarding ROE before they invest in a particular project. Because our traditional ratemaking practice typically determines ROE in a hearing only after an investment is made and a facility is constructed, it does not provide such up-front certainty. We therefore clarify that we will entertain requests for a specific ROE determination in a petition for declaratory order.

8. In this order, the Commission denies in part and grants in part the requests for rehearing and/or clarification.

II. Background

9. Section 1241 of EPAct 2005 directed the Commission to establish, no later than one year after enactment of section 219, by rule, incentive-based (including performance-based) rate treatments for the transmission of electric energy in interstate commerce by public utilities for the purpose of benefiting consumers by ensuring reliability and reducing the cost of delivered power by reducing transmission congestion.[6] To that end, the Commission issued a Notice of Proposed Rulemaking (NOPR) [7] on November 18, 2005 seeking comment on the Commission's proposal to comply with section 219. In the NOPR, the Commission stated that the purpose of this rulemaking is to promote greater capital investment in new transmission capacity, recognizing that the need for capital investment in energy infrastructure is a national problem that requires a national solution. Inadequate transmission infrastructure results in transmission congestion that impedes competitive wholesale markets and impairs the reliability of the electric grid.[8]

10. After considering the comments on the NOPR, the Commission issued its Final Rule on transmission investment incentives to address the need for transmission capacity. In the Final Rule, the Commission provided incentives for transmission infrastructure investment that will help ensure the reliability of the bulk power transmission system in the United States and reduce the cost of delivered power to customers by reducing transmission congestion. The Final Rule identified specific incentives that the Commission will allow when justified in the context of individual declaratory orders or section 205 filings

[4] 16 U.S.C.A. 824s(a), (b)(1) (West Supp. 2006).

[5] The Commission will apply a rule of reason with respect to what is sufficient to meet the requirement of ''demonstrable'' risk or challenge. An applicant may provide specific evidence of a risk or challenge or a supported explanation of why it faces a particular risk or challenge.

[6] 16 U.S.C.A. 824s(a) (West Supp. 2006).

[7] *Promoting Transmission Investment Through Pricing Reform*, Notice of Proposed Rulemaking, 70 FR 71409 (Nov. 29, 2005), FERC Stats. & Regs., Proposed Regs. ¶ 32,593 (2005).

[8] *Id.* P 2.

by public utilities under the FPA.[9] The Commission stated that the Final Rule does not grant incentives to any public utility but instead permits an applicant to tailor its proposed incentives to the type of transmission investments being made and to demonstrate that its proposal meets the requirements of section 219. Further, incentives will be permitted only if the incentive package as a whole results in a just and reasonable rate.[10]

III. Discussion

A. Procedural Matters

11. In response to the Final Rule, a number of parties submitted timely requests for rehearing and/or clarification. On August 22, 2006, the Attorney General of the State of Connecticut (Connecticut AG) filed a request for rehearing out of time, seeking to support and join in all aspects the New England Commissions' request for rehearing. On September 21, 2006, International Transmission Company (International Transmission) filed an answer to SoCal Edison's request for rehearing.

12. Pursuant to Rule 713(b) of the Commission's Rules of Practice and Procedure, 18 CFR 385.713(b) (2006), we will deny the request for rehearing of the Connecticut Attorney General because it was filed more than 30 days after issuance of the Final Rule.[11] Rule 713(d) of the Commission's Rules of Practice and Procedure [12] prohibits an answer to a request for rehearing. Therefore, we deny International Transmission's answer to SoCal Edison's request for rehearing.

B. Statutory Arguments

1. Rehearing Requests

13. APPA/NRECA argue that the Commission misinterpreted section 219 as requiring greater flexibility in ratemaking practices. According to APPA/NRECA, ''incentives'' are not necessary to attract capital because, under existing Supreme Court precedent, ''a public utility's rate of return should also be sufficient to attract investment in new transmission facilities.'' [13] APPA/NRECA therefore conclude that section 219 merely ''codified the longstanding Commission and judicial interpretations of FPA section 205's requirement that rates be just and reasonable.'' [14]

2. Commission Determination

14. We agree with APPA/NRECA that section 219 did not modify the requirement that rates be just and reasonable under section 205, but disagree that it did no more than restate that longstanding principle. Section 219 makes very clear that the Commission ''*shall* establish, by rule, incentive-based (including performance-based) rate treatments'' and that these rate treatments ''*shall* * * * promote reliable and economically efficient transmission and generation of electricity by promoting capital investment in the enlargement, improvement, maintenance, and operation of all facilities for the transmission of electric energy in interstate commerce, regardless of the ownership of the facilities; provide a return on equity that attracts new investment in transmission facilities (including related transmission technologies); encourage deployment of transmission technologies and other measures to increase the capacity and efficiency of existing transmission facilities and improve the operation of the facilities and allow recovery of—(A) all prudently incurred costs necessary to comply with mandatory reliability standards issued pursuant to section 215 and (B) all prudently incurred costs related to transmission infrastructure development pursuant to section 216.'' [15] These words do far more than ''codify'' the just and reasonable standard; they command the Commission to use its discretion under section 205 to promote capital investment. Furthermore, Congress in section 219 even highlighted the importance of investment in economically or technologically efficient transmission infrastructure.[16] Section 219 was enacted against the backdrop of a long decline in transmission investment that is imposing substantial costs—in congestion and service interruptions—on consumers. If Congress had deemed our existing practices sufficient to reverse this trend, there would have been little need to enact section 219. Section 219 does not simply ''codify'' our legal authority; it requires us to take affirmative action to promote new investment. Although the resulting rates must be just and reasonable, the Commission has significant discretion under section 205 in making that determination and section 219 provides clear direction that we use that discretion to promote new infrastructure, not simply maintain the *status quo.*

15. While section 219 requires us to do more than maintain the *status quo* for transmission pricing, we recognize that our traditional ratemaking authority also requires us to establish a return on a public utility's assets that is ''reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate to maintain and support its credit and enable it to raise money necessary for the proper discharge of its public duties'' [17] and ''should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital.'' [18] Thus, a base-level ROE sufficient to promote capital investment in transmission facilities historically has not been considered an ''incentive,'' but a requirement of establishing a just and reasonable rate.[19] In this regard, we

[9] Order No. 679, FERC Stats. & Regs ¶ 31,222 at P1.

[10] *Id.* P. 2. Also, in the Final Rule, the Commission agreed with comments that new transmission technologies will be adopted when they are cost effective. The Commission determined that incentives will be considered for advanced technologies through the same evaluation process as other technologies. The Commission declined to make generic determinations regarding the applicability of incentives to particular technologies. Rather, the Final Rule determined that to the extent that applicants seek additional incentives for advanced technologies, the Commission will consider the propriety of such incentives on a case-by-case basis. *Id.* P 288–93, 298–99. The Final Rule required applicants for incentive rate treatment to provide a technology statement that describes what advanced technologies have been considered and, if those technologies are not to be deployed or have not been deployed, an explanation of why they were not deployed. *Id.* P 302. No party sought rehearing concerning the Final Rule's determinations regarding advanced technologies.

[11] We note, however, that the Connecticut Attorney General supports New England Commissions' request for rehearing, which we address in this order.

[12] 18 CFR 385.713(d) (2006).

[13] APPA/NRECA at 12.

[14] Id. at 12–13.

[15] 16 U.S.C.A. 824s(a), (b)(1)–(4) (West Supp. 2006).

[16] See id. at 824s(a) and (b)(3).

[17] *Bluefield Waterworks & Improvement Co.* v. *Pub. Serv. Comm'n of W. Va.,* 262 U.S. 679, 693 (1923).

[18] *FPC* v. *Hope Natural Gas Co.,* 320 U.S. 591, 603 (1944).

[19] In contrast to a base-level ROE that reflects the financial and regulatory risks of an investment, an ''incentive'' has been more typically associated with specific basis point additions to a base ROE to satisfy discrete policy objectives. *See, e.g., Western Area Power,* 99 FERC ¶ 61,306, *reh'g denied,* 100 FERC ¶ 61,331 (2002) (*Western*), *aff'd sub nom. Public Utilities Commission of the State of California* v. *FERC,* 367 F.3d 925 (D.C. Cir. 2004); *Michigan Electric Transmission Co., LLC,* 105 FERC ¶ 61,214 (2003) (*METC*); *American Transmission Company, L.L.C.,* 105 FERC ¶ 61,388 (2003) (*American Transmission*); *ITC Holdings Corp.,* 102 FERC ¶ 61,182, *reh'g denied,* 104 FERC ¶ 61,033 (2003) (*ITC Holdings*); *Regional Transmission Organizations,* Order No. 2000, 65 FR 809 (Jan. 6, 2000), FERC Stats. & Regs. ¶ 31,089 (1999), *order on reh'g,* Order No. 2000–A, 65 FR 12088 (Mar. 8, 2000), FERC Stats. & Regs. ¶ 31,092 (2000), *aff'd sub nom. Pub. Util. Dist. No. 1 of Snohomish County, Washington* v. *FERC,* 272 F.3d 607 (D.C. Cir. 2001)

Continued

recognize that our responsibilities under section 205 and our responsibilities under section 219 overlap in significant ways. We recognize that it may be difficult to meaningfully distinguish between an ROE that appropriately reflects a utility's risk and ability to attract capital and an ''incentive'' ROE to attract new investment. Notwithstanding this difficult distinction, consistent with Congress' direction in section 219, we are obligated to establish ROEs for public utilities that both reflect the financial and regulatory risks attendant to a particular project and that are sufficient to actively promote capital investment. We will do so within the zone of reasonableness, including above the midpoint where appropriate, to accomplish these regulatory responsibilities.[20] This end-result ROE, whether characterized as an incentive pursuant to section 219 or as a base-level ROE consistent with the just and reasonable standard of section 205, will take into consideration financial and regulatory risks attendant to the project and thereby satisfy Congress' direction that the Commission ''provide a return on equity that attracts new investment in transmission facilities * * *.''[21]

C. Nexus Requirement

16. In the Final Rule, the Commission stated that the applicant must demonstrate that: (1) The facilities for which it seeks incentives either ensure reliability or reduce the cost of delivered power by reducing transmission congestion consistent with the requirements of section 219; (2) there is a nexus between the incentive sought and the investment being made; and (3) the resulting rates are just and reasonable.[22] The Commission stated that an applicant is not required to show that, but for the incentives, the expansion would not occur because Congress did not require such a showing. Nevertheless, the Commission maintained that it will require applicants to show some nexus between the incentives being requested and the investment being made, *i.e.*, to demonstrate that the incentives are rationally related to the investments being proposed.[23]

3. Rehearing Requests

17. Industrial Consumers oppose allowing applicants to request multiple incentives, arguing that the Commission erred by determining that section 219 does not require applicants to demonstrate a relationship between an incentive proposal and transmission investment.[24] According to Industrial Consumers, the just and reasonable requirements of section 219(d) require that incentive rates must be based on a showing that there is a relationship between increased rates and the attraction of new capital.[25] They assert that customers should not be forced to pay for incentives unless those incentives are actually necessary to deliver additional transmission capacity. Therefore, Industrial Consumers claim that contrary to the Commission's conclusion, section 219 does not authorize the Commission to depart from judicial precedent on just and reasonable incentive rates.[26] Further, to the extent that the Commission relies on non-cost factors in determining just and reasonable incentive rates, the Commission must specify the nature of the relevant non-cost factors and offer a reasoned explanation of how the factors justify the resulting rates.[27] Industrial Consumers contend that the reasoned explanation must calibrate the relationship between increased rates and the attraction of new capital, ensure that the increase is in fact needed, and is no more than needed to accomplish the objective.[28]

18. APPA/NRECA also argue that applicants must demonstrate a need for the incentive rate treatments and make a showing sufficient for the Commission to find that a particular incentive rate treatment ''is in fact needed and no more than is needed'' under the FPA and the Administrative Procedure Act.[29] APPA/NRECA consider the nexus requirement to be inadequate because it fails to require applicants to show that a particular rate treatment is actually a lawful incentive under sections 205 and 219 of the FPA.[30] They assert that under the nexus requirement, an applicant could show a sufficient rational relationship merely by claiming that granting the incentive rate treatment will make the investment more profitable and thus more attractive to investors.[31] TDU Systems repeat these points and claim that the nexus requirement will have no effect on the granting or denying of incentive applications unless the Commission provides concrete examples of categories of asserted relationships between proposed incentives and facilities that will not satisfy the nexus requirement. They also do not consider the nexus requirement to be a reasonable substitute for a cost-benefit analysis.[32]

19. Likewise, TAPS argues that the nexus requirement is unduly vague because it fails to clearly require a causal connection between the incentive and consumer benefits. TAPS asserts that the nexus requirement should test whether a requested incentive would reasonably be expected to cause either a net decrease in delivered power costs even after considering incentive-increased transmission costs, or, where the expected net effect on delivered power costs is an increase, reliability gains that make that increase worthwhile.[33] To remedy the alleged deficiencies of the nexus requirement, TAPS proposes that the nexus requirement be revised to provide: ''That the incentive sought is designed to result in those facilities being invested in, completed, and placed into service.''[34] TAPS also recommends that the rule be amended to explicitly retain a reasonable calculation test, so that the Commission can determine which incentives return net consumer benefits and will be able to verify the accuracy of its prediction that granting incentives will spur increased investment.[35]

3. Commission Determination

20. Petitioners raise two related objections to the nexus requirement: (i) That it is too vague and therefore will be too easy to satisfy, and (ii) because it is not sufficiently rigorous, a different standard should be adopted. We address each in turn.

21. The required nexus test requires an applicant to demonstrate that the

(Order No. 2000). Section 219 addresses both situations. In addition to requiring the Commission to establish, by rule, incentive rate treatments to promote transmission investment generally, section 219 also requires the Commission to establish incentive-based rates to encourage transmission technologies and other measures to increase the capacity and efficiency of existing transmission facilities. Thus, Congress intended for us to establish an ROE sufficient to reflect financial and regulatory risks and also to consider discrete ROE incentives for, among other things, participation in transmission organizations, projects with particular benefits to reliability or reducing congestion, new technologies and efficiency enhancements.

[20] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 93.

[21] 16 U.S.C.A. 824s(b)(2) (West Supp. 2006).

[22] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 2, 26.

[23] *Id.* P 26, 48.

[24] Industrial Consumers at 3–7.

[25] *Id.* at 4, citing *Farmers Union Cent. Exch.* v. *FERC*, 734 F.2d 1486, 1503 (D.C. Cir. 1984) (*Farmers Union*).

[26] *Id.* at 5.

[27] *Id.* at 6–7

[28] *Id.*

[29] 5 U.S.C. 556 (2000).

[30] APPA/NRECA at 22.

[31] *Id.* at 23, citing Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 91, 117, and 133.

[32] TDU Systems at 19–20.

[33] TAPS at 8–9.

[34] *Id.* at 11.

[35] *Id.* at 16, citing *City of Charlottesville* v. *FERC,* 661 F.2d 945, 955 (D.C. Cir. 1981).

incentives being requested are '' tailored to the risks and challenges faced'' by the project.[36] By this we mean that the incentive(s) sought must be tailored to address the demonstrable risks and challenges faced by the applicant in undertaking the project.[37] The required nexus test therefore satisfies the Industrial Consumers request that there be a relationship between the rate treatments sought and the attraction of new capital.[38] It also satisfies TAPS' request that ''the incentive sought is designed to result in'' new facilities being constructed.[39] We disagree with TAPS and APPA/NRECA, however, that the test is designed to be lenient or that it will necessarily be satisfied in every case. As we indicated in the Final Rule, ''[n]ot every incentive will be available for every new investment. Rather, each applicant must demonstrate that there is a nexus between the incentive sought and the investment being made.'' [40] In evaluating whether the applicant has satisfied the required nexus test, the Commission will examine the total package of incentives being sought, the inter-relationship between any incentives, and how any requested incentives address the risks and challenges faced by the project.

22. TDU Systems complain that we did not provide ''concrete examples'' of showings that would either satisfy or fail the nexus test. Although that was not the purpose of the Final Rule—the purpose was to enunciate the criteria to be applied in individual cases—we did provide certain illustrations. For example, we emphasized the need for incentives for new transmission projects that can integrate new generation and load and thereby improve reliability and reduce congestion:

> New transmission is needed to connect new generation sources and to reduce congestion. However, because there is a competitive market for new generation facilities, these new generation resources may be constructed anywhere in a region that is economic with respect to fuel sources or other siting considerations (*e.g.*, proximity to wind currents), not simply on a ''local'' basis within each utility's service territory. To integrate this new generation into the regional power grid, new regional high voltage transmission facilities will often be necessary and, importantly, no single utility will be ''obligated'' to build such facilities. Indeed, many of these projects may be too large for a single load serving entity to finance. Thus, for the Nation to be able to integrate the next generation of resources, we must encourage investors to take the risks associated with constructing large new transmission projects that can integrate new generation and otherwise reduce congestion and increase reliability.[41]

We also emphasized that ''this does not mean that every new transmission investment should receive a higher return than otherwise would be the case. For example, routine investments to meet existing reliability standards may not always * * *, qualify for an incentive-based ROE.'' [42]

23. The Commission reaffirms that the most compelling case for incentives are new projects that present special risks or challenges, not routine investments made in the ordinary course of expanding the system to provide safe and reliable transmission service. We therefore reject the arguments of EEI and Southern Companies that such routine investments should be treated the same, for purposes of applying the required nexus test, as new projects that present special risks or challenges.[43]

24. We also believe that the guidance provided in the Final Rule is sufficient. The purpose of the Final Rule was to establish criteria to be applied in individual cases, not to provide an exhaustive list of situations where incentives will be granted or denied. The decision whether to grant or deny incentives to a particular project is appropriately the subject of an individual rate application (or declaratory order) where the Commission can evaluate whether the applicants have fully supported any incentive rate treatments being sought.

25. We now turn to the alternative tests advocated by petitioners, discussing the ''but for'' test in this section and the ''cost-benefit'' test in the following section. The Final Rule rejected a ''but for'' test as inconsistent with Congressional intent in enacting section 219.[44] We reaffirm that finding here. In doing so, we emphasize that both the required nexus test and the ''but for'' test share one thing in common: Their common objective is to ensure that incentives are not provided in circumstances where they do not materially affect investment decisions. They differ sharply, however, in the means by which they seek to achieve that objective. The ''but for'' test requires an applicant to show that a facility would not be constructed unless the incentive is granted. We reject that test because it erects an evidentiary hurdle that could only, in very rare cases, be satisfied. There are many impediments to investing in new transmission, including siting concerns, financing challenges, rate recovery concerns, etc. It is therefore unreasonable to expect or require an applicant to show that a facility could not be constructed ''but for'' the removal of a *single* impediment—*e.g.*, increased cash flow through 100 percent construction work-in-progress (CWIP) or an enhanced ROE. This test could rarely, if ever, be satisfied, particularly given that incentives are ordinarily sought *before* investment decisions are made and, hence, before any siting impediments are even confronted.

26. The Commission therefore reaffirms its rejection of the ''but for'' test as the appropriate test for applying section 219. It would erect a barrier that is nearly impossible to meet and is thereby fundamentally incompatible with Congressional intent in enacting section 219. In enacting EPAct 2005, Congress plainly understood that there are many impediments to new transmission investment. Congress therefore took a variety of actions to address that problem, including giving the Commission backstop siting authority, requiring that entities have long-term transmission rights to support new investment and, in section 219, providing appropriate rate incentives. We decline to render section 219 essentially an empty letter by requiring the demonstration of a negative—that absent an incentive rate treatment, under no circumstance would a transmission project possibly be built. This would be directly contrary to the intent of Congress to encourage the construction of needed transmission.

27. We will grant rehearing, however, in one respect. The Final Rule states that the nexus test is to be applied separately to each incentive, rather than to the package of incentives as a whole. We agree that this approach fails to protect consumers where an applicant seeks incentives that both reduce the risk of the project and offer an enhanced ROE for increased risk. Even though the applicant no longer has to apply the nexus requirement separately to each incentive, the applicant will be required to demonstrate that the *total* package of incentives is tailored to address the

[36] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 26.

[37] We also note that the Commission retains its discretion to provide policy-based incentives. As the courts have said, even prior to our new authority in section 219, the Commission's incentive rate determinations ''involve matters of rate design * * * [and] policy judgments [that go to] the core of [the Commission's] regulatory responsibilities.'' *Maine Public Utilities Commission* v. *FERC,* 454 F.3d 278, 288 (D.C. Cir. 2006). *See also Permian Basin Area Rate Cases,* 390 U.S. 747 (1968) (*Permian*).

[38] Industrial Consumers at 4.

[39] TAPS at 11.

[40] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 26.

[41] *Id.* P 25.

[42] *Id.* P 27.

[43] *See infra* P 52.

[44] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 48.

demonstrable risks or challenges faced by the applicant. In presenting a package to the Commission, applicants must provide sufficient explanation and support to allow the Commission to evaluate each element of the package and the interrelationship of all elements of the package. If some of the incentives would reduce the risks of the project, that fact will be taken into account in any request for an enhanced ROE. We are revising § 35.35(d) to reflect this clarification.

D. Cost-Benefit Analysis

28. In the Final Rule, the Commission adopted the proposal in the NOPR not to require applicants for incentive-based rate treatments to provide cost-benefit analyses. The Commission noted that courts have recognized that the Commission may consider non-cost factors in its ratemaking decisions.[45] Therefore, the Commission stated that it may consider non-cost factors as well as cost factors and that it will consider the justness and reasonableness of any proposal for incentive rate treatment in individual proceedings.

1. Rehearing Requests

29. TDU Systems and APPA/NRECA contend that the Final Rule's failure to require that incentive rates be justified by a cost-benefit analysis is inconsistent with sections 205 and 219 of the FPA. They assert that the Commission needs the information in the cost-benefit analysis to determine whether a particular incentive rate is just and reasonable, *i.e.* whether its cost is outweighed by the benefits customers will receive.[46] APPA/NRECA also contend that the Commission has no basis for concluding that a particular incentive provides consumers with a net benefit, as required under section 219(a), without a cost-benefit analysis.[47] TDU Systems also point out that the Commission and affected customers must have the information necessary to distinguish between proposed projects that would benefit customers a great deal and proposed projects that would benefit customers minimally if at all.[48] Further, in considering non-cost factors, these parties argue that the Commission cannot make a reasoned decision about the appropriateness of non-cost factors in approving an incentive rate without first knowing the costs and benefits of the incentive rate.[49] They assert that intervenors also need this information to evaluate the impact of the rate proposal on them and to understand how much the applicant is relying on non-cost considerations. Moreover, APPA/NRECA contend, if the applicant is not required to present any evidence that consumers obtain net benefits from an increase in their transmission rates, the Commission cannot strike a fair balance between the financial interests of the regulated company and the relevant public interests, both existing and foreseeable.[50] Further, TDU Systems and APPA/NRECA state that the plain language of section 219 demonstrates that Congress' intent is to promote only efficient investment, investment that benefits consumers. They assert that Congress' unqualified adoption in section 219(d) of the statutory just and reasonable standard demands a cost-benefit analysis.

30. TDU Systems and APPA/NRECA also argue that elimination of the cost-benefit analysis will be harmful to customers because of the two-stage application procedure.[51] They assert that applicants should be required to provide the Commission and customers with all relevant facts concerning costs and benefits at the petition for declaratory order stage, where the applicant's right to the incentive will be decided, because the Final Rule precludes relitigation of these issues in the later section 205 proceeding.[52] They state that the interested parties must have the information needed to raise specific issues as to whether the likely customer benefits of the project justify the likely costs of the incentives to be awarded. They also argue that without a rigorous cost-benefit analysis at the initial stage, the benefits that formed the Commission's initial approval would be so amorphous that there would be little objective data for the Commission to assess in its periodic progress assessments. Allowing recipients of incentives to fix the term of their incentive-rate awards in the absence of a rigorous initial cost-benefit analysis would serve only to perpetuate the contravention of the statutory just and reasonable standard, according to APPA/NRECA. TDU Systems agree, stating that they can perceive no justification for allowing incentive awardees to define the duration of their own awards in the absence of a rigorous initial cost-benefit analysis.

31. Industrial Consumers argue that the Commission impermissibly departed from Order No. 2000,[53] without a reasoned explanation, by eliminating the cost-benefit analysis. They assert that the Commission wrongly concluded that the cost-benefit analysis is not necessary because customers will be protected by the Commission's review of applications pursuant sections 205, 206, and 219 of the FPA, which require that all rates be just and reasonable and not unduly discriminatory or preferential.[54] They state that in Order No. 2000, the Commission required applicants for innovative transmission rate treatments to demonstrate how the investment in the transmission system benefits consumers and to provide a cost-benefit analysis, including rate impacts. Such a disconnect with Commission precedent reflects an absence of reasoned decision making.[55]

32. Further, Industrial Consumers contend that, to successfully balance the competing interests of providing incentives to encourage transmission investment and its statutory responsibility of protecting customers from excessive rates, the Commission must narrowly tailor incentives that require a close calibration between the increased rates and a corresponding level of benefits. Without such a close calibration between the proposed incentive rates and the anticipated benefit, the Commission risks thwarting the just and reasonable requirements of the FPA. Thus, according to Industrial Consumers, applicants for incentive treatment must be required to demonstrate that incentives will actually yield a positive return in the form of otherwise unachievable reliability improvements and reduced congestion costs.[56]

33. SMUD contends that the nexus requirement is not sufficient to justify eliminating the cost-benefit analysis required under Order No. 2000. It asserts that there is no connection between the lawfulness of non-cost factors and the elimination of the cost-benefit test for incentive rates. SMUD states that, while the Commission recognized the non-cost-based nature of incentive ratemaking in the 1992 Policy

[45] *Id.* P 65, citing *Permian*, 390 U.S. 747, 815 (1968); *Pub. Utils. Comm'n of Cal.* v. *FERC*, 367 F.3d 925, 929 (D.C. Cir. 2004) (*CPUC* v. *FERC*); *Maine Pub. Utils. Comm'n.* v. *FERC*, 454 F.3d 278, slip op. at 19 (D.C. Cir. 2006) (*Maine PUC* v. *FERC*).

[46] APPA/NRECA at 26; TDU Systems at 11.

[47] APPA/NRECA at 26–27.

[48] TDU Systems at 12.

[49] *Id.* at 15; APPA/NRECA at 27.

[50] APPA/NRECA at 29, citing *Farmers Union*, 734 F.2d at 1502.

[51] Under the Commission's two-stage application procedure, an applicant can petition for a declaratory order seeking an incentive-based rate treatment for its project. After the Commission issues the declaratory order, the applicant must seek to put the rates into effect through a separate single-issue or comprehensive section 205 filing. *See* Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 76–78.

[52] TDU Systems at 12–14; APPA/NRECA at 29–30.

[53] Order No. 2000, *supra* note 19.

[54] Industrial Consumers at 7–8.

[55] *Id.*

[56] *Id.* at 10.

Statement, the Commission, nonetheless concluded that benefits to consumers must be quantifiable, and SMUD asserts that nothing in section 219 alters the requirement for a cost-benefit test.[57] Further, SMUD contends that the nexus test results in a lower burden of proof for applicants without explaining why a cost-benefit test is no longer necessary. SMUD requests the Commission to clarify that the incentives for new construction to reduce congestion will be capped so that the delivered cost of power to the consumer is lower than what it was before the facilities were constructed, thereby ensuring that consumers will not pay incentive rates for congestion-reducing construction unless the result is a lower cost of delivered power. SMUD also requests clarification that incentives for reliability upgrades will not reward the construction of more transmission capacity than is reasonably necessary to meet new reliability standards, thereby ensuring that incentive payments for reliability improvements will not be awarded for more than what is needed to ensure reliability.

34. TAPS asserts that the Commission's authority to award above-cost incentives has always turned on whether the incentive's cost is outweighed by the benefits customers will receive.[58] TAPS advocates that the Final Rule be amended to explicitly retain a reasonable calculation test that analyzes which incentives spur increased investment, and require the Commission to use this test to replace the cost-benefit requirement.

2. Commission Determination

35. The Commission reaffirms the decision not to adopt a ''cost-benefit'' analysis for four principal reasons.

36. First, the arguments in favor of a cost-benefit analysis start from the premise that our traditional approach to setting transmission rates is fully sufficient to attract new transmission investment in all cases. This premise cannot be squared with section 219. As discussed above, section 219 was enacted to counteract a long decline in transmission investment. Its provisions are mandatory, not permissive, and they proceed from the premise that the Commission must use its full discretion under section 205 to ''promot[e] capital investment.'' It did not, as noted above, simply codify the status quo; it required the Commission to pass a new rule adopting incentive-based rate treatments.

37. These facts readily distinguish the Final Rule from prior instances where the Commission required a cost-benefit analysis.[59] None of those policies was adopted in response to a Congressional directive to use the Commission's discretion under section 205 to address a national problem—the decline in transmission investment that is threatening reliability and imposing billions of dollars in congestion costs on consumers.

38. Second, petitioners fail to recognize that applicants will be required to show that all rates are just and reasonable under section 205. For example, any ROE will remain within the range of reasonable returns. Further, many of the incentives described in the Final Rule only change the timing of cost recovery (e.g., 100 percent CWIP), not the level of cost recovery. Others reduce the risks of investment (e.g., abandoned plant recovery), rather than changing the cost levels. We reiterate that each of the incentives adopted by the Final Rule is fully consistent with our responsibility to ensure that rates are just and reasonable under section 205.

39. Third, those advocating a cost-benefit analysis fail to recognize that the courts have held that the Commission may consider non-cost factors in setting rates.[60] Our authority to consider non-cost factors applies equally in the development of incentive rate-treatments.[61]

40. Finally, although the Commission is rejecting a cost-benefit analysis for the reasons stated above, applicants will nonetheless be required, as discussed above, to demonstrate the required nexus between the incentive being sought and the investment being made. This requirement will ensure that incentives are granted only where the incentives are tailored to address the demonstrable risks or challenges faced by the applicant.

E. Rebuttable Presumptions

41. In the Final Rule, the Commission adopted a set of processes that, if an applicant satisfies them, its project will be afforded a rebuttable presumption that it qualifies for transmission incentives. First, it created a rebuttable presumption that an applicant has met the requirements of section 219 if that project results from a fair and open regional planning process that considers and evaluates projects for reliability and/or congestion and is found to be acceptable to the Commission.[62] Second, the Commission stated that regional planning processes can provide an efficient and comprehensive forum for evaluating transmission investments' qualifications under section 219 by looking at a variety of options across a large geographic footprint. For example, such a process has the ability to determine whether a given project is needed, whether it is the better solution, and whether it is the most cost-effective option among other alternatives.[63] The Commission also adopted a rebuttable presumption that an applicant has met the requirements of section 219 if a proposed project is located in a NIETC or has received construction approval from an appropriate state commission, agency or state siting authority.[64] The Commission also stated that ''other applicants not meeting these criteria may nonetheless demonstrate that their project is needed to maintain reliability or reduce congestion by presenting [to the Commission] a factual record that would support such a finding.''[65]

1. Rehearing Requests

42. NARUC and TAPS contend that the Final Rule's rebuttable presumption is not consistent with the statutory requirements of section 219. They state that there was no showing in the Final Rule that assessments in the regional planning processes satisfy the

[57] SMUD at 2, citing *Incentive Ratemaking for Interstate Natural Gas Pipelines, Oil Pipelines, and Electric Utilities: Policy Statement on Incentive Regulation*, 61 FERC ¶ 61,168 at 61,590 (1992) (1992 Policy Statement).

[58] TAPS at 9, citing *CPUC* v. *FERC*, 367 F.3d at 929.

[59] Order No. 2000 required as a condition for any innovative transmission rate treatment that the applicant demonstrate ''a cost-benefit analysis, including rate impacts.'' 18 CFR 35.34(e)(ii) (2006). The Commission notes that in the 6 years since Order No. 2000 was issued, we have not received a single application seeking any of the innovative rate treatments that were provided for in that order. We believe that the requirement of a cost benefit analysis was perceived as an insurmountable hurdle which inhibited the utilities from seeking innovative rate treatments. Accordingly, in developing incentive rate treatments under section 219, the Commission expressly deleted the requirement for a cost-benefit analysis.

[60] See *Permian*, 390 U.S. 747 at 791–2; *CPUC* v. *FERC*, 367 F.3d 925 at 929.

[61] *Maine PUC* v. *FERC*, 454 F.3d at 289 (''particularly in view of the [Commission's] authority to consider non-cost factors in setting rates, the State Commissions' position on calibration demands too much'').

[62] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 58.

[63] *Id.* The Commission noted that the value of regional planning was expressly recognized when it proposed to amend the *pro forma* Open Access Transmission Tariff of jurisdictional public utilities to require regional planning to ensure that transmission is planned and constructed on a nondiscriminatory basis to support reliable and economic service to all eligible customers in the region. *See Preventing Undue Discrimination and Preference in Transmission Service*, Notice of Proposed Rulemaking, 71 FR 32,536 (June 6, 2006), FERC Stats & Regs., Preambles ¶ 32,603 at P 36 (2006) (OATT Reform NOPR).

[64] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 58.

[65] *Id.* P 57.

requirements of section 219 and there is no basis to assume that the criteria employed in regional planning processes utilize the criteria set out in section 219.[66] Therefore, they argue that it cannot be reasonably presumed that every project that is subject to regional planning will benefit customers by ensuring reliability and reducing the cost of delivered power by reducing transmission congestion. NARUC further contends that incentives for using regional planning processes are inappropriate in view of the Commission's proposal in the OATT Reform NOPR to require all jurisdictional public utilities to engage in regional planning.[67] Under such a mandatory requirement, all projects will effectively qualify for the rebuttable presumption because all projects will, presumably, be included in approved regional plans.[68]

43. APPA/NRECA, NARUC, TDU Systems, and TAPS argue that the rebuttable presumption for state approvals should be deleted because there is no legal or logical basis to presume that projects falling into this category will ensure reliability or reduce the cost of delivered power.[69] They assert that the criteria applied by the state may not resemble the criteria that the Commission is required to apply under section 219 of the FPA. They argue that state commissions are mainly concerned with protecting retail customers in their respective states and state authorities apply state laws to construction-permit applications. Accordingly, states are not focused on public utility wholesale customers who may be in other states, or ensuring reliability or reducing transmission congestion. Therefore, APPA/NRECA assert that the Commission cannot delegate its responsibilities under section 219 to state authorities that may of necessity have a very different mission.[70]

44. NARUC also claims that projects receiving a designation as projects in NIETC should not receive a rebuttable presumption because such a designation, alone, cannot assure that the statutory prerequisites of section 219 have been satisfied when the criteria for NIETC designation do not mirror those set out for incentives under the statute.[71]

45. Additionally, NARUC, APPA/NRECA, and TDU Systems claim that the scope of the rebuttable presumption is ambiguous and needs to be clarified. They state that it is not clear to which part of the three-part showing that the rebuttable presumption applies to.[72] They state that the rebuttable presumption should only apply to the first part (ensure reliability or reduce the cost of delivered power by reducing transmission congestion) of the three-part showing because the only way an applicant can appropriately satisfy the statutory requirements of FPA section 219 is to demonstrate on the record that the project either ensures reliability or reduces the cost of delivered power and that the rates satisfy sections 205 and 206 of the FPA. Therefore, the applicant must still demonstrate with factual evidence that there is a nexus between the incentive sought and the investment being made and that the resulting rates are just and reasonable.[73] APPA/NRECA also request the Commission to clarify that this interpretation applies to both section 205 filings and petitions for declaratory order.[74] TAPS contends that the rebuttable presumptions conflict with the Commission's intended limitations on the receipt of incentives, such as routine investments, which may be included in a regional plan and required to receive state siting approval prior to construction, but may not always qualify for an incentive-based ROE.[75]

2. Commission Determination

46. We will grant rehearing and clarification in part. The Commission created the rebuttable presumption for the purpose of avoiding duplication in determining whether a project maintains reliability or reduces congestion. We do not wish to repeat the work of state siting authorities, regional planning processes, or the DOE in evaluating these issues. However, we agree with NARUC that if such processes do not in fact include such a determination, a rebuttable presumption would not be appropriate. Accordingly, we grant rehearing and are modifying § 35.35 in three ways.

47. First, we agree with NARUC that the NIETC process will not necessarily determine that every transmission project within a designated corridor will meet the section 219(a) requirements, nor is DOE required to make such a determination. However, we do not believe it is necessary to retain this particular rebuttable presumption in our regulations because any project which is proposed in a NIETC will of necessity have to go through a state or federal siting process. If an applicant's proposed project is within a NIETC, we expect that it will be sited in most instances by the appropriate state siting authority and the applicant will be able to rely on the state siting rebuttable presumption for meeting the requirements of section 219(a). In those cases where projects within a NIETC are sited by this Commission pursuant to our new authority in section 216, an applicant may rely on our findings in our siting process for meeting the requirements of section 219(a).[76] Thus, applicants with projects in a NIETC have an opportunity to rely upon the appropriate siting processes to meet the requirement that a project ensure reliability or reduce the cost of delivered power by reducing transmission congestion, and we need not include the NIETC process as a rebuttable presumption.[77]

48. We are amending our regulations to provide that an applicant that obtains Commission authorization under section 216 to site electric transmission facilities in interstate commerce shall be deemed to satisfy the requirements of section 219(a).[78]

[66] NARUC at 5–6; TAPS at 7–8.

[67] *See* OATT Reform NOPR, FERC Stats & Regs., Preambles ¶ 32,603 at P 36.

[68] NARUC at 6.

[69] *Id.* at 7; TAPS at 6; APPA/NRECA at 37–39; TDU Systems at 25–27.

[70] APPA/NRECA at 38.

[71] NARUC at 7.

[72] Under section 35.35(d) of the regulatory text, an applicant for incentive rates is required to make a three-part showing that: (1) The facilities for which it seeks incentives either ensure reliability or reduce the cost of delivered power by reducing transmission congestion consistent with the requirements of section 219; (2) there is a nexus between the incentive sought and the investment being made; and (3) resulting rates are just and reasonable. 18 CFR 35.35(d) (2006).

[73] APPA/NRECA at 35–36; NARUC at 7–8; TDU Systems at 24–25.

[74] APPA/NRECA at 36.

[75] TAPS at 8, citing Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 94.

[76] As stated in section 216, the Commission may exercise its new siting authority if inter alia it finds that the construction or modification of the facilities ''significantly reduce transmission congestion in interstate commerce and protects or benefits consumers.'' Since the Commission is required to find that a project reduces transmission congestion before it can authorize the siting of a transmission facility within a NIETC, such facilities necessarily satisfy the requirement of section 219(a) and these regulations.

[77] While DOE is not required to determine whether all projects within a NIETC meet the pre-requisites of section 219, we anticipate that DOE is likely to consider whether transmission projects within these corridors ensure reliability or reduce the cost of delivered power by reducing transmission congestion. Thus, an applicant that does not rely upon a rebuttable presumption for meeting the pre-requisites of section 219 may nonetheless use the findings made by the DOE. Accordingly, the Commission will give due weight to the DOE's determinations concerning the ability of transmission projects within a NIETC to ensure reliability or reduce the cost of delivered power by reducing transmission congestion.

[78] Section 216(b)(4). *See also Regulations for Filing Applications for Permits to Site Interstate Electric Transmission Facilities*, Order No. 689, 71

49. Second, we will modify our regulations to require each applicant seeking to invoke the rebuttable presumption to explain in its filing how the applicable process (regional planning or state approval) in fact considered whether the project ensures reliability or reduce congestion. We continue to believe that, these approval processes will, in all likelihood, examine whether the project maintains reliability or reduces congestion. But in instances where this is not the case the applicant will bear the full burden of demonstrating such facts.

50. Third, we also clarify that the rebuttable presumption applies only to the requirement that an applicant demonstrate, that a project is needed to ensure reliability or to reduce congestion. It does not apply to any other requirement in 18 CFR 35.35, such as the requirement, that the applicant demonstrate the required nexus between the incentive sought and the investment being made [79] and that the resulting rates are just and reasonable in either the petition for declaratory order or section 205 filing. We will modify our regulations accordingly.

F. ROE Sufficient To Attract Investment

51. In the Final Rule, the Commission adopted the NOPR's proposal to allow, when justified, an incentive-based ROE to all public utilities (i.e., traditional public utilities and Transcos) for new investments in transmission facilities that benefit consumers by ensuring reliability or reducing the cost of delivered power by reducing congestion.[80] By including this provision in the Final Rule, the Commission stated that it satisfied the requirement of section 219 to provide an ROE that attracts new investment in transmission facilities (including related transmission technologies). The Commission stated that it will provide ROEs at the upper end of the zone of reasonableness for transmission investments that meet the requirements of section 219. Further, the Commission clarified that it will continue to use the DCF analysis for ROE determinations.[81] The Commission also noted that not every investment that increases reliability or reduces congestion will qualify for an incentive-based ROE. For example, routine investments may continue to be assessed under traditional ROE determinations because there is an obligation to construct them and high assurance of recovery of the related costs.[82]

1. Rehearing Requests

52. EEI and Southern Companies take exception to the statement in the Final Rule that ''routine investments made to comply with existing reliability standards may not always qualify for an incentive-based ROE.'' [83] They argue that the statement discriminates against projects or upgrades that may be proposed to address reliability concerns, and therefore the statement should be deleted.[84] Southern Companies emphasize that the statutory requirement under 219 makes no distinction between routine or non-routine status; therefore, regardless of status, an investment that promotes reliability should be entitled to incentive rate treatment. In that respect, Southern Companies request the Commission to confirm that all reliability-related investments qualify for incentive-based ROEs.[85] Furthermore, Southern Companies request the Commission to clarify that a single incentive-based ROE should apply to all, not just new, transmission investment.[86]

53. TDU Systems contend that the Commission should reconsider its commitment to grant incentive applicants an ROE at the upper end of the zone of reasonableness. Specifically, TDU Systems claim that the Commission may have difficulty handling all the rate filings that seek extremely high ROEs because of the two-stage process. They contend that the Commission is placing too much reliance on its ability to protect consumer interests in the second stage, section 205 review, and recommends that the Commission relieve some of the pressures by giving incentive applicants a more specific message that the incentives have limits.[87] APPA/NRECA also assert that the Commission has not explained why such an increase in allowed ROEs is, or could be, either necessary to attract capital or otherwise just and reasonable and that the rule does not balance investor and consumer interests in setting incentive ROEs.[88] Accordingly, these parties assert that the Commission should permit incentives only if the package as a whole results in a just and reasonable rate. In so doing, they argue, the Commission should disavow any intent to allow ROEs near the top of the zone of reasonableness and ensure that companies in the proxy group with ROEs at the top of the zone of reasonableness do not become the basis for determining the zone, particularly to the extent incentive ROEs become the base case in future DCF analyses.

54. Similarly, TAPS argues that the Commission must be prepared to apply a much stricter scrutiny to the composition of the proxy group that determines the range of the zone of reasonableness to the extent the Commission continues to declare in favor of rates set at the top of a range that has not yet been established.[89] Also, TAPS recommends that the Commission modify its methodology for proxy results by first averaging the two results per proxy company so that there is one, average result per proxy company, as it does in gas cases,[90] thereby providing a more defensible basis for just and reasonable returns. TAPS requests the Commission to clarify that it will ensure that the top of the range does not become a self-

FR 69,440 at P 41 (Dec. 1, 2006) (''The Commission will review the proposed project and determine if it reduces the transmission congestion identified in DOE's study and if it will protect or benefit consumers. It will investigate and determine the impact the proposed facility will have on the existing transmission grid and the reliability of the system'').

[79] We note that the Final Rule's statement regarding routine investment cited by TAPS, applies to the nexus demonstration, and therefore there is no conflict between the rebuttable presumption and that statement.

[80] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 91.

[81] This analysis, undertaken in individual rate applications, assesses representative proxy companies and the impact of other factors, including risk, on the zone of reasonableness for ROE. *Id.* P 92.

[82] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 94.

[83] *Id.*

[84] EEI at 11; Southern Companies at 3.

[85] Southern Companies at 4.

[86] 86 Southern Companies argue that section 219(b)(2) should be read to require the Commission to re-examine its ratemaking methods and revise it current ROE policies for all transmission investment, and that the base ROE must be sufficient to attract new investment. It contends that Congress did not state that the Commission shall provide a return on equity *for* new investment in transmission. Instead, section 219(b)(2) states that the Commission shall ''provide a return on equity that attracts new investment in transmission.'' *See Id.* at 5 (emphasis provided by commenter).

[87] TDU Systems at 27–29.

[88] APPA/NRECA at 9, 47.

[89] TAPS explains that many transmission owners will request rates at the high end of the zone of reasonableness and that the main restraint on transmission rates will be the ceiling that is set by the placement of the top of the zone of reasonableness. The zone has been defined by taking a sample group that includes a large number of proxy companies and calculating two data points per proxy. Each pair of points represents the extreme values for each company. The zone of reasonableness is often characterized as reaching up to the higher data point for the most extreme company in the proxy set. Thus, when the top of the range sets the return, it becomes critical to ensure that every company included in the proxy group very closely resembles the utility whose return is being capped, i.e., its capital structure, business risk, financial risk, and associated capital costs. *See* TAPS at 18–22.

[90] *Id.* at 21, citing *High Island Offshore System, L.L.C.,* 110 FERC ¶ 61,043, at P 148 (2005).

escalating spiral with the highest proxy result reflecting an investor expectation that the proxy itself will garner above-cost incentive profits.[91]

55. Southern Companies consider the Commission's continued reliance on DCF analysis in the Final Rule to be contrary to Congressional intent and policy.[92]

Accordingly, Southern Companies request the Commission to clarify that it will allow the use of additional ROE estimation methodologies[93] because these methodologies will better ensure that an entity is ensured a reasonable rate of return. Southern Companies assert that failure to consider the results of more than one methodology, although there are other sound methods, constitutes arbitrary and capricious decision making.[94] Furthermore, Southern Companies consider the Final Rule's refusal to recognize the flaws in the current DCF analysis to be arbitrary and capricious and its finding that the DCF analysis yields just and reasonable results to be in error, particularly in light of the fact that the DCF analysis drives a utility's stock price to its book value while market values exceed book values by approximately 2.47 to 1 as of December 31, 2005 and the constant-growth DCF model often produces divergent and meaningless results.[95]

56. Southern Companies also argue that ROE adders should be provided to all new transmission construction. They assert that section 219 directs the Commission to promote investment of *all* facilities and therefore the Commission's determination in the Final Rule that it will not create specific ROE adders is contrary to EPAct 2005 and requiring applicants to go through a rate case prior to receiving any incentives would unnecessarily impede Congress' stated goal of encouraging new transmission investment.[96]

57. The California Commission claims that the Commission did not engage in reasoned decision making in the Final Rule because it failed to consider risk assessment and did not address its arguments about the relative low risk of transmission investment.[97] It argues that the Commission failed to explain why transmission entities should be eligible for a higher ROE given the low risk associated with transmission investments. The California Commission states that transmission businesses have a low financial risk because they generate a steady revenue stream as a regulated monopoly. Also, among the three functions of an integrated utility's electricity business, *i.e.* generation, distribution, and transmission, the transmission business carries the lowest risk.[98] Further, the California Commission argues that the Commission did not consider the effect the multiple incentives created by the Final Rule will have on lowering the risk, such as 100 percent recovery of CWIP before a transmission project is used and useful. Accordingly, it contends that above-average ROEs for transmission are not needed to effect new transmission facilities.[99]

58. New England Commissions argue that the Commission arbitrarily, capriciously, and without a reasonable factual foundation, determined that ROE incentives encourage investment and make transmission projects attractive.[100] They state that the New England ROE proceeding in *Bangor Hydro-Electric*[101] demonstrated that an enhanced ROE will not change transmission owners' performance in any material respect, but will merely give them an unjust and unreasonable windfall. Accordingly, New England Commissions assert that the Commission's finding that transmission incentives are necessary is not supported by the record in this rulemaking or in the *Bangor Hydro-Electric* proceeding.[102] According to the New England Commissions, it is contrary to the directive in section 219(d) that rates be just and reasonable to dispense with any showing of need before awarding ROE incentives.[103] New England Commissions requests the Commission to clarify that it will judge the justness and reasonableness of ROE adders in New England based on the record in *Bangor Hydro-Electric* proceeding and specify in the rule that only a case-by-case evaluation can determine whether an ROE incentive will produce justifiable benefits.

2. Commission Determination

59. We will grant rehearing and clarification in part on certain issues and deny rehearing on all other issues.

60. We reject the argument of investor-owned utilities that ROE incentives be applied without regard to the nature of the facility being constructed or the risks associated with it. Specifically, the Commission reaffirms that the most compelling case for incentive ROEs are new projects that present special risks or challenges, not routine investments made in the ordinary course. We therefore reject the arguments of EEI and Southern Companies that such routine investments should be treated the same, for purposes of applying the nexus test, as new projects that present special risks or challenges. Although we will consider applications for ROE incentives for all projects, we reiterate that not all projects will be able to meet the nexus requirement. EEI and Southern Companies have provided no compelling reason why a routine investment made in the ordinary course should, as a general matter, receive an incentive ROE.

61. We also reject the argument that incentive ROEs should apply to existing transmission rate base that has already been built. The purpose of section 219 is to attract investment in transmission. Southern Companies have not provided any evidence that higher ROEs for transmission rate base that has already been built are necessary to ensure reliability or to reduce congestion; nor have they shown why such ROEs are necessary to attract new investment in transmission.

62. We also reject the contentions of certain customer groups that incentive ROEs will ''destabilize'' the DCF methodology. First, as indicated above, all ROEs approved pursuant to section 219 will be within the range of reasonableness, as determined consistent with our precedents. Second, any incentive ROEs granted under 219 should have a minimal effect, if any, on the overall range of reasonableness derived from the appropriate proxy group. The DCF methodology uses proxy groups of entire companies, not individual transmission projects. In other words, the ''cash flows'' being measured in the DCF method are the cash flows of entire companies. These cash flows should not be significantly affected by an incentive return for any particular transmission project for one company within the proxy group. Moreover, to the extent there is any

[91] *Id.* at 22.

[92] According to Southern Companies, section 219's requirement that the Commission provide ROEs that are sufficient to attract new transmission investment is evidence of Congress' conclusion that the Commission's current ROE methodology is not producing adequate results. Therefore, the Commission should construe section 219(b)(2) as a mandate from Congress to re-examine its traditional ratemaking policies. Southern Companies at 5–6.

[93] Such methodologies include the risk premium approach, the capital asset pricing model and the comparable earnings approach. *Id.* at 7.

[94] They state that using multiple methodologies recognizes that no single approach can accurately predict an appropriate ROE level so as to satisfy the constitutional and statutory requirements. *Id.* at 8.

[95] *Id.* at 11.

[96] *Id.* at 18.

[97] California Commission at 7–10.

[98] *Id.* at 8.

[99] The California Commission states that even without the high ROE incentive, California IOUs have planned and constructed numerous transmission facilities in the last 10 years. *Id.* at 9.

[100] New England Commissions at 5.

[101] *Bangor Hydro-Electric Co.*, 106 FERC ¶ 61,280 (2004).

[102] New England Commissions at 6–10.

[103] *Id.* at 12.

small effect on the overall range of reasonableness, it will appropriately reflect the substantial risks associated with constructing new transmission, as discussed above.[104]

63. We also reject requests to cease our utilization of the DCF method. Inasmuch as the DCF method yields just and reasonable rates, as the Commission has recognized in numerous proceedings, we see no basis to require other methods for the evaluation of incentive applications. As we stated in the Final Rule, the Commission will consider on a case-by-case basis whether the application of the traditional DCF analysis should be modified.[105]

64. We also do not consider the process for approving incentive ROEs, i.e., setting a zone of reasonableness and a DCF analysis requirement, to be an unnecessary impediment to encouraging transmission investment. Generic adders, as recommended by Southern Companies, would still require the Commission to make a determination that the proposed ROEs are just and reasonable, and its findings would have to be based on reasoned decision-making. Therefore, the Commission necessarily would be required to establish a zone of reasonableness and a justification for the approved ROEs.

65. Responding to the California Commission, the Final Rule explained the basis for its decision to provide an incentive ROE, based on the need to attract investment in the context of long-term industry underinvestment and the need to re-evaluate the balance of investor and ratepayer interests, and therefore has provided the reasons for its decisions. The Commission is not, in this rule, setting the incentive ROE, but rather leaves that determination to future proceedings that will authorize a unique ROE appropriate to the facts and circumstances of each applicant. It is in those proceedings that the California Commission can raise its concerns regarding comparative returns within the energy industry and the specific characteristics of California utilities. However, we agree with the California Commission that utilities should consider the effect that certain incentives (*e.g.* CWIP in rate base, recovery of abandoned plant) may have on risk and that return on equity in the upper end of the zone of reasonableness may not be appropriate when combined with incentive rate treatments that lower overall risk.

66. We do not address the issues raised by New England Commission with respect to the *Bangor Hydro-Electric* proceeding because they have been addressed in a recent Commission order and are now pending on rehearing.[106]

67. We will, however, grant clarification in part. Several petitioners express the fear that the Commission will routinely grant ROEs at the top end of the zone of reasonableness. Although the Commission has broad discretion to establish returns on equity anywhere within the zone of reasonableness, we must be careful in the manner in which we exercise this discretion. The Commission clarifies that we do not intend to grant incentive returns ''routinely'' or that, when granted, they will always be at the ''top'' of the zone of reasonableness. Rather, each applicant will, first, be required to justify a higher ROE under the revised nexus test and, second, to justify where in the zone of reasonableness that return should lie. In some instances, where the risks or challenges faced by a new investment are substantial, we may grant an ROE at the top end of the zone of reasonableness. However, we have no expectation of doing so in all cases or even routinely.

68. We also provide clarification on the timing of an ROE determination. In most instances, an ROE determination occurs in a hearing that considers the justness and reasonableness of the costs of the investment for purposes of setting rates under section 205. In that hearing, the overall range of reasonableness would be established, as well as a determination of where within that range the ROE should be set. If the Commission granted a request for an incentive ROE at the upper end of that range in a petition for declaratory order, the hearing would establish where in the upper end the ROE would fall—whether at the top end or at a different point in the upper end of the range. The Commission would then review any determination by an administrative law judge on that issue.

69. We recognize, however, that our hearing procedures for determining ROE can create uncertainty for investors. Under traditional ratemaking processes, the rates for a particular project, including the ROE for that project, are determined only *after* an investment decision is made and the facility is constructed. This may provide a disincentive to new investments that are sensitive to our ROE determinations. Although our processes are designed to provide a just and reasonable return, we recognize that there can be significant uncertainty as to the ultimate return because of the uncertainties associated with administrative determinations (*e.g.*, selection of the proxy group, changes in growth rates, etc.) This can itself constitute a substantial disincentive to new investment.

70. Recognizing this, we will clarify the approach adopted in the Final Rule. We will continue to allow applicants to request, in a petition for declaratory order, an ROE that is at the upper end of the zone of reasonableness and, in such instances, the ultimate ROE will be determined in the hearing process. However, if an applicant desires up-front certainty of the ROE it will receive, we clarify that we also will consider requests for declaratory orders that set the ROE for a particular project, and that include the appropriate support for the ROE, including, for example, a DCF analysis. An applicant seeking to use this process will have to meet the required nexus requirement, such as by showing that an up-front ROE determination is important for its investment decision. An applicant seeking such an up-front ROE determination also may request an ROE at the upper end of the zone of reasonableness; however, the fact that an up-front ROE determination is itself an incentive that tends to reduce risk will be taken into account in considering any such request.

G. Incentives Available to Transcos

71. In the Final Rule, the Commission approved incentive-based rate treatments applicable to Transcos to encourage Transco formation and attract investment.[107] Specifically, the Commission approved an ROE that encourages Transco formation and is sufficient to attract investment and an adjustment to book value of transmission assets being sold to a Transco to remove the disincentive associated with the impact of accelerated depreciation on federal

[104] The Commission retains the discretion to adjust ROEs if we find that the results of a DCF analysis do not accurately reflect the risk of the applicant and its ability to attract capital.

[105] We agree with TAPS that averaging each company's low and high DCF return would result in a single average DCF result for each electric company, making it like the single DCF return for gas and oil pipelines, from which a median return on equity for the group can be calculated. While this is an acceptable method, we will not require use of that method in the Commission's DCF analysis because that issue is beyond the scope of this proceeding and is more appropriately addressed in the individual application proceedings.

[106] *Bangor Hydro-Electric Co.*, Opinion No. 489, 117 FERC ¶ 61,129 (2006).

[107] Section 35.35(b)(1) defines Transcos as stand-alone transmission companies approved by the Commission that sell transmission services at wholesale and/or on an unbundled retail basis, regardless of whether they are affiliated with another public utility.

capital gains tax liabilities.[108] The Commission noted that its decision to approve such incentives for Transcos is based on the ''proven and encouraging track record of Transco investment'' in transmission facilities.[109]

1. Rehearing Requests

72. EEI argues that applicants seeking transmission incentives should be treated equally, without regard to their form of business. It argues that the incentives applicable to stand-alone transmission companies should be expanded to apply to all transmitting utilities.[110] EEI also urges the Commission to recognize that all forms of transmission business models can effectively provide transmission facilities and to reiterate that it will evaluate each applicant's proposed incentives, in particular the upper range of reasonable ROEs, without regard to the applicant's form of business and without bias as between forms of business.[111]

73. Southern Companies contend that additional incentives for Transcos are not justified on grounds that the Transcos have a good record of transmission investment.[112] They state that vertically-integrated utilities like Southern Companies have consistently invested significantly in transmission maintenance and expansion. Southern Companies also claim that special ROE incentives solely for Transcos would be discriminatory by favoring one corporate structure over another to the extent both business structures have similar transmission investment records [113] and the requirements of section 219 to promote investment regardless of the ownership of the facilities.

74. APPA/NRECA assert that because the Commission's definition of Transcos includes affiliated Transcos under the control of one or more parent public utilities, granting incentive rate treatment greater than that afforded to public utilities would constitute a financial windfall.[114] They argue that such affiliated Transcos should not be eligible for special incentive rate treatment because such a payment would neither induce new construction nor provide any new benefit to the customer paying the incentive rate.[115]

75. Furthermore, TDU Systems oppose passive ownership interests in Transcos and contend that, if authorized, passive ownership interests should only be authorized upon a showing that the option of investment in the Transco is open to all load-serving entities (LSEs) in the region up to their load ratio shares.[116] They also argue that the Commission must rigorously scrutinize and monitor relationships among the passive owners to deter the potential for abuse. TDU Systems also contend that the Commission should clarify that Transcos may only receive incentive rates if there are no interests within the Transco competing with transmission for capital. They recommend that the Commission condition the granting of incentives by imposing limits on business investments in other industries to avoid the dilution of capital funding from competing sources within the company.[117] They also claim that incentives for new investment in transmission infrastructure should not be necessary because, as the Commission noted in the Final Rule, such incentives are inherent in the corporate business model to encourage investment.[118] Therefore, encouraging additional incentives provides no incremental benefit to consumers.[119]

2. Commission Determination

76. We affirm the finding in the Final Rule that the Commission will not limit an applicant's ability to seek incentive-based rate treatments based on corporate structure or ownership.[120] The Commission will evaluate these applications to determine if incentive treatment is justified based on their demonstrations that the projects meet the requirements of section 219 and this rule. Certain types of incentives, such as the ADIT incentive may be more appropriate where transmission is being spun off or otherwise transferred to a new corporate entity, such as a Transco. But we see no basis for the claim that the Transco incentives are unduly discriminatory or contrary to the goals of section 219.

77. The Final Rule described at great length the very significant transmission investment that has been undertaken by Transcos, to date.[121] There is no reason to repeat those examples again here, but we disagree with comments that suggest that Transcos do not have a good record of transmission investment. Furthermore, their singular focus on transmission investment by transmission-only companies, the elimination of competition for capital between generation and transmission investments, and the access to capital markets have all been cited in support of the value of the Transco business model for getting new transmission built. For all of these reasons, the Commission adopted incentive-based rate treatments applicable to Transcos that would both encourage Transco formation and attract investment.

78. As we stated in the Final Rule, the Commission will consider concerns regarding affiliated Transcos in specific applications for incentive treatment.[122] We believe the Final Rule fulfills the requirements of section 219 by determining eligibility for Transco status and incentive-based rate treatment based on a showing of how the specific characteristics of a proposed Transco affect its ability and propensity to increase transmission investment in individual case proceedings. Therefore, we do not consider this proceeding to be the appropriate forum for adopting preconditions related to other issues, such as affiliation or passive ownership. Inasmuch as Transcos are subject to the Commission's market behavior rules, their activities will be monitored for any potential market abuse. Therefore, we affirm the availability of ROE incentives to Transcos. As stated in the Final Rule, we expect that the incentive ROE will be used for additional capital spending, and thereby provide consumer benefits, as demonstrated by the negative cash flow profiles of Transcos and their future capital spending plans.

[108] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 222–224. The incentive ROE does not preclude a Transco from applying for other incentives, including hypothetical capital structure, allowance for deferred income taxes (ADIT), acquisition premiums, formula rates or deferred cost recovery. *Id.* P 221.

[109] *See id.* P 221–23.

[110] EEI at 5, 7–9.

[111] *Id.* at 5. EEI claims that section 219(b) provides that the rule shall promote transmission investment ''regardless of the ownership of facilities'' and the Commission noted in the Final Rule that it will not limit incentives based on corporate structure or ownership. *Id.* at 7, citing Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 4, 225.

[112] Southern Companies at 16–17.

[113] *Id.* at 17, citing Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 225.

[114] APPA/NRECA at 31, 34–35. In the Final Rule, the Commission stated that the definition of Transco does not exclude affiliated Transcos with active ownership by market participants, or stand-alone transmission companies that own transmission and distribution facilities. The Commission said that it would consider the eligibility of such arrangements based on a showing of how the specific characteristics of a proposed Transco affect its ability and propensity to increase transmission investment and lead to increased transmission investment similar to Transcos the Commission already approved. *See* Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 202.

[115] APPA/NRECA at 31.

[116] TDU Systems at 39.

[117] *Id.* at 40.

[118] *See* Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 204.

[119] TDU Systems at 41.

[120] *See* Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 4.

[121] *Id.* P 222–23.

[122] *See id.* P 202.

H. Transmission Organization Incentive

79. In the Final Rule, the Commission stated that it will authorize, when justified, an incentive-based rate treatment for public utilities that join and/or continue to be a member of an ISO, RTO, or other Commission-approved Transmission Organization.[123] Applicants for the incentive-based rate treatment must make a filing with the Commission under section 205 of the FPA. For purposes of section 35.35(e), an incentive-based rate treatment means an ROE that is higher than the ROE the Commission might otherwise allow if the public utility were not a member of a Commission-approved Transmission Organization. The Commission stated that it will not create a generic adder for such membership, but instead will consider appropriate ROE incentives on a case-by-case basis. The Commission also stated that transmitting utilities or electric utilities that join a Transmission Organization would be eligible to apply to recover prudently-incurred costs associated with joining the Transmission Organization, either through rates charged by transmitting utilities or electric utilities or through transmission rates charged by the Transmission Organization that provides services to such utilities.[124] Furthermore, the Commission stated that based on its interpretation of section 219, eligibility for this incentive flows to an entity that ''joins'' a Transmission Organization and is not tied to when the entity joined. Therefore, the Commission clarified that entities that have already joined, and that remain members of, an RTO, ISO, or other Commission-approved Transmission Organization, are eligible to receive this incentive.[125] However, as the Commission noted, any public utility receiving an incentive ROE for joining a Transmission Organization but withdraws from such organization is no longer eligible for the ROE incentive.

1. Rehearing Requests

80. Petitioners contend that public utilities should not be eligible for the Transmission Organization incentive if the public utilities are already members because the payment would neither induce new construction nor provide any new benefit to the customer paying the incentive rate.[126] They argue that the Final Rule's determination that incentives may go to entities that are already members of a Transmission Organization is contrary to court and Commission precedent interpreting incentive rates as forward-looking inducements, not a reward for past behavior.[127] The California Commission claims that the Final Rule's interpretation of section 219 exceeds the Commission's authority by creating an incentive that is broader than specified in the FPA.[128] Furthermore, TDU Systems assert that many public utilities have already joined ISO or RTOs without ROE incentives and have benefited from such membership. Those public utilities that have not joined have chosen not to do so because their business interests would not be advanced by a reduction in transmission barriers and constraints. Therefore, they argue that ''recalcitrant utilities'' should not be awarded windfall profits for holding out on participating in Transmission Organizations because such action would only amount to rewarding the exercise of market power.[129]

81. Furthermore, the California Commission states that an incentive for utilities that have already joined a Transmission Organization and are planning to build transmission facilities provides no balancing of the consumer interests and represents an unjust windfall.[130] By continuing its membership in an ISO/RTO, a transmission company will not incur any additional risks and will still remain a monopoly. The California Commission and TDU Systems argue that the Commission did not provide any evidence that current RTO/ISO members may leave a Transmission Organization without the incentive of higher ROEs and therefore such a conclusion constitutes unreasonable, unlawful decision making.[131] APPA/NRECA assert that if a member leaves the Transmission Organization, the Commission can simply deny that utility a rate incentive.[132] Further, SMUD notes that there is no assurance that members will be permitted to leave since such a decision is subject to Commission review, and expresses concern that extending incentives to existing members of a Transmission Organization for not leaving may discourage parties legitimately dissatisfied with the Transmission Organization's performance and thereby make these organizations less accountable.[133] Finally, APPA/NRECA argue that the Commission's statement that it would be unduly discriminatory not to award all members of a Transmission Organization an incentive ROE has no basis because nothing in the FPA forbids different rates if these arrangements are necessary to carry out the provisions of the FPA and to serve the regulatory purposes contemplated by Congress.[134]

82. TDU Systems request clarification that the Commission will not consider single company entities as Transmission Organizations. They state that to ensure new transmission investment serves regional markets, a ''collaborative [and] open regional planning process'' is necessary. Therefore, TDU Systems claim that only entities that provide for, or participate in, regional planning that spans a number of public utility transmission systems should be eligible for incentives.[135]

83. TDU Systems recommend a reduction, i.e. negative 50 basis point penalty, in the authorized ROE for public utilities that withdraw from Transmission Organizations within the first five to ten years of participation to recognize the costs paid by consumers in anticipation of long-term savings. TDU Systems also argue that the incentive should not be allowed for public utilities ordered to join Transmission Organizations by statute, merger conditions or other regulatory requirements because there is no nexus between the incentive rates and demonstrated consumer benefits.[136] Finally, SMUD argues that the Final Rule offered no explanation for providing an incentive for utilities that are required to join Transmission Organizations as a merger condition.[137]

[123] *Id.* P 326. Transmission Organization is defined as ''a Regional Transmission Organization, Independent System Operator, independent transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission facilities.'' *Id.* P 328.

[124] *Id.* P 329.

[125] *Id.* P 331.

[126] TDU Systems at 43; APPA/NRECA at 31–32, citing *Southern California Edison Company,* 114 FERC ¶ 61,018, at P 16 (2005) (''The rationale for this incentive is to encourage transmission owners to turn over the operational control of their transmission facilities to a regional transmission organization; therefore, it does not apply to transmission owners who have already done so, as they need no inducement to take such action'') (Southern California Edison).

[127] E.g., APPA/NRECA at 32; SMUD at 3–7; TDU Systems at 43. The California Commission argues that the courts have not permitted ROE adders for past conduct. California Commission at 18–19, citing *Maine PUC* v. *FERC,* 454 F.3d 278 (2006) and *Allegheny Power Systems Operating Co.,* 111 FERC ¶ 61,308 (2005).

[128] California Commission at 14–15.

[129] TDU Systems at 42.

[130] California Commission at 16.

[131] *Id.* P 17–18; TDU Systems at 43.

[132] APPA/NRECA assert that the Commission rejected such a remedy without a reasoned explanation in the Final Rule. APPA/NRECA at 32.

[133] SMUD at 3–7.

[134] APPA/NRECA at 33.

[135] TDU Systems at 41–42.

[136] *Id.* at 42–43.

[137] SMUD at 7.

84. MISO TOs state that the Final Rule was unclear on the mechanics of requesting incentives by RTO members and request clarification that transmission owners may seek this incentive without opening up a Commission-accepted ROE or additional rates or formulas.[138] Specifically, they state that the Commission did not clarify that such a single-issue filing will not open up the already Commission-accepted ROE.

85. Finally, APPA/NRECA argues that the Final Rule does not comply with section 219(c) to provide incentives to each transmitting utility or electric utility that joins a Transmission Organization because it disregards incentives to non-jurisdictional utilities.[139] The Commission reasoning that it does not have jurisdiction to provide incentives for non-public utilities joining Transmission Organizations is unjustified when it has asserted jurisdiction in other proceedings.[140] APPA/NRECA recommend the Commission to consider incentives for non-public utilities such as assurances that these entities will fully recover all their costs of joining and participating in the Transmission Organization.

2. Commission Determination

86. We affirm the finding in the Final Rule that the incentive applies to all utilities joining transmission organizations, irrespective of the date they join, based on a reading of section 219 in its entirety. Section 219 specifically provides that ''the Commission shall * * * provide for incentives to each transmitting utility or electric utility that joins a Transmission Organization.'' The stated purpose of section 219 is to provide incentive-based rate treatments that benefit consumers by ensuring reliability and reducing the cost of delivered power. We consider an inducement for utilities to join, and remain in, Transmission Organizations to be entirely consistent with those purposes. The consumer benefits, including reliability and cost benefits, provided by Transmission Organizations are well documented,[141] and the best way to ensure those benefits are spread to as many consumers as possible is to provide an incentive that is widely available to member utilities of Transmission Organizations and is effective for the entire duration of a utility's membership in the Transmission Organization. To limit the incentive to only utilities yet to join Transmission Organizations offers no inducement to stay in these organizations for members with the option to withdraw, and hence risks reducing Transmission Organization membership and its attendant benefits to consumers. Because the incentive is applicable to utilities that join Transmission Organizations and is consistent with the requirements of section 219 of the FPA, the incentive complies with EPAct 2005 and the FPA.[142]

87. We consider the claim of APPA/NRECA that the incentive is inappropriate because it does not induce construction to be misplaced. Section 219(c), applicable to the Transmission Organization incentive, is separate from the construction incentives in subsection (b), and therefore was not intended to directly encourage construction.[143] However, we note that regional transmission organizations provide a platform for regional planning and cost allocation associated with transmission expansion and planning[144] and therefore can help support the identification and construction of transmission needed to ensure reliability and to reduce congestion.

88. We will not specify a particular method for establishing the appropriate ROE for entities that join and/or continue to be a member of an ISO, RTO, or other Commission-approved Transmission Organization in this generic proceeding. For example, the mechanics of setting an incentive ROE is an issue best addressed in a proceeding evaluating the Transmission Organization incentive for transmission owners that belong to the particular Transmission Organization. We recognize that the issue was remanded to the Commission with respect to Midwest ISO.[145] In the order on remand, the Commission observed that Midwest ISO or the MISO TOs can make a filing under section 205 to include an incentive adder.[146]

89. We affirm the Final Rule finding that this incentive applies to public utilities, as required by section 219, and therefore does not apply to non-public utilities and that non-public utilities may be permitted incentive-based rate treatments under section 211(a) of the FPA.

90. We will not make determinations on acceptable Transmission Organization structures and affiliations in this proceeding. The Commission will consider applications to form Transmission Organizations, based on the requirements of § 35.35(b), and make its determinations on the facts and circumstances of each filing.

I. Hypothetical Capital Structure

91. In the Final Rule, the Commission found that hypothetical capital structures can be an effective tool available to public utilities to foster transmission investment in appropriate circumstances. The Commission stated that it has allowed the use of hypothetical structures to improve access to capital markets for transmission investment and for specific projects when shown to be necessary for

[138] MISO TOs at 2–3.

[139] APPA/NRECA at 53–54.

[140] *Id.* P 54, citing *City of Vernon, California and CAISO,* Opinion No. 479, 111 FERC ¶ 61,092, *reh'g granted in part and denied in part,* 112 FERC ¶ 61,207 (2005), *reh'g denied,* 115 FERC ¶ 61,297 (2006).

[141] In Order No. 2000, in which the Commission's goal was to promote efficiency in wholesale electricity markets and to ensure that electricity consumers pay the lowest price possible for reliable service, the Commission stated that:

These benefits [of RTOs] will include: Increased efficiency through regional transmission pricing and the elimination of rate pancaking; improved congestion management; more accurate estimates of ATC; more effective management of parallel path flows; more efficient planning for transmission and generation investments; increased coordination among state regulatory agencies; reduced transaction costs; facilitation of the success of state retail access programs; facilitation of the development of environmentally preferred generation in states with retail access programs; improved grid reliability; and fewer opportunities for discriminatory transmission practices. All of these improvements to the efficiencies in the transmission grid will help improve power market performance, which will ultimately result in lower prices to the Nation's electricity consumers.

Order No. 2000, FERC Stats. & Regs. ¶ 31,089 at 31,024.

[142] In light of our determination here, we reverse the policy adopted in our decision in *Southern California Edison.* Our decision in *Southern California Edison* failed to recognize that incentives are equally important in inducing utilities to join and remain in Transmission Organizations. *Southern California Edison Co.,* 114 FERC ¶ 61,018, at P 16 (2005).

[143] We note that a more accurate interpretation of section 219(c) must recognize that an important component of section 219(c) is ensuring cost recovery, and therefore this section differs from the rest of section 219 that only address incentive-based rate treatments. We note that the Midwest ISO tariff provisions governing pass-through of transmission costs are consistent with this section, and this section would provide the basis for approval of pass-through of costs in other ISOs.

[144] *PJM Interconnection, L.L.C.,* 117 FERC ¶ 61,218 (2006); *Midwest Independent Transmission System Operator, Inc.,* 114 FERC ¶ 61,106 (2006), *order denying reh'g,* 117 FERC ¶ 61,241, (2006); *Midwest Independent Transmission System Operator, Inc., et al.,* 113 FERC ¶ 61,194 (2005); *Midwest Independent Transmission System Operator, Inc.,* 109 FERC ¶ 61,168, *order granting clarification,* 109 FERC ¶ 61,243 (2004), *reh'g pending.*

[145] *Midwest Independent Transmission System Operator, Inc.,* 100 FERC ¶ 61,292 (2002), *order on reh'g,* 102 FERC ¶ 61,143 (2003), *order on remand,* 106 FERC ¶ 61,302 (2004), *aff'd in part and reversed in part,* 397 F.3d 1004 (D.C. Cir. 2005).

[146] *Midwest Independent Transmission System Operator, Inc.,* 111 FERC ¶ 61,355, at P 5 (2005).

project financing.[147] To encourage the development of new transmission investment, the Commission noted that it will evaluate each proposal on a case-by-case basis and will not prescribe specific criteria or set target debt/equity ratios for evaluating hypothetical capital structures. As with other incentives, the applicant is required to demonstrate the required nexus between its proposed incentive and the facts of its particular case.[148]

1. Rehearing Requests

92. The California Commission considers the hypothetical capital structure incentive-based rate treatment unnecessary for regulated utilities. According to the California Commission, when a company increases its actual debt ratio to a level higher than its optimal capital structure, the company will expose itself to financial risks at the expense of ratepayers, or will unnecessarily increase ratepayer costs. The California Commission also faults the Commission for not mandating the degree of rigorous scrutiny necessary for all cases before they are approved.[149] TDU Systems urge the Commission to adhere to *Allegheny Power* precedent that rejected hypothetical capital structures unless the utility's actual capital structure was so far out of line with the market-driven capital structures of representative proxy companies so as to be anomalous.[150]

2. Commission Determination

93. We repeat our finding in the Final Rule that hypothetical capital structures can be an appropriate ratemaking tool for fostering new transmission in certain relatively narrow circumstances. Historically, those circumstances have been somewhat unique, such as consortiums that require a special capital structure or projects that need project financing. As with other incentive ratemaking treatments, the Commission will require any applicant to demonstrate the required nexus between the need for a hypothetical capital structure and the proposed investment project. We would not normally expect traditional regulated utilities to propose incentives based on hypothetical capital structures (as was suggested by the California Commission) and we note that the Commission and state commissions have the ability to prevent any regulated company from increasing its debt ratio to a level that unnecessarily exposes wholesale or retail customers to unnecessary risk.

J. Single-Issue Ratemaking

94. The Commission concluded in the Final Rule that single-issue ratemaking can provide a significant incentive for new investment in transmission infrastructure because it can provide assurance that the decision to construct new infrastructure is evaluated on the basis of the risks and returns of that decision, rather than the additional uncertainty associated with re-opening the applicant's entire base rates to review and litigation.[151] The Commission stated that single-issue ratemaking applicants are only required to address cost and rate issues associated with the investment in the section 205 proceeding to approve rates. The applicant, however, is still required to fully develop and support any transmission rate design to recover the costs of a particular transmission system facility or upgrade, including cost allocation and rate design.[152] Further, the Commission noted that each application will be evaluated by balancing the need for new infrastructure, and the importance of permitting single-issue ratemaking in support of that infrastructure, with the concerns over whether a specific mechanism is required to re-open existing rates or whether the traditional complaint processes are sufficient for that purpose.[153]

1. Rehearing Requests

95. Petitioners claim that single-issue ratemaking, as described in the Final Rule fails to balance shareholders' and consumers' interests and permits transmission owners to earn an unjust and unreasonable return on their overall transmission assets. They also assert that the Commission ignored its long-standing policy of rejecting single-issue ratemaking based on precedent that shows that single-issue ratemaking can lead to transmission providers earning super-normal returns while using single-issue rate filings to shield that fact from Commission scrutiny.[154] They argue that the Final Rule allows public utilities to increase their transmission rates on a piecemeal basis without providing procedures, short of section 206 complaints, to ensure that the public utility's steadily increasing rates do not become unlawful. They also contend that the Commission failed to consider reasonable alternatives such as a mandatory full transmission rate case every three years or allowing utilities to use formula rates that ensure a balance between risks borne by shareholders and ratepayers.[155]

96. Xcel states that the Final Rule anticipates the possibility of placing the applicant at risk for being ordered to file a section 205 rate case for its existing investments and contend that this potential risk will have the practical effect of discouraging limited section 205 incentive proposals. Accordingly, Xcel recommends that the Final Rule be modified so that it can achieve its stated purpose of providing assurance that the decision to construct new infrastructure is evaluated on the basis of the risks and returns of that decision, rather than the additional uncertainty associated with re-opening the applicant's entire base rates to review and litigation.[156] According to Xcel, to the extent the Commission believes the new single-issue rate must be harmonized with existing rates, the burden of proof should remain on the Commission, or the utility's customers, to show the existing filed rates are unjust and unreasonable and not shift the burden to the public utility.[157]

2. Commission Determination

97. The Final Rule recognized that requiring transmission owners to open up their existing rates for review and litigation anytime they sought recovery of costs associated with a new transmission project could discourage new investment. Accordingly, the Final Rule permits an applicant to propose transmission rates associated with a particular project without proposing any changes to its existing transmission rates under section 205. We disagree with TDU Systems and APPA/NRECA that single-issue ratemaking will permit transmission owners to earn an unjust and unreasonable return on their overall

[147] The Commission noted that *American Transmission* and *Trans-Elect* are examples of the use of hypothetical capital structure to foster the development of transmission investment. Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 131.

[148] *Id.* P 133.

[149] California Commission at 11–14.

[150] TDU Systems at 35–36, citing *Allegheny Power Co.* 103 FERC ¶ 63,001, at P 28 (2003), *aff'd,* 106 FERC ¶ 61,241, at P 27 (2004) (*Allegheny Power*).

[151] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 191.

[152] *Id.* P 192.

[153] *Id.*

[154] APPA/NRECA argue that, if a public utility has experienced load growth but has not invested in new transmission facilities, the public utility will have a strong disincentive not to file a section 205 rate case, because it will be earning a high rate of return on its highly depreciated rate base. They further assert that it has been their members' general experience that when public utility transmission providers believe they are undercollecting their transmission revenue requirements, they are quick to address the situation through a section 205 filing. APPA/NRECA at 41.

[155] *Id.* at 40–43; TDU Systems at 21–23.

[156] 156 Xcel at 4–5.

[157] *Id.* at 5.

transmission investment and we specifically committed that the Commission would consider the need to combine or reconcile any project-specific transmission rate proposal with any existing transmission rate, where necessary.

98. Indeed, the Final Rule specifies that the Commission may require the applicant to file a full rate case for existing transmission rates when evaluating a single-issue rate application, and therefore provides a procedure for additional rate review. However, we agree with Xcel that further clarification is necessary.[158] As indicated in the Final Rule, applicants for single-issue ratemaking are only required to address cost and rate issues associated with the new investment and therefore are not obligated to justify the reasonableness of unchanged rates.[159] As *PSC of N.Y.* and *Winnfield* make clear, if intervenors or the Commission seek to challenge the applications beyond the limited issues raised in their applications, the intervenors or the Commission bear the burden of proof under section 206 in establishing that the existing, unchanged components of the rate are unjust and unreasonable. We further clarify that Commission review of the single-rate application will not be delayed in the event a separate section 206 investigation is initiated, thereby ensuring that new investments are not impeded because of existing-system rate issues.[160]

99. Based on the precedent cited above, we disagree with the conclusion that acceptance of single-issue rate filings would represent a dramatic shift in the historic balance between interests, and we therefore see no need to require additional consumer protections such as mandatory rate cases.

K. Public Power

100. In the Final Rule, the Commission noted that ratemaking incentives are generally not directly available to non-jurisdictional entities, i.e. public power entities, because they do not file their rates with the Commission.[161] However, the Commission recognized that public power participation can play an important role in the expansion of the transmission system and stated that public power participation in new transmission projects are encouraged. The Commission stated that the Commission will review appropriate requests for incentive ratemaking for investment in new transmission projects when public power participates with jurisdictional entities as part of a proposal for incentives for a particular joint project.[162]

1. Rehearing Requests

101. TAPS requests the Commission to clarify that any approved incentive will be equally available to all owners of facilities that are found to merit incentives, regardless of the entity's form or business model and that the Commission will look with disfavor on incentive rate treatment applications by vertically-integrated utilities that exclude other utilities from co-owning a facility located in their common footprint.[163] TAPS contends that it is unduly discriminatory to allow large utilities to veto transmission incentives by refusing to participate in inclusive ownership arrangements. TDU Systems request the Commission to clarify that the option to participate in planning, financing and construction of new investment belongs to the public power system and that public utilities should not be allowed to use the availability of this option to avoid their obligation to construct needed network upgrades. TDU Systems urge the Commission to reconsider its determination that the Commission will not require public power or other joint participation in a transmission project in order for investment in a project to be eligible for incentives. They assert that conditioning a grant of any incentive rate treatments upon a robust, collaborative and open joint and regional planning process with all LSEs in the region and mandating compensation or credits for public power systems transmission facilities would better promote the Commission's goal under section 219.[164] Similarly, APPA/NRECA state that public power participation ensures that the lowest cost facilities are built, provide cash flow, and reduce uncertainty, thereby reducing the overall need for incentive rate treatments.[165] NECOE and APPA/NRECA also argue that public utilities should be required to offer joint ownership opportunities as a condition to receiving incentives. NECOE asserts that merely encouraging transmission owners to seek participation by public power has not worked in New England, thereby denying ratepayers the low cost benefits of public power. NECOE further contends that the exclusion of non-transmission owner investment from network upgrades violates Order No. 2000's open-architecture principles.[166] At a minimum, NECOE recommends that the Commission should require incentive applicants to state whether they have sought potential LSE co-investors, including public and consumer-owned utilities and where co-investors were sought but not permitted to participate, the proponent of an incentive should be required to explain why this was the case.[167]

2. Commission Determination

102. The Final Rule determined that the Commission would not condition recovery of incentives on the type of business structure and stated that the Commission will entertain appropriate requests for incentive ratemaking for investment in new transmission projects when public power participates as part of a proposal for incentives for a particular joint project.[168] While the Commission encourages public power participation, we will not require such participation as a condition of any proposed incentive rate treatment. As we state elsewhere in this order, the Commission cannot compel investment or *certain* types of investment. Our focus in this rule is to provide incentives that will facilitate voluntary investments by utilities. However, the Commission will look favorably on an

[158] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 192.

[159] *Public Service Comm'n of New York* v. *FERC*, 642 F.2d 1335 (D.C. Cir. 1980) (''we cannot accept the proposition that because a company files for higher rates, it bears the burden of proof on those portions of its filing that represent no departure from the status quo* * *. The emphasis is on making the petitioner justify the changes in rates, not the constant elements'') (*PSC of N.Y.*); *City of Winnfield, La.* v. *FERC*, 744 F.2d 871 (D.C. Cir. 1984) (''The statutory obligation of the utility * * * is not to prove the continued reasonableness of *unchanged* rates or *unchanged* attributes of its rate structure'') (*Winnfield*).

[160] This clarification is also consistent with Commission precedent:

Protesters object to this option because of a concern that it may permit certain transmission owners to continue to overrecover their cost-of-service. However, this option provides just and reasonable cost recovery for the RTEP upgrades, and provide the necessary incentive for TOs to complete quickly the construction of RTEP projects that are essential to the efficient operation of PJM. As we said in the NYISO proceeding, if a concern arises regarding over-recovery of transmission costs, such parties are free to seek relief by filing a complaint with the Commission pursuant to section 206 of the FPA *Allegheny Power System Operating Co.*, 111 FERC ¶ 61,308, at P 46 (2005), *order on reh'g and clarification*, 115 FERC ¶ 61,156 (2006).

[161] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 354.

[162] *Id.* The Commission did not require a consortium approach that includes public power and other entities for new investment because it would be more appropriate for applicants to fashion proposals tailored to the specific circumstances and needs of a particular project. *Id.* P 356–57.

[163] TAPS at 22.

[164] TDU Systems at 34–35.

[165] APPA/NRECA at 51.

[166] NECOE at 9, citing *Carolina Power and Light Cos.*, 95 FERC ¶ 61,282 at 61,995 (2001).

[167] NECOE at 5.

[168] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 354.

incentive request that includes public power joint ownership. A wide variety of entities, such as merchant companies, private equity participants, and pool administrators can potentially build transmission infrastructure. In the context of a rule to provide rate incentives for the construction of new transmission and to encourage deployment of technologies to increase the capacity and efficiency of existing transmission facilities, we do not believe that mandating an opportunity for public power participation is necessary nor do we believe that failure to do so would be unduly discriminatory. However, we note that the Commission has initiated a rulemaking in Docket Nos. RM05–17–000 and RM05–25–000 to investigate necessary reforms to its existing pro *forma* OATT.[169] Among the reforms under consideration is to require all jurisdictional public utilities to establish regional transmission planning open to all participants in a region—including public entities. We believe that the OATT reform rulemaking is a more appropriate forum to consider any issues or allegations regarding undue discrimination with regard to public power participation in transmission expansion decisions. Accordingly, we will not restrict eligibility for incentive rate treatment to projects that allow public power participation.

L. Other Issues

103. Parties request rehearing on a number of other issues discussed below.

1. Recovery of Costs of Abandoned Facilities

104. In the Final Rule, the Commission allowed applicants to seek recovery of 100 percent of prudently-incurred costs associated with abandoned transmission projects due to factors beyond the control of the public utility. The purpose of the incentive was to reduce the risk associated with potential upgrades or other improvements to the transmission system.

105. TDU Systems assert that the Commission should clarify that it would allow prudently incurred abandoned plant costs under limited circumstances. They contend that applicants for the incentive rate treatment that allows recovery of prudently-incurred abandoned plant costs should be required to demonstrate that, as a precondition to receiving the incentive, they will suffer cash flow problems if such a recovery was not allowed.[170] APPA/NRECA argue that the Commission should allow the incentive of abandoned cost recovery only on the condition that the public utility has engaged in open, regional transmission planning process to ensure some balance between the interests of shareholders and ratepayers. They claim that the Commission wrongly relied on its granting of incentive rate treatment to American Transmission Company as a basis for this incentive without recognizing that the project was the result of joint planning.[171] Therefore, they assert that the Commission should not ask customers to pay for abandoned projects that they never had an opportunity to consider in the first instance.

106. We decline to specify any particular demonstration that an applicant must make to justify recovery of abandoned plant cost beyond the required nexus test described earlier. Also, as discussed in the prior section on public power participation, we do not intend to mandate public power participation as a pre-requisite for any particular transmission rate treatment in this rule—including recovery of abandoned plant costs. We note that in a recent case involving incentives,[172] the Commission expressly conditioned its approval of incentives (including a request for recovery of costs associated with any abandonment of the project) upon the project being included in the PJM regional transmission expansion plan.[173] For these reasons, we deny rehearing on this issue.

107. According to TDU Systems, the Commission must ensure that there is no double recovery of costs in instances in which other incentives are allowed for an abandoned project. In the event the applicant receives the ROE incentive and the abandoned plant incentive rate treatment, TDU Systems argue there should be an offset of the rate impacts of these incentives to avoid over-recovery of costs so that the incentive can be provided at the least reasonable cost to consumers.[174] As described earlier in this order, we intend to evaluate any incentives requested as a package. To the extent that certain requested rate treatments have the effect of lowering the risk of a particular project, the Commission will take that into account in establishing an appropriate equity return for the project.

2. Prudently Incurred Costs

108. MISO TOs request clarification that limited section 205 filings are permissible for the recovery of costs of prudently-incurred costs necessary to comply with mandatory reliability standards in section 215.[175] MISO TOs argue that these costs may be imposed on transmission owners pursuant to statutory requirements and that without this clarification, they may be subject to extensive and expensive litigated cases, thereby discouraging utilities from recovering these costs that Congress authorized them to recover.

109. We agree that rapid processing of the recovery of mandatory reliability costs will facilitate more timely investment in these important projects. Therefore, we clarify that applicants may file to recover these costs in limited section 205 filings.

3. Regional Planning

110. Parties contend that any public utility seeking incentive rates for its new transmission project should be required to demonstrate that the project was formulated through an open, regional planning process. Industrial Consumers assert that conditioning the granting of incentives upon the inclusion of a proposed transmission project in a regional planning process is critical to satisfying section 219's requirements to demonstrate customer benefit and promote economically efficient transmission. They claim that a coordinated regional planning process that considers the relative costs and benefits of multiple projects provides an optimal forum for determining least-cost solutions and avoiding unnecessary duplication of expenditures.[176] Similarly, NARUC and TAPS argue that no incentive should be available for projects that are to be sited in regions that plan regionally but which bypass the regional planning processes, noting that the Commission is proposing to require all jurisdictional public utilities to engage in regional planning in other Commission proceedings.[177] Further, TDU Systems argue that nothing in section 219 suggests that the Commission may not impose a regional planning requirement and that making regional planning process a threshold requirement for incentive applications would be congruent with the mandate of section 219 to promote reliable and economically efficient transmission and

[169] *See* OATT Reform NOPR, *supra* note 63.

[170] TDU Systems at 38.

[171] APPA/NRECA, 44–45. *See* Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 1, 116, 122, 131; *American Transmission Co., LLC*, 105 FERC ¶ 61,388 (2003).

[172] *Allegheny Energy, Inc.*, 116 FERC ¶ 61,059 (2006), *reh'g pending.*

[173] *American Electric Power Service Corp.*, 116 FERC ¶ 61,059 (2006), *reh'g pending.*

[174] TDU Systems at 38.

[175] MISO TOs at 4–5.

[176] Industrial Consumers at 11.

[177] NARUC at 6; TAPS at 7.

generation of electricity.[178] APPA/NRECA also contend that the Commission has broad discretion in deciding particular incentives and that a regional planning requirement would harmonize section 219 with the objectives of section 217(b) to facilitate the planning and expansion of transmission facilities to meet the reasonable needs of LSEs. They also argue that the imposition of regional planning as a threshold requirement for incentive applicants is required by the mandate of section 219.[179]

111. The Final Rule grants a rebuttable presumption that projects resulting from regional planning qualify for incentive rate treatments, and we affirm that finding as discussed above. We will not, however, limit incentive rate treatments to projects that result from regional planning processes. While the Commission agrees that there are substantial benefits to be derived from regional planning, there may be transmission projects that arise outside of the context of a regional plan that help to ensure reliability or reduce the costs of delivered power and which deserve incentive rate treatment. Although the Commission has proposed to require regional planning as part of its OATT reform effort,[180] we note that many utilities are in regions in which no formal regional planning process exists at this time. However, as we stated in the Final Rule, and as modified by this order, projects are not entitled to a rebuttable presumption if they have not gone through a regional planning process, or have not received construction approval from an appropriate state commission or siting authority.[181] Applicants seeking incentives for such projects must independently demonstrate that the project will maintain reliability or reduce congestion.

4. CWIP

112. Because the long lead times required to plan and construct new transmission can negatively affect cash flow and the ability of a utility to attract capital at reasonable prices, the Final Rule allows public utilities to propose including 100 percent CWIP in rate base and expensing pre-commercial operations costs associated with new transmission investment.[182]

113. TDU Systems assert that the Commission should only allow 100 percent recovery CWIP and pre-commercial operations costs in the event the applicant shows that the transmission project will take more than four years to complete and that the applicant should have to demonstrate a regional need for the project to ensure that consumers receive measurable benefits.[183] In addition, TDU Systems contend that, with respect to pre-commercial expenses, the Commission should: (1) Ensure that these costs are not later capitalized in subsequent rate filings; and (2) limit the pre-commercial costs to be expensed to planning, siting and environmental costs so that costs that raise inter-generational equity concerns, such as the design and construction of facilities, are not included.[184]

114. We decline to establish any generic restrictions on the types of transmission projects or construction periods in order for a project to qualify for CWIP treatment under this rule. We leave to the applicant's discretion whether the construction project is of sufficient size to merit making a rate request to the Commission seeking to include CWIP in rate base or to expense pre-commercial operations costs. There may be reasons that justify seeking CWIP for projects with relatively short construction schedules e.g., a project may take only a few years to build but rates will not go into effect for a number of additional years because the project can not recover costs until other projects are built, and therefore CWIP recovery is justified. We clarify that the Commission's review process under section 205 will include a review to determine that the applicant does not double recover these costs. The Final Rule's definition of costs approved by the Commission to be recoverable as pre-certification costs in account 183, *i.e.*, preliminary survey and investigation costs,[185] does not include facility costs and therefore should not raise the inter-generational issues of concern to TDU Systems.

115. Finally, while CWIP and abandoned plant are characterized as ''incentive-based rate treatments'' in the Final Rule, we clarify that both of these rate mechanisms have been found previously to be just and reasonable under the Commission's authority pursuant to section 205.[186] More importantly, these are rate treatments which may be needed (and requested) in advance of a project being approved through a regional planning process or receiving any necessary siting approvals. To the extent an applicant demonstrates that the incentives sought (i.e., CWIP and abandoned plant) are tailored to address the demonstrable risks and challenges of the applicant, we will permit recovery of such prudently-incurred costs.

116. For example, where an applicant has satisfied our nexus requirement and has been granted authority to recover CWIP or abandoned plant, and subsequently the applicant's project is, for example, unable to obtain state or federal siting authority (and thus no showing is made with respect to ensuring reliability or reducing the cost of delivered power by reducing congestion because the applicant was relying upon those processes) we would not require refunds for the costs already prudently-incurred by the applicant. To require refunds in such circumstances would be contrary to our long-standing policy, which permits recovery of all prudently-incurred costs.[187]

5. Reporting Requirement: FERC–730

117. The Final Rule adopted an annual reporting requirement, FERC–730, for utilities that receive incentive rate treatment for specific transmission projects. The annual reporting requirement includes projections and

[178] TDU Systems at 9–10.

[179] APPA/NRECA at 16–19.

[180] OATT Reform NOPR, supra note 63.

[181] In addition, and as modified by this order, an applicant may also rely upon the Commission's siting authority for meeting the requirements of section 219(a).

[182] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 115–22.

[183] TDU Systems at 9–10.

[184] *Id.* at 37.

[185] *See* Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 122 and n 82.

[186] *See, e.g., American Electric Power Service Corp.*, 116 FERC ¶ 61,059, at P 55 (2006), *reh'g pending* (allowing recovery of 100 percent CWIP); *Allegheny Energy, Inc.*, 116 FERC ¶ 61,058, at P 74 (2006), *reh'g pending; American Transmission Co., L.L.C.,* 105 FERC ¶ 61,388, at P 27 (order establishing hearing and settlement judge procedures concerning, inter alia, the company's proposal for recovery of 100 percent CWIP), *order dismissing reh'g and approving settlement,* 107 FERC ¶ 61,117 (2004); *Boston Edison Co.,* 109 FERC ¶ 61,300 (2004), *order on reh'g,* 111 FERC ¶ 61,266 (2005) (recovery of 50 percent CWIP); *Southern California Edison Co.,* 112 FERC ¶ 61,014, at P 58–61, reh'g denied, 113 FERC ¶ 61,143, at P 9–15 (2005) (granting recovery of 100 percent of prudently incurred abandoned or cancelled plant costs); *New England Power Co.,* Opinion No. 295, 42 FERC ¶ 61,016, at 61,068, 61,081–83 (recovery of 50 percent of prudently incurred cancelled plant costs), *order on reh'g,* 43 FERC ¶ 61,285 (1988); *Public Service Co. of New Mexico,* 75 FERC ¶ 61,266, at 61,859 (1996), *order approving settlement,* 87 FERC ¶ 61,040 (1999) (50 percent recovery of cancelled plant costs).

[187] The Commission ''has applied the 'prudence' test to determine the recoverability of a utility's expenses. Under this test [a utility] is entitled to recover its costs from consumers if it acted 'prudently' in incurring those costs, or stated conversely, [a utility] may not recover its costs if those costs were incurred 'imprudently.' '' *Connecticut Yankee Atomic Power Co.*, 108 FERC ¶ 61,212, at P 42 (2004), quoting *Violet* v. *FERC*, 800 F.2d 280, 282 (1st Cir. 1986). *See also, e.g., City of New Orleans* v. *FERC*, 67 F.3d 947 (D.C. Cir. 1995) (citing *Violet* v. *FERC*)).

related information that detail the level of transmission investment.[188]

118. TAPS argues that FERC–730's tracking of capital spending is misdirected by failing to identify how much consumers are spending as incentive rate treatments and what they are getting in return. TAPS recommends that the Commission expand FERC–730 to include budgeted amounts by project on an annual basis, segregation of generation or distribution investments, a listing of which network service customers are predominantly paying for the project costs and the expected differential cost to consumers of each project's approved above-cost incentives.[189]

119. As the Commission explained in the Final Rule, the purpose of the FERC–730 reporting requirement is not to provide a quantitative measure of the consumer benefits that result from transmission infrastructure investments. In the proceeding approving incentives and recovery of the costs of incentives in rates, the Commission will determine whether proposed projects meet the requirements of section 219 and thereby provide consumer benefits and also set metrics to ensure those benefits are justified on an on-going basis. Therefore no further quantitative tracking of consumer benefits or expected differential costs to consumers is necessary. We repeat and affirm the Final Rule's statement that year-by-year capital spending estimates are not necessary for each individual project listed since the goal of the rule is not to ensure the achievement of annual capital spending targets but rather to ensure the overall projects are completed, and if not, the reasons for delay.

120. We will not limit the capital spending information requested from account numbers 350 through 359[190] to only investment in the transmission function, and exclude transmission investment in the generation or distribution functions. Capital investment in transmission facilities that interconnect generation facilities are ensuring reliability, and therefore are meeting the requirements of section 219. Accordingly, it is appropriate to include these amounts in transmission investment. Likewise, capital investment in lower voltage transmission facilities that are classified as part of the distribution function also accomplish the reliability and congestion reduction requirements of section 219 and therefore should be included in the survey of transmission investment. We see no need to require additional information on which customers pay for investment projects and the differential cost impact of the incentives. The purpose of FERC–730 is restricted to information on progress toward meeting the requirements of section 219. Customer allocation of cost responsibility is beyond the scope of that provision, and therefore that information does not need to be collected.

6. Miscellaneous

121. TDU Systems and APPA/NRECA argue that no incentives should be approved for projects that already have a binding commitment to build, including commitments under RTO arrangements, or for which applicants are obligated to build by statute, regulation or order.[191]

122. In general, we do not consider that contractual commitments or mandatory projects, such as section 215 reliability projects, disqualify a request for incentive-based rate treatment. Provided applicants are able to demonstrate they meet the requirements of section 219, including establishing the required nexus between the requested incentive and the investment, they may qualify for incentive-based rate treatments. A prior contractual commitment or statute may have a bearing on our nexus evaluation of individual applications.

123. EEI requests clarification that an applicant or group of applicants may propose rate incentives for a group of interrelated projects rather than for each single project individually, and thereby reduce the Commission burden.[192]

124. We clarify that applicants may propose incentives as a group, and note that such a group application process has been used by groups of transmission owners that are members of RTOs. With this clarification, we believe that revision of § 35.35(d) is unnecessary.

125. TAPS asserts that the Final Rule failed to explicitly provide that applicants' proposed incentives will be modified when doing so will advance the customer-benefiting objectives of section 219. For example, TAPS argues that in order to modify the investment to which incentives will apply, an applicant may propose an incentive-worthy, congestion-reducing, new line packaged with mundane existing facility replacements that have already been committed to and do not advance the objectives of section 219.[193] In such a case, TAPS argues that the Commission should be able to modify the proposal to target incentives to the new line alone.

126. We do not consider this rulemaking to be the proper forum to assess whether a hypothetical application would meet the requirements of section 219 and Order No. 679. The Commission will determine whether incentive applications are just and reasonable based on the specific facts and circumstances of each proposal.

127. TDU Systems request clarification that metrics are required because certain statements in the Final Rule imply metrics are optional.[194] To the extent the use of metrics determines that a project does not provide the anticipated benefits, ratepayers should receive refunds based on the monetary value of the incentive, according to TDU Systems.

128. We clarify that applicants are required to propose metrics in their incentive applications. However, it is not the Commission's intention to approve incentive rate treatments ''subject to refund.'' To the extent that a customer has a reason to believe that any rate that has been approved by the Commission is no longer just, reasonable, and not unduly discriminatory or preferential, they will need to file an appropriate complaint under section 206.

129. TAPS contends that the Commission is not statutorily free to rule out symmetrical, *i.e.* performance-based approaches to setting an appropriate return regardless of whether they are sponsored by incentive applicants or recommended with appropriate support by intervenors. TAPS states that section 219 expressly provides that incentive programs may be performance-based and has long been a foundation for Commission incentive rate policy.[195] SMUD asserts that the Commission failed to explain its departure from the 1992 Policy Statement that symmetry is an inherent part of all incentive ratemaking.[196]

130. The purpose of this rule is to provide incentive-based rate treatments that benefit consumers by ensuring reliability and reducing the cost of delivered power by reducing transmission congestion. The primary focus of the rule is necessarily on

[188] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 367–76.

[189] TAPS at 29–31.

[190] 18 CFR part 101.

[191] APPA/NRECA at 4; TAPS at 35.

[192] EEI at 6.

[193] TAPS at 12.

[194] *See* Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 36 (''an applicant may propose periodic progress assessments * * *'').

[195] TAPS at 28.

[196] SMUD at 9–10.

investment. However, while the Final Rule declined to adopt generic performance-based ratemaking measures, we did encourage the industry to work on developing performance-based ratemaking proposals. While we agree that section 219 does not rule out symmetrical approaches to return, to the extent applicants or intervenors propose performance-based rate treatments under section 219, they must justify their proposals in terms of their capability to attract investment and either ensure reliability or reduce the cost of delivered power by reducing congestion.

131. TAPS asserts that the Commission cannot determine if an incentive will be non-discriminatory, as required under section 219(d), unless it ascertains what ratepayer classes are subject to paying for the incentive. TAPS also claims the Commission needs to consider whether an incentive request should be conditioned on geographically broadened cost spreading in order to determine whether the requested incentives can be better formulated to advance the consumer benefits of section 219. TAPS further argues that the Commission should state its willingness to consider in declaratory petition proceedings how costs will be allocated for the subject facilities and whether altering that treatment should be part of the incentive program.[197] TDU Systems assert that the Commission must require roll-in of new and existing rates to encourage investment.

132. We repeat the finding in the Final Rule that the section 205 proceedings addressing recovery of the costs of incentive-based rate treatments are the appropriate forum for determining whether the resulting rates are just, reasonable and non-discriminatory, and therefore are the appropriate proceedings to consider cost allocation and rate design issues.[198] The primary purpose of the declaratory petition proceeding is to determine if the proposed incentives meet the requirements of section 219, and therefore cost allocation and rate design issues will not be considered. Finally, we consider rate design issues, such as roll-in of rates to beyond the scope of this proceeding, and therefore affirm the Final Rule's determination to not require roll-in of rates.[199]

133. Southern Companies assert that the Commission's routine imposition of a five-month suspension of rates is a disincentive to the construction of new transmission infrastructure, claiming that delaying the effective date of a rate change forces the utility to absorb costs associated with new facilities and reduces the utility ROE.[200]

134. The Commission addressed this concern in the Final Rule by stating that we will not revise our suspension policy in this proceeding. We affirm the Final Rule's finding that utilities should raise concerns with the Commission's suspension policy in our pre-filing process.

135. Energy Financing requests clarification that its proposed performance-based financing option for transmission investment is not excluded as an alternative method of achieving the Commission's and Congress' goal of encouraging more transmission investment, or in the alternative, it seeks rehearing arguing that alternative financing methodologies are viable vehicles to increase transmission investment, in lieu of or in addition to the incentives identified in the Final Rule.[201] Energy Financing's proposal concerns how a project is financed rather than an incentive-based rate treatment. We do not consider it an alternative to the incentive-based rate treatments specified in § 35.35. Also, we can not make a determination as to whether the option will increase transmission investment because Energy Financing has not provided any information to indicate that its option is having the purported effect on investment. For these reasons, we deny rehearing on this issue.

136. Finally, the introductory text in § 35.35(d)(1) is revised to delete redundant language.

IV. Information Collection Statement

137. Order No. 679 contains information collection requirements for which the Commission obtained approval from the Office of Management and Budget (OMB). The OMB Control Number for this collection of information is 1902–0203. This order denies most rehearing requests, clarifies the provisions of Order No. 679, and grants rehearing on only three minor issues. This order does not make substantive modifications to the Commission's information collection requirements and, accordingly, OMB approval for this order is not necessary. However, the Commission will send a copy of this order to OMB for informational purposes.

V. Document Availability

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

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

140. User assistance is available for eLibrary and the FERC's Web site during normal business hours from our Help line at (202) 502–8222 or the Public Reference Room at (202) 502–8371 Press 0, TTY (202) 502–8659. E-Mail the Public Reference Room at *public.referenceroom@ferc.gov.*

VI. Effective Date

141. Changes to Order No. 679 made in this order on rehearing will become effective on February 9, 2007.

List of Subjects in 18 CFR Part 35

Electric power rates, Electric utilities, Reporting and recordkeeping requirements.

By the Commission.

Magalie R. Salas,

Secretary.

■ In consideration of the foregoing, the Commission amends part 35 of Chapter I, Title 18, Code of Federal Regulations, as follows:

PART 35—FILING OF RATE SCHEDULES AND TARIFFS

■ 1. The authority citation for part 35 continues to read as follows:

Authority: 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

■ 2. Section 35.35 is amended by:
■ a. Revising the third sentence in paragraph (d) introductory text ,
■ b. Revising paragraph (d)(1) introductory text;
■ c. Revising paragraph (i); and
■ d. Adding a new paragraph (j) to read as follows:

§ 35.35 Transmission infrastructure investment.

* * * * *

[197] TAPS at 17–18.

[198] *E.g.*, Order No. 679, FERC Stats. & Regs. ¶ 31,622 at P 81.

[199] *Id.* P 192.

[200] Southern Companies at 19–20.

[201] Energy Financing at 4–5.

(d) *Incentive-based rate treatments for transmission infrastructure investment.* * * * The applicant must demonstrate that the facilities for which it seeks incentives either ensure reliability or reduce the cost of delivered power by reducing transmission congestion consistent with the requirements of section 219, that the *total* package of incentives is tailored to address the demonstrable risks or challenges faced by the applicant in undertaking the project, and that resulting rates are just and reasonable. * * *

(1) For purposes of this paragraph (d), incentive-based rate treatment means any of the following:

* * * * *

(i) *Rebuttable presumption.* (1) The Commission will apply a rebuttable presumption that an applicant has demonstrated that its project is needed to ensure reliability or reduces the cost of delivered power by reducing congestion for:

(i) A transmission project that results from a fair and open regional planning process that considers and evaluates projects for reliability and/or congestion and is found to be acceptable to the Commission; or

(ii) A project that has received construction approval from an appropriate state commission or state siting authority.

(2) To the extent these approval processes do not require that a project ensures reliability or reduce the cost of delivered power by reducing congestion, the applicant bears the burden of demonstrating that its project satisfies these criteria.

(j) *Commission authorization to site electric transmission facilities in interstate commerce.* If the Commission pursuant to its authority under section 216 of the Federal Power Act and its regulations thereunder has issued one or more permits for the construction or modification of transmission facilities in a national interest electric transmission corridor designated by the Secretary, such facilities shall be deemed to either ensure reliability or reduce the cost of delivered power by reducing congestion for purposes of section 219(a).

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix A

Requests for Rehearing

American Public Power Association and National Rural Electric Cooperative Association (together, APPA/NRECA)
Coalition of Midwest Transmission Customers, PJM Industrial Customer Coalition, NEPOOL Industrial Customer Coalition, Southeast Electricity Consumers Association, and Southwest Industrial Customer Coalition (collectively, Industrial Consumers).
Connecticut Department of Public Utility Control, the Massachusetts Municipal Wholesale Electric Company, the Connecticut Municipal Electric Energy Cooperative, the New Hampshire Electric Cooperative, the Maine Public Utility Commission, and the New England Conference of Public Utility Commissioners (collectively, New England Commissions).
Edison Electric Institute (EEI).
Energy Financing, Inc. (Energy Financing).
Midwest ISO Transmission Owners (MISO TOs).
National Association of Regulatory Utility Commissioners (NARUC).
New England Consumer-Owned Entities (NECOE).
Public Utilities Commission of the State of California (California Commission).
Sacramento Municipal Utility District (SMUD).
Southern California Edison Company (SoCal Edison).
Southern Company Services, Inc., on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, and Mississippi Power Company (collectively, Southern Companies).
Transmission Access Policy Study Group (TAPS).
Transmission Dependent Utility Systems (TDU Systems).
Xcel Energy Services, Inc. (Xcel).

[FR Doc. E6–22693 Filed 1–9–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510, 520, and 558

New Animal Drugs; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for 14 approved new animal drug applications (NADAs) from ADM Animal Health & Nutrition Division to ADM Alliance Nutrition, Inc.

DATES: This rule is effective January 10, 2007.

FOR FURTHER INFORMATION CONTACT: David R. Newkirk, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6967, e-mail: *david.newkirk@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: ADM Animal Health & Nutrition Division, 1000 North 30th St., Box 1C, Quincy, IL 62305–3115 has informed FDA that it has transferred ownership of, and all rights and interest in, the following 14 approved NADAs to ADM Alliance Nutrition, Inc., 1000 North 30th St., Quincy, IL 62305–3115:

Application No.	Trade name(s)
048–480	Chloratet 50
065–256	Chlortet-Soluble-O
091–582	Gilt Edge TYLAN Mix
107–957	TYLAN 20 Sulfa-G, TYLAN 40 Sulfa-G
108–484	HFA Tylosin–10 Plus Sulfa
110–045	Good-Life TYLAN 10 Premix
110–439	HFA Hygromix 2.4 Medicated Premix
118–877	Ban-A-Worm Pyrantel Tartrate Ton Pack
128–411	TYLAN 5 Sulfa Premix
131–956	TYLAN Sulfa-G
131–957	TYLAN 10, TYLAN 20, TYLAN 40, TYLAN 5
132–448	FLAVOMYCIN
133–490	Ban-D-Wormer II BANMINTH
140–842	Hygromix 2.4 Premix

Accordingly, the agency is amending the regulations in 21 CFR 520.445b, 558.95, 558.128, 558.274, 558.485, 558.625, and 558.630 to reflect the transfer of ownership and a current format.

In addition, ADM Animal Health & Nutrition Division is no longer a sponsor of an approved application. Accordingly, 21 CFR 510.600(c) is being amended to remove entries for the firm.

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

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 520

Animal drugs.

21 CFR Part 558

Animal drugs, Animal feeds.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510, 520, and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

§ 510.600 [Amended]

■ 2. In § 510.600, in the table in paragraph (c)(1), remove the entry for ''ADM Animal Health & Nutrition Division''; and in the table in paragraph (c)(2), remove the entry for ''017519''.

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 3. The authority citation for 21 CFR part 520 continues to read as follows:

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

■ 4. In § 520.445b, revise the section heading, and paragraphs (b) and (d)(4)(iii)(C) to read as follows:

§ 520.445b Chlortetracycline powder.

* * * * *

(b) *Sponsors*. See sponsors in § 510.600(c) of this chapter for use as in paragraph (d) of this section.

(1) No. 048164 for use as in paragraph (d) of this section.

(2) No. 053501 for use as in paragraph (d)(4) of this section.

(3) No. 000010 for use as in paragraphs (d)(4)(i)(A), (d)(4)(i)(B), and (d)(4)(ii) through (iv) of this section.

(4) Nos. 021930 and 059130 for use as in paragraphs (d)(4)(i)(A), (d)(4)(i)(B), (d)(4)(ii), and (d)(4)(iii) of this section.

* * * * *

(d) * * *

(4) * * *

(iii) * * *

(C) *Limitations*. Prepare fresh solution daily; as sole source of chlortetracycline; do not use for more than 5 days. For Nos. 000010 and 021930, do not slaughter animals for food within 5 days of treatment; for No. 053501, do not slaughter animals for food within 24 hours of treatment.

* * * * *

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

■ 5. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

§ 558.95 [Amended]

■ 6. In paragraph (a)(4) of § 558.95, remove ''016968, 017519, and 017790'' and in its place add ''Nos. 016968, 017790, and 021930''.

§ 558.128 [Amended]

■ 7. In § 558.128, in paragraph (b)(2), remove ''017519'' and in its place add ''021930''; and in the tables in paragraphs (e)(1) through (e)(4), in the ''Sponsor'' column remove ''017519'' wherever it occurs and in its place add ''021930''.

§ 558.274 [Amended]

■ 8. In § 558.274, in paragraph (a)(7), remove ''017519'' and in its place add ''021930''; and in the table in paragraphs (c)(1)(i) and (c)(1)(ii), in the ''Sponsor'' column remove ''017519'' and in numerical sequence add ''021930''.

§ 558.485 [Amended]

■ 9. In paragraph (b)(3) of § 558.485, remove ''017519'' and in numerical sequence add ''021930''.

§ 558.625 [Amended]

■ 10. In paragraph (b)(10) of § 558.625, remove ''017519'' and in its place add ''021930''.

§ 558.630 [Amended]

■ 11. In § 558.630, remove and reserve paragraphs (b)(3) and (b)(8); and in paragraph (b)(10) remove ''017519''.

Dated: December 29, 2006.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. E7–118 Filed 1–9–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 866

[Docket No. 2006N–0517]

Medical Devices; Immunology and Microbiology Devices; Classification of Quality Control Material for Cystic Fibrosis Nucleic Acid Assays

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is classifying quality control material for cystic fibrosis nucleic acid assays into class II (special controls). The special control that will apply to the device is the guidance document entitled ''Class II Special Controls Guidance Document: Quality Control Material for Cystic Fibrosis Nucleic Acid Assays.'' The agency is classifying the device into class II (special controls) in order to provide a reasonable assurance of safety and effectiveness of the device. Elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of the guidance document that will serve as the special control for this device.

DATES: This final rule is effective February 9, 2007. The classification was effective October 12, 2006.

FOR FURTHER INFORMATION CONTACT: Zivana Tezak, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 240–276–0496, ext. 117.

SUPPLEMENTARY INFORMATION:

I. What is the Background of this Rulemaking?

In accordance with section 513(f)(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c(f)(1)), devices that were not in commercial distribution before May 28, 1976, the date of enactment of the Medical Device Amendments of 1976 (the amendments), generally referred to as postamendments devices, are classified automatically by statute into class III without any FDA rulemaking process. These devices remain in class III and require premarket approval, unless and until the device is classified or reclassified into class I or II, or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the act, to a predicate device that does not require premarket approval. The agency determines whether new devices are substantially equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the act (21 U.S.C. 360(k)) and 21 CFR part 807 of FDA's regulations.

Section 513(f)(2) of the act provides that any person who submits a premarket notification under section 510(k) of the act for a device that has not previously been classified may, within 30 days after receiving an order classifying the device in class III under section 513(f)(1) of the act, request FDA to classify the device under the criteria set forth in section 513(a)(1) of the act. FDA shall, within 60 days of receiving such a request, classify the device by written order. This classification shall be the initial classification of the device. Within 30 days after the issuance of an

order classifying the device, FDA must publish a notice in the **Federal Register** announcing such classification (section 513(f)(2) of the act).

In accordance with section 513(f)(1) of the act, FDA issued an order on August 7, 2006, classifying the Maine Molecular Quality Controls, Inc., INTROL™ CF Panel I Control as class III, because it was not substantially equivalent to a device that was introduced or delivered for introduction into interstate commerce for commercial distribution before May 28, 1976, or a device which was subsequently reclassified into class I or class II. On August 10, 2006, Maine Molecular Quality Controls, Inc., submitted a petition requesting classification of the INTROL™ CF Panel I Control under section 513(f)(2) of the act. The manufacturer recommended that the device be classified into class II.

In accordance with section 513(f)(2) of the act, FDA reviewed the petition in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the act. Devices are to be classified into class II if general controls, by themselves, are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls to provide reasonable assurance of the safety and effectiveness of the device for its intended use. After review of the information submitted in the petition, FDA determined that the Maine Molecular Quality Controls, Inc., INTROL™ CF Panel I Control can be classified in class II with the establishment of special controls. FDA believes these special controls, in addition to general controls, will provide reasonable assurance of safety and effectiveness of the device.

The device is assigned the generic name ''quality control material for cystic fibrosis nucleic acid assays.'' It is identified as a device intended to help monitor reliability of a test system by detecting analytical deviations such as those that may arise from reagent or instrument variation in genetic testing. This type of device includes recombinant, synthetic, and cell line based DNA controls.

Quality control (QC) material is intended to help monitor reliability of a test system. Therefore, failure of the QC material for cystic fibrosis nucleic acid assays to perform as indicated may lead to error in assessment of test results, and reporting of inaccurate results. This could potentially lead to patient mismanagement. For example, if the controls fail even though the test system was accurate, this may lead to unnecessary retesting, and delay in reporting results. In cases of patient samples that are difficult to obtain, this may cause additional risk to the patient. Conversely, if a QC material does not accurately reflect when the test system has failed, this may lead to false assurance of test operability, and reporting of inaccurate patient results.

FDA believes the class II special controls guidance document will aid in mitigating potential risks by providing recommendations on validation of performance characteristics, and labeling specifications appropriate for the use of controls in genetic in vitro diagnostic assays. The guidance document also provides information on how to meet premarket (510(k)) submission requirements for the device. FDA believes that following the class II special controls guidance document generally addresses the risks to health identified in the previous paragraph. Therefore, on October 12, 2006, FDA issued an order to the petitioner classifying the device into class II. FDA is codifying this classification by adding § 866.5910.

Following the effective date of this final classification rule, any firm submitting a 510(k) premarket notification for a quality control material for genetic testing will need to address the issues covered in the special controls guidance. However, the firm need only show that its device meets the recommendations of the guidance, or in some other way provides equivalent assurance of safety and effectiveness.

Section 510(m) of the act provides that FDA may exempt a class II device from the premarket notification requirements under section 510(k) of the act, if FDA determines that premarket notification is not necessary to provide reasonable assurance of the safety and effectiveness of the device. For this type of device, however, FDA has determined that premarket review of the system's key performance characteristics, test methodology, labeling, and other requirements as outlined in 21 CFR 807.87, will provide reasonable assurance that acceptable levels of performance for both safety and effectiveness will be addressed before marketing clearance. Thus, persons who intend to market this type of device must submit to FDA a premarket notification, prior to marketing the device, which contains information about the quality control material for cystic fibrosis nucleic acid assays they intend to market.

II. What Is the Environmental Impact of This Rule?

The agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

III. What Is the Economic Impact of This Rule?

FDA has examined the impacts of the final rule under Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this final rule is not a significant regulatory action under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because classification of these devices into class II will relieve manufacturers of the device of the cost of complying with the premarket approval requirements of section 515 of the act (21 U.S.C. 360e), and may permit small potential competitors to enter the marketplace by lowering their costs, the agency certifies that the final rule will not have a significant impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $122 million, using the most current (2005) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this final rule to result in any 1-year expenditure that would meet or exceed this amount.

IV. Does This Final Rule Have Federalism Implications?

FDA has analyzed this final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies 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. Accordingly, the agency has concluded that the rule does not contain policies that have federalism implications as defined in the Executive Order and, consequently, a federalism summary impact statement is not required.

V. How Does This Rule Comply With the Paperwork Reduction Act of 1995?

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 is not required.

The guidance for this final rule references previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 807, subpart E, have been approved under OMB Control No. 0910–0120; the collections of information in 21 CFR part 814 have been approved under OMB Control No 0910–0231; the collections of information in 21 CFR part 809 have been approved under OMB Control No. 0910–0485.

VI. What References are on Display?

The following reference has been placed on display in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Petition from Maine Molecular Quality Controls, Inc., dated August 10, 2006.

List of Subjects in 21 CFR Part 866

Biologics, Laboratories, Medical devices.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 866 is amended as follows:

PART 866—IMMUNOLOGY AND MICROBIOLOGY DEVICES

■ 1. The authority citation for 21 CFR part 866 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

■ 2. Section 866.5910 is added to subpart F to read as follows:

§ 866.5910 Quality Control Material for Cystic Fibrosis Nucleic Acid Assays.

(a) *Identification*. Quality control material for cystic fibrosis nucleic acid assays. A quality control material for cystic fibrosis nucleic acid assays is a device intended to help monitor reliability of a test system by detecting analytical deviations such as those that may arise from reagent or instrument variation in genetic testing. This type of device includes recombinant, synthetic, and cell line-based DNA controls.

(b) *Classification*. Class II (special controls). The special control is FDA's guidance document entitled ''Class II Special Controls Guidance Document: Quality Control Material for Cystic Fibrosis Nucleic Acid Assays.'' See § 866.1(e) for the availability of this guidance document.

Dated: December 21, 2006.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health

[FR Doc. E7–119 Filed 1–9–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD11–06–048]

RIN 1625–AA09

Drawbridge Operation Regulations; Sacramento River, at Paintersville, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eleventh Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Paintersville Drawbridge across the Sacramento River, mile 33.4, at Paintersville, CA. This deviation allows the bridge to remain in the closed-to-navigation position during the deviation period. The deviation is necessary for the bridge owner, the California Department of Transportation (Caltrans), to refurbish and replace aging operating machinery.

DATES: This deviation is effective from 7 a.m. on February 28, 2007 to 5 p.m. on March 8, 2007.

ADDRESSES: Materials referred to in this document are available for inspection or copying at Commander (dpw), Eleventh Coast Guard District, Building 50–2, Coast Guard Island, Alameda, CA 94501–5100, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District, telephone (510) 437–3516.

SUPPLEMENTARY INFORMATION: Caltrans requested a temporary change to the operation of the Paintersville Drawbridge, mile 33.4, over the Sacramento River, at Paintersville, CA. The Paintersville Drawbridge's navigation span provides a vertical clearance of 24 feet above Mean High Water in the closed-to-navigation position. The draw opens on signal from 9 a.m. to 5 p.m., November 1 through April 30, and at all other times if at least 4 hours notice is given as required by 33 CFR 117.189. Navigation on the waterway is recreational, search and rescue, and commercial traffic hauling materials for levee repair. Caltrans requested to secure the drawspan in the closed to navigation position from 7 a.m. on February 28, 2007 to 5 p.m. on March 8, 2007. During this time the drawspan motors will be refurbished and the control house replaced to ensure the continuing operation of the drawspan. This temporary deviation has been coordinated with waterway users. Caltrans has reduced the period of time the bridge will be closed to navigation to reduce the impact to levee repair in the area. Vessels that can transit the bridge while in the closed-to-navigation position may continue to do so at any time.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: December 29, 2006.

R.C. Lorigan,

Captain, U.S. Coast Guard, Acting Commander, Eleventh Coast Guard District.

[FR Doc. E7–151 Filed 1–9–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD11–06–047]

RIN 1625–AA09

Drawbridge Operation Regulations; Steamboat Slough, Near Paintersville, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eleventh Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Steamboat Slough Drawbridge across Steamboat Slough, mile 11.2, near Paintersville, CA. This deviation allows the bridge to remain in the closed-to-navigation position during the deviation period. The deviation is necessary for the bridge owner, the California Department of Transportation (Caltrans), to refurbish and replace aging operating machinery.

DATES: This deviation is effective from 7 a.m. on January 16, 2007 to 5 p.m. on January 25, 2007.

ADDRESSES: Materials referred to in this document are available for inspection or copying at Commander (dpw), Eleventh Coast Guard District, Building 50–2, Coast Guard Island, Alameda, CA 94501–5100, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District, telephone (510) 437–3516.

SUPPLEMENTARY INFORMATION: Caltrans requested a temporary change to the operation of the Steamboat Slough Drawbridge, mile 11.2, over Steamboat Slough, near Paintersville, CA. The Steamboat Slough Drawbridge's navigation span provides a vertical clearance of 20 feet above Mean High Water in the closed-to-navigation position. The draw opens on signal if at least 4 hours notice is given as required by 33 CFR 117.199. Navigation on the waterway is recreational, search and rescue, and commercial traffic hauling materials for levee repair. Caltrans requested to secure the drawspan in the closed to navigation position from 7 a.m. on January 16, 2007 to 5 p.m. on January 25, 2007. During this time the drawspan motors will be refurbished and the control house replaced to ensure the continuing operation of the drawspan. This temporary deviation has been coordinated with waterway users. Caltrans has reduced the period of time the bridge will be closed to navigation to reduce the impact to levee repair in the area. Vessels that can transit the bridge while in the closed-to-navigation position may continue to do so at any time.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: December 29, 2006.

R.C. Lorigan,

Captain, U.S. Coast Guard, Acting Commander, Eleventh Coast Guard District.

[FR Doc. E7–152 Filed 1–9–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD11–06–049]

RIN 1625–AA09

Drawbridge Operation Regulations; Sacramento River, at Isleton, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eleventh Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Isleton Drawbridge across the Sacramento River, mile 18.7, at Isleton, CA. This deviation allows the bridge to remain in the closed-to-navigation position during the deviation period. The deviation is necessary for the bridge owner, the California Department of Transportation (Caltrans), to refurbish and replace aging operating machinery.

DATES: This deviation is effective from 7 a.m. on April 12, 2007 to 5 p.m. on April 20, 2007.

ADDRESSES: Materials referred to in this document are available for inspection or copying at Commander (dpw), Eleventh Coast Guard District, Building 50–2, Coast Guard Island, Alameda, CA 94501–5100, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District, telephone (510) 437–3516.

SUPPLEMENTARY INFORMATION: Caltrans requested a temporary change to the operation of the Isleton Drawbridge, mile 18.7, over the Sacramento River, at Isleton, CA. The Isleton Drawbridge's navigation span provides a vertical clearance of 13 feet above Mean High Water in the closed-to-navigation position. The draw opens on signal from 9 a.m. to 5 p.m., November 1 through April 30, and at all other times if at least 4 hours notice is given as required by 33 CFR 117.189. Navigation on the waterway is recreational, search and rescue, and commercial traffic hauling materials for levee repair. Caltrans requested to secure the drawspan in the closed to navigation position from 7 a.m. on April 12, 2007 to 5 p.m. on April 20, 2007. During this time the drawspan motors will be refurbished and the control house replaced to ensure the continuing operation of the drawspan. This temporary deviation has been coordinated with waterway users. Caltrans has reduced the period of time the bridge will be closed to navigation to reduce the impact to levee repair in the area. Vessels that can transit the bridge while in the closed-to-navigation position may continue to do so at any time.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: December 29, 2006.

R.C. Lorigan,

Captain, U.S. Coast Guard, Acting Commander, Eleventh Coast Guard District.

[FR Doc. E7–153 Filed 1–9–07; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2005–0316; FRL–8108–4]

Beauveria Bassiana HF23; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of the microbial active ingredient *Beauveria bassiana* HF23 (*B. bassiana* HF23) on all food and feed commodities when applied/used to

treat chicken manure which will eventually be processed and used as fertilizer on agricultural crops. Jabb of the Carolinas submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *B. bassiana* HF23.

DATES: This regulation is effective January 10, 2007. Objections and requests for hearings must be received on or before March 12, 2007, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2005–0316. All documents in the docket are listed in the index for the docket. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Shanaz Bacchus, Biopesticides and Pollution Prevention Division (7511P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8097; e-mail address: *bacchus.shanaz@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at *http://www.regulations.gov*, you may access this ''**Federal Register**'' document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at *http://www.gpoaccess.gov/ecfr*. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at *http://www.epa.gov/opptsfrs/home/guidelin.htm*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2005–0316 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before March 12, 2007.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2005–0316, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of December 7, 2005 (70 FR 72831) (FRL–7748–4), EPA issued a notice pursuant to section 408(d)(3) of the FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 5F6960) by the consultant, SHB Scientific, P.O. Box 321, Chandler, AZ 85224–0321 on behalf of Jabb of the Carolinas, 456 E. Main Street, Pine Level, NC 27568. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of *B. bassiana* HF23 on all food commodities. This notice included a summary of the petition prepared by the petitioner SHB Scientific on behalf of Jabb of the Carolinas. One comment was received in response to this publication. The commenter inquired if Diquat was included in this pesticide. The Agency's response is that Diquat is not included in the formulation.

Section 408(c)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of the FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Pursuant to

section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in section 408(b)(2)(C), which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue....'' Additionally, section 408(b)(2)(D) of the FFDCA requires that the Agency consider ''available information concerning the cumulative effects of a particular pesticide's residues'' and ''other substances that have a common mechanism of toxicity.''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

B. bassiana HF23 is a naturally occurring ubiquitous fungus in the environment that has insecticidal properties. This strain, and other strains of *B. bassiana* that are registered as pesticides, demonstrate low toxicity potential and are not likely to harm human adults, infants, and children. The applicant has submitted an application to the Agency to register the active ingredient, *B. bassiana* HF23, as a manufacturing use product (MP) for formulation into insecticidal end-use products (EPs) and an application for an EP to control house flies in chicken manure.

This exemption from the requirement for a tolerance only applies to the proposed use of the active ingredient for chicken manure treatment. Such use would not result in direct pesticidal contact with any food or animal feed commodities. Chicken manure, treated with a pesticide containing *B. bassiana* HF23, is composted and then used on agricultural crops as a fertilizer. The fungal active ingredient does not survive temperatures greater than 37 °C (the average mammalian body temperature), and thus, would not be expected to survive the higher temperatures of composting (40–50 °C on average). See further discussion in Unit IV.A.1. Therefore, potential residues of *B. bassiana* HF23, from its use as a pesticide to control house flies in chicken manure, are not expected to exceed or be distinguishable from the naturally occurring background levels of the fungus.

III. Toxicological Profile

Consistent with section 408(b)(2)(D) of the FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness, and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

The following summaries are taken from the Biopesticide and Pollution Prevention Division (BPPD) Data Evaluation Records (DERs), which are reviews performed by Agency scientists of the data submitted by the registrant for this tolerance exemption.

A. Acute Oral Toxicity (OPPTS 885.3050 Test Guideline)

A study was reviewed by the Agency to ascertain acute oral toxicity and pathogenic effects of the Technical Grade Active Ingredient (TGAI) *B. bassiana* HF23 on rats (Master Record Identification Number (MRID) 46526003; DER dated 1/31/06). Laboratory rats were treated by oral gavage with *B. bassiana* HF23 at guideline recommended doses: Males were treated with 2.10–4.20 x 10^4 colony forming units of *B. bassiana* HF23 per gram (cfu/g) of body weight; females were treated with 1.60–3.60 x 10^4 cfu/g. Untreated rats of both sexes served as controls. All of the rats, treated and untreated, survived, exhibited normal weight gain, and appeared normal throughout the study.

B. bassiana HF23 was detected in the feces of all treated animals collected on the day of dosing. The fungus was not detected in the feces, tissues, blood, and cecum contents of these animals collected 3 and 7 days later. No test organisms were detected in any of the untreated (control) animals. The data presented did not indicate any significant clinical signs in rats. At the end of the study, *B. bassiana* HF23 was not found in the following organs: Kidney, brain, liver, lungs, spleen, and cervical and mesenteric lymph nodes. Therefore, based on the presented/submitted data, the Agency has determined that the test organism is not acutely toxic, infective, or pathogenic to rats at the levels tested in this study. The active ingredient is classified as Toxicity Category IV for acute oral toxicity/pathogenicity effects in mammals.

B. Acute Dermal Toxicity Study (OPPTS 885. 3100 Test Guideline) and Primary Dermal Irritation (OPPTS 870.2500 Test Guideline)

A study was reviewed by the Agency to ascertain acute dermal toxicity and pathogenic effects of the Technical Grade Active Ingredient (TGAI) *B. bassiana* HF23 in rabbits (MRID 46526004; DER dated 2/1/06).

B. bassiana HF23 (2,000 mg/kg body weight) was applied to the shaved skin on the backs of New Zealand white rabbits (5 per sex) for 24 hours. The animals were observed twice daily for 14 days for signs of irritation and toxicity. All of the rabbits survived, and exhibited normal body weight gain. The test organism produced no adverse reaction on the skin of the rabbits. The dermal LD_{50} for *B. bassiana* HF23 in rabbits was greater than 2,000 mg/kg. *B. bassiana* HF23 is classified in Toxicity Category III.

Based on the lack of irritation to the skin of rabbits in this study, and the nature of the inert ingredients in the products being registered by the petitioner, the Agency waived the requirement of a primary dermal irritation study for their products.

C. Acute Pulmonary Toxicity/Pathogenicity (OPPTS 885.3150 Test Guideline)

A study was reviewed by the Agency to ascertain acute pulmonary toxicity and pathogenic effects of the Technical Grade Active Ingredient (TGAI) *B. bassiana* HF23 in rats (MRID 46526005; DER dated 1/31/06).

In this study, single doses of the test material were administered to laboratory rats by intratracheal instillation at a concentration of 1.06 x 10^7 cfu/0.1 ml (purified water). The animals were observed for signs of toxicity, clinical signs, morbidity, and mortality twice daily until the end of the study.

One male and one female rat died on the day of dosing, with the cause of death likely due to anesthesia. All other rats survived, appeared normal, and exhibited normal weight gains until scheduled sacrifice. Reduced feces were observed in one female each from the untreated (control) groups for one day, but since these animals were not exposed to *B. bassiana* HF23, the effect was not attributed to the test material.

Lungs, kidney, brain, liver, lungs, spleen, cervical and mesenteric lymph nodes, cecum contents and blood samples were collected from treated and control animals. *B. bassiana* HF23 was detected in the lungs of all treated animals collected on the day of dosing

(males: 2.10–3.70 x 10^4 cfu/g lung tissue; females: 4.70–7.60 x 10^4 cfu/g lung tissue).

No test organisms were detected in the tissues, blood, and cecum contents collected from the treated animals on days 3 and 7, and no test organisms were detected in any of the untreated animals during the study. The presented data show no clinical signs in treated rats. *B. bassiana* HF23 was detected only in lungs immediately following dosing, but this cleared by day 3 after dosing. Therefore, based upon the results of this study, *B. bassiana* HF23 is not toxic, infective, nor pathogenic to rats via the pulmonary route of administration, and thus is considered Toxicity Category IV.

D. Acute Inhalation (Data Waiver Request; OPPTS 870.1300 Test Guideline)

The registration requirement for an acute inhalation study for the proposed use as a treatment for chicken manure was waived by the Agency, based upon the nature of the inert ingredients of the proposed pesticide EP and the low toxicity potential of the active ingredient demonstrated in the acute pulmonary toxicity/pathogenicity study discussed in Unit III.C. The inert ingredients in the proposed EP consist of a solid state matrix with particles which are not respirable. Based on the acute pulmonary test and the nature of the inert ingredients, the MP is considered Toxicity Category IV.

E. Acute Intraperitoneal Injection (OPPTS 885.3200 Test Guideline)

A study was reviewed by the Agency to ascertain acute intraperitoneal toxicity and pathogenic effects of the Technical Grade Active Ingredient (TGAI) *B. bassiana* HF23 in rats (MRID 46526006; DER dated 1/31/06).

In this study, laboratory rats were dosed with 1 ml of a suspension of *B. bassiana* HF23 in purified water (3.97 x 10^8 cfu (hemacytometer count) or 2.8 x 10^7 cfu/animal) by intraperitoneal injection. There were no clinically significant signs in any of the rats. All animals gained weight and survived to the end of the study. One treated male and one treated female developed a lump under the skin in the ventral abdomen at the injection site. The test organism was not recovered from those lesions. One treated male had mottled kidneys and one treated female had red lungs. One untreated female and four treated females had red/enlarged ovaries/uterus. No lesions or other signs of infectivity were observed in the affected kidneys, lungs, ovaries, and uteri. Based on the presented/submitted data, the test organism was not toxic or pathogenic to rats via the intraperitoneal route.

F. Hypersensitivity Study

Since no incidents of hypersensitivity have been reported at this time for *B. bassiana* HF23, the Agency has determined that the active ingredient is not expected to initiate a hypersensitive response in humans. Footnote (iii) of 40 CFR 158.740(c) states that this guideline is required if commonly recognized practices will result in repeated human contact by inhalation and dermal routes, and based upon the proposed uses of *B. bassiana* HF23 as an insecticide in chicken manure, repeated human exposure by these routes are not expected.

In order to mitigate the potential for *B. bassiana* HF23 to cause hypersensitivity in humans, the Agency will require appropriate protective clothing to avoid repeated contact with skin and respiratory tract when the active ingredient is used as a pesticide.

G. Hypersensitivity Incidents (OPPTS 885.3400 Test Guideline)

No incidents of hypersensitivity associated with the TGAI or proposed components of the EP have been reported or are found in the scientific literature to date. However, as with all pesticides, any incidents of hypersensitivity or other adverse effects associated with the use of *B. bassiana* HF23 must be reported to the Agency, in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) section 6(a)(2).

H. Immune Response (OPPTS 880.3800 Test Guideline)

The Agency has waived the registration requirements for an immune response study based on the following: *B. bassiana* HF23 is a well-known entomopathogenic (pathogenic to insects) fungus, that is ubiquitous in nature. As no incidents of hypersensitivity have been reported, *B. bassiana* HF23 is not expected to initiate a hypersensitive response in humans. Based upon the proposed uses of *B. bassiana* HF23 as an insecticide in chicken manure, repeated human exposure by these routes are not expected.

In its decision to waive this required study, the Agency considered the results of the acute dermal study, in which no adverse dermal reaction to a 24–hour exposure to the active ingredient, as previously discussed. The Agency also considered the results of the acute toxicity/pathogenicity oral, dermal, pulmonary, and intraperitoneal tests. These studies demonstrated that the active ingredient is neither acutely toxic nor pathogenic when it is administered to test animals via intraperitoneal, oral, dermal, or respiratory routes. The results from these tests indicate that mammalian immune systems can clear the organism, since none were found in any organs or tissues involved in immunity (spleen, lymph node, blood).

In order to mitigate the potential for *B. bassiana* HF23 to cause hypersensitivity in humans, the Agency will require appropriate protective clothing to avoid repeated contact with skin and respiratory tract when the active ingredient is used as a pesticide.

I. Subchronic, Chronic Toxicity and Oncogenicity, and Residue Data

The summaries of the data discussed in this Unit comply with the Tier I data requirements set forth in 40 CFR 158.740(c), and do not trigger the Tier II and Tier III data requirements, which, therefore, are not required in connection with this action. In addition, because the Tier II and Tier III data requirements were not required, the residue data requirements set forth in 40 CFR 158.740(b) also were not required.

IV. Aggregate Exposures

In examining aggregate exposure, section 408 of the FFDCA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

A. Dietary Exposure

The microbial pesticide containing the active ingredient, *B. bassiana* HF23, is not applied directly to food as discussed previously. Food or animal feed commodities could potentially be exposed to inadvertent residues of *B. bassiana* HF23 as a result of treated chicken manure being used as fertilizer to agricultural crops.

1. *Food. B. bassiana* HF23 is sensitive to warm temperatures (MRID 46526011) and UV light. The treated chicken manure is processed by composting into fertilizer for use on agricultural crops. The high temperatures of composting are very likely to destroy any potential residual *B. bassiana* HF23 or other potential microbial contaminants. Thus, the amount of viable *B. bassiana* HF23 spores that may have remained after composting treated chicken manure would greatly diminish once the manure is spread as a fertilizer and the

spores exposed to sunlight. However, data show that viable *B. bassiana* HF23 spores will leave poultry production houses upon disposal of manure and litter (MRID 46786401; BPPD DER 6/20/06). At the time of application of the treated chicken manure, *B. bassiana* HF23 colonies have declined to levels which are no greater than those observed of the naturally occurring microbe (MRID 46786401; BPPD DER 6/20/06).

There is no direct post-harvest treatment of food commodities with *B. bassiana* HF23. Thus, detectable residues of *B. bassiana* HF23 are not expected on agricultural crops or food commodities as a result of the proposed use of this active ingredient. Moreover, washing, peeling and processing of foods and feed commodities before consumption would further mitigate any potential exposure and risk via dietary exposure. The active ingredient occurs naturally and is ubiquitous in the environment. The toxicological profile discussed in Unit III. indicates no acute oral toxicity/pathogenicity effects of this active ingredient. In addition, a study conducted for ecological effects, used chickens for avian oral toxicology tests. No adverse effects were observed for 20 day old chickens dosed at acceptable guideline levels. Transfer to meat, milk, poultry, and eggs is expected to be negligible to non-existent, as noted in these discussions of submitted toxicology studies. Thus, no harm is expected to human adults, children or infants via consumption of food or feed exposed to chicken manure which has been treated with *B. bassiana* HF23.

2. *Drinking water exposure*. No drinking water exposure is anticipated because of the use pattern and use sites. There are no aquatic use sites permitted for this pesticide. Thus, transfer of *B. bassiana* HF23 from soil to groundwater is unlikely. Even if such a transfer were to occur, the fungus would not survive the conditions of drinking water treatment, such as chlorination, pH adjustments, and other water processing conditions. Further, there is no evidence of adverse effects from exposure to this ubiquitous organism. Exposure from the proposed use of *B. bassiana* HF23 is not likely to pose any incremental risk to adult humans, infants, and children via consumption of drinking water.

B. Other Non-Occupational Exposure

The proposed products are an MP for formulation into pesticide EPs and an EP that is intended to be used commercially for treatment of chicken manure in poultry houses to control house flies. Non-occupational residential, school, or day care exposure is not anticipated because of the use pattern of this product. The use of *B. bassiana* HF23 should result in minimal to non-existent, non-occupational risk. No indoor residential, school, or daycare uses are currently permitted for this active ingredient.

1. *Dermal exposure*. EPA has concluded that this pesticide poses minimal risk to human populations via non-occupational dermal exposure. This conclusion is based on the low toxicity potential observed in the acute dermal studies discussed in Unit III., and the low exposure potential based on non-viability of the active ingredient after treated chicken manure is used as a fertilizer on agricultural crops. Moreover, potential non-occupational dermal exposure to *B. bassiana* HF23 is unlikely because the use sites are commercial and agricultural.

As previously discussed, no hypersensitivity incidents associated with *B. bassiana* HF23 have been reported to date. Therefore, the Agency does not expect pesticides containing *B. bassiana* HF23 to pose a non-occupational dermal exposure risk.

2. *Inhalation exposure*. Non-occupational inhalation exposure to *B. bassiana* HF23 from its proposed agricultural use as a pesticide to treat chicken manure is not anticipated. In the pulmonary study described in Unit III.C., no treatment-related effects associated with the active ingredient were observed in laboratory rats. In the unlikely event that an individual is exposed to the active ingredient by the inhalation route, such exposure is not expected to pose an inhalation risk.

In summary, the potential aggregate exposure as a result of the use of the pesticidal active ingredient *B. bassiana* HF23 is not likely to pose a hazard via aggregate exposure. This includes hazards derived from (a) dietary exposure from the treated food/feed commodities, (b) drinking water potentially exposed secondary to treatment of sites with this pesticide; and (c) dermal and inhalation non-occupational exposure of populations exposed to *B. bassiana* HF23.

V. Cumulative Effects

The Agency has considered the potential for cumulative effects of *B. bassiana* HF23 and other substances in relation to a common mechanism of toxicity. These considerations include the possible cumulative effects of such residues on infants and children. As demonstrated in the toxicity assessment, *B. bassiana* HF23 is non-toxic and non-pathogenic to mammals. Because no mechanism of pathogenicity or toxicity in mammals has been identified for this organism, no cumulative effects from the residues of this product with other related microbial pesticides are anticipated.

VI. Determination of Safety for U.S. Population, Infants, and Children

There is reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposures to residues of *B. bassiana* HF23, as a result of its proposed uses. This includes all anticipated dietary exposures and all other exposures for which there is reliable information. As discussed previously, there appears to be no potential for harm from this fungus in its use as an insecticide via dietary exposure since the organism is non-toxic and non-pathogenic to animals and humans. The Agency has arrived at this conclusion based on the very low levels of mammalian toxicity for acute oral, pulmonary, dermal, and intraperitoneal effects with no toxicity or infectivity at the doses tested (see Unit III.).

Moreover, potential non-occupational inhalation or dermal exposure is not expected to pose any adverse effects to exposed populations via aggregate and cumulative exposure (see Units IV. and V.)

FFDCA section 408(b)(2)(C) provides that EPA shall apply an additional ten-fold margin of exposure (safety) for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure, unless EPA determines that a different margin of exposure (safety) will be safe for infants and children. Margins of exposure (safety), which are often referred to as uncertainty factors, are incorporated into EPA risk assessment either directly, or through the use of a margin of exposure analysis, or by using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk. In this instance, based on all the available information (as discussed in Unit III.), the Agency concludes that the fungus, *B. bassiana* HF23, is non-toxic to mammals, including infants and children. Because there are no threshold effects of concern to infants, children, and adults when *B. bassiana* HF23 is used as a pesticidal active ingredient, the Agency has determined that the additional margin of safety is not necessary to protect infants and children, and that not adding any additional margin of safety will be safe for infants and children. As a result, EPA has not used a margin of

exposure (safety) approach to assess the safety of *B. bassiana* HF23.

VII. Other Considerations

A. Endocrine Disruptors

EPA is required under section 408(p) of the FFDCA, as amended by FQPA, to develop a screening program to determine whether certain substances (including all pesticide active and other ingredients) ''may have an effect in humans that is similar to an effect produced by a naturally-occurring estrogen, or other such endocrine effects as the Administrator may designate.'' Following the recommendations of its Endocrine Disruptor Screening and Testing Advisory Committee (EDSTAC), EPA determined that there was scientific basis for including, as part of the program, the androgen and thyroid systems, in addition to the estrogen hormone system. EPA also adopted EDSTAC's recommendation that the program include evaluations of potential effects in wildlife. For pesticide chemicals, EPA will use FIFRA and, to the extent that effects in wildlife may help determine whether a substance may have an effect in humans, FFDCA authority, to require the wildlife evaluations. As the science develops and resources allow, screening of additional hormone systems may be added to the Endocrine Disruptor Screening Program (EDSP).

At this time, the Agency is not requiring information on the endocrine effects of this active ingredient, *B. bassiana* HF23. The Agency has considered, among other relevant factors, available information concerning whether the microorganism may have an effect in humans similar to an effect produced by a naturally occurring estrogen or other endocrine effects. There is no known metabolite that acts as an ''endocrine disruptor'' produced by this microorganism. The submitted toxicity/infectivity or pathogenicity studies in the rodent (required for microbial pesticides) indicate that, following oral, pulmonary, dermal, and intraperitoneal routes of exposure, the immune system is still intact and able to process and clear the active ingredient (see Unit III.). In addition, based on the low potential exposure level associated with the proposed uses of the pesticide, the Agency expects no adverse effects to the endocrine or immune systems. Thus, there is no impact via endocrine-related effects on the Agency's safety finding set forth in this final rule for *B. bassiana* HF23.

B. Analytical Method(s)

The acute oral studies discussed in Unit III. demonstrate that the active ingredient does not pose a dietary risk. In addition, the active ingredient is not likely to come into contact with the treated food commodities. Furthermore, the low application rate and non-persistence on food during applications suggests very low exposure potential via the dietary route. Since residues are not expected on treated commodities, the Agency has concluded that an analytical method to detect residues of this pesticide on treated food commodities for enforcement purposes is not needed.

Nevertheless, the Agency has concluded that for analysis of the pesticide itself, microbiological and biochemical methods exist and are acceptable for enforcement purposes for product identity of *B. bassiana* HF23. Other appropriate methods are required for quality control to assure that product characterization, the control of human pathogens, and other unintentional metabolites or ingredients are within regulatory limits, and to ascertain storage stability and viability of the pesticidal active ingredient.

C. Codex Maximum Residue Level

There is no Codex maximum residue level for residues of *B. bassiana* HF23.

VIII. Conclusions

The results of the studies discussed are sufficient to comply with the requirements of the FQPA. They support an exemption from the requirement of a tolerance for residues of *B. bassiana* HF23, on treated food or feed commodities. In addition, the Agency is of the opinion that, if the microbial active ingredient is used as allowed, aggregate and cumulative exposures are not likely to pose any undue hazard to the adult human U.S. population, children, and infants. Therefore, an exemption from the requirement of a tolerance is granted in response to pesticide petition 5F6960.

IX. Statutory and Executive Order Reviews

This final rule establishes an exemption from the requirement of a tolerance under section 408(d) of the FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of the FFDCA, such as the exemption from the requirement of a tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. The Agency hereby certifies that this rule will not have significant negative economic impact on a substantial number of small entities. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 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

final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, 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.'' ''Policies that have tribal implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

X. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 22, 2006.

James Jones,

Director, Office of Pesticide Programs.

■ Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.1273 is added to subpart D to read as follows:

§ 180.1273 Beauveria bassiana HF23; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established on all food/feed commodities, for residues of *Beauveria bassiana* HF23 when the pesticide is used for chicken manure treatment.

[FR Doc. E7–170 Filed 1–9–07; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 06–2562; MB Docket No. 05–85, RM–11164]

Radio Broadcasting Services; Hennessey, OK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division, at the request of Linda Crawford, allots Channel 249A at Hennessey, Oklahoma, as the community's first local FM service. Channel 249A can be allotted to Hennessey, Oklahoma, in compliance with the Commission's minimum distance separation requirements with a site restriction of 7.7 kilometers (4.8 miles) west of Hennessey. The coordinates for Channel 249A at Hennessey, Oklahoma, are 36–07–55 North Latitude and 97–58–46 West Longitude.

DATES: Effective February 5, 2007.

FOR FURTHER INFORMATION CONTACT: Deborah Dupont, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MB Docket No. 05–85, adopted December 20, 2006, and released December 22, 2006. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision also may be purchased from the Commission's duplicating 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, *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* U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ Part 73 of title 47 of the Code of Federal Regulations is amended 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 and 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by adding Hennessey, Channel 249A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E7–183 Filed 1–9–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 06–2564; MB Docket No. 03–13; RM–10628]

Radio Broadcasting Services; Johnston City and Marion, IL

AGENCY: Federal Communications Commission.

ACTION: Final rule; dismissal of application for review.

SUMMARY: In response to a request for dismissal of the Application for Review of the *Report and Order*, in this proceeding, the Application for Review is dismissed.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order*, MB

Docket No. 03–13, adopted December 20, 2006, and released December 22, 2006. 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 12th Street, SW., Washington, DC. This document may also be purchased from the Commission's duplicating contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E7–184 Filed 1–9–07; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 225

[FRA–2006–26565, Notice No. 1]

Adjustment of Monetary Threshold for Reporting Rail Equipment Accidents/Incidents for Calendar Year 2007

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This rule increases the rail equipment accident/incident reporting threshold from $7,700 to $8,200 for certain railroad accidents/incidents involving property damage that occur during calendar year 2007. This action is needed to ensure that FRA's reporting requirements reflect cost increases that have occurred since the reporting threshold was last computed in 2005.

DATES: *Effective Date*: This regulation is effective January 1, 2007.

Applicability Date: The revised reporting threshold value of $8,200 is not applicable to 49 CFR part 219—Control of Alcohol and Drug Use, and 49 CFR part 240—Qualification and Certification of Locomotive Engineers, until January 10, 2007, due to delayed final rule publication. Consequently, for purposes of 49 CFR parts 219 and 240 only, a rail equipment accident/incident should be considered reportable under 49 CFR part 225, through January 9, 2007, if the resultant damages are greater than $7,700.

FOR FURTHER INFORMATION CONTACT: Arnel B. Rivera, Staff Director, Office of Safety Analysis, RRS–22, Mail Stop 17, FRA, 1120 Vermont Ave., NW., Washington, DC 20590 (telephone 202–493–1331); or Sandra S. Ries, Trial Attorney, Office of Chief Counsel, RCC–10, Mail Stop 10, FRA, 1120 Vermont Ave., NW., Washington, DC 20590 (telephone 202–493–6047).

SUPPLEMENTARY INFORMATION:

Background

A ''rail equipment accident/incident'' is a collision, derailment, fire, explosion, act of God, or other event involving the operation of railroad on-track equipment (standing or moving) that results in damages to railroad on-track equipment, signals, tracks, track structures, or roadbed, including labor costs and the costs for acquiring new equipment and material, greater than the reporting threshold for the year in which the event occurs. 49 CFR 225.19(c). Each rail equipment accident/incident must be reported to FRA using the Rail Equipment Accident/Incident Report (Form FRA F 6180.54). 49 CFR 225.19(b) and (c). As revised, effective in 1997, paragraphs (c) and (e) of 49 CFR 225.19 provide that the dollar figure that constitutes the reporting threshold for rail equipment accidents/incidents will be adjusted, if necessary, every year in accordance with the procedures outlined in appendix B to part 225 to reflect any cost increases or decreases. 61 FR 30940 (June 18, 1996); 61 FR 60632 (Nov. 29, 1996); 61 FR 67477 (Dec. 23, 1996); 62 FR 63675 (Dec. 2, 1997); 63 FR 71790 (Dec. 30, 1998); 64 FR 69193 (Dec. 10, 1999); 65 FR 69884 (Nov. 21, 2000); 66 FR 66346 (Dec. 26, 2001); 67 FR 79533 (Dec. 30, 2002); 70 FR 75414 (Dec. 20, 2005).

New Reporting Threshold

Approximately one year has passed since the rail equipment accident/incident reporting threshold was revised. 70 FR 75414 (December 20, 2005). Consequently, FRA has recalculated the threshold, as required by § 225.19(c), based on increased costs for labor and increased costs for equipment. FRA has determined that the current reporting threshold of $7,700, which applies to rail equipment accidents/incidents that occur during calendar year 2006, should increase by $500 to $8,200 for equipment accidents/incidents occurring during calendar year 2007, effective January 1, 2007. The specific inputs to the equation set forth in appendix B (i.e., Tnew = Tprior * [1 + 0.4(Wnew − Wprior)/Wprior + 0.6(Enew − Eprior)/100]) to part 225 are:

Tprior	Wnew	Wprior	Enew	Eprior
$7,700	$21.458	$21.0556305	169.7	160.1666667

Where: Tnew = New threshold; Tprior = Prior threshold (with reference to the threshold, ''prior'' refers to the previous threshold rounded to the nearest $100, as reported in the **Federal Register**); Wnew = New average hourly wage rate, in dollars; Wprior = Prior average hourly wage rate, in dollars; Enew = New equipment average PPI value; Eprior = Prior equipment average PPI value. Using the above figures, the calculated new threshold, (Tnew) is $8199.30, which is rounded to the nearest $100 for a final new reporting threshold of $8,200.

Notice and Comment Procedures

In this rule, FRA has recalculated the monetary reporting threshold based on the formula discussed in detail and adopted, after notice and comment, in the final rule published December 20, 2005, 70 FR 75414. FRA has found that both the current cost data inserted into this pre-existing formula and the original cost data that they replace were obtained from reliable Federal government sources. FRA has found that this rule imposes no additional burden on any person, but rather provides a benefit by permitting the valid comparison of accident data over time. Accordingly, finding that notice and comment procedures are either impracticable, unnecessary, or contrary to the public interest, FRA is proceeding directly to the final rule.

Regulatory Impact

Executive Order 12866 and DOT Regulatory Policies and Procedures

This rule has been evaluated in accordance with existing policies and procedures, and determined to be non-significant under both Executive Order 12866 and DOT policies and procedures (44 FR 11034 (Feb. 26, 1979)).

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612) requires a review of proposed and final rules to assess their impact on small entities, unless the Secretary certifies that the rule will not have a significant economic impact on a substantial number of small entities. Pursuant to Section 312 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), FRA has issued a final policy that formally establishes ''small entities'' as including railroads that meet the line-haulage revenue requirements of a Class III railroad. 49 CFR part 209, app. C. For other entities, the same dollar limit in revenues governs whether a railroad, contractor, or other respondent is a small entity. Id.

About 662 of the approximately 699 railroads in the United States are considered small entities by FRA. FRA certifies that this final rule will have no significant economic impact on a substantial number of small entities. To the extent that this rule has any impact on small entities, the impact will be neutral or insignificant. The frequency of rail equipment accidents/incidents, and therefore also the frequency of required reporting, is generally proportional to the size of the railroad. A railroad that employs thousands of employees and operates trains millions of miles is exposed to greater risks than one whose operation is substantially smaller. Small railroads may go for months at a time without having a reportable occurrence of any type, and even longer without having a rail equipment accident/incident. For example, current FRA data indicate that 3,011 rail equipment accidents/incidents were reported in 2003, with small railroads reporting 263 of them. In 2004, 3,373 rail equipment accidents/incidents were reported, and small railroads reported 307 of them. Data for 2005 show that 3,223 rail equipment accidents/incidents were reported, with small railroads reporting 327 of them. In each of those three calendar years, small railroads reported ten percent or less of the total number of rail equipment accidents/incidents. FRA notes that these data are accurate as of the date of issuance of this final rule, and are subject to minor changes due to additional reporting. Absent this rulemaking (i.e., any increase in the monetary reporting threshold), the number of reportable accidents/incidents would increase, as keeping the 2006 threshold in place would not allow it to keep pace with the increasing dollar amounts of wages and rail equipment repair costs. Therefore, this rule will be neutral in effect. Increasing the reporting threshold will slightly decrease the recordkeeping burden for railroads over time. Any recordkeeping burden will not be significant and will affect the large railroads more than the small entities, due to the higher proportion of reportable rail equipment accidents/incidents experienced by large entities.

Paperwork Reduction Act

There are no new information collection requirements associated with this final rule. Therefore, no estimate of a public reporting burden is required.

Federalism Implications

Executive Order 13132, entitled, ''Federalism,'' issued on August 4, 1999, requires that each agency ''in a separately identified portion of the preamble to the regulation as it is to be issued in the **Federal Register**, provide[] to the Director of the Office of Management and Budget a federalism summary impact statement, which consists of a description of the extent of the agency's prior consultation with State and local officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of the State and local officials have been met * * *.'' This rulemaking action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132. This rule will not have a substantial direct effect on States, on the relationship between the National Government and the States, or on the distribution of power and the responsibilities among the various levels of government, as specified in the Executive Order 13132. Accordingly, FRA has determined that this rule will not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism assessment. Accordingly, a federalism assessment has not been prepared.

Environmental Impact

FRA has evaluated this regulation in accordance with its ''Procedures for Considering Environmental Impacts'' (FRA's Procedures) (64 FR 28545, May 26, 1999) as required by the National Environmental Policy Act (42 U.S.C. 4321 et seq.), other environmental statutes, Executive Orders, and related regulatory requirements. FRA has determined that this regulation is not a major FRA action (requiring the preparation of an environmental impact statement or environmental assessment) because it is categorically excluded from detailed environmental review pursuant to section 4(c)(20) of FRA's Procedures. 64 FR 28545, 28547, May 26, 1999. In accordance with section 4(c) and (e) of FRA's Procedures, the agency has further concluded that no extraordinary circumstances exist with respect to this regulation that might trigger the need for a more detailed environmental review. As a result, FRA finds that this regulation is not a major Federal action significantly affecting the quality of the human environment.

Unfunded Mandates Reform Act of 1995

Pursuant to Section 201 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 2 U.S.C. 1531), each Federal agency ''shall, unless otherwise prohibited by law, assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector (other than to the extent that such regulations incorporate requirements specifically set forth in law).'' Section 202 of the Act (2 U.S.C. 1532) further requires that ''before promulgating any general notice of proposed rulemaking that is likely to result in the promulgation of any rule that includes any Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of [$128,100,000 or more (as adjusted for inflation)] in any 1 year, and before promulgating any final rule for which a general notice of proposed rulemaking was published, the agency shall prepare a written statement'' detailing the effect on State, local, and tribal governments and the private sector. The final rule will not result in the expenditure, in the aggregate, of $128,100,000 or more in any one year, and thus preparation of such a statement is not required.

Energy Impact

Executive Order 13211 requires Federal agencies to prepare a Statement of Energy Effects for any ''significant energy action.'' 66 FR 28355 (May 22, 2001). Under the Executive Order, a ''significant energy action'' is defined as any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: That (1)(i) is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a

significant energy action. FRA has evaluated this final rule in accordance with Executive Order 13211. FRA has determined that this final rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Consequently, FRA has determined that this regulatory action is not a ''significant energy action'' within the meaning of Executive Order 13211.

Privacy Act

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

List of Subjects in 49 CFR Part 225

Investigations, Penalties, Railroad safety, Reporting and recordkeeping requirements.

The Rule

■ In consideration of the foregoing, FRA amends part 225 of chapter II, subtitle B of title 49, Code of Federal Regulations, as follows:

PART 225—[AMENDED]

■ 1. The authority citation for part 225 continues to read as follows:

Authority: 49 U.S.C. 103, 322(a), 20103, 20107, 20901–02, 21301, 21302, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.49.

■ 2. Amend § 225.19 by revising the first sentence of paragraph (c) and revising paragraph (e) to read as follows:

§ 225.19 Primary groups of accidents/incidents.

* * * * *

(c) *Group II—Rail equipment.* Rail equipment accidents/incidents are collisions, derailments, fires, explosions, acts of God, and other events involving the operation of on-track equipment (standing or moving) that result in damages higher than the current reporting threshold (*i.e.*, $6,700 for calendar years 2002 through 2005, $7,700 for calendar year 2006, and $8,200 for calendar year 2007) to railroad on-track equipment, signals, tracks, track structures, or roadbed, including labor costs and the costs for acquiring new equipment and material. * * *

* * * * *

(e) The reporting threshold is $6,700 for calendar years 2002 through 2005, $7,700 for calendar year 2006, and $8,200 for calendar year 2007. The procedure for determining the reporting threshold for calendar years 2006 and beyond appears as paragraphs 1–8 of appendix B to part 225.

* * * * *

Issued in Washington, DC, on December 29, 2006.

Joseph H. Boardman,

Administrator.

[FR Doc. E7–112 Filed 1–9–07; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AV17

Endangered and Threatened Wildlife and Plants; Clarification of Significant Portion of the Range for the Contiguous United States Distinct Population Segment of the Canada Lynx

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Clarification of findings.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service) provide a clarification of the finding we made in support of the final rule that listed the contiguous U.S. Distinct Population Segment of the Canada lynx (*Lynx canadensis*) (lynx) as threatened. In that rule, we found that, ''collectively, the Northeast, Great Lakes, and Southern Rockies do not constitute a significant portion of the range of the DPS (Distinct Population Segment).'' In response to a court order, we now clarify that finding.

ADDRESSES: The complete file for this clarification is available for inspection, by appointment, during normal business hours at the Montana Ecological Services Office, 585 Shepard Way, Helena, MT 59601 (telephone 406/449–5225).

FOR FURTHER INFORMATION CONTACT: Mark Wilson, Field Supervisor, Montana Fish and Wildlife Office, at the above address (telephone 406/449–5225).

SUPPLEMENTARY INFORMATION: The Service listed the Canada lynx, hereafter referred to as lynx, as threatened on March 24, 2000 (65 FR 16052). After listing the lynx as threatened, plaintiffs in the case of *Defenders of Wildlife* v. *Kempthorne* (Civil Action No. 00–2996 (GK)) initiated action in Federal District Court challenging the listing of the lynx as threatened. On December 26, 2002, the Court issued a Memorandum of Opinion and Order to have the Service explain our 2000 finding that ''[c]ollectively the Northeast, Great Lakes and Southern Rockies do not constitute a significant portion of the [lynx] DPS.'' Pursuant to that order, the Service published a notice of remanded determination and clarification of our 2000 finding on July 3, 2003 (68 FR 40075). In that notice, the Service attempted to address the court's order and issued a new finding that the lynx is not endangered throughout a significant portion of its range. Plaintiffs subsequently brought further action claiming that the Service violated the court's 2002 order.

On September 29, 2006, the Court issued another Memorandum of Opinion and Order remanding the same portion of the Service's March 24, 2000, determination of status for the lynx. The court remanded the finding so that ''the Service may clearly and specifically address the finding it was ordered to explain three years ago: That '[c]ollectively the Northeast, Great Lakes, and Southern Rockies do not constitute a significant portion of the [lynx] DPS' (Order at 3).'' This finding appeared in the final rule that listed the contiguous U.S. DPS of the lynx as threatened (65 FR 16052; March 24, 2000). Because the court remanded the 2000 listing determination for further explanation of how the Service at that time reached its conclusion the Northeast, Great Lakes, and Southern Rockies do not constitute a significant portion of the lynx DPS, the following discussion addresses the basis for the Service's decision in 2000. The conclusions reached in 2000, and the basis for those conclusions, do not necessarily represent the Service's current views, given new information regarding the lynx as well as the evolving views of the courts and the Service regarding the meaning of the definitions of ''endangered species'' and ''threatened species.'' In fact, when the Service completed the first remand decision, it did not reiterate its conclusion from 2000 on this issue; instead, it based its new conclusion on a different line of reasoning. The Service recently requested that the Office of the Solicitor examine the definition of ''endangered species.'' As a result, the explanation of the Service's rational for its decision in 2000 provided here may not reflect how the Service will apply the definition of ''endangered species'' in the future.

Background

The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) (Act), defines an ''endangered'' species as one that is ''in danger of extinction throughout all or a significant portion of its range'' and a ''threatened'' species as one that is ''likely to become endangered within the foreseeable future throughout all or a significant portion of its range'' (16 U.S.C. 1532(6); 16 U.S.C. 1532(20); 50 CFR 424.02(e) and (m)). The Secretary of the Interior ''shall publish in the **Federal Register** a list of all species determined * * * to be endangered species and * * * threatened species. Each list shall refer to the species contained therein by scientific and common name or names, if any, specify with respect to [each] such species over what portion of its range it is endangered or threatened, and specify any critical habitat within such range'' (16 U.S.C. 1533(c)(1)).

Apart from the statutory and regulatory definitions of ''threatened'' and ''endangered,'' no formal guidance shaped the Service's analysis in the 2000 final listing rule of what was to be considered when evaluating the ''significance'' of any particular area of a species'' range. Furthermore, at that time there was no case law concerning what should be considered in a determination of a ''significant portion'' of a species'' range. Since publication of the 2000 final listing rule, several courts have interpreted the meaning of ''significant portion of its range.'' See, *Defenders of Wildlife* v. *Norton* 258 F. 3d 1136 (9th Cir. 2001); *Center for Biological Diversity* v. *Norton*, 411 F. Supp. 2d 1271 (D.N.M. 2005); *Southwester Center for Biological Diversity* v. *Norton*, 2002 U.S. Dist. Lexis 13661 (D.D.C. July 29, 2002); *Defenders of Wildlife* v. *Norton*, 239 F. Supp. 2d 9 (D.D.C. 2002; *Center for Biological Diversity* v. *Lohn*, 296 F Supp. 2d 1223 (W.D. Wash. 2003); *Environmental Protection Information Ctr.* v. *National Marine Fisheries Service*, Civ. No. 02–5401 ED2 (N.O. Cal. Mar. 1, 2004); *Defenders of Wildlife* v. *Norton*, Civ. No. 99–02072 HHK (D.D.C. Dec. 13, 2001); *Defenders of Wildlife* v. *Secretary, U.S. Department of Interior*, 354 F. Supp. 2d 1156 (D. Or. 2005); *National Wildlife Federation* v. *Norton*, 386 F. Supp. 2d 553 (D. Vt. 2005).

The historical and current range of the Canada lynx north of the contiguous United States includes Alaska and that part of Canada that extends from the Yukon and Northwest Territories south across the border with the contiguous United States and east to New Brunswick and Nova Scotia. In the contiguous United States, the current (and historical) range of the lynx extends into four geographic areas: the Northeast, including the States of Maine, New Hampshire, Vermont, and New York; the western Great Lakes, including the States of Minnesota, Michigan, and Wisconsin; the Southern Rocky Mountains in the States of Colorado and Wyoming; and the Northern Rocky Mountains/Cascades, including the States of Montana, Washington, Idaho, Utah, Wyoming, and Oregon. It is notable that the range of the lynx has not been radically contracted or reduced.

When the Service listed the lynx, we followed the Policy Regarding the Recognition of Distinct Vertebrate Population Segments Under the Endangered Species Act (DPS Policy) to evaluate whether the lynx population in the contiguous United States constituted a DPS and thus was a listable entity under the Act (61 FR 4722; February 7, 1996). Under the DPS Policy, a population must meet two criteria to qualify as a DPS: First, the population in question must be determined to be discrete from other members of the taxon, and second, the population in question must be determined to be significant to the taxon. In this case, the taxon is the species *Lynx canadensis*, whose range extends throughout Alaska and Canada into the contiguous United States, as described above.

The DPS Policy allows the use of international boundaries to define discreteness if there are differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms between the two countries. In the final rule, we determined that, because Canada had no overarching forest practices legislation governing management of national lands and/or providing for consideration of wildlife habitat requirements, and also because of lynx harvest regulations that exist in Canadian Provinces, the differences in management of lynx and lynx habitat between Canada and the United States were sufficient to enable us to use the international boundary between Canada and the contiguous United States to delineate the DPS according to the discreteness criterion (65 FR 16060; March 24, 2000).

In the final rule, we found that lynx in the contiguous United States are significant to the taxon under the DPS Policy because of the climatic, vegetative, and ecological differences between lynx habitat in the contiguous United States and that in northern latitudes in Canada and Alaska. In the contiguous United States, lynx distribution occurs in habitats at the southern extent of the range of the boreal forest, comprising subalpine coniferous forest in the West and southern boreal forest/hardwoods in the East (for ease of description, we use the general term ''southern boreal forest'' to describe lynx habitat in the contiguous United States); whereas in Canada and Alaska, lynx inhabit the classic boreal forest ecosystem known as the taiga. Furthermore, lynx and snowshoe hare population dynamics in the contiguous United States are different from those in northern Canada and Alaska (65 FR 16060; March 24, 2000).

Based on the above factors, we determined that the lynx population in the contiguous United States was discrete and significant under the DPS Policy and, therefore, qualified as a listable entity under the Act (65 FR 16060; March 24, 2000).

We then further considered whether individually any of the four geographic areas (Northeast, Great Lakes, Southern Rockies, and Northern Rockies/Cascades) that make up the current range of the lynx within the contiguous United States fulfilled the DPS Policy criteria (65 FR 16060; March 24, 2000). We determined that, within the contiguous United States, each of these areas was discrete from the others. However, we found none of the areas to be significant.

Because of the extensive range of the lynx within the contiguous U.S. DPS, we structured the 2000 final listing to describe the status of the species in the four geographic areas (Northeast, Great Lakes, Southern Rockies, and Northern Rockies/Cascades) (65 FR 16060; March 24, 2000). We determined ''that collectively, the Northeast, Great Lakes, and Southern Rockies regions do not constitute a significant portion of the DPS range.'' The final rule prefaced this finding with the following discussion:

> Within the contiguous United States, the relative importance of each region to the persistence of the DPS varies. The Northern Rockies/Cascades Region supports the largest amount of lynx habitat and has the strongest evidence of persistent occurrence of resident lynx populations, both historically and currently. In the Northeast (where resident lynx populations continue to persist) and Southern Rockies regions, the amount of lynx habitat is naturally limited and does not contribute substantially to the persistence of the contiguous United States DPS. Much of the habitat in the Great Lakes Region is naturally marginal and may not support prey densities sufficient to sustain lynx populations. As such, the Great Lakes Region does not contribute substantially to the persistence of the contiguous United States DPS. We conclude the Northern Rockies/Cascades Region is the primary region

necessary to support the long-term existence of the contiguous United States DPS (65 FR 16061, 16082).

In summary, the Service determined that, collectively, the Northeast, Great Lakes, and Southern Rockies regions do not constitute a significant portion of the range of the DPS because (1) the amount of lynx habitat in the Northeast and Southern Rockies is naturally limited and (2) much of the habitat in the Great Lakes Region is marginal and may not support prey densities sufficient to sustain lynx.

The analysis in the 2000 final listing rule concerning ''significance'' specifically addressed and focused on the biological ''significance'' of areas of habitat within the range of the lynx (65 FR 16060; March 24, 2000). The biological context that we viewed as important in the 2000 final listing rule included the distribution of lynx and the contribution of each area to the life-history needs of the species. For example, the final listing rule found that lynx exist in areas with forest types and vegetation that can support snowshoe hares, the primary prey of lynx, and where cover exists for denning. Lynx are highly specialized predators of snowshoe hares. Both lynx and snowshoe hares have evolved to survive in areas that receive fluffy and/or deep snow. Snowshoe hares prefer dense forest understories for forage, cover to escape from predators, and protection during extreme weather (Wolfe et al. 1982; Monthey 1986; Hodges 1999a, 1999b). Lynx use large woody debris, such as downed logs and windfalls, to provide denning sites with security and thermal cover for kittens (McCord and Cardoza 1982; Koehler 1990; Koehler and Brittell 1990; Squires and Laurion 1999; J. Organ, U.S. Fish and Wildlife Service, *in litt.* 1999).

In the 2000 final listing rule, we evaluated ''significance'' primarily in this biological context. In that rule, we expressed the belief (which we still maintain) that significance should not be determined based on the size of an area alone. We considered the ability of the area to support populations needed for recovery to be the primary consideration. We did not consider sizable area with poor-quality habitat for the species or prey limitations to be significant from a biological perspective.

Thus, we viewed a significant portion to be an important portion, not just a geographically large portion. ''Important,'' in turn, we viewed in the larger context of the Act. The primary purpose of the Act is to conserve imperiled species. See 16 U.S.C. § 1531(b). Moreover, the use of science in pursuing this goal is a theme in the Act. In particular, in identifying endangered and threatened species, the Act requires that we use ''the best scientific and commercial data available.'' Id. § 16 U.S.C. 1533(b)(1)(A). In this context, we concluded in 2000 that the importance of a portion of a species' range should be measured with respect to the conservation of imperiled species, and we looked to all of the tools of conservation science available to help define what portion of the range of the lynx was important.

In the case of the lynx, despite the extensive contiguous U.S. range, not all of the existing range contains high-quality habitat. Many areas within what is generally described as the historical (and current) range of lynx have never been capable of supporting resident lynx populations because the habitat is naturally marginal. As such, this habitat cannot be biologically ''significant'' because, even in its original (pre-European settlement) state, it could not support lynx populations or prevent the species from becoming extinct if habitat elsewhere (the ''significant'' portion of the habitat) were to lose its value as lynx habitat.

As explained in the 2000 final listing rule, much of the area depicted on range maps for lynx in the contiguous United States contains only naturally patchy habitat because that area is the southern edge of the boreal forest, where the boreal forest is transitional with other forest types. Because of the naturally patchy condition of southern boreal forests, snowshoe hares (the primary prey of lynx) are unable to achieve densities similar to those in Canada and Alaska, where the northern boreal forest is expansive and continuous, enabling snowshoe hares to reach extremely high densities (65 FR 16053, 16077, 16081). Lower snowshoe hare densities in the contiguous United States in turn naturally limit the lynx populations. The quality and size of habitat patches affect the ability of areas to support lynx.

The persistence of a species may depend on whether the reproductive success of individuals in good habitats, or sources, exceeds that of individuals in marginal habitats, or sinks. In sink habitats, local recruitment into the population (through reproduction or immigration) is lower than mortality. Patches of higher quality and larger size are more likely to act as ''sources'' of lynx or support resident lynx populations, whereas smaller patches and/or patches where habitat quality is marginal likely act as ''sinks'' because such areas are less likely to be able to support lynx populations (McKelvey et al. 1999a; 65 FR 16052, March 24, 2000).

We must clarify here that, just because habitat is marginal, does not mean that lynx can no longer live there, as may be the impression of the Court. Instead, marginal habitat means that such areas cannot and may never have supported resident lynx populations. They may support breeding pairs over a short term, or the regular presence of nonbreeding individuals, migrating into or passing in and out of such areas from source (''significant'') habitats. These areas also may be natural ''sinks,'' where lynx mortality is greater than recruitment and lynx are lost from the overall population.

Furthermore, the habitat is marginal because it is at the southern edge of the boreal forest, where the boreal forest is naturally in transition with other forest types. Therefore, the Service did not view the overall size of an area mapped as lynx habitat to be directly relevant to the analysis of ''significance'' without consideration of the quality of the habitat. Marginal habitat for lynx, no matter how large, is not a significant portion of the range of the lynx because it cannot, and has never been able to, support resident lynx populations for any length of time.

The 2000 final rule described what habitat values existed in the Northeast, Great Lakes, and Southern Rockies regions. Specifically, we carefully explained that:

> Northeast Region—Most lynx occurrence records in the Northeast were found within the ''Mixed Forest—Coniferous Forest—Tundra'' cover type (McKelvey et al. 1999b). This habitat type occurs along the northern Appalachian Mountain range from southeastern Quebec, western New Brunswick, and western Maine, south through northern New Hampshire. This habitat type becomes naturally more fragmented and begins to diminish to the south and west. Most of the historical lynx records from this region were from Maine and northern New Hampshire, which are directly connected with lynx populations in Quebec and New Brunswick, Canada.

To further clarify this, we note that in Vermont, only four verified records of historic lynx occurrence exist (McKelvey *et al.* 1999b). In fact, we have no evidence of a breeding population ever occurring in Vermont.

Great Lakes Region—The majority of lynx occurrence records in the Great Lakes Region are associated with the ''mixed deciduous-coniferous forest'' type (McKelvey *et al.* 1999b) found primarily in northeastern Minnesota, northern Wisconsin, and the western portion of Michigan's upper peninsula. Most of the historical lynx records in this region are from northeastern Minnesota, which supported higher

habitat quality in addition to being directly connected with lynx populations in adjacent Ontario, Canada. In our 2000 final listing rule, we found that, although the mixed deciduous-coniferous forest covers an extensive area of the Great Lakes Region, we considered much of this area to be marginal habitat for lynx because it is a transitional forest type at the edge of the snowshoe hare range. Habitat at the edge of snowshoe hare range supports lower hare densities (Buehler and Keith 1982) that may not be sufficient to support lynx reproduction (65 FR 16056).

Southern Rockies Region—Colorado represents the extreme southern edge of the range of the lynx. The southern boreal forest of Colorado and southeastern Wyoming is isolated from southern boreal forest in Utah and northwestern Wyoming by the Green River Valley and the Wyoming basin (Findley and Anderson 1956 in McKelvey *et al.* 1999b). These habitats likely act as a barrier that reduces or precludes opportunities for immigration and emigration from the Northern Rocky Mountains/Cascades Region and Canada. A majority of the lynx occurrence records in Colorado and southeastern Wyoming are associated with the ''Rocky Mountain Conifer Forest'' type. The occurrences in the Southern Rockies were generally at higher elevations (1,250 to over 3,750 meters (m) [4,100–12,300 feet (ft)] than were all other occurrences in the West (McKelvey *et al.* 1999b). The montane and subalpine forest ecosystems in Colorado are naturally highly fragmented (Thompson 1994), as they occur at higher elevations at this latitude, which we believed limited the size of lynx populations in this area (65 FR 16059; March 24, 2000).

Further, Colorado has never supported many lynx. A total of 78 lynx reports rated as positive (22) or probable (56) exist in State records since the late 1800s (J. Mumma, Colorado Division of Wildlife, 1998); although McKelvey *et al.* (1999b) considered only 17 of these records ''verified.''

Northern Rockies/Cascades region—In this region, the majority of lynx occurrences were associated at a broad scale with the ''Rocky Mountain Conifer Forest.'' Most of the lynx occurrences are in the 1,500–2,000 m (4,920–6,560 ft) elevation class (McKelvey *et al.* 1999b). These habitats are found in the Rocky Mountains of Montana, Idaho, eastern Washington, and Utah, and in the Cascade Mountains in Washington and Oregon. The majority of historical verified lynx occurrences in the contiguous United States and, at the time of the 2000 final listing rule, the confirmed presence of resident populations were from this region. Washington, Montana, and Idaho are contiguous with lynx habitat in adjacent British Columbia and Alberta, Canada. Within this region, Washington, Montana, and the Greater Yellowstone area have a long historical record of resident lynx populations. In the final listing rule, the Service stated that ''the Northern Rockies/Cascades region supports the most viable resident lynx populations in the contiguous United States'' (65 FR 16059; March 24, 2000).

Therefore, we assessed each of the above areas, and concluded that the Northern Rockies/Cascades Region was the primary region necessary to support the long-term existence of the contiguous U.S. DPS. Because the amount of good-quality lynx habitat in the Northeast, Great Lakes, and Southern Rockies regions was limited, the Service did not consider these areas individually or collectively to be a biologically significant portion of the species' range. We concluded that the overwhelming majority of lynx found in these areas were, and historically had been, those that migrated into the area from source populations in Canada and the Northern Rockies/Cascades, respectively, and eventually died out, to be replaced by new migrants.

The fact that we did not use area estimates for the Northeast or Great Lakes in our final rule demonstrates that we did not focus primarily on the size of any area in our analysis. Furthermore, the only area estimates we used in the final rule were for the Southern Rockies, Northern Rockies, and Cascades; these area estimates were used only in ''Factor A'' to analyze Federal land management allocations in lynx forest types in these areas. These estimates were not used to determine whether any of the areas constituted a significant portion of the range of the lynx. As a result, it is important to note at this juncture that any contention that the Great Lakes, Southern Rockies, and Northeast consist of three-quarters of the species' range has no basis because the habitat in these Regions will not now, and historically did not, support a population of lynx sufficient to maintain the species if lynx habitat in Canada, Alaska and the Northern Rockies/Cascades were lost.

In summary, the Service's determination that ''[c]ollectively the Northeast, Great Lakes, and Southern Rockies do not constitute a significant portion of the [lynx] DPS'' was based on an assessment of the biological context of the habitat conditions and lynx status within its contiguous U.S. range. The 2000 final listing rule found that habitat for lynx in the contiguous United States is of varying quality, and much of it was naturally incapable of supporting adequate densities of snowshoe hare sufficient to sustain resident lynx populations. Quality of habitat is an important factor in determining ''significance'' because marginal habitat, no matter how large, cannot support stable or expanding populations of lynx, except by migration of individual lynx from high quality (''significant'') habitat; and, in fact, may serve as a population sink where lynx mortality is greater than recruitment and lynx are lost from the overall population.

References Cited

A complete list of all references cited herein is available upon request from the Montana Field Office (see **ADDRESSES**).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: December 27, 2006.

Kenneth Stansell,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. E6–22633 Filed 1–9–07; 8:45 am]

BILLING CODE 4310–55–P

Proposed Rules

Federal Register

Vol. 72, No. 6

Wednesday, January 10, 2007

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Rural Utilities Service

7 CFR Part 4200

Heir Property

AGENCY: Rural Business-Cooperative Service, Rural Utilities Service, Department of Agriculture.

ACTION: Advanced notice of proposed rulemaking.

SUMMARY: The United States Department of Agriculture, Rural Development is soliciting public comment and historical information on the heir property issue as it affects African American farmers and homeowners.

DATES: Comments must be submitted on or before March 1, 2007.

ADDRESSES: Interested persons may submit comments to: *Bethany.Erb@usda.gov* Please submit any information you have regarding heir property including, but not limited to legislative action, prior studies (both government and private), historical literature, and personal insight. Please include your position on the matter along with any supporting material and plausible solutions.

FOR FURTHER INFORMATION CONTACT: USDA Rural Development. Bethany Erb (202) 720–8570. *Bethany.Erb@usda.gov*.

SUPPLEMENTARY INFORMATION:

Background

Overview

Broadly defined, heir property is property passed down from one generation to another. It may be transferred to one heir, subdivided among many heirs or transferred to many heirs with undivided interest. When a property owner dies without an estate plan, state law determines property succession. Typically, properties lacking estate plans are inherited by heirs with undivided interests thereby creating fractional interest also known as tenancy in common. The heir property issues that have elicited concern in the African American farming community arise from tenancy in common and for the purpose of this Notice the term ''heir property'' will be used to refer to this specific situation.

The ''heir property'' issue includes a cluster of problems arising when undivided interest in land is passed to multiple heirs. Problems range from land partition sales to reduced crop yields as a result of underutilization. The array of problems caused by heir property contributes to unsuccessful business models which results in land loss and the deterioration of rural African American communities. It should be noted, however, that while unclear title contributes to unsuccessful business models it is not the sole contributor to the land loss issue.

For historical reasons this issue is closely associated with African American farmers in the South. African American landholdings in the post-bellum South were generally very small. Access to capital and competent legal counsel were problematic and there was often distrust within the African American community regarding the dominant legal and lending institutions.

For all these reasons, heir property issues emerged as a special concern of the African American agrarian community and are a priority of African American farming and land loss prevention organizations today. A parallel issue, heir housing, also presents a significant concern. Although not as extensively studied, heir housing also appears to pose substantial threats to the well being of rural African American communities.

It should be noted that the heir property issue can and does occasionally arise in other contexts. It should also be emphasized that a resolution of the heir property issue, in itself, would not be a complete solution to the difficulties facing African American small farmers today. In particular, small farming operations will continue to face competitive pressures and the need to identify niche markets to survive.

Therefore, this issue is linked with the broader challenges facing all small producers in today's agriculture market. Clearing title is simply one step—though an extremely important one—in allowing small farmers to develop sustainable market driven business models, which is the key to ensuring the future viability of African American land ownership.

Cultural Importance of Land/Homeownership

African American land ownership and retention is of particular importance because for generations of African American, especially in the rural south it symbolized a step towards racial equality and self-sufficiency. It signified status in the wider community. USDA recognizes this unique historical and cultural component associated with African American land ownership. This factor is noneconomic, but the linkage of land and homeownership to healthy community life is unmistakable. USDA agrees that reversing the land loss trend is an important objective for rural African American communities.

Land Loss

In 1910 African American land ownership reached its peak of about 15 million acres. Since then land ownership has continually decreased and by 1992 had declined to 2.3 million acres. Because of the significant impact heir property has on land loss, African American land loss prevention organizations consider heir property one of, if not the most, significant factor contributing to land loss.

Not only does heir property contribute to and exacerbate land loss, it also inhibits heir property owners from expanding. At this point, USDA has identified three characteristics that put heir property owners at a disadvantage and therefore contribute to land loss: partition sales, barriers to government programs and private lenders, and reduced incentives to improve the land.

Partition Sales

Partition sales are a court ordered sale of land that results in the highest bidder becoming the property owner. Heir property partition sales commonly occur because one or more heirs want to liquidate their interests in the property. Sometimes another heir is able to buy out their interests, but it is not uncommon for the land to be sold to someone outside the family.

Barriers to Government Programs and Private Lenders

Ownership validation is important for federal farm loans and program enrollment. In certain situations, because heir property owners are not able to produce a clear title to land or a home, they have difficulty obtaining certain types of federal assistance available to other farmers. Like government lenders, private lenders are constrained when applicants cannot use property as collateral. Additionally, lenders are not able to exercise the option of making a loan against a crop. In order to do so, the farmer must have recordable interest in the crop, which cannot be validated by heir property owners.

The long-term effect of ineligibility for government programs and reduced access to private lenders accentuates land-loss and damages rural communities by limiting the resources owners need to maintain or develop their property. This situation also puts these producers at a disadvantage with regards to other producers.

Reduced Incentive To Improve the Land

Property ownership gives individuals an incentive to reinvest in their asset and increases the capacity to build wealth over time by leveraging existing assets. Heir property owners have less incentive to invest in their property because it is not soundly theirs. As a result, utilization and productivity are undermined.

Marketability of property is also reduced. Land value is depressed because property cannot be easily marketed without clear title. Potential buyers are likely to be deterred by the complications of heir property. Lease value is depressed for similar reasons. These lower values further reduce the ability of the heir property owner to improve the productivity of the land.

Finally, such beneficial property modifications as environmental enhancements, product diversification, irrigation and home repairs may be neglected because the incentive to invest is absent for heir property owners. Consequently, land potential is not maximized, which further accelerates the land-loss trend.

Heir Property Study

Purpose of Study

The mission of USDA Rural Development is to increase economic opportunity and improve the quality of life for all rural Americans. For the African American community in particular, the Rural Development mission includes working to increase African American land and home ownership.

Rural Development believes that prosperity in rural America today depends on economic diversification and flexible adaptation to market opportunities. However, heir property owners' economic options are severely restricted. In order to find a way to expand economic options, USDA began an heir property study in early 2005.

The 2005 USDA heir property study was intended as a follow-up to a more extensive study conducted in 1984 titled; *The Impact of Heir Property on Black Rural Land Tenure in the Southeastern Region of the United States,* conducted by the Emergency Land Fund Inc. At the onset, USDA officials identified four fundamental areas that required study. Areas included:

1. The current status/extent of heir property.
2. What, if any, measures are already in place to prevent and correct heir properties.
3. Determine how frictional ownership affects the African American agricultural business model.
4. Determine what options USDA has for assisting property owners in clearing title.

Data Colletion Procedure

In the early summer of 2005, a researcher was assigned to begin studying the heir property issue. The preliminary research determined that heir properties are extremely difficult to monitor or track, and that there was no means by which to access or compare quantifiable data. Heir properties are difficult for government land base systems to track because fractionally-owned lands are not typically enrolled in government programs.

County property records do list property succession, but this data is only relevant for probated property or for title that has been transferred and processed by the courts. These records did prove useful when evaluating historical trends because the researcher was able to determine which properties were tenancies in common before sale.

As a result of this preliminary analysis, USDA concluded that the best way to approach the subject was to select a small area where information could be verified by local farmers and county officials. A small county in eastern Arkansas was chosen as a representative test case.

Current Status

Results of this study confirm that heir property remains a complex problem for African American farmers and homeowners. In the county selected for the 2005 review, around 40 percent of the African American owned lands were heir property. This is not surprising. The 1980 *The Impact of Heir Property on Black Rural Land Tenure in the Southeastern Region of the United States,* found that 80 percent of all African Americans who owned rural property had not established a will for property succession.

While this research, completed in 1980, thus suggested that the share of future African American heir properties could approach 80 percent of the total, the actual ratio appears to be substantially lower today. USDA believes that partition sales have exacerbated the land loss trend since 1980. This is the reason today's heir ownership is significantly lower than the previous study indicated.

Problems facing today's heir property landowners are similar to those of past generations: partition sales, reduced access to government programs and private lenders, and reduced incentives for land improvement relevant. For example, a landowner in Forrest City, Arkansas was not accepted into the USDA Conservation Security Program because he was unable to show proof of title, which was essential for program enrollment.

The factors that have contributed to land loss also had a similar effect on heir owned homes. For example, heir property homeowners were unable to receive a Rural Development home loan to complete badly needed home repairs. In several cases, homes have been abandoned as a result of unclear title. It is estimated that in certain rural communities of in eastern Arkansas, up to fifteen percent of homes in these communities are heir property homes.

Several community based African American farm organizations are working to address the heir property issue. Much of the assistance they provide is technical such as legal and financial planning tools. This assistance covers both prevention and correction mechanisms. For example, community based organizations teach estate-planning courses, designed to assist minority farmers with property succession. Some organizations also have staff attorneys experienced in assisting heir property owners with land use options. Attorney services appear to be a widely successful technical assistance tool.

Study results concluded that unclear title had a significant impact on farmers' overall ability to sustain business. Unclear title diminishes farm asset returns, access to capital and reduces participation in several USDA programs.

The challenge of developing a sustainable, market driven business model are intensified in heir property situations.

Grants, subsidies, and litigation settlements have failed to prevent land loss. It cannot be overemphasized that long-term stability cannot be based on perpetual dependence on subsidy programs; rather it requires adaptation to market initiatives and the leveraging of assets to build competitive business models.

Request for Public Comments

The objective of any USDA program would be to reverse the land loss trend and foster the growth of healthy, sustainable African American farms and rural communities. USDA is inviting public comment on this goal. USDA seeks public response on the questions listed below. However, public comments are not limited to addressing only the seven bulleted points. Comments on all heir property related issues are welcomed.

1. Greater Understanding. USDA seeks any materials or personal insights that would contribute to the overall understanding of the heir property issue.

2. What has been done, or is being done to alleviate heir properties. What should be done? USDA would like to learn about any previous attempts to clear heir property. USDA is interested in why each attempt succeeded or failed and would like detailed accounts of the attempts.

3. What should USDA's role be to assist African American land and homeowners to clear title?

4. What are the risks—to all parties involved—of clearing title? USDA is mindful of the fact that heir properties are unique and sometimes fragile. It should also be noted that USDA would not sanction any program that could potentially take an ownership interest in farmland.

5. What resources are needed to clear title? The 2005 study proved that there are several resources being used to clear title. USDA seeks public comment to determine if those resources are sufficient and if so is there anything USDA can do to bolster them? If those resources are insufficient, what additional measures should be taken to improve the situation?

6. Is clear title in itself sufficient to reverse the land loss trend? USDA's first objective is the effective resolution of the heir property issue; however USDA realizes that the African American community will quickly advance beyond clear title. Therefore, USDA seeks public comment to determine if clearing title in itself is enough to reverse the land loss trend. If clear title alone is not enough to reverse the land loss trend, please indicate what else is needed.

Please illustrate any ideas for initiatives that go beyond clear title. USDA is particularly interested in any ideas for educational courses that may help reverse the land loss trend.

7. Role of the Community Based Organizations. Community based organizations (CBOs) have played a critical role in supporting small farmers. In the past century, they have made significant progress advancing civic equality for all minorities. Research suggests that community based organizations will be an essential part of the heir property solution.

Currently, USDA seeks a partnership with a community based organization that has a commitment to local communities and can be a bridge to the government at the local and national levels while at the same time building trust between USDA and African American farmers. USDA seeks public advice on the future role of such a partner. For example, must a CBO be an agriculture related organization in order to effectively administer a clear title program? Or could it be an organization with lesser agriculture credentials, but an equally well-established community relationship, such as a faith-based organization?

USDA Rural Development is working to ensure all sectors of rural America are able to participate in the growth and expansion of the rural economy. The ability of small producers to participate in these opportunities depends on their ability to become vertical owners in the agriculture production process and in order to do so they must have access to capital and innovative business models.

A clear title initiative would be an important contribution of stabilizing African American land ownership and would lay the foundation for a more sustainable and diversified pattern of development for the years ahead.

Dated: November 22, 2006.

Thomas C. Dorr,

Under Secretary for Rural Development.

[FR Doc. E6–22102 Filed 1–9–07; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 91

[Docket No. APHIS–2006–0147]

RIN 0579–AC26

Cattle for Export; Removal of Certain Testing Requirements

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the livestock exportation regulations to eliminate the requirement for pre-export tuberculosis and brucellosis testing of certain cattle being exported to countries that do not require such testing. This action would facilitate the exportation of certain cattle by eliminating the need to conduct pre-export tuberculosis and brucellosis testing when the receiving country does not require such testing.

DATES: We will consider all comments that we receive on or before March 12, 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–2006–0147 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–2006–0147, 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–2006–0147.

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: Dr. Antonio Ramirez, Senior Staff Veterinarian, Technical Trade Services, National Center for Import and Export, VS, APHIS, 4700 River Road, Unit 40, Riverdale, MD 20737–1231; (301) 734–8364.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 91, ''Inspection and Handling of Livestock for Exportation'' (referred to below as the regulations), prescribe conditions for exporting animals from the United States. Section 91.5 requires, among other things, that cattle intended for exportation be tested for tuberculosis and brucellosis prior to export.

Certain exceptions to the testing requirement exist. The regulations in § 91.5(a) do not require testing for tuberculosis prior to export when cattle are being exported directly to slaughter in a country that the Administrator of the Animal and Plant Health Inspection Service (APHIS) has determined has an acceptable tuberculosis surveillance system at slaughter plants and that agrees to share any findings of tuberculosis in U.S. origin cattle with APHIS, or when cattle are being exported directly to slaughter from a State designated as an Accredited-free State in 9 CFR part 77, ''Tuberculosis.''

The regulations in § 91.5(b) do not require testing for brucellosis prior to export when cattle are being exported directly to slaughter in a country that the Administrator has determined has an acceptable brucellosis surveillance system at slaughter plants and that agrees to share any findings of brucellosis in U.S. origin cattle with APHIS, or when cattle are being exported directly to slaughter from a State designated as a Class Free State in 9 CFR part 78, ''Brucellosis.'' Official vaccinates of dairy breeds under 20 months of age, official vaccinates of beef breeds under 24 months of age, and steers and spayed heifers are also exempt from the brucellosis testing requirement.

All other cattle exported from the United States must be tested for tuberculosis within 90 days prior to export and tested for brucellosis within 30 days prior to export, as required by § 91.3(c). The brucellosis test may be administered at a longer interval prior to export if the receiving country requires or allows it.

In recent years, the Cooperative State-Federal Tuberculosis Eradication Program and the Cooperative State-Federal Brucellosis Eradication Program have made significant progress in reducing the occurrence of those two diseases in U.S. cattle. Currently, all States except Minnesota and portions of Michigan and New Mexico are designated Accredited-free for tuberculosis, and all States except Idaho and Texas are designated Class Free States for brucellosis.

Canadian animal health authorities have recognized our success in eradicating brucellosis, tuberculosis, and other diseases by establishing the Restricted Feeder Cattle Program, which allows certain untested feeder cattle to be imported into Canada.[1] To participate in this program, the feeder cattle must originate in a State that has been designated by the U.S. Department of Agriculture (USDA) as free of brucellosis and tuberculosis. Under the program, U.S. feeder cattle from 39 States considered to have a low incidence of bluetongue are able to enter Canada directly without testing; feeder cattle from the remaining 11 States, which are considered to have a high incidence of bluetongue, are also not required to be tested, provided they reside for at least 60 days prior to import in a low-incidence State. Testing for cattle from such States, however, is still an option; should the feeder cattle be found free of bluetongue, the 60-day period is waived.[2]

Feeder cattle that meet these conditions do not fall under any of the exceptions in § 91.5 and are still required to be tested within 30 and 90 days of export for brucellosis and tuberculosis, respectively. Paragraph (b) of § 91.3 states that the Administrator may, upon request of the appropriate animal health official of the country of destination, waive the tuberculosis and brucellosis tests referred to in §§ 91.5(a) and (b) of the regulations when he finds such tests are not necessary to prevent the exportation of diseased animals from the United States. However, this provision does not allow us to relieve the testing requirement for cattle exported under the Restricted Feeder Cattle Program, as Canadian animal health officials would have to request each time cattle are exported that the brucellosis and tuberculosis tests not be administered.

Canada's Restricted Feeder Cattle Program covers only cattle that meet the requirements above, and there are no other countries that have recognized our Accredited-free and Class Free designations for States. However, we have recently requested that Canadian animal health authorities recognize our Accredited-free and Class Free designations for States and more generally relieve testing requirements for cattle exported to Canada from those States. If Canada approves this request, the regulations would still require U.S. exporters to administer tuberculosis and brucellosis tests that would then not be required by Canadian animal health regulations. A similar situation could arise if any other country that receives U.S. cattle were to recognize our Accredited-free for tuberculosis or Class Free for brucellosis designations of States and suspend or eliminate any requirements that U.S. cattle must be tested for those diseases prior to export from the United States, because the regulations require testing in all cases except those listed earlier in this document.

To relieve this unnecessary burden and to avoid similar problems that may arise in the future, we are proposing to amend the regulations to exempt cattle from tuberculosis and brucellosis testing prior to export if such testing is not required by the receiving country for cattle from any tuberculosis Accredited-free or brucellosis Class Free State. This action would both relieve restrictions on certain exports of U.S. cattle to Canada that no longer appear necessary and ensure that, if other countries receiving exports of U.S. cattle suspend or remove their requirements that U.S. cattle be tested for tuberculosis or brucellosis, U.S. exporters of cattle would receive the full benefits of no longer being required to perform such tests.

Miscellaneous Changes

In § 91.1, *official brucellosis vaccinate* is defined as: ''A female bovine animal vaccinated against brucellosis in accordance with the provisions prescribed in the Recommended brucellosis Eradication Uniform Methods and Rules, chapter 1, part I–H, I, and J. The provisions of the Uniform Methods and Rules are hereby incorporated by reference.'' However, ''Uniform Methods and Rules: Brucellosis Eradication'' has not actually been incorporated by reference, and so no explicit definition of *official*

[1] Detailed provisions of this program can be found in Canadian Food Inspection Agency Client Services Information Sheet No. 14, ''Restricted Feeder Cattle from the United States.'' This document can be viewed on the Internet at *http://www.inspection.gc.ca/english/anima/heasan/policy/ie-2001-14e.shtml.*

[2] The Canada Food Inspection Agency published a proposal on May 19, 2006, that would eliminate bluetongue-related restrictions on the importation of cattle, among other animals.

brucellosis vaccinate currently exists in 9 CFR part 91. We are proposing to correct this error by revising this definition to read: ''An official adult vaccinate or an official calfhood vaccinate as defined in § 78.1 of this chapter.'' The definitions in § 78.1 are similar to the definitions of those terms in ''Uniform Methods and Rules: Brucellosis Eradication,'' but contain more specific testing requirements.

The regulations contain other references to the ''Uniform Methods and Rules: Brucellosis Eradication.'' We are developing a proposal that would update the regulations and harmonize them with the ''Uniform Methods and Rules: Brucellosis Eradication.'' We will address the other references to the ''Uniform Methods and Rules'' in the regulations with that proposal.

In § 91.5, paragraph (a)(1)(ii) states that tuberculosis tests are not required for any cattle ''exported directly to slaughter from a State designated as an Accredited-Free State in 9 CFR 77.1.'' The regulations in part 77 were revised in a final rule published in the **Federal Register** on October 23, 2000 (65 FR 63502–63533), and the list of Accredited-free States for cattle and bison is now located in § 77.7. We would amend § 91.5(a)(1)(ii) to reflect that change.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

The proposed rule would remove the requirement that cattle destined for export must be tested for brucellosis and tuberculosis prior to export in any case in which such testing is not required by the receiving country for cattle originating in the United States or any State therein.

The proposed rule would affect domestic producers of cattle, specifically those engaged in the export of animals. In 2005, there were 982,510 cattle operations in the United States.[3] On January 1, 2005, domestic inventory of cattle and calves totaled over 95.8 million, with an average per head value of $916, and a total value of production of over $87.8 billion.[4] Under U.S. Small Business Administration's (SBA) size standards, operations engaged in cattle ranching or production (both beef and dairy) are considered small if they earn $750,000 or less in annual receipts.[5] According to the USDA's National Agricultural Statistics Service, approximately 953,390, or 97 percent, of the 982,510 cattle operations in the United States are holding fewer than 500 head of cattle. As such, we would assume that the overwhelming majority of domestic cattle operations would be considered small by SBA standards.

Only those operations engaged in the export of their animals would be affected by this proposed rule. In 2005, the United States exported 21,155 live cattle, with a total value of over $7.2 million. Our primary trading partners historically are Canada and Mexico, and in 2005 Canada and Mexico ranked first and second, respectively, as destinations of U.S. live cattle exports by value.[6] In response to strong domestic cattle price and trade barriers related to bovine spongiform encephalopathy and other diseases, U.S. cattle exports declined significantly in 2003–2004, but they are now on the rebound. The number of operations engaged in the export of cattle is unknown.

Under the proposed rule, domestic cattle producers wishing to export their animals would no longer be required to test for tuberculosis and brucellosis prior to export when the importing countries do not require such testing. As such, the proposed rule would represent a reduction in compliance costs currently associated with export requirements for live cattle. APHIS estimates the average cost of tuberculosis testing for cattle ranges from $10 to $12 per head. In addition, APHIS estimates the cost of an official herd blood test for brucellosis to be $3 per animal. APHIS welcomes public comment regarding the exact costs for tuberculosis tests and brucellosis tests per animal. Assuming a producer located in a State that is Accredited-free for tuberculosis and Class Free for brucellosis were to export cattle to a country where pre-export testing requirements were eliminated, the cost savings that the producer would capture as a result of the proposed change to the regulations would depend on the number of animals exported. Again, the exact number of domestic producers whose operations depend on the export of cattle is unknown. However, given the average per-head value of $916, the cost saved by not having to test for tuberculosis and brucellosis prior to export is not expected to be economically significant, as the combined cost of the tests represents a small percentage of the per-head value of the cattle.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 91

Animal diseases, Animal welfare, Exports, Livestock, Reporting and recordkeeping requirements, Transportation.

Accordingly, we propose to amend 9 CFR part 91 as follows:

PART 91—INSPECTION AND HANDLING OF LIVESTOCK FOR EXPORTATION

1. The authority citation for part 91 would continue to read as follows:

Authority: 7 U.S.C. 8301–8317; 19 U.S.C. 1644a(c); 21 U.S.C. 136, 136a, and 618; 46 U.S.C. 3901 and 3902; 7 CFR 2.22, 2.80, and 371.4.

2. In § 91.1, the definition of *official brucellosis vaccinate* would be revised to read as follows:

§ 91.1 Definitions.

* * * * *

[3] USDA–NASS, *Quick Stats U.S. & All States Data.* Washington, DC: National Agricultural Statistics Service, 2006.

[4] USDA–NASS, Agricultural Statistics 2005.

[5] Table of Size Standards based on North American Industry Classification System (NAICS) 2002. Beef Cattle Ranching and Farming: NAICS code 112111, Dairy Cattle and Milk Production: NAICS code 112120. Washington, DC: U.S. Small Business Administration, effective January 5, 2006.

[6] USDA–FAS, *U.S. Trade Exports-FATUS Commodity Aggregations.* Washington, DC: Foreign Agricultural Service. Based on data from the Dept. of Commerce, U.S. Census Bureau, Foreign Trade Statistics.

Official brucellosis vaccinate. An official adult vaccinate or an official calfhood vaccinate as defined in § 78.1 of this chapter.

* * * * *

3. Section 91.5 would be amended as follows:

a. In paragraph (a)(1), by removing the word ''or'' at the end of paragraph (a)(1)(i); by removing the citation ''9 CFR 77.1'' in paragraph (a)(1)(ii) and adding the citation ''§ 77.7 of this chapter'' in its place; by removing the period at the end of paragraph (a)(1)(ii) and adding a semicolon in its place; and by adding new paragraphs (a)(1)(iii) and (a)(1)(iv) to read as set forth below.

b. In paragraph (b)(1), by removing the word ''or'' at the end of paragraph (b)(1)(iv), by removing the period at the end of paragraph (b)(1)(v) and adding a semicolon in its place, and by adding new paragraphs (b)(1)(vi) and (b)(1)(vii) to read as set forth below.

§ 91.5 Cattle.

* * * * *

(a) * * *

(1) * * *

(iii) Cattle exported to a country that does not require cattle from the United States to be tested for tuberculosis as described in this part; or

(iv) Cattle exported from a State designated as an Accredited-free State in § 77.7 of this chapter to a country that does not require cattle from Accredited-free States to be tested for tuberculosis as described in this part.

* * * * *

(b) * * *

(1) * * *

(vi) Cattle exported to a country that does not require cattle from the United States to be tested for brucellosis as described in this part; or

(vii) Cattle exported from a State designated as a Class Free State in § 78.41 of this chapter to a country that does not require cattle from Class Free States to be tested for brucellosis as described in this part.

* * * * *

Done in Washington, DC, this 3rd day of January 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–111 Filed 1–9–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RM06–21–000 and RM07–4–000]

18 CFR Part 284

Release of Capacity on Interstate Natural Gas Pipelines; Request for Comments

January 3, 2007.

AGENCY : Federal Energy Regulatory Commission, DOE.

ACTION : Request for comments.

SUMMARY: The Federal Energy Regulatory Commission has received two petitions requesting changes in, or clarifications of, the Commission's regulations relating to the release of capacity on interstate natural gas pipelines. The Commission is requesting comments on the current operation of the Commission's capacity release program and whether changes in any of its capacity release policies would improve the efficiency of the natural gas market.

DATES: Comments are due March 12, 2007.

ADDRESSES: You may submit comments, identified by Docket Nos. RM06–21–000 and RM07–4–000, by one of the following methods:

- *Agency Web Site*: *http://ferc.gov.* Follow the instructions for submitting comments via the eFiling link found in the Comment Procedures Section of the preamble.
- *Mail*: Commenters unable to file comments electronically must mail or hand deliver an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426. Please refer to the Comment Procedures Section of the preamble for additional information on how to file paper comments.

FOR FURTHER INFORMATION CONTACT: Eugene Kim, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

SUPPLEMENTARY INFORMATION:

Pacific Gas and Electric Co., Southwest Gas Corp.

[Docket No. RM06–21–000]

Coral Energy Resources, L.P., Chevron U.S.A. Inc., ConocoPhillips Co., Constellation Energy Commodities Group, Inc., Merrill Lynch Commodities, Inc., Nexen Marketing U.S.A., Inc., Tenaska Marketing Ventures, UBS Energy LLC

[Docket No. RM07–4–000]

Request for Comments

1. Recently, the Commission has received two petitions, requesting changes in, or clarifications of, the Commission's regulations relating to the release of capacity on interstate natural gas pipelines.[1] As described below, this notice requests comment on the current operation of the Commission's capacity release program and whether changes in any of its capacity release policies would improve the efficiency of the natural gas market.

Background

2. In Order No. 636,[2] the Commission adopted the capacity release program in place of its previous ''capacity brokering'' program. Under capacity brokering, firm shippers could assign their capacity directly to a replacement shipper on a first-come, first-served basis, without any requirement that the brokering shipper post the availability of its capacity or allocate it to the highest bidder.[3] In Order No. 636, the Commission concluded that the Commission lacked the ability to ensure that capacity brokering was operating in a not unduly discriminatory fashion. ''When transactions occurred directly and privately between shippers, there was no way to verify that certain purchasers were not being favored unreasonably over others. 'Simply put, there [were] too many potential assignors of capacity and too many

[1] These regulations are set forth at 18 CFR 284.8 (2006).

[2] *Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation, and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol,* Order No. 636, 57 FR 13,267 (April 16, 1992), FERC Stats. and Regs. Regulations Preambles (January 1991–June 1996) ¶ 30,939 (April 8, 1992); *order on reh'g,* Order No. 636–A, 57 FR 36,128 (August 12, 1002), FERC Stats. and Regs. Regulations Preambles (January 1991–June 1996) ¶ 30,950 (August 3, 1992); *order on reh'g,* Order No. 636–B, 57 FR 57,911 (Dec. 8, 1992), 61 FERC ¶ 61,272 (1992); *notice of denial of reh'g,* 62 FERC ¶ 61,007 (1993); *aff'd in part, vacated and remanded in part, United Dist. Companies* v. *FERC,* 88 F.3d 1105 (D.C. Cir. 1996); *order on remand,* Order No. 636–C, 78 FERC ¶ 61,186 (1997).

[3] *See Algonquin Gas Transmission Corp.*, 59 FERC ¶ 61,032 (1992).

different programs for the Commission to oversee capacity brokering.''[4]

3. Order No. 636 accordingly adopted regulations designed to assure the transparency of capacity release transactions and a non-discriminatory allocation of any released capacity. Those regulations generally require that all shipper offers to release be posted on the pipeline's internet Web site and that contracting be done directly with the pipeline. Sections 284.8(c) through (e) require that capacity offered for release at less than the maximum rate must be posted for bidding, and the pipeline must allocate the capacity ''to the person offering the highest rate (not over the maximum rate).'' [5] Section 284.8(h) exempts releases of 31 days or less and all releases at the maximum rate from these bidding requirements, but notice of such releases must be posted. In addition, Order No. 636-A prohibited tying the release of capacity to any extraneous conditions. Finally, as Order No. 637 explained, all ''the capacity release rules were designed with [the shipper-must-have-title] policy as their foundation,'' since without this requirement ''capacity holders could simply transport gas over the pipeline for another entity.'' [6]

4. In Order No. 637, the Commission lifted the maximum rate cap on capacity releases of less than one year for a 22-month experimental period. However, the Commission did not act at the end of that period, and thus all capacity releases are currently subject to the rate cap.

5. In August 2006, Pacific Gas and Electric Co. (PG&E) and Southwest Gas Corp. (Southwest) filed a petition requesting the Commission to amend §§ 284.8(e) and (h)(1) to remove the maximum rate cap on capacity release transactions. They contend that removing the price cap would improve the efficiency of the capacity market by giving releasing shippers a greater incentive to release their capacity during periods of constraint. This would allow shippers who value the capacity the most to obtain it, provide more accurate price signals concerning the value of capacity, and provide greater potential cost mitigation to holders of long-term firm capacity.

6. In October 2006, a group of large natural gas marketers (marketer petitioners [7]) requested clarification of the operation of the Commission's capacity release rules in the context of portfolio management services.[8] The marketer petitioners are concerned that the current capacity release rules may interfere with marketers' providing efficient portfolio management services to local distribution companies (LDCs) and others. These services generally entail the LDC entering into a prearranged, maximum rate release to the marketer of its portfolio of firm transportation service agreements with interstate pipelines, along with an assignment of its gas purchase contracts. The marketer then manages these various contracts, as well as other gas supply contracts it may enter into itself, both to supply gas to the LDC and to make off-system sales to others during periods when the LDC does not need the gas.

7. The marketer petitioners state that some portfolio management agreements may require the marketer/replacement shipper to pay fees to the LDC/releasing shipper. These fees could include a lump sum payment, a sharing of the marketer's net proceeds from its gas sales to others, or an agreement to provide gas to the LDC at below-market prices. The petitioners request clarification that none of these payments would cause the capacity release to exceed the maximum rate cap. Alternatively, the marketer petitioners state, a portfolio management agreement may require the LDC/releasing shipper to rebate some or all of the pipeline's reservation charge to the marketer/replacement shipper. The petitioners request clarification that such a rebate would not cause the release to be considered as less than the maximum rate, subject to the bidding requirement of §§ 284.8(c) through (e).

8. The marketer petitioners also state that an LDC may require marketers seeking to participate in a portfolio management arrangement to take a release of all its transportation agreements and/or all its gas supply contracts, as a package. Further, they argue that Order No. 636–A held that the tying of a capacity release to any extraneous conditions is prohibited (tying prohibition). Accordingly, the marketer petitioners request that the Commission clarify that packaging gas supply and pipeline capacity, or multiple segments of capacity, as part of a portfolio management arrangement would not violate the Commission's policy against tying.

Request for Comments

9. In light of the above two petitions, comments are requested to assist in evaluating (1) the current operation of the capacity release rules and policies and (2) whether any changes in those rules and policies should be considered. Commenters should address the following questions:

1. Should the Commission consider lifting the maximum rate cap on a permanent basis either for short-term, or all, capacity releases? Would the factors relied upon in Order No. 637 for lifting the maximum rate cap for short-term releases on an experimental basis support lifting the maximum rate cap today? Do subsequent developments in the natural gas market either lend further support to lifting the maximum rate cap or militate against lifting the cap?

2. Are there methods of providing additional price flexibility for capacity releases short of removing the maximum rate cap, for example through the use of basis differentials to value the capacity or the establishment of seasonally varying maximum capacity release rates?

3. Order No. 636 required that prearranged capacity releases of more than 30 days, which are at less than the maximum rate, be posted for bidding in order to assure that capacity is released to those who value it the most. Should the Commission consider removing this requirement? Does the bidding requirement hinder the negotiation of beneficial release arrangements, and thereby do more harm than good? Would a requirement that the terms of prearranged capacity releases be posted, without requiring bidding, provide sufficient market transparency to discourage undue discrimination in the release of capacity?

4. Does the Order No. 636 prohibition on tying arrangements interfere with beneficial capacity release arrangements, including portfolio management services? Should the

[4] *UDC* v. *FERC*, 88 F.3d 1105, 1149–50 (D.C. Cir. 1996), quoting Order No. 636 at 30,416.

[5] Section 284.8(h)(i) also provides that prearranged releases of capacity may not exceed the maximum rate. A petition for rulemaking to remove the rate cap for capacity release transactions is currently pending in Docket No. RM06–21–000. However, the Petitioners here state that they are seeking to remove the capacity release rate cap, although if that were done it would eliminate some of their problems.

[6] *Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services,* Order No. 637, 65 FR 10,156 (2000), III FERC Stats. & Regs. Regulations Preambles (July 1996–December 2000) ¶ 31,091, at 31,300 (Fe3. 9, 2000); *order on reh'g.* Order No. 637–A, 65 FR 35,706 (2000), III FERC Stats. & Regs. Regulations Preambles (July 1996–December 2000) ¶ 31,099 (May 19, 2000); *order on reh'g,* Order No. 637–B, 65 FR 47,284 (2000), *affirmed in relevant part, INGAA vs. FERC,* 285 F.3d 18 (D.C. Cir. 2002).

[7] Coral Energy Resources, LP; ConocoPhillips Co.; Chevron USA, Inc.; Constellation Energy Commodities Group, Inc.; Tenaska Marketing Ventures; Merrill Lynch Commodities, Inc.; Nexen Marketing USA, Inc.; and UBS Energy LLC.

[8] The marketer petitioners originally filed their petition in Docket Nos. RM91–11–009 and RM98–10–013. However, the Commission has redocketed the petition in Docket no. RM07–4–000.

Commission clarify or modify its capacity release rules to permit releasing shippers to require replacement shippers to take assignment of the releasing shippers' gas purchase contracts or to take a release of a package of transportation agreements? Should such tying arrangements be permitted only in particular circumstances, such as when a local distribution company is seeking a marketer to manage its gas acquisition activities? Would the risk of undue discrimination be mitigated if the releasing shipper was required to use a formalized request for proposal (RFP) structure with notice of the RFP requirements posted on the pipeline's Web site?

5. Should the Commission consider removal of the shipper-must-have-title requirement? While Order No. 637 stated that the capacity release rules were designed with this policy as their foundation, Order No. 637 also recognized that the shipper-must-have-title requirement imposes some transaction costs and that the capacity release program might be revised so that it could operate without that requirement. How could the shipper-must-have-title requirement be removed while still achieving the objective of nondiscriminatory, efficient allocation of released capacity with transparency?

6. The Commission's current capacity release regulations, including the maximum rate cap and the posting and bidding requirements, were adopted in order to minimize undue discrimination and control the exercise of market power in the capacity release market. Would any proposed changes to those rules provide sufficient efficiency gains in the natural gas market to justify relaxing the existing capacity rules concerning posting and bidding and the maximum rate cap?

Procedure for Comments

10. The Commission invites interested persons to submit comments on the matters, issues, and specific questions identified in this notice. Comments are due 60 days from the date of publication in the **Federal Register**. Comments must refer to Docket Nos. RM06–21–000 and RM07–4–000, and must include the commenter's name, the organization they represent, if applicable, and their address.

11. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov.* The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

12. Commenters that are not able to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street, NE., Washington, DC 20426.

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

Document Availability

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

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

16. User assistance is available for eLibrary and the Commission's Web site during normal business hours from our Help line at (202) 502–6652 or the Public Reference Room at (202) 502–8371 Press 0, TTY (202) 502–8659. E-mail the Public Reference Room at *public.referenceroom@ferc.gov*.

By direction of the Commission.

Nora E. Donovan,

Acting Secretary.

[FR Doc. E7–128 Filed 1–9–07; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R05–OAR–2006–0560; FRL–8267–4]

Approval and Promulgation of Air Implementation Plans; Ohio; Rules to Control Emissions From Hospital, Medical, and Infectious Waste Incinerators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve, with exceptions noted below, a State plan submitted by Ohio concerning criteria pollutant and toxic emissions from Hospital, Medical and Infectious Waste Incinerators (HMIWI) in the State. EPA is proposing to approve all other items requested in Ohio's letter of October 18, 2005, including limits for a variety of emissions from HMIWI units including mercury, cadmium, lead, hydrogen chloride, and dioxin and criteria pollutants. Ohio prepared a plan based on CAA sections 111(d) and 129 for existing hospital, medical and infectious waste incinerators and asked that it be reviewed and approved as a revision to the State plan. The State's HMIWI plan sets out requirements for affected units at least as stringent as the EPA requirements entitled ''Emission Guidelines (EG) and Compliance Times for Hospital/Medical/ Infectious Waste Incinerators'' published in the **Federal Register** dated September 15, 1997. For approval, the State plan must include requirements for emission limits at least as protective as those requirements stated in the emission guideline. The rules in the plan apply to existing sources only for which construction commenced on or before June 20, 1996. New sources constructed after this date are covered by a Federal new source performance standard. The Ohio rules, contained in the plan, were proposed on March 22, 2002, and a public hearing was held on April 29, 2002. The rules became effective in Ohio on March 23, 2004. Plans affecting this source category were due from States with HMIWI subject to the emission guidelines on September 15, 1998. Ohio missed the submittal deadline and became subject to the Federal Plan on August 15, 2000, (65 FR 49868). We are proposing to approve the Ohio plan because we believe it meets the requirements of the EPA emission guideline affecting hospital incinerators.

Any party interested in commenting on EPA's proposed approval should do so within the timeframe noted below.

DATES: Comments must be received on or before February 9, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2006–0560 by one of the following methods:

- *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.
- *E-mail: mooney.john@epa.gov*.
- *Fax:* (312) 886–5824.
- *Mail:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.
- *Hand delivery:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2006–0560. EPA's policy is that all comments received will be included in the public docket without change and may be made available on line at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The www.regulations.gov Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov/* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. We recommend that you telephone John Paskevicz, Engineer, at (312) 886–6084 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: John Paskevicz, Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312)353–8656, or via e-mail at *paskevicz.john@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' are used we mean the EPA. The **SUPPLEMENTARY INFORMATION** is arranged as follows:

I. What Should I Consider as I Prepare My Comments for EPA?
II. Does This Action Apply to Me?
III. Did the State Provide an Opportunity for Public Review?
IV. Does the State Plan Meet the Requirements of the EPA Model Rule and Emission Guideline?
V. What Action Is EPA Taking Today?
VI. Statutory and Executive Order Reviews

SUPPLEMENTARY INFORMATION:

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

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

2. 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.

3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

4. Describe any assumptions and provide any technical information and/or data that you used.

5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

6. Provide specific examples to illustrate your concerns, and suggest alternatives.

7. Explain your views as clearly as possible, avoiding the use of vulgarity or personal threats.

8. Make sure to submit your comments by the comment period deadline identified.

II. Does This Action Apply to Me?

Ohio Administrative Code (OAC) 3745–75, Hospital/Medical/ Infectious (HMI) Waste Incinerator rules apply to existing (prior to June 1996) incinerator units which burn waste generated at hospitals. Waste (hospital waste and medical/infectious waste) is defined in the State rule similar to the definitions found in the EPA emission guideline, dated September 15, 1997. These State rules do not apply to new units. New units are subject to Federal new source performance standards issued in September 1997. Some existing units in this rule may be exempt from the requirement if these units co-fire with other fuels or municipal waste where the HMI waste is less than a specific fraction of the total waste stream. This action applies to you if you own and/or operate an existing hospital, medical, infectious waste incinerator in the State of Ohio defined in the ''applicability'' portion of the Ohio rule OAC 3745–75–01. Some exemptions are available in the State rule and these exemptions are consistent with the Federal plan requirements published in the **Federal Register** on August 15, 2000. 65 FR 49881.

III. Did the State Provide an Opportunity for Public Review?

The Emission Guidelines (EG) and Compliance Times for Hospital Medical and Infectious Waste Incinerators were published in the **Federal Register** on September 15, 1997. Plans affecting HMIWI sources subject to the EG were due from the States to EPA on September 15, 1998. Ohio did not meet this deadline and HMIWI sources in the State became subject to a Federal plan on August 15, 2000, (65 FR 49868.) The Ohio rules were made public and proposed on March 22, 2002, and a public hearing was held in Columbus, Ohio on April 29, 2002. No members of

the public provided public testimony at the hearing. There were, however, several public comments from industry and other State agencies on the new rules. The State's rules became effective on March 23, 2004. The plan containing the rules was submitted to EPA on October 18, 2005, and set out requirements for affected units at least as stringent as those in 40 CFR part 60, subpart Ce, known as ''Emission Guidelines (EG) and Compliance Times for Hospital/Medical/Infectious Waste Incinerators.''

EPA finds that the State plan includes requirements for emission limits at least as protective as the requirements stated in the emission guideline document. The State plan follows the requirements of the model rule with one exception. The State reports in its emission inventory that there are no small rural (HMIWI) incinerators in the State, as defined in the Emission Guideline (noted above) and the Federal Plan (40 CFR 62.14490), and therefore Ohio did not include this source size in the State plan. A ''small rural HMIWI'' is defined as a small HMIWI which is located more than 50 miles from the boundary of the nearest Standard Metropolitan Statistical Area and which burns less than 2,000 pounds per week of hospital waste and medical waste. Citizens of Ohio, who believe this may not be the case for any facility they are aware of, are asked to comment to this effect per instructions noted above.

IV. Does the State Plan Meet the Requirements of the EPA Model Rule and Emission Guideline?

The State plan incorporates elements of the model rule and elements of the Federal emission guideline organized in a format which meets State administrative requirements. As noted above, the State emissions inventory of all HMIWI sources in the State shows that there are no small rural HMIWI units in Ohio. The State does not include this source size in the rule being proposed for approval. Citizens are asked to comment on this if they have information to the contrary.

The State rule addresses all of the emission limits of the named pollutants in the Federal Plan. The State rule also sets emission limits for pollutants not part of the Federal emission guideline or the Federal Plan. The State includes in its rule limits on arsenic, beryllium, chromium, and nickel. EPA will not propose approval, or take any action on these limits because these pollutants are not part of the Federal HMIWI plan or EG. EPA does not have legal authority to rule on these other pollutants in the context of the Federal HMIWI emission guideline document and the Federal Plan and therefore will not address these pollutants in this proposed approval.

V. What Action Is EPA Taking Today?

The EPA is proposing to approve, with some exceptions noted above, the Ohio plan which will reduce emissions from incinerators in order for the State to continue to protect the health of the people of Ohio. EPA is not acting on the following portions of the Ohio Rule 3745–75–02(I)(1) (arsenic), –02(I)(2) (beryllium), –02(I)(4) (chromium), and –02(I)(7) (nickel) because the emission limits noted here are not part of the EPA EG document and approval of these emission limits for the pollutants noted would exceed the EPA's authority. EPA is proposing to approve all other items requested in Ohio's letter of October 18, 2005, including limits for a variety of emissions from HMIWI units including mercury, cadmium, lead, hydrogen chloride, dioxin and criteria pollutants.

VI. Statutory and Executive Order Reviews

Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, September 30, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget.

Paperwork Reduction Act

This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Regulatory Flexibility Act

This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Unfunded Mandates Reform Act

Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

Executive Order 13132: Federalism

This action also does not have federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

This proposed rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

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

Because it is not a ''significant regulatory action'' under Executive Order 12866 or a ''significant energy action,'' this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001).

National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), 15 U.S.C. 272, requires Federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impractical. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of

the Clean Air Act. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a SIP submission for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a program submission that otherwise satisfies the provisions of the Clean Air Act. Therefore, the requirements of section 12(d) of the NTTA do not apply.

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Nitrogen dioxide, Particulate matter, Carbon monoxide, Reporting and recordkeeping requirements.

Dated: December 27, 2006.

Steve Rothblatt,

Acting Regional Administrator, Region 5.

[FR Doc. E7–178 Filed 1–9–07; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 06–2563; MB Docket No. 06–200, RM–11350]

Radio Broadcasting Services; Boswell, OK and Detroit, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on the removal of two mutually exclusive vacant allotments, Channel 282C3 at Boswell, Oklahoma and Channel 282C2 at Detroit, Texas. The allotments are not in compliance with the minimum distance separation requirements of Section 73.207(b) of the Commission's Rules. These vacant allotments are separated by 39.5, a short-spacing of 137.5 kilometers. The minimum distance spacing requirement for these allotments is 177 kilometers. Interest parties should file comments expressing an interest in the vacant allotments to prevent removal. *See* **SUPPLEMENTARY INFORMATION**, *infra*.

DATES: Comments must be filed on or before February 12, 2007 and reply comments on or before February 27, 2007.

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

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MB Docket No. 06–200, adopted December 20, 2006 and released December 22, 2006. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center 445 Twelfth Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC, 20054, telephone 1–800–378–3160 or *http://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).

Channel 282C3 at Boswell, Oklahoma was allotted in MB Docket No. 01–136, as the community's first local service without a site restriction at coordinates 34–01–38 NL and 95–52–08 WL. *See Boswell, Oklahoma*, Report and Order, 17 FCC Rcd 6630 (MB 2002).

Channel 282C2 was substituted for vacant Channel 294C2 at Detroit, Texas, as the community's first local service in MM Docket No. 98–198. *See Cross Plains, Texas et al.*, Report and Order, 15 FCC Rcd 5506 (MMB 2000). The reference coordinates for vacant Channel 282C2 at Detroit are 33–47–21 NL and 95–33–07 WL.

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 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by removing Boswell, Channel 282C3.

3. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Detroit, Channel 282C2.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E7–181 Filed 1–9–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 06–2566; MB Docket No. 06–193, RM–11345]

Radio Broadcasting Services; Port Chester, NY, and Stamford, CT

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. The Audio Division requests comment on a petition filed by Cox Radio, Inc. pursuant to section 1.420(i) of the Commission's rules. Petitioner proposes to change the community of license for Station WKHL(FM) from Port Chester, New York, to Stamford, Connecticut, and to change the FM Table of Allotments by deleting Channel 244A at Port Chester, New York, and by adding Channel 244A at Stamford, Connecticut, as the community's first local aural broadcast service. The proposed coordinates for Channel 244A at Stamford, Connecticut, are 41–02–49 NL and 73–31–36 WL. The allotment will require a site restriction of 12.8 km (7.9 miles) northeast of Port Chester.

DATES: Comments must be filed on or before February 12, 2007, and reply comments on or before February 27, 2007.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for the petitioner as follows:

Kevin F. Reed, Esq., Christina H. Burrow, Esq., Nam E. Kim, Esq., Dow, Lohnes & Albertson, PLLC, 1200 New Hampshire Avenue, NW., Suite 800, 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. 06–193; adopted December 20, 2006, and released December 22, 2006. The full text of this Commission document is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. 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, *http://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 Connecticut, is amended by removing Channel 244A at Stamford.

3. Section 73.202(b), the Table of FM Allotments under New York, is amended by adding Port Charles, Channel 244A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E7–185 Filed 1–9–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PS Docket No. 06–229; WT Docket No. 96–86; FCC 06–181]

Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the FCC seeks comment on proposals that 700 MHz public safety spectrum be allocated for broadband use and that a single, national public safety broadband licensee be assigned this spectrum on a primary basis. Consistent with national priorities focusing on homeland security and broadband, and the Commission's commitment to ensure that emergency first responders have access to reliable and interoperable communications, this *NPRM* will allow the Commission to compile a record in an effort to determine whether there is a need for changes to the current 700 MHz public safety band plan. This *NPRM* seeks to promote effective public safety communications and innovation in wireless services in support of public safety and homeland security.

DATES: Written comments are due on or before February 26, 2007, and reply comments are due on or before March 12, 2007.

ADDRESSES: You may submit comments, identified by PS Docket No. 06–229 and WT Docket No. 96–86, by any of the identified methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Federal Communications Commission's Web Site: *http://www.fcc.gov/cgb/ecfs/.* Follow the instructions for submitting comments.
- Mail: Follow the instructions for paper filers below.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Jeffrey S. Cohen, Deputy Division Chief, Policy Division, Public Safety and Homeland Security Bureau, (202) 418–0799, or TTY (202) 418–7233.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's *Ninth Notice of Proposed Rulemaking (9th NPRM),* FCC 06–181, adopted and released on December 20, 2006. In the *9th NPRM*, the FCC seeks comment on its proposal that the 12 MHz of spectrum at 767–773 MHz and 797–803 MHz, currently designated as wideband segments, be allocated for broadband use and that a single, national public safety broadband licensee be assigned this spectrum on a primary basis. Specifically, this *9th NPRM* seeks to expand and build upon the themes raised in the *Eighth Notice of Proposed Rulemaking (Eighth NPRM),* 71 FR 17786 (April 7, 2006), by proposing a comprehensive plan that may best promote the rapid deployment of a nationwide, interoperable, broadband public safety network, and thereby improve emergency responsiveness. Particularly in light of the nation's current and anticipated public safety and homeland security needs, the FCC proposes a centralized and national approach to maximize public safety access to interoperable, broadband spectrum in the 700 MHz band, and, at the same time, foster and promote the development and deployment of advanced broadband applications, related radio technologies, and a modern, IP-based system architecture.

Procedural Matters

Ex Parte Rules-Permit-But-Disclose Proceeding

This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects

discussed. More than a one-or two-sentence description of the views and arguments presented is generally required. Other rules pertaining to oral and written presentations are set forth in § 1.1206(b) of the FCC's rules as well.

Comment Dates

Pursuant to §§ 1.415 and 1.419 of the FCC's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) The FCC's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

• Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs/* or the Federal eRulemaking Portal: *http://www.regulations.gov.* Filers should follow the instructions provided on the Web site for submitting comments.

• For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to *ecfs@fcc.gov,* and include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in response.

• Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

• The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.

• Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

• U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington, DC 20554.

Comments and reply comments and any other filed documents in this matter may be obtained from Best Copy and Printing, Inc., in person at 445 12th Street, SW., Room CY–B402, Washington, DC 20554, via telephone at (202) 488–5300, via facsimile at (202) 488–5563, or via e-mail at *FCC@BCPIWEB.COM.* The pleadings will be also available for public inspection and copying during regular business hours in the FCC Reference Information Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554, and through the Commission's Electronic Filing System (ECFS) accessible on the Commission's Web site, *http://www.fcc.gov/cgb/ecfs.*

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Commenters who file information that they believe is should be withheld from public inspection may request confidential treatment pursuant to § 0.459 of the Commission's rules. Commenters should file both their original comments for which they request confidentiality and redacted comments, along with their request for confidential treatment. Commenters should not file proprietary information electronically. Even if the Commission grants confidential treatment, information that does not fall within a specific exemption pursuant to the Freedom of Information Act (FOIA) must be publicly disclosed pursuant to an appropriate request. *See* 47 CFR 0.461; 5 U.S.C. 552. We note that the Commission may grant requests for confidential treatment either conditionally or unconditionally. As such, we note that the Commission has the discretion to release information on public interest grounds that does fall within the scope of a FOIA exemption.

Synopsis of the Notice of Proposed Rulemaking

1. In this *NPRM*, we seek comment on a proposal that the Commission (1) allocate 12 MHz of the 700 MHz public safety spectrum from wideband to broadband use; (2) assign this spectrum nationwide to a single national public safety broadband licensee; (3) permit the national public safety broadband licensee also to operate on a secondary basis on all other public safety spectrum in the 700 MHz band; (4) permit the licensee to provide unconditionally preemptible access to commercial service providers; (5) facilitate the shared use of CMRS infrastructure for the efficient provision of public safety broadband service; (6) permit the licensee to charge fees for use of its system; and (7) establish performance requirements for interoperability, build out, preemptibility of commercial access, and system robustness. This *NPRM* seeks to promote effective public safety communications and innovation in wireless services in support of public safety and homeland security.

Paperwork Reduction Act

2. This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Pub. L. 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, Pub. L. 107–198, *see* 44 U.S.C. 3506 (c)(4).

Initial Regulatory Flexibility Analysis

3. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) regarding the possible significant economic impact of the policies and rules proposed in this *NPRM* on a substantial number of small entities. Written public comments are requested regarding this IRFA. Comments must be identified as responses to this IRFA and must be filed by the deadlines for comments identified in the *NPRM.* The Commission will send a copy of this *NPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, this *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

1. Need for, and Objectives of, the Proposed Rules

4. This *NPRM* seeks to promote homeland security, and to advance the

Commission's commitment to ensure that emergency first responders have access to reliable, interoperable and broadband communications. To place this *NPRM* in context we briefly review the history of the 700 MHz public safety spectrum. Pursuant to Congressional directive, the Commission reallocated 24 MHz of spectrum in the Upper 700 MHz Band to meet the communications needs of public safety. In many areas of the United States this public safety spectrum is encumbered by incumbent television stations. In January 1999 the Commission chartered a federal advisory committee, the Public Safety National Coordination Committee (NCC), to advise the Commission on service rules for the 700 MHz Public Safety Band, which the Commission had divided into narrowband voice and data channels and wideband data channels, with designated interoperability channels in each of these band segments. In March 2006, the Commission adopted an *Eighth NPRM* in which it sought comment on whether certain channels within the current 24 MHz of public safety spectrum in the 700 MHz public safety band (764–776 MHz and 794–806 MHz) should be modified to accommodate broadband communications, and if so, how. The *Eighth NPRM* sought comment on specific proposals to accommodate broadband, submitted by the National Public Safety Telecommunications Council, Motorola, Inc., and Lucent Technologies, Inc. The Commission also asked commenters to update the record regarding wideband interoperability and the SAM standard. This *NPRM* is another step in the FCC's ongoing efforts to develop a regulatory framework in which to meet current and future public safety communications needs.

5. In this *NPRM*, we seek comment on a proposal that the Commission (1) allocate 12 MHz of the 700 MHz public safety spectrum from wideband to broadband use; (2) assign this spectrum nationwide to a single national public safety broadband licensee; (3) permit the national public safety broadband licensee also to operate on a secondary basis on all other public safety spectrum in the 700 MHz band; (4) permit the licensee to provide unconditionally preemptible access to commercial service providers; (5) facilitate the shared use of CMRS infrastructure for the efficient provision of public safety broadband service; (6) permit the licensee to charge fees for use of its system; and (7) establish performance requirements for interoperability, build out, preemptibility of commercial access, and system robustness. This *NPRM* seeks to promote effective public safety communications and innovation in wireless services in support of public safety and homeland security.

6. Consistent with national priorities focusing on homeland security and broadband, and the Commission's commitment to ensure that emergency first responders have access to reliable and interoperable communications, this *NPRM* will allow the Commission to compile a record in an effort to determine whether there is a need for changes to the current 700 MHz public safety band plan. The *NPRM* is intended to explore whether, particularly in light of the nation's current and anticipated public safety and homeland security needs, a centralized and national approach would maximize public safety access to interoperable, broadband spectrum in the 700 MHz band, and, at the same time, foster and promote the development and deployment of advanced broadband applications, related radio technologies, and a modern, IP-based system architecture. At the same time, the *NPRM* also seeks to provide public safety entities with a cost effective and spectrally-efficient communications system.

2. Legal Basis

7. The authority for the action proposed in this rulemaking is contained in sections 1, 2, 4(i), 5(c), 7, 10, 201, 202, 208, 301, 302, 303, 307, 308, 309, 310, 314, 316, 319, 324, 332, 333, 337 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 155(c), 157, 160, 201, 202, 208, 301, 302, 303, 307, 308, 309, 310, 314, 316, 319, 324, 332, 333, 337 and 403.

3. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

8. 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, if adopted. 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).

9. *Governmental Entities.* The term ''small governmental jurisdiction'' is defined as ''governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' As of 2002, there were approximately 87,525 governmental jurisdictions in the United States. This number includes 38,967 county governments, municipalities, and townships, of which 37,373 (approximately 95.9%) have populations of fewer than 50,000, and of which 1,594 have populations of 50,000 or more. Thus, we estimate the number of small governmental jurisdictions overall to be 85,931 or fewer.

10. *Public Safety Radio Licensees.* As a general matter, public safety radio licensees include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services. The SBA rules contain a definition for cellular and other wireless telecommunications companies which encompass business entities engaged in wireless communications employing no more than 1,500 persons. According to Census Bureau data for 2002, in this category there was a total of 8,863 firms that operated for the entire year. Of this total, 401 firms had 100 or more employees, and the remainder had fewer than 100 employees. With respect to local governments, in particular, since many governmental entities as well as private businesses comprise the licensees for these services, we include under public safety services the number of government entities affected.

11. *Wireless Communications Equipment Manufacturers.* The SBA has established a small business size standard for radio and television broadcasting and wireless communications equipment manufacturing. Under the standard, firms are considered small if they have 1000 or fewer employees. Census Bureau data for 1997 indicates that, for that year, there were a total of 1,215 establishments in this category. Of those, there were 1,150 that had employment under 500, and an additional 37 that had employment of 500 to 999. The Commission estimates that the majority of wireless communications equipment manufacturers are small businesses.

4. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

12. This *NPRM* seeks comment on possible revisions to the 700 MHz public safety band that may modify reporting, recordkeeping and other compliance requirements. The Commission requests comment on proposals to apply its Secondary

Markets leasing regime to a national public safety licensee. Application of secondary markets leasing to the 700 MHz public safety band would require a modification of current reporting and recordkeeping requirements.

5. Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

13. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

14. Generally, the Commission's primary objective in issuing the *NPRM* is to maximize public safety access to interoperable, broadband spectrum in the 700 MHz band and, at the same time, foster and promote the development and deployment of advanced broadband applications, related radio technologies, and a modern, IP-based system architecture. To assist the Commission in its analysis, commenters are requested to provide information regarding which public safety entities and manufacturers would be affected by the proposed changes to the 700 MHz public safety band plan as described in this *NPRM.* In particular, we seek estimates of how many small entities might be affected and whether any of the proposals under consideration would be too burdensome to public safety.

15. In the *NPRM*, we seek data demonstrating the costs and benefits of modifying the 700 MHz band to accommodate a nationwide, broadband, interoperable public safety communications network. Pursuant to the proposed plan, a single nationwide public safety licensee would be selected to hold a single nationwide license for 12 MHz of public safety spectrum. The national licensee then would make this spectrum available for broadband, interoperable public safety operations, as well as in the 700 MHz narrowband spectrum on a secondary basis. Furthermore, the national licensee would be able to lease excess capacity in these bands to commercial entities on an unconditionally preemptible basis. The *NPRM* asks commenters to identify the criteria for selection of a national public safety licensee, how the national licensee can best implement a broadband, interoperable network, the amount of discretion the national licensee should be afforded in designing the best system architecture, how to ensure nationwide build-out, and the appropriate degree of network resiliency and disaster restoration capabilities for this public safety network. The *NPRM* also explores funding options, including the imposition of usage fees charged to public safety users as well as commercial users. Accordingly, we seek comment on the costs and benefits of modifying the existing rules to accommodate deployment of a broadband, interoperable public safety network as proposed.

16. With regard to alternatives, we do not anticipate that any of the proposals under consideration in this *NPRM* would impose any additional economic burdens on public safety entities. We believe our proposals will provide a resource for public safety to utilize a more cost-effective and spectrally efficient communications system to address their homeland security and emergency response needs. Indeed, one of the major objectives underlying this proposal is to minimize economic burdens on public safety entities. Because we do not anticipate that our proposal will impose additional economic burdens on public safety, and is in fact designed to reduce economic burdens on public safety, we see no reason to propose alternatives to accomplish our objectives. However, we remain open to discussing alternatives to reaching our objectives should an alternative be stated in comments for the specific purpose of minimizing the impact on public safety entities. Accordingly, we seek comment on alternatives including any that may further minimize the impact on public safety entities.

6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

17. None.

Ordering Clauses

18. Accordingly, *it is ordered* that pursuant to sections 1, 2, 4(i), 5(c), 7, 10, 201, 202, 208, 301, 302, 303, 307, 308, 309, 310, 314, 316, 319, 324, 332, 333, 337 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 155(c), 157, 160, 201, 202, 208, 301, 302, 303, 307, 308, 309, 310, 314, 316, 319, 324, 332, 333, 337 and 403, the Ninth Notice of Proposed Rulemaking is hereby *adopted.*

19. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *NPRM*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–171 Filed 1–9–07; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 172 and 174

[Docket No. RSPA–04–18730 (HM–232E)]

RIN 2137–AE02

Hazardous Materials: Enhancing Rail Transportation Safety and Security for Hazardous Materials Shipments

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Notice of public meeting.

SUMMARY: On December 21, 2006 the Pipeline and Hazardous Materials Safety Administration, in consultation with the Federal Railroad Administration and the Transportation Security Administration, published a notice of proposed rulemaking proposing to revise the current requirements in the Hazardous Materials Regulations applicable to the safe and secure transportation of hazardous materials transported in commerce by rail. Specifically, we are proposing to require rail carriers to compile annual data on specified shipments of hazardous materials, use the data to analyze safety and security risks along rail transportation routes where those materials are transported, assess alternative routing options, and make routing decisions based on those assessments. We are also proposing clarifications of the current security plan requirements to address en route storage, delays in transit, delivery notification, and additional security inspection requirements for hazardous materials shipments. PHMSA will hold two public meetings, on February 1, 2007, in Washington, DC, and February 9, 2007, in Dallas, Texas, to obtain stakeholder comments on the proposed rail security requirements. Information on the dates and locations of the public meetings is provided in this notice.

DATES: *Public Meetings:*

(1) February 1, 2007, starting at 9 a.m., in Washington, DC; and

(2) February 9, 2007, starting at 9 a.m., in Dallas, Texas.

Comments: In accordance with the timeframe established by the December 21, 2006 NPRM, comments to this docket must be received no later than February 20, 2007.

ADDRESSES: *Public Meetings:*

(1) Holiday Inn Capitol, 550 C Street, SW., Washington, DC 20024.

(2) Hyatt Regency Dallas Fort Worth Airport, International Parkway, P.O. Box 619014, DFW Airport, Texas, USA 75261.

Oral Presentations: Any person wishing to present an oral statement should notify Ben Supko, by telephone or in writing at least four business days before the date of the public meeting at which the person wishes to speak. Oral statements will be limited to 15 minutes per commenter. For information on facilities or services for persons with disabilities or to request special assistance at the meetings, contact Mr. Supko as soon as possible.

Docket: To access the docket for review of the comments and regulatory actions affecting this rulemaking go to *http://dms.dot.gov* and/or Room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Written Comments: We invite interested parties who are unable to attend the public meeting, or who otherwise desire to submit written comments or data to submit any relevant information, data, or comments to the DOT Docket Management System Docket Number RSPA–04–18730 by any of the following methods:

- Web site: *http://dms.dot.gov*. Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1–202–493–2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Instructions: You must include the agency name and docket number RSPA–04–18730 for this notice at the beginning of your comment. Internet users may access comments received by DOT at *http://dms.dot.gov*. Note that comments received may be posted without change to *http://dms.dot.gov* including any personal information provided. Please see the Privacy Act section of this document.

While all comments should be sent to DOT's Docket Management System (DMS), comments or those portions of comments PHMSA determines to include trade secrets, confidential commercial information, or sensitive security information (SSI) will not be placed in the public docket and will be handled separately. If you believe your comments contain trade secrets, confidential commercial information, or SSI, those comments or the relevant portions of those comments should be appropriately marked so that DOT may make a determination. PHMSA procedures in 49 CFR part 105 establish a mechanism by which commenters may request confidentiality.

In accordance with 49 CFR 105.30, you may ask PHMSA to keep information confidential using the following procedures: (1) Mark ''confidential'' on each page of the original document you would like to keep confidential; (2) send DMS both the original document and a second copy of the original document with the confidential information deleted; and (3) explain why the information is confidential (such as a trade secret, confidential commercial information, or SSI). In your explanation, you should provide enough information to enable PHMSA to determine whether the information provided is protected by law and must be handled separately.

In addition, for comments or portions of comments that you believe contain SSI as defined in 49 CFR 15.7, you should comply with Federal regulations governing restrictions on the disclosure of SSI. See 49 CFR 1520.9 and 49 CFR 15.9, Restrictions on the disclosure of sensitive security information. For example, these sections restrict the sharing of SSI to those with a need to know, set out the requirement to mark the information as SSI, and address how the information should be disposed. Note also when mailing in or using a special delivery service to send comments containing SSI, comments should be wrapped in a manner to prevent the information from being read. PHMSA and TSA may perform concurrent reviews on requests for designations as SSI.

After reviewing your request for confidentiality and the information provided, PHMSA will analyze applicable laws and regulations to decide whether to treat the information as confidential. PHMSA will notify you of the decision to grant or deny confidentiality. If PHMSA denies confidentiality, you will be provided an opportunity to respond to the denial before the information is publicly disclosed. PHMSA will reconsider its decision to deny confidentiality based on your response.

Regarding comments not marked as confidential, prior to posting comments received in response to this notice in the public docket, PHMSA will review all comments, whether or not they are identified as confidential, to determine if the submission or portions of the submission contain information that should not be made available to the general public. PHMSA will notify you if the agencies make such a determination relative to your comment. If, prior to submitting your comment, you have any questions concerning the procedures for determining confidentiality or security sensitivity, you may call one of the individuals listed below under **FOR FURTHER INFORMATION CONTACT** for more information.

FOR FURTHER INFORMATION CONTACT: Susan Gorsky or Ben Supko, Office of Hazardous Materials Standards, (202) 366–8553, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

On December 21, 2006, PHMSA, in consultation with the Federal Railroad Administration and the Transportation Security Administration of the Department of Homeland Security, published an NPRM proposing to revise the current requirements in the Hazardous Materials Regulations applicable to the safe and secure transportation of hazardous materials transported in commerce by rail. Specifically, the NPRM proposes to require rail carriers to compile annual data on specified shipments of hazardous materials, use the data to analyze safety and security risks along rail transportation routes where those materials are transported, assess alternative routing options, and make routing decisions based on those assessments. It also proposes to clarify the current security plan requirements to address en route storage, delays in transit, delivery notification, and additional security inspection requirements for hazardous materials shipments. In addition to our NPRM, TSA also published an NPRM in the December 21, 2006 edition of the **Federal Register** proposing additional security requirements for rail transportation.

We urge interested parties to review the NPRM and the regulatory evaluation prepared in support of the NPRM and make oral presentations regarding the issues we discuss in the documents. A summary of the NPRM follows:

- We propose to require rail carriers transporting certain types of hazardous materials to compile information and data on the commodities transported, including the transportation routes over which these commodities are transported.
- We propose to require rail carriers transporting certain types of hazardous materials to use the data they compile on commodities they transport to analyze the safety and security risks for the transportation routes used and one possible alternative route to the one used. Rail carriers would be required to utilize these analyses to transport these materials over the safest and most secure commercially practicable routes.
- We propose to require rail carriers to specifically address the security risks associated with shipments delayed in transit or temporarily stored in transit as part of their security plans.
- We propose to require rail carriers transporting certain types of hazardous materials to notify consignees if there is a significant unplanned delay affecting the delivery of the hazardous material.
- We propose to require rail carriers to work with shippers and consignees to minimize the time a rail car containing certain types of hazardous materials is placed on track awaiting pick-up or delivery or transfer from one carrier to another.
- We propose to require rail carriers to notify storage facilities and consignees when rail cars containing certain types of hazardous materials are delivered to a storage or consignee facility.
- We propose to require rail carriers to conduct security visual inspections at ground level of rail cars containing hazardous materials to inspect for signs of tampering or the introduction of an improvised explosive device (IED).

We are particularly interested in comments related to the feasibility and practicability from an operational perspective of the proposals in the NPRM, factors that should be considered by railroads in making routing decisions, and the costs that would be incurred to comply with the requirements proposed in the NPRM.

Documents

A copy of the December 21, 2006 NPRM, the regulatory evaluation prepared in support of the NPRM, and any comments addressed to this docket are available through the DOT Docket Management System Web site: *http://dms.dot.gov* and/or Room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on January 3, 2007, under authority delegated in 49 CFR part 106.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. E7–131 Filed 1–9–07; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No.061228342–6342–01; I.D. 122206A]

RIN 0648–AT66

Fisheries of the Northeastern United States; Atlantic Herring Fishery; 2007–2009 Specifications

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

ACTION: Proposed specifications; request for comments.

SUMMARY: NMFS proposes specifications for the 2007–2009 Atlantic herring fishery. The intent of the specifications is to conserve and manage the Atlantic herring resource and provide for a sustainable fishery.

DATES: Comments must be received no later than 5 p.m., eastern standard time, on February 9, 2007.

ADDRESSES: Copies of supporting documents, including the Environmental Assessment, Regulatory Impact Review, Initial Regulatory Flexibility Analysis (EA/RIR/IRFA), and Essential Fish Habitat Assessment are available from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. The EA/RIR/IRFA is also accessible via the Internet at *http://www.nero.gov*.

Written comments on the proposed rule may be sent by any of the following methods:

- Mail to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments, 2007–2009 Herring Specifications'';
- Fax to Patricia A. Kurkul 978–281–9135;
- E-mail to the following address: *Herr2007to2009Specs@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: ''Comments, 2007–2009 Herring Specifications;'' or
- Electronically through the Federal e-Rulemaking portal: *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Eric Jay Dolin, Fishery Policy Analyst, 978–281–9259, e-mail at eric.dolin@noaa.gov, fax at 978–281–9135.

SUPPLEMENTARY INFORMATION:

Background

On September 28, 2006, the New England Fishery Management Council (Council) recommended specifications for the Atlantic herring fishery. At the time, Amendment 1 to the Atlantic Herring Fishery Management Plan (Amendment 1) was under development. The notice of availability for Amendment 1 was published in the **Federal Register** on September 6, 2006 (71 FR 52521), with the comment period ending on November 6, 2006. One of the measures recommended in Amendment 1 was the establishment of a 3–year specifications setting process. Because Amendment 1 was still under review when the Council submitted its proposed specifications, the specifications package included a contingency provision. If the measure proposed in Amendment 1 to establish 3–year specifications was approved by NMFS, then the specifications described in the Council's package would be set for 3 years; but if the measure was not approved, the specifications proposed by the Council would be implemented for the 2007 fishing year only. On December 6, 2006, NMFS partially approved Amendment 1, including the 3–year specifications setting process. As a result, the specifications proposed in this action would be set for 3 years. While Amendment 1 has been partially approved, the final rule implementing the Amendment is still under development. The proposed rule for Amendment 1 was published in the **Federal Register** on September 27, 2006 (71 FR 56446), and the comment period ended on November 13, 2006. NMFS expects to publish the final rule implementing the approved measures in Amendment 1 in the near future.

As modified by Amendment 1, the regulations implementing the FMP require the Council's Plan Development Team (PDT), which advises the Council on technical matters pertaining to

herring management, to meet with the Atlantic States Marine Fisheries Commissions' (Commission) Technical Committee (TC) to review the status of the stock and the fishery and prepare a Stock Assessment and Fishery Evaluation (SAFE) report every 3 years. While a SAFE report will only be prepared every 3 years, the Herring PDT will be required to meet at least once during interim years to review the status of the stock relative to the overfishing definition, if information is available to do so. When conducting a 3–year review and preparing a triennial SAFE Report, the PDT/TC will report to the Council/Commission and recommend any necessary adjustments to the specifications for the upcoming 3 years. Specifications and TACs are conveyed to NMFS once approved by the Council, and published for public comment. If determined to be consistent with the FMP, final specifications are implemented.

The Council may adjust the fishery specifications in the interim years. If the Council determines that the specifications should be adjusted during the 3–year time period, it can do so during one or both of the interim years. No action is required by the Council to maintain the same specifications for all 3 fishing years; Council action is required only if the Council decides to recommend adjustments to the specifications during the interim years.

The Council is authorized, in consultation with the Commission, to set aside 0–3 percent of the TAC from any management area(s) to support herring-related research. This research set aside (RSA) would be administered through a process similar to that specified by the Mid-Atlantic Fishery Management Council in several of its fishery management plans. That mechanism would include the following elements: Individual research projects may apply for the use of more than one herring RSA allocation; researchers may request that the set-aside be collected separately from the research trip or as part of the research trip; and research compensation trips would not all necessarily have to be conducted by the same vessel, but would have to be conducted in the management area from which the set-aside was derived.

Specification of RSA amounts (percentages) for the upcoming fishing years is incorporated into the Council's fishery specification package every 3 years, and submitted to NMFS with any additional analysis required, as part of the specification package. For each proposal cycle, NMFS will publish a Request for Proposals (RFP) that specifies research priorities identified by the Council and application procedures for funding through the RSA. Since specifications are now set for 3 fishing years, the proposal cycle will also cover 3 fishing years, unless the Council identifies new/different research priorities during the interim years and decides to publish a new RFP.

The Council determines the specific percentages for the RSAs and the management area(s) to which they apply during the fishery specification process. Currently, the herring fishery closes in a particular management area when it is projected that 95 percent of the area TAC has been/will be caught. The remaining 5 percent of the TAC is set aside for incidental catch in other fisheries (under a 2,000–lb (907 kg) trip limit) after the directed fishery is closed. The RSA is intended to be in addition to the current 5 percent set-aside for incidental catch once the directed fishery in a management area closes. For example, if the Council sets aside 3 percent of the Area 1A TAC to support research, then the Area 1A TAC would close when 92 percent is projected to be reached.

In the event that the approved proposals do not make use of any or all of the set-asides, NMFS is authorized to release the unutilized portion of the RSA back to its respective management area(s) when the final specifications are published. If there is unutilized RSA available, NMFS, at the request of the Council, may publish another RFP for either the second or third years of the 3–year specifications. In such case, NMFS would release the unutilized portion of the set-aside back to its respective management area(s) for the first year of the specifications and any other year that yields unutilized RSA, after an additional RFP is published. The Council also may decide not to publish another RFP, in which case NMFS is authorized to release the unutilized portion of the RSA back to its respective management area(s) for all 3 fishing years covered by the specifications.

On September 28, 2006, the Council proposed the following specifications (see Table 1) for the herring fishery for the 2007–2009 fishing years, with a requirement that the Council review the specifications during 2007 and determine whether adjustments should be made for the 2008 and 2009 fishing years.

TABLE 1. COUNCIL-PROPOSED SPECIFICATIONS AND AREA TACS FOR THE 2007-2009

Atlantic Herring Fishery

Specification	Proposed Allocation (mt)
ABC	194,000
OY	145,000
DAH	145,000
DAP	141,000
JVPt	0
JVP	0
USAP	20,000 (Areas 2 and 3 only)
BT	4,000
TALFF	0
Reserve	0
TAC - Area 1A	50,000 [48,500 fishery; 1,500 RSA] (January 1 - May 31, landings cannot exceed 5,000)
TAC - Area 1B	10,000 [9,700 fishery; 300 RSA]
TAC - Area 2	30,000 [29,100 fishery; 900 RSA] (No Reserve)
TAC - Area 3	55,000 [53,350 fishery; 1,650 RSA]
Research Set Aside	3 percent from each area TAC (2008 and 2009 FY only)

Proposed 2007–2009 Specifications

For the 2007 Atlantic herring fishing year, NMFS proposes to implement the specifications recommended by the Council, which are detailed in Table 1. For the fishing years 2008–2009, however, NMFS proposes a further reduction in the Area 1A TAC from 50,000 mt to 45,000 mt, with a corresponding increase in the Area 3 TAC from 55,000 mt to 60,000 mt. The revisions for 2008–2009 are discussed in detail below and are set out in Table 2.

TABLE 2. PROPOSED SPECIFICATIONS AND AREA TACS FOR THE 2008-2009 ATLANTIC HERRING FISHERY

Specification	Proposed Allocation (mt)
ABC	194,000
OY	145,000

TABLE 2. PROPOSED SPECIFICATIONS AND AREA TACS FOR THE 2008-2009 ATLANTIC HERRING FISHERY—Continued

Specification	Proposed Allocation (mt)
DAH	145,000
DAP	141,000
JVPt	0
JVP	0
IWP	0
USAP	20,000 (Areas 2 and 3 only)
BT	4,000
TALFF	0
Reserve	0
TAC - Area 1A	45,000 [43,650 fishery; 1,350 RSA] (January 1 - May 31, landings cannot exceed 5,000)
TAC - Area 1B	10,000 [9,700 fishery; 300 RSA]
TAC - Area 2	30,000 [29,100 fishery; 900 RSA] (No Reserve)
TAC - Area 3	60,000 [58,200 fishery; 1,800 RSA]
Research Set Aside	3 % from each area TAC (2008 and 2009 FY only)

For all 3 years, the Council recommended the TAC in Area 1A at 50,000 mt, which is less than what has been landed from the area each year since the implementation of the FMP in 2000. In most of those years, the Area 1A TAC, which has been 60,000 mt, has been fully utilized. The Council's recommendation to reduce the Area 1A TAC to 50,000 mt was based on a number of factors, among them, concern that the inshore component of the Atlantic herring stock is the most vulnerable component of the stock complex. Although Area 1A is not synonymous with the ''inshore stock component,'' there is a considerable amount of overlap. A risk assessment requested by the Council and performed by the PDT found that the Council's proposed action appears to be marginally successful in producing an exploitation rate that is consistent with F_{MSY} for the stock component, based on a reasonable range of estimated stock mixing ratios for summer and winter. The PDT stated that it would be advisable to establish an Area 1A TAC that keeps exploitation of this component at or below F_{MSY}.

The rationale the Council used to recommend a reduction in the Area 1A TAC by 10,000 mt is sound; however, NMFS believes that the PDT risk assessment demonstrates that an even deeper cut in the Area 1A TAC is warranted. NMFS is especially concerned about the strong retrospective pattern identified in the stock assessment that was conducted in May 2006 by the Transboundary Resource Assessment Committee (TRAC) for biomass and fishing mortality estimates. The retrospective pattern overestimates SSB (averaging + 14.5 percent/year, and ranging between 1–24 percent) and underestimates fishing mortality. While the herring stock as a whole is currently in good shape, given the retrospective pattern identified, it is likely that, as more data are collected and analyzed, the health of the stock today will be found to be not as robust as the current data imply. Therefore, NMFS proposes to be more precautionary in setting the TAC for Area 1A in 2008 and 2009, to protect the inshore stock component. Reducing the Area 1A TAC an additional 5,000 mt in 2008 and 2009 is more risk averse than the measures recommended by the Council, and would help ensure that exploitation rates are more consistent with FMSY over the next 3 years. NMFS believes that the extra amount of caution that a 45,000–mt Area 1A TAC affords is warranted, given the strong retrospective pattern in this stock assessment, and the output of the risk assessment.

The setting of ABC is tied to the availability of new scientific data. The May 2006 herring assessment completed by the TRAC recommended a new MSY of 194,000 mt. In response to the 2006 TRAC Assessment, the PDT recommended that ABC for the Atlantic herring fishery be set at 194,000 mt for the 2007–2009 fishing years. The Herring Committee and Council supported this recommendation, and NMFS concurs with the recommendation.

The FMP specifies that OY will be less than or equal to ABC minus the expected Canadian catch (C) from the stock complex. The estimate of the Canadian catch that is deducted from ABC will be no more than 20,000 mt for the New Brunswick weir fishery and no more than 10,000 mt for the Georges Bank fishery. The PDT, the Herring Committee, and the Council recommended that the assumed Canadian herring catch for 2007–2009 should remain at 20,000 mt. NMFS concurs, and proposes that the maximum value of OY be 174,000 mt.

The FMP also states that the establishment of OY will include consideration of relevant economic, social, and ecological factors and that OY may be less than ABC C. The Council recommended, and NMFS is proposing a 29,000–mt buffer between the maximum OY and the recommended OY of 145,000 mt. This level of OY would allow the herring fishery to expand significantly above current levels without allowing landings to increase all the way to ABC, which could be detrimental to the stock complex over the long term, given the retrospective pattern in the stock assessment. A buffer between ABC and OY is intended to help ensure that adequate SSB is available to produce strong and healthy recruitment in fluctuating and unpredictable environmental conditions. The importance of herring as a forage species for other Northeast region fish, mammals, and seabirds is another reason that a buffer between ABC and OY is appropriate.

The OY of 145,000 mt is a level that can be fully harvested by the domestic fleet, resulting in a specification of DAH of 145,000 mt, precluding an allocation of TALFF. Setting DAH at 145,000 mt is reasonable, given the capacity of the herring fleet and the likelihood that landings will increase. The average herring landings from the most recent 5–year period (2001–2005) is 100,370 mt. The highest level of Atlantic herring landings in recent years was in 2001, when 120,025 mt were landed. The proposed DAH of 145,000 mt would allow a 45–percent increase in landings as compared to the 2001–2005 average, and a 20–percent increase in overall landings as compared to 2001, and is realistic, given fishery performance in recent years, and the information about industry operations in the specifications.

Since DAH is proposed to be set at 145,000 mt (of which 4,000 mt would be allocated for BT), DAP is proposed to be specified at 141,000 mt. It is possible, given the capacity of the current harvesting fleet, the potential for market expansion to occur, and the expressed intent (made clear through public testimony) of the U.S. industry to expand the Atlantic herring fishery, that processors will utilize the recommended DAP. Because the recommended DAP is sufficient to process the entire DAH (minus the BT), JVP is set at zero. JVP operations would likely compete with U.S. processors for product, which could have a substantial negative impact on domestic facilities in

a market-driven fishery. This is consistent with the following relationship, which is specified in the FMP: DAH = DAP + JVPt + BT.

The proposed USAP allocation of 20,000 mt could provide an additional outlet for harvesters and, therefore, increase the benefits to the U.S. industry. As in previous years, USAP activity would be restricted to TAC Areas 2 and 3.

The proposed TAC in Area 1B would be set at 10,000 mt, which is the same level it has been set at since 2001. The Area 1B TAC was exceeded in 2001, when 16,704 mt was landed; in 2004, when 13,282 mt was landed; and in 2006, for which the final landings tally is not yet available. In other years since 2001, the landings from Area 1B have been considerably lower (25 percent or more) than 10,000 mt.

The proposed TACs for Areas 2 and 3 are intended to permit the fishery to increase landings in those areas above the highest levels achieved in recent years. The highest recent landings in Area 2 were 27,198 mt in 2000; thus, the proposed allocation would allow the fishery to slightly exceed that level. The highest recent landings in Area 3 were 35,079 mt in 2001; thus, the allocation would allow the fishery to exceed that level by a considerable amount, because this is the area most likely to see expanded harvests.

Classification

This action is authorized by 50 CFR part 648 and has been determined to be not significant for purposes of Executive Order 12866.

The Council prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act (RFA), which describes the economic impacts this proposed rule, if adopted, would have on small entities. A copy of the IRFA can be obtained from the Council or NMFS (see **ADDRESSES**) or via the Internet at *http://www.nero.noaa.gov*. A summary of the analysis follows:

Statement of Objective and Need

A description of the reasons why this action is being considered, and the objectives of and legal basis for this action, is contained in the preamble to this proposed rule and is not repeated here.

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

During the 2005 fishing year, 143 vessels landed herring, 33 of which averaged more than 2,000 lb (907 kg) of herring per trip. The Small Business Administration's size standard for small commercial fishing entities is $4 million in gross sales. Thus, there are no large entities, as defined in section 601 of the RFA, participating in this fishery. Therefore, there are no disproportionate economic impacts between large and small entities.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

This action does not contain any new collection-of-information, reporting, recordkeeping, or other compliance requirements. It does not duplicate, overlap, or conflict with any other Federal rules.

Minimizing Significant Economic Impacts on Small Entities

Impacts were assessed by the Council and NMFS by comparing the proposed measures to the Atlantic herring landings made in 2005, the last complete year for which data is available. From a fishery-wide perspective, the proposed specifications are not expected to produce a negative economic impact to vessels prosecuting the fishery because it allows for landings levels that are significantly higher than the average landings in recent years. The proposed 2007–2009 specifications should allow for incremental growth in the industry, while taking into consideration biological information. However, because of the distribution of the Area TACs, and the reduction in the Area 1A TAC in particular, the proposed specifications could have a negative impact on various parts of the industry, despite the fact that overall landings levels could be higher than in recent years.

The specification of OY and DAH is proposed to be 145,000 mt for 2007–2009. At this level, there could be an annual increase of up to 51,610 mt in herring landings (relative to the 93,390 mt landed in 2005), or $10.4 million in revenues, based on an average price (in 2005) of $202/mt. This could allow individual vessels to increase their profitability under the proposed 2007–2009 specifications, depending on how may vessels ultimately end up qualifying for and participating in the fishery once it becomes a limited access fishery with the implementation of Amendment 1 in 2007. The magnitude of economic impacts related to the 141,000–mt specification of DAP will depend on the processing sector's ability to expand markets and increase capacity to handle larger amounts of herring during 2007–2009.

JVPt was zero in 2005, therefore there are no potential economic losses associated with maintaining this specification in 2007–2009. Potential economic gains could be associated with the utilization of the 20,000 mt USAP, which has not been utilized in recent years. These gains could approximate $4 million annually (based on an average price of $202/mt) if all of the 20,000–mt allocation were utilized in 2007–2009.

The Area 1B TAC of 10,000 mt has been unchanged since the 2000 fishery. Since only 6,108 mt of herring were harvested in Area 1B in 2005, the proposed 2007–2009 specification of 10,000 mt could allow for an increased catch of 3,892 mt, which would equal $786,000 (based on an average price of $202/mt). This could allow individual vessels to increase their profitability under the proposed 2007–2009 specifications, depending on how may vessels ultimately end up qualifying for and participating in the fishery once it becomes a limited access fishery with the implementation of Amendment 1 in 2007.

The Council analyzed six alternatives for OY (the OY for the proposed action was already discussed above). Two alternatives would have retained the specifications implemented during the 2005–2006 fishing years, which would have maintained the OY at 150,000 mt. This OY would be roughly 40 percent greater than the average historical landings for this fishery (2001–2005), and would not pose a constraint on the fishery. Two alternatives would set OY at 145,000 mt, the potential impacts of which are discussed above. Two alternatives would have set OY at 170,000 mt. This OY would be roughly 60 percent greater than the average historical landings for this fishery (2001–2005), and therefore would not pose a constraint on the fishery.

The proposed action would establish the following TACs: Area 1A, 50,000 mt in 2007, and 45,000 mt in 2008 and 2009; Area 1B, 10,000 mt in 2007–2009; Area 2, 30,000 mt in 2007–2009; and Area 3, 55,000 mt in 2007, and 60,000 mt in 2008 and 2009. Only the Area 1A TAC would be constraining, given recent landings history. The impacts of such a reduction are considered, in turn, for the purse seine fleet, the single midwater trawl fleet, and the paired midwater trawl fleet.

In 2005, the currently active purse seine fleet caught 27 percent of the Area 1A TAC. With a 10,000–15,000–mt reduction in the Area 1A TAC, it the proportion of the herring catch by the purse seine fleet remains the same and the decrease in the Area 1A TAC cannot be made up from fishing in other areas, there would be a 2,700–mt loss in catch

under the proposed action during 2007, and a 4,050 mt loss in catch in 2008 and 2009. Using the 2005 average price of herring of $202 per metric ton, this loss in catch would be worth $545,400 and $818,000, respectively, across the sector (there are four vessels in the currently active purse seine fleet). To make up for such a loss, these vessels would have to either increase their proportion of the herring catch in Area 1A relative to midwater trawlers, or move to other areas. Moving to offshore areas may be problematic due to the size of the vessels. There were no landings from Area 3 by the purse seine fleet in 2005. Moving offshore would also entail additional operating costs.

With a 10,000–15,000–mt decrease in the Area 1A TAC, the impact of the proposed action on the single midwater trawl fleet is difficult to predict, because the PS/FG only area eliminates single midwater trawl vessels from Area 1A during the most productive part of the Area 1A fishery (June through September). The establishment of a PS/FG only area might intensify the race to fish in Area 1A, as all midwater trawl vessels (single and paired) try to catch fish from the area prior to the closure to trawling on June 1.

If herring are plentiful in Area 1A during the spring (Area 1A catches increase in May, historically), the single midwater trawlers may be able to maintain their historical proportion of the Area 1A TAC. However, it is likely that purse seine vessels and midwater pair trawl vessels would also participate in the pre-June race in order to keep their landings on par with previous years. In addition, single midwater trawl vessels might convert to purse seine gear in order to fish in Area 1A in the summer.

In 2005, the currently active single midwater trawl fleet caught 18 percent of the Area 1A TAC. If the proportion of the herring catch by the single midwater trawl fleet remains the same, and the decrease in the Area 1A TAC cannot be made up from fishing in other areas, there would be a 1,800–mt loss in catch under the proposed action during 2007, and a 2,700–mt loss in catch in 2008 and 2009. Using the 2005 average price of herring of $202 per metric ton, this loss in catch would be worth $363,600 and $545,400, respectively, across the sector (there are four vessels that were active in Area 1A from 2003–2005 in the single midwater trawl fleet). To make up for such a loss, the single midwater trawl vessels would have to either increase their proportion of the herring catch in Area 1A relative to purse seine vessels, or move to other areas. Moving to offshore areas may be problematic for two of the four single midwater trawl vessels since these two are relatively smaller vessels and have only landed herring from Area 1A during 2003 through 2005, indicating an inability to fish offshore. The other two vessels are somewhat larger and have Area 3 catch history so their loss of Area 1A catch may be mitigated by their ability to fish in Area 3. If the single midwater trawl vessels make up their catch in Areas 2 and 3, the cost to harvest the fish will increase (depending on their home port with respect to Area 2) due to increased steaming costs.

Since the 10,000–mt to 15,000–mt reduction in TAC is proposed in Area 1A, the single midwater trawl fleet may have to rely more on Area 1B. The Area 1B TAC has historically not been reached every year (60 percent was utilized in 2005). Since Area 1B is farther from shore than Area 1A, the cost of harvesting herring will increase. Area 1B will only be able to provide limited relief for vessels impacted by the reduction in the Area 1A TAC since it is limited to 10,000 mt. Since a shortfall of 10,000 mt to 15,000 mt in Area 1A could not be made up entirely in Area 1B, the Area 1B season may be shortened.

With decreases in the Area 1A TAC of 10,000 mt to 15,000 mt under the proposed action, the impact on the midwater pair trawl fleet could also be large. It is difficult to predict what the impact will be on the midwater pair trawl fleet, because at the time the new Area 1A TAC would be implemented, the PS/FG only area will be in effect. Without knowing what portion of an Area 1A TAC of 60,000 mt the pair trawl fleet might land with the implementation of a PS/FG only area, it is difficult to know what a reduction of 10,000 mt to 15,000 mt might mean to the fleet.

In 2005, the currently active pair trawl fleet caught 55 percent of the Area 1A TAC. If the proportion of the herring catch by the pair trawl fleet remains the same and the decrease in the Area 1A TAC cannot be made up from fishing in other areas, there would be a 5,500–mt loss in catch under the proposed action in 2007, and a 8,250–mt loss in 2008 and 2009. Using the 2005 average price of herring of $202 per metric ton, this catch is worth $1,111,000 and $1,666,500 respectively, across the sector (there are 12 vessels in the pair trawl fleet that were active from 2003–2005). To make up for such a loss, pair trawl vessels would have to either increase their proportion of the herring catch in Area 1A relative to purse seine vessels, or move to other areas. All pair trawl vessels have Area 3 catch history, so their loss of Area 1A catch may be mitigated by their ability to fish in Area 3. If the pair trawl vessels make up their catch in Areas 2 and 3, the cost to harvest the fish will increase (depending on their home port with respect to Area 2) due to increased steaming costs.

Since the 10,000–mt to 15,000–mt reduction in TAC is proposed in Area 1A, the pair trawl fleet may also have to rely more on Area 1B. Since Area 1B is farther from shore than Area 1A, the cost of harvesting herring may increase. Area 1B will only be able to provide limited relief for vessels impacted by the reduction in the Area 1A TAC since it is limited to 10,000 mt. Since a shortfall of 10,000 mt to 15,000 mt in Area 1A could not be made up in Area 1B, the Area 1B season could be shortened.

Two alternatives considered by the Council would have established the same TACs as were established in 2005–2006: Area 1A, 60,000 mt; Area 1B, 10,000 mt; Area 2, 30,000 mt; and Area 3, 50,000 mt. Only the Area 1A TAC might be constraining, given recent landings history. The fourth alternative would have been similar to the last two alternatives, except the Area 3 TAC would be 70,000 mt for all 3 years. The increase in the Area 3 TAC of 20,000 mt could result in a potential economic gain of $4 million, using the 2005 average price of herring of $202 per metric ton, which would most likely accrue to trawlers since purse seiners usually are not able to fish in Area 3.

The fifth alternative (the Council-recommended) would have been similar to the proposed action, except the Area 1A TAC would be 50,000 mt for all 3 years, and the Area 3 TAC would be 55,000 mt. The potential impacts of a 10,000–mt reduction in Area 1A have already been discussed above. The increase in the Area 3 TAC of 5,000 mt could result in a potential economic gain of $1 million, using the 2005 average price of herring of $202 per metric ton, which would most likely accrue to trawlers, since purse seiners usually are not able to fish in Area 3.

The sixth alternative would have been similar to the proposed action, except the Area 1A TAC would be 45,000 mt for all 3 years, with an Area 3 TAC of 60,000 mt. The potential impacts of a 15,000–mt reduction in Area 1A have already been discussed above. The increase in the Area 3 TAC of 10,000 mt could result in a potential economic gain of $2 million, using the 2005 average price of herring of $202 per metric ton, which would most likely accrue to trawlers, since purse seiners

usually are not able to fish in Area 3. The seventh alternative analyzed by the Council is similar to the sixth alternative, except the Area 2 TAC would be 45,000 mt for all 3 years, and the Area 3 TAC would be 70,000 mt. The increase in the Area 2 TAC of 15,000 mt could result in a potential economic gain of $3 million, using the 2005 average price of herring of $202 per metric ton, which would most likely accrue to trawlers, since purse seiners usually are not able to fish in Area 3. The increase in the Area 3 TAC of 20,000 mt could result in a potential economic gain of $4 million, using the 2005 average price of herring of $202 per metric ton, which would most likely accrue to trawlers, since purse seiners usually are not able to fish in Area 3.

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

Dated: January 4, 2007.

Samuel D. Rauch III,

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

[FR Doc. E7–202 Filed 1–9–07; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 72, No. 6

Wednesday, January 10, 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–2006–0157]

Syngenta; Availability of Petition and Environmental Assessment for Determination of Nonregulated Status for Corn Genetically Engineered for Insect Resistance

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has received a petition from Syngenta Seeds, Inc., seeking a determination of nonregulated status for corn rootworm-resistant corn derived from a transformation event designated as MIR604. The petition has been submitted in accordance with our regulations concerning the introduction of certain genetically engineered organisms and products. In accordance with those regulations, we are soliciting comments on whether this corn presents a plant pest risk. We are also making available for public comment a draft environmental assessment for the proposed determination of nonregulated status.

DATES: We will consider all comments on the petition that are received on or before March 12, 2007. We will consider all comments on the draft environmental assessment that are received on or before February 9, 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–2006–0157 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–2006–0157, 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–2006–0157.

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: Dr. Catherine Preston, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 734–5874, e-mail: *catherine.a.preston@aphis.usda.gov*. To obtain copies of the petition or the environmental assessment, contact Mr. Steve Bennett at (301) 734–5672, e-mail: *steven.m.bennett@aphis.usda.gov*. The petition and the environmental assessment are also available on the Internet at *http://www.aphis.usda.gov/brs/aphisdocs/04_36201p.pdf* and *http://www.aphis.usda.gov/brs/aphisdocs/04_36201p_ea.pdf*.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR part 340, ''Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests,'' regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered organisms and products are considered ''regulated articles.''

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. Paragraphs (b) and (c) of § 340.6 describe the form that a petition for a determination of nonregulated status must take and the information that must be included in the petition.

On December 27, 2004, APHIS received a request seeking a determination of nonregulated status (APHIS No. 04–362–01p) from Syngenta Seeds, Inc. (Syngenta) of Research Triangle Park, NC, for corn (*Zea mays* L.) designated as transformation event MIR604, which has been genetically engineered for resistance to corn rootworm (CRW), stating that corn line MIR604 does not present a plant pest risk and, therefore, should not be a regulated article under APHIS' regulations in 7 CFR part 340. Syngenta responded to APHIS' subsequent request for additional information and clarification and submitted a revised petition on May 17, 2006. Another request for information and clarification was sent to Syngenta on July 25, 2006. Syngenta subsequently revised and resubmitted their petition and response to APHIS' request on August 2, 2006. The final two versions of the petition, submitted on May 17, 2006, and August 2, 2006, as well as Syngenta's written responses to APHIS' request sent on July 25, 2006, are available for public review and comment.

Analysis

As described in the petition, corn transformation event MIR604 has been genetically engineered to express two transgenes: (1) The modified *cry3A* (*mcry3A*) gene derived from a well-characterized gene sequence from *Bacillus thuringiensis*, encoding the mCRY3A insect control protein and (2) the *pmi* (*manA*) gene from *Escherichia coli*, which encodes the enzyme phosphomannose isomerase (PMI) for use as a selectable marker. Expression of the *mcry3A* gene by corn plants renders

the corn line resistant to CRW. Regulatory elements for the *mcry3A* and *pmi* genes were derived from maize and *Agrobacterium tumefaciens*. These regulatory sequences are not transcribed and do not encode proteins. The DNA was introduced into corn cells using *Agrobacterium*-mediated transformation methodology with the T–DNA transformation vector designated pZM26. In addition to transgenes necessary for insertion into the plant genome, the T–DNA vector also contained two additional genetic elements: (1) A gene conferring bacterial resistance to the antibiotics erythromycin, streptomycin, and spectinomycin and (2) the bacterial origin of replication. Plant cells containing the introduced DNA were then selected by culturing in the presence of mannose. After the initial incubation with *Agrobacterium*, the broad-spectrum antibiotic cefotaxime was included in the culture medium to kill any remaining *Agrobacterium*.

Transformation event MIR604 has been considered a regulated article under the regulations in 7 CFR part 340 because it contains gene sequences from plant pathogens. MIR604 corn has been field tested in the United States since 2001 under notifications and permits authorized by the U.S. Department of Agriculture (USDA). APHIS has presented three alternatives in the draft environmental assessment (EA) based on its analyses of data submitted by Syngenta, a review of other scientific data, and field tests conducted under APHIS oversight. APHIS may: (1) Take no action, (2) deregulate MIR604, or (3) deregulate MIR604 in part.

In § 403 of the Plant Protection Act (7 U.S.C. 7701 *et seq.*), ''plant pest'' is defined as any living stage of any of the following that can directly or indirectly injure, cause damage to, or cause disease in any plant or plant product: A protozoan, a nonhuman animal, a parasitic plant, a bacterium, a fungus, a virus or viroid, an infectious agent or other pathogen, or any article similar to or allied with any of the foregoing. APHIS views this definition broadly to cover direct or indirect injury, disease, or damage not just to agricultural crops, but also to other plants, for example, native species, as well as organisms that may be beneficial to plants, such as honeybees.

MIR604 corn is subject to regulation by other agencies. The U.S. Environmental Protection Agency (EPA) is responsible for the regulation of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136 *et seq.*). FIFRA requires that all pesticides, including herbicides, be registered prior to distribution or sale, unless exempt from EPA regulation. In cases in which genetically engineered plants allow for a new use of a pesticide or involve a different use pattern for the pesticide, EPA must approve the new or different use. Accordingly, Syngenta submitted two petitions to the EPA, which announced its receipt of the petitions in two notices published in the **Federal Register** on October 27, 2004. The first petition requested an exemption from tolerance from the requirement of a tolerance for residues of the mCRY3A protein and the genetic material necessary for their production in corn (69 FR 62688–62692), and the second was an application to register a pesticide product containing a new active ingredient (69 FR 62678–62680). On April 6, 2005, a temporary tolerance exemption was granted for residues of the mCRY3A protein and the genetic material necessary for their production in corn, concluding that there was a reasonable certainty of no harm from consumption of the protein, as it is digestible in gastric fluid and not considered an allergen (70 FR 17323–17327). This temporary exemption was subsequently renewed (69 FR 11431–11433) and is currently set to expire on October 15, 2007 (71 FR 13269–13274). On January 25, 2006, EPA announced the receipt of an application filed by Syngenta to amend an application for an Experimental Use Permit (EUP) to include the plant-incorporated protectant Event MIR604 mCry3A corn (71 FR 4141–4142). Also on January 25, 2006, EPA announced Syngenta applied for an extension to the tolerance exemption expiring on October 15, 2006 (69 FR 11431–11433). On January 25, 2006, the EPA announced a 2-day meeting (March 14–15, 2006) for the FIFRA Scientific Advisory Panel to consider and review human health and environmental issues associated with MIR604 Modified Cry3A Protein Bt Corn-Plant Incorporated Protectant (71 FR 4130–4133).

Under the Federal Food, Drug, and Cosmetic Act (FFDCA) (21 U.S.C. 301 *et seq.*), pesticides added to (or contained in) raw agricultural commodities generally are considered to be unsafe unless a tolerance or exemption from tolerance has been established. Residue tolerances for pesticides are established by EPA under the FFDCA and the Food and Drug Administration (FDA) enforces tolerances set by EPA under the FFDCA.

FDA's policy statement concerning regulation of products derived from new plant varieties, including those genetically engineered, was published in the **Federal Register** on May 29, 1992 (57 FR 22984–23005). Under this policy, FDA uses what is termed a consultation process to ensure that human and animal feed safety issues or other regulatory issues (*e.g.*, labeling) are resolved prior to commercial distribution of a bioengineered food. Syngenta submitted a summary of their safety assessment on February 25, 2005, and additional information on March 21, 2006. The Syngenta assessment submitted to the FDA indicated no changes in composition, safety, or other relative parameters. The consultation process for MIR604 corn as food and feed is nearing completion.

National Environmental Policy Act

To provide the public with documentation of APHIS' review and analysis of any potential environmental impacts associated with the proposed determination of nonregulated status for MIR604, a draft EA has been prepared. The draft EA was 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 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

In accordance with § 340.6(d)(2), we are publishing this notice to inform the public that APHIS will accept written comments regarding the petition for a determination of nonregulated status from interested or affected persons for a period of 60 days from the date of this notice. We are also soliciting written comments for a period of 30 days from the date of this notice on the EA prepared to examine any environmental impacts of the proposed determination for the subject corn event. The petition, the draft EA, and any comments received are available for public review, and copies of the petitions and the draft EA are available as indicated in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

After the comment period closes, APHIS will review all written comments received during the comment period and any other relevant information. After reviewing and evaluating the comments on the petition and the EA and other data and information, APHIS will furnish a response to the petitioner, either approving the petition in whole or in part, or denying the petition. APHIS will then publish a notice in the **Federal Register** announcing the regulatory status of Syngenta's insect-

resistant corn event MIR604 and the availability of APHIS' written decision.

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 5th day of January 2007.

W. Ron DeHaven,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–194 Filed 1–9–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

International Trade Administration

A–122–822

Notice of Extension of Time Limit for Final Results of Antidumping Duty Administrative Review: Certain Corrosion–Resistant Carbon Steel Flat Products from Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: January 10, 2007.

FOR FURTHER INFORMATION CONTACT: Douglas Kirby or Joshua Reitze, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3782 or (202) 482–0666, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 11, 2006, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on certain corrosion–resistant carbon steel flat products from Canada for the period of August 1, 2004, through July 31, 2005 *(see Certain Corrosion–Resistant Carbon Steel Flat Products from Canada: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 53363, September 11, 2006) (*Preliminary Results*). The current deadline for the final results of this review is January 9, 2007.

Extension of Time Limit for Final Results of Review

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue the final results in an administrative review within 120 days of the date on which the preliminary results were published. However, if it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the final results to 180 days from the date of publication of the preliminary results.

The Department needs additional time to analyze the case briefs and rebuttal comments. Therefore, the Department finds that it is not practicable to complete the review by the original deadline of January 9, 2007. Consequently, in accordance with section 751(a)(3)(A) of the Act and section 351.213(h)(2) of the Department's regulations, the Department is extending the time limit for the completion of the final results of the review until no later than March 10, 2007, which is 180 days from the publication of the preliminary results.

This notice is issued and published in accordance with section 751(a)(3)(A) of the Act.

Dated: January 3, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration

[FR Doc. E7–196 Filed 1–9–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–570–862)

Foundry Coke Products from the People's Republic of China: Continuation of Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determinations by the Department of Commerce (''the Department'') and the International Trade Commission (''ITC'') that revocation of the antidumping duty order on Foundry Coke Products from the People's Republic of China (''PRC'') would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, the Department is publishing this notice of continuation of this antidumping duty (''AD'') order.

EFFECTIVE DATE: January 10, 2007.

FOR FURTHER INFORMATION CONTACT: Irene Gorelik at (202) 482–6905 or Juanita Chen at (202) 482–1904 ; AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On August 1, 2006, the Department initiated a sunset review of the AD order on Foundry Coke from the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). *See Initiation of Five-year (''Sunset'') Reviews*, 71 FR 43443 (August 1, 2006). The Department received notices of intent to participate from the following domestic parties within the deadline specified in 19 CFR 351.218(d)(1)(i): ABC Coke, Citizens Gas & Coke Utility, Erie Coke, Sloss Industries Corporation, and Tonawanda Coke Corporation (collectively, ''Petitioners''). These parties claimed interested party status under section 771(9)(C) of the Act and 19 CFR 351.102(b), as domestic manufacturers and producers of the domestic like product. The Department received a substantive response from Petitioners within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). The Department did not receive a substantive response from any of the respondent interested parties to these proceedings. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited sunset review of this AD order.[1] On December 20, 2006, the ITC determined, pursuant to section 751(c) of the Act, that revocation of the AD order on foundry coke would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[2]

Scope Of The Order

The product covered under the antidumping duty order is coke larger than 100 mm (4 inches) in maximum diameter and at least 50 percent of which is retained on a 100–mm (4 inch) sieve, of a kind used in foundries.

The foundry coke products subject to the antidumping duty order were classifiable under subheading 2704.00.00.10 (as of Jan 1, 2000) and are currently classifiable under subheading 2704.00.00.11 (as of July 1, 2000) of the *Harmonized Tariff Schedule of the United States* (''HTSUS''). Although the HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of the order is dispositive.

[1] *See Foundry Coke Products from the People's Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 71 FR 70956 (December 7, 2006).

[2] *See Foundry Coke from China*, 71 FR 78223 (December 28, 2006), and USITC Publication 3897, Investigation No. 731-TA-891 (December 20, 2006) (Review).

Determination

As a result of the determinations by the Department and the ITC that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty order on foundry coke products from the PRC. U.S. Customs and Border Protection will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all imports of subject merchandise. This review covers imports from all manufacturers and exporters of foundry coke from the PRC.

The effective date of continuation of this order will be the date of publication in the **Federal Register** of this Notice of Continuation. Pursuant to sections 751(c)(2) and 751(c)(6) of the Act, the Department intends to initiate the next five-year review of this order not later than December 2011.

This five-year (''sunset'') review and notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act.

Dated: January 4, 2007.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E7–198 Filed 1–9–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE.

International Trade Administration

A–357–810

Oil Country Tubular Goods, Other Than Drill Pipe, from Argentina; Notice of Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request from the petitioner, the Department of Commerce (the Department) initiated an administrative review of the antidumping duty order on oil country tubular goods (OCTG) from Argentina. This review covers one manufacturer/exporter of the subject merchandise, Siderca S.A.I.C. (Siderca). The Department is now rescinding this review based on record evidence indicating the respondent had no entries of subject merchandise during the period of review (POR). The POR is August 1, 2005 through July 31, 2006.

EFFECTIVE DATE: January 10, 2007.

FOR FURTHER INFORMATION CONTACT: Fred Baker or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482 2924 (Baker), (202) 482–0649 (James).

SUPPLEMENTARY INFORMATION:

Background

On August 11, 1995, the Department published the antidumping duty order on OCTG from Argentina. *See Antidumping Duty Order: Oil Country Tubular Goods from Argentina*, 60 FR 41055 (August 11, 1995). On August 1, 2006, we published in the **Federal Register** a notice of opportunity to request administrative reviews. *See Antidumping and Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 71 FR 43441 (August 1, 2006). On August 31, 2006, United States Steel Corporation (petitioner) requested that the Department conduct an administrative review of sales of the subject merchandise made by Siderca.

On September 29, 2006, the Department published a notice of initiation of this administrative review. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 71 FR 57465 (September 29, 2006). The Department issued its antidumping duty questionnaire to Siderca on October 13, 2006. In response, Siderca stated in a November 1, 2006, submission that it had no entries for consumption of subject merchandise of OCTG during the POR, and requested that the Department rescind the administrative review with respect to Siderca.

On October 30, 2006, the Department placed on the record of the review copies of documents regarding entries of subject merchandise from Argentina that it obtained from U. S. Customs and Border Protection *(CBP)*. On November 20, 2006, the Department issued a letter to petitioners, domestic interested parties, and Siderca stating that the Department intended to rescind the review for want of a reviewable consumption entry by Siderca. We invited parties to submit comments on our intent to rescind the review. We requested that any comments be submitted by December 1, 2006. We received no comments.

Period of Review

The POR is August 1, 2005, through July 31, 2006.

Scope of the Review

OCTG are hollow steel products of circular cross-section, including oil well casing and tubing of iron *(other than cast iron)* or steel *(both carbon and alloy)*, whether seamless or welded, whether or not conforming to American Petroleum Institute *(API)* or non–API specifications, whether finished or unfinished (including green tubes and limited service OCTG products).

This scope does not cover casing or tubing pipe containing 10.5 percent or more of chromium. Drill pipe was excluded from this order beginning August 11, 2001. *See Continuation of Countervailing and Antidumping Duty Orders on Oil Country Tubular Goods From Argentina, Italy, Japan, Korea and Mexico, and Partial Revocation of Those Orders From Argentina and Mexico With Respect to Drill Pipe*, 66 FR 38630 (July 25, 2001).

The OCTG subject to this order are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.30.10, 7304.29.30.20, 7304.29.30.30, 7304.29.30.40, 7304.29.30.50, 7304.29.30.60, 7304.29.30.80, 7304.29.40.10, 7304.29.40.20, 7304.29.40.30, 7304.29.40.40, 7304.29.40.50, 7304.29.40.60, 7304.29.40.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.60.15, 7304.29.60.30, 7304.29.60.45, 7304.29.60.60, 7304.29.60.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50.

The HTSUS subheadings are provided for convenience and customs purposes. Our written description of the scope of this order is dispositive.

Rescission of Review

On November 1, 2006, Siderca informed the Department that it did not ship OCTG to the United States during the POR, and requested that we rescind the administrative review. The Department subsequently obtained and reviewed entry documents from CBP, and found no evidence that Siderca had knowledge that any of its production

was destined for the United States. In a November 20, 2006, letter to parties, we requested comments from parties on this determination, and received no comments. Therefore, based on our review of CBP documents, we are satisfied there were no entries of subject merchandise subject to this administrative review. Accordingly, we are rescinding the review.

Pursuant to 19 CFR 351.213(d)(3), the Department may rescind an administrative review, in whole or with respect to a particular exporter or producer, if the Secretary concludes that, during the period covered by the review, there were no entries, exports, or sales of the subject merchandise. Because the evidence on the record shows that there were no entries of OCTG made by Siderca during the POR, the Department is rescinding this review in accordance with 19 CFR 351.213(d)(3). The Department will issue appropriate assessment instructions to CBP within fifteen days of publication of this notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under section 351.402(f) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's assumption that reimbursement of antidumping duties occurred and subsequent assessment of double antidumping duties. This notice also serves as a reminder to parties subject to administrative protective order *(APO)* of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 351.305(a)(3) of the Department's regulations. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this notice in accordance with sections 751(a)(1) of the Tariff Act of 1930 (as amended) and 19 CFR 351.213(d)(4).

Dated: January 3, 2007.

Stephen J. Claeys

Deputy Assistant Secretary for Import Administration

[FR Doc. E7–193 Filed 1–9–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–570–886)

Polyethylene Retail Carrier Bags from the People's Republic of China: Notice of Extension of Time Limit for the Final Results of the Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: January 10, 2007.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or Matthew Quigley, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4243 or (202) 482–4551, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 28, 2005, the Department of Commerce (''the Department'') published in the **Federal Register** a notice of initiation of the antidumping duty administrative review of Polyethylene Retail Carrier Bags (''PRCBs'') from the People's Republic of China (''PRC'') for the period January 26, 2004, through July 31, 2005. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 70 FR 56631 (September 28, 2005). On September 13, 2006, the Department published the preliminary results. *See Polyethylene Retail Carrier Bags from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 54021 (September 13, 2006). The final results are currently due by January 11, 2007.

Extension of Time Limit for Final Results of Review

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), the Department shall make a final determination in an administrative review of an antidumping duty order within 120 days after the date on which the preliminary determination is published. The Act further provides, however, that the Department may extend that 120-day period to 180 days if it determines it is not practicable to complete the review within the foregoing time period.

The Department finds that it is not practicable to complete the final results of the administrative review of PRCBs from the PRC within the 120-day period due to complex issues the parties have raised regarding the selection of appropriate financial statements for the calculation of surrogate financial ratios. Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time period for completion of the final results of this review to 152 days until February 12, 2007.

This notice is published in accordance with sections 751(a)(3)(A) and 777(i) of the Act.

Dated: December 29, 2006.

Stephen J. Claeys,

Deputy Assistant Secretaryfor Import Administration.

[FR Doc. E7–192 Filed 1–9–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–533–824)

Polyethylene Terephthalate Film, Sheet and Strip from India: Notice of Rescission, in Part, of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On August 30, 2006, in response to a timely request from Jindal Poly Films Limited of India and MTZ Polyfilms, Ltd., the Department of Commerce (the Department) initiated an administrative review of the antidumping duty order on polyethylene terephthalate (PET) film from India. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 71 FR 51573 (August 30, 2006) (*Initiation Notice*). This administrative review covers the period July 1, 2005 through June 30, 2006. We are now rescinding the review of Jindal Poly Films Limited of India as a result of the withdrawal of its request for an administrative review of this order; we are continuing the administrative review of MTZ Polyfilms, Ltd.

EFFECTIVE DATE: January 10, 2007.

FOR FURTHER INFORMATION CONTACT: Jun Jack Zhao or Jacqueline Arrowsmith, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Room 7866, Washington, DC 20230; telephone number: (202) 482–1396 and (202) 482–5255, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 3, 2006, the Department published a notice of ''Opportunity to Request Administrative Review'' of the antidumping duty order on PET film from India for the period of July 1, 2005 through June 30, 2006. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 71 FR 37890 (July 3, 2006). On July 31, 2006, Jindal Poly Films Limited of India (Jindal) and MTZ Polyfilms, Ltd. (MTZ) requested an administrative review of the antidumping duty order on PET film. In response to these requests, the Department of Commerce initiated an antidumping duty administrative review on PET film from India. *See Initiation Notice*.

On August 25, 2006, pursuant to section 351.213(d)(1) of the Department's regulations, Jindal withdrew its request for an administrative review. Section 351.213(d) of the Department's regulations states that the Secretary will rescind an administrative review, in whole or in part, if a party that requested the review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review. We received the withdrawal of Jindal's request for review on August 25, 2006, which is within the requisite 90 days since the *Initiation Notice* was published on July 31, 2006.

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. For the company for which this review is rescinded (Jindal), antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(I). The Department will issue appropriate assessment instructions to CBP 15 days after the publication of this notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This notice is issued and published in accordance with section 777(i) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: January 3, 2007.

Stephen J. Claeys,

Deputy Assistant Secretaryfor Import Administration.

[FR Doc. E7–199 Filed 1–9–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmosphere Administration

Alaska Coastal Management Program: Incorporation of Revised Coastal District Management Plans for Cities of Skagway, Hoonah, and Pelican; and Deletion of Coastal District Management Plans for Cities of Angoon, Hydaburg, Kake, Klawock, and St. Paul with Associated Areas Meriting Special Attention; Availability of Environmental Assessment and Finding of No Significant Impact

AGENCY: National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of availability of Environmental Assessment and Finding of No Significant Impact.

SUMMARY: Notice is hereby given of the availability of the Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for the National Oceanic and Atmospheric Administration's (NOAA) approval of the State of Alaska's Coastal Management Program (ACMP) request to incorporate revisions to the cities of Skagway, Hoonah and Pelican's coastal district management and plan and to delete the cites of Angoon, Hydaburg, Kake, Klawock, and St. Paul coastal district management plans and associated Areas Meriting Special Attention (AMSA) as a routine program change to the ACMP. The EA was prepared pursuant to the National Environmental Policy Act (NEPA) U.S.A. 4321 et seq. to assess the environmental impacts associated with the approval and implementation of these revisions to the ACMP, which were submitted to NOAA by the State of Alaska. Pursuant to Section 306(g) of the Coastal Zone Management Act of 1972 as amended (CZMA) and NOAA's Office of Ocean and Coastal Resource Management (OCRM) regulations (15 CFR part 923, subpart H), OCRM is required to approve any amendment, modification, or other change to a state's federally-approved coastal management program. This includes changes to local coastal management programs. See 15 CFR part 923, subpart E.

For the purposes of this EA, the proposed action is approval of the proposed revisions to three district coastal management plans and deletion of the five district coastal management plans and associated AMSA. These changes to the ACMP will bring the three revised district coastal management plans into compliance with the recently-approved amendments to the ACMP, and eliminate five previously-approved district coastal management plans and their associated AMSA. The five districts will no longer participate at the local level in the State's federally-approved coastal zone management program. The coastal area in which the five deleted coastal management programs reside will continue to be covered by the ACMP's federally-approved statewide (rather than local) policies. However, due to other recent changes to the ACMP approved by OCRM, some district area uses and resources may not receive the same level of resource coverage, including subsistence resources.

NOAA finds that the ACMP has met the requirements for submitting a routine program change to OCRM and proposes to approve the program change. Based upon the EA, NOAA proposes to conclude that a Finding of No Significant Impact is appropriate, and therefore, an Environmental Impact Statement is unnecessary. The Council on Environmental Quality's regulations to implement NEPA require agencies to provide public notice of the availability of environmental documents. 40 CFR 1506.6. This notice is part of NOAA's action to comply with this requirement.

A copy of the final EA and the Finding of No Significant Impact may be found on OCRM's Web site at *http://coastalmanagement.noaa.gov/assessments/welcome.html* or may be obtained upon request from: Helen Bass, Coastal Programs Division (N/ORM3),

Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, telephone: (301) 713–3155, x175, e-mail: *Helen.Bass@noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Helen Bass, Environmental Protection Specialist, at the above noted address, telephone number, or e-mail address.

Dated: January 4, 2007.

William Corso,

Deputy Assistant Administrator, Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Assistance)

[FR Doc. 07–42 Filed 1–9–07; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 010407D]

Marine Mammals; File No. 775–1875

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the Northeast Fisheries Science Center (NEFSC), National Marine Fisheries Service (Dr. Richard Merrick, Principal Investigator), 166 Water Street, Woods Hole, MA 02543, has applied in due form for a permit to conduct scientific research on and import/export specimens collected from marine mammals.

DATES: Written, telefaxed, or e-mail comments must be received on or before February 9, 2007.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521;

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298; phone (978)281–9300; fax (978)281–9394; and

Southeast Region, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701; phone (727)824–5312; fax (727)824–5309.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301)427–2521, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is *NMFS.Pr1Comments@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: File No. 775–1875.

FOR FURTHER INFORMATION CONTACT: Brandy Hutnak or Carrie Hubard, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

The NEFSC seeks permission to conduct research on seven species of baleen whales, twenty-five species/stocks of odontocetes, and four species of pinnipeds over a period of five years. This application includes the following endangered species: sperm whale (*Physeter macrocephalus*), sei whale (*Balaenoptera borealis*), blue whale (*B. musculus*), fin whale (*B. physalus*), humpback whale (*Megaptera novaeangliae*), and right whale (*Eubalaena glacialis*). The principal purpose of the research is estimation of distribution, abundance, and determination of stock structure in supporting NOAA's mandates under both the MMPA and ESA. Types of take include Level B harassment during vessel and aircraft line transect and photo-identification surveys, biopsy sampling, instrument attachment (suction-cup tags on cetaceans), and pinniped capture/tag/release. For cetaceans, the proposed research would be conducted on all age classes, except neonates. The pinniped research would be conducted on all ages, including pups. The proposed study area for the permit includes waters within or proximal to the US Exclusive Economic Zone from Florida to Maine. Permission is also sought to import and export specimens (including soft and hard tissue, blood, extracted DNA, and whole dead animals or parts thereof) to/from any country.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: January 5, 2007.

Tammy C. Adams,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E7–203 Filed 1–9–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 010507A]

Fisheries of the South Atlantic; South Atlantic Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of its Controlled Access Committee in Charleston, SC.

DATES: The meeting will take place January 23–24, 2007. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meeting will be held at the Embassy Suites Hotel Airport/Convention, 5055 International Boulevard, North Charleston, SC 29418; telephone: (800) 362–2779 or (843) 747–1882; fax: (843) 725–1300.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer; telephone: (843) 571–4366 or toll free (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net*.

SUPPLEMENTARY INFORMATION: Members of the Controlled Access Committee will meet from 1 p.m. to 5 p.m. on January 23, 2007, and from 8:30 a.m. to 3 p.m. on January 24, 2007. The meeting is being convened to address issues relevant to the Council's consideration

of implementing a Limited Access Privilege Program (LAP) for the commercial snapper grouper fishery in the South Atlantic region.

Items for discussion at the meeting include: (1) Review of the revised Sustainable Fisheries Act and implications for LAPs; (2) Presentations on the experiences of other LAPs and their success and drawbacks; (3) Development of LAP program goals and objectives for the snapper grouper fishery in the South Atlantic; (4) Creation of an advisory panel to help address LAP issues; and (5) Review and approval of an action plan.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Note: The times and sequence specified in this agenda are subject to change.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 3 days prior to the meetings.

Dated: January 5, 2007.

Tracey L. Thompson,

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

[FR Doc. E7–129 Filed 1–9–07; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of the 2007 Quota Period and Elimination of Quota, and Visa and ELVIS Requirements to Account for the Accession of the Socialist Republic of Vietnam into the World Trade Organization

January 8, 2007.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner, Bureau of Customs andBorder Protection concerning the adjustment of the 2007 quota period and elimination of quota, visa and ELVIS requirements to account for the accession of Vietnam into the world Trade Organization (WTO).

EFFECTIVE DATE: January 11, 2007.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce (202) 482–4212. For information on the quota status of these limits, refer to the Bureau of Customs and Border Protection website (*http://www.cbp.gov*), or call (202) 344–2650. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at *http://otexa.ita.doc.gov.*

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The Bilateral Textile Agreement of July 17, 2003, as amended on July 22, 2004, between the Governments of the United States and the Socialist Republic of Vietnam, establishes limits, until the Socialist Republic of Vietnam's entry into the World Trade Organization (WTO), for certain cotton, wool and man-made fiber textiles and textile products, produced or manufactured in the Socialist Republic of Vietnam and exported during the period January 1, 2007 through December 31, 2007, as described in the document published in the **Federal Register** on December 22, 2006 (71 FR 76998), and amended in the document published on December 29, 2006 (71 FR 78409).

Vietnam will enter the WTO on January 11, 2007. As a result, in the letter published below, the Chairman of CITA directs the Commissioner, Bureau of Customs and Border Protection to change the 2007 quota period to January 1 through January 10, 2007, and eliminate quota, and visa and ELVIS requirements for goods exported from Vietnam on and after January 11, 2007. The quota levels set forth and amended in the aforementioned documents remain the same in the adjusted period.

Goods exported from Vietnam prior to January 11, 2007 will continue to be charged to the applicable quota (either 2006 or January 1 through January 10, 2007), and paper visa and ELVIS requirements will remain in effect for goods exported from Vietnam prior to January 11, 2007.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (refer to the Office of Textiles and Apparel website at *http://otexa.ita.doc.gov*).

R. Matthew Priest,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

January 8, 2007

Commissioner,

Bureau of Customs and Border Protection, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 19, 2006, amended by the document issued to you on December 22, 2006, by the Chairman, Committee for the Implementation of Textile Agreements. Those directives concern imports of cotton, wool and man-made fiber textiles and textile products produced or manufactured in Vietnam and exported during the twelve-month period beginning on January 1, 2007 and extending through December 31, 2007.

Vietnam will enter the World Trade Organization (WTO) on January 11, 2007. Effective on January 11, 2007, you are directed to change the 2007 quota period to January 1 through January 10, 2007 and eliminate quota, and visa and ELVIS requirements for goods exported from Vietnam on and after January 11, 2007. The quota levels set forth and amended in the aforementioned documents remain the same in the adjusted period.

Shipments exported from Vietnam on and after January 11, 2007 will not be charged to the adjusted 2007 quota limits. The paper visa and ELVIS transmission will not be required for shipments exported from Vietnam on and after January 11, 2007. Goods exported from Vietnam prior to January 11, 2007 will continue to be charged to the applicable quota (either 2006 or January 1 through January 10, 2007), and paper visa and ELVIS requirements will remain in effect for goods exported from Vietnam prior to January 11, 2007.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

R. Matthew Priest,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 07–65 Filed 1–8–07; 11:41 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Intent To Prepare an Environmental Impact Statement (EIS) for Construction and Operation of a Panoramic Survey Telescope and Rapid Response System (Pan-STARRS) at the Summit of Mauna Kea, HI

AGENCY: Department of the Air Force, DOD.

ACTION: Notice of intent.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 United States Code 4321, et. seq.), the Council on Environmental Quality Regulations for implementing the procedural provisions of NEPA (40 Code of Federal Regulation (CFR) Parts 1500–1508), and U.S. Air Force (USAF) policy and procedures (32 CFR part 989), the USAF is issuing this notice to advise the public of its intent to prepare an EIS evaluating potential environmental impacts associated with construction and operation of the proposed Panoramic Survey Telescope and Rapid Response System (Pan-STARRS) by the University of Hawaii (UH) Institute for Astronomy (IfA). Public scoping meetings will be held to assist in identifying reasonable alternatives, their potential impacts and the relative significance of impacts to be analyzed in the EIS.

Pan-STARRS is a USAF-funded, UH IfA research program to discover, characterize and track Near-Earth Objects (NEOs), primarily asteroids and comets, whose trajectories pass close enough to Earth that they may pose a danger of collision. Pan-STARRS could also map the large-scale structure of the Universe, searching for astronomical objects that move or change such as exploding stars, variable stars, and planets around other stars. The Pan-STARRS design involves four individual wide-field optical systems, each with a dedicated digital camera. The digital cameras would be the largest ever built. Each night Pan-STARRS would image one-fifth of the visible sky, allowing it to survey the entire visible sky once per week. Exposed images would be downloaded through existing data transmission infrastructure to a UH-operated computer facility for processing and analysis. The UH IfA intends to publish the data generated. Since 2002, the USAF has funded UH IfA's research into the technology behind Pan-STARRS, including fabrication of a single optical system prototype unit and its installation into an existing observatory on Maui. Although the USAF would fund its construction, the Pan-STARRS facility would be owned, operated, and maintained by UH IfA and used for IfA-directed research.

The EIS will analyze three alternatives: rebuilding an existing IfA observatory for Pan-STARRS use at the preferred site on Mauna Kea on the island of Hawaii, constructing a new observatory at an undeveloped site on Haleakala on the island of Maui, and the No Action alternative. The EIS will be prepared as a joint federal-state document in compliance with both NEPA and the State of Hawaii Environmental Impact Statements law (Chapter 343, Hawaii Revised Statutes). Biological resources of concern to be addressed in the EIS include the rare Wekiu bug (*Nysius wekiucola*) on Mauna Kea and the 'ua'u (Hawaiian petrel) on Haleakala. Cultural resources of concern include prehistoric or historic districts, archeological sites, shrines, trails, cultural objects and Traditional Cultural Properties with links to cultural and religious practices of Native Hawaiians; possible human remains issues; sacred sites; landscapes; and broader variables of aesthetics. The USAF intends to use the EIS process and documentation to fulfill its National Historic Preservation Act, Section 106 consultation requirements (36 CFR 800.8).

The USAF and UH will host public scoping meetings on the Islands of Hawaii, Maui and Oahu in late January or early February to solicit public participation in this environmental analysis. Exact dates, times and location(s) of meetings will be announced through local media. The scoping process will help identify the full range of reasonable alternatives, potential impacts and key issues to be emphasized in the environmental analysis. Recognizing that open communication of issues is a critical element of the EIS process, the USAF and UH intend to ensure that the scoping experience is meaningful and productive for all participants. Accordingly, the project team is putting strong emphasis on an EIS process that fosters beneficial dialogue and relationship building among all stakeholders, particularly those in the native Hawaiian community. Handicap assistance and translation service will be made available; please provide requests in advance to the point of contact listed below.

Oral and written comments presented at the public scoping meetings, as well as written comments received by the USAF during this scoping period and throughout the EIS process, will be considered in the preparation of the EIS. To ensure the USAF has sufficient time to consider public input in preparation of the Draft EIS, written comments should be submitted to the address below by 28 Feb 07. Letters and other written or oral comments received may be published in the EIS along with the names of the individuals making the comments. (Personal home addresses and phone numbers will not be published.) As required by law, comments will be addressed in the EIS and made available to the public. Private addresses will only be used to develop a mailing list of those individuals requesting copies of the EIS.

FOR FURTHER INFORMATION CONTACT: Please direct any written comments or requests for information to Mr. Juventino Garcia, Office of Public Affairs, AFRL/DEO, 3550 Aberdeen Ave., SE., Kirtland AFB, NM 87117–5776 (Phone: 505–846–4583; e-mail *Juventino.Garcia@kirtland.af.mil*). Handicap assistance and translation service at the public meetings are available in advance through Mr. Garcia.

Bao-Anh Trinh,

DAF Air Force Federal Register Liaison Officer.

[FR Doc. E7–169 Filed 1–9–07; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF EDUCATION

Submission of Data by State Educational Agencies

AGENCY: National Center for Education Statistics, Institute of Education Sciences, Department of Education.

ACTION: Notice of dates of submission of State revenue and expenditure reports for fiscal year (FY) 2006 and of revisions to those reports.

SUMMARY: The Secretary announces dates for the submission by State educational agencies (SEAs) of expenditure and revenue data and average daily attendance statistics on ED Form 2447 (the National Public Education Financial Survey (NPEFS)) for FY 2006. The Secretary sets these dates to ensure that data are available to serve as the basis for timely distribution of Federal funds. The U.S. Bureau of the Census (Bureau of the Census) is the data collection agent for the National Center for Education Statistics (NCES). The data will be published by NCES and will be used by the Secretary in the calculation of allocations for FY 2008 appropriated funds.

DATES: The date on which submissions will first be accepted is March 15, 2007. The mandatory deadline for the final submission of all data, including any revisions to previously submitted data, is September 4, 2007.

ADDRESSES AND SUBMISSION INFORMATION: SEAs may mail ED Form 2447 to: Bureau of the Census, ATTENTION: Governments Division, Washington, DC 20233–6800.

SEAs may submit data via the World Wide Web using the interactive survey form at *surveys.nces.ed.gov/ccdnpefs*. If the Web form is used, it includes a digital confirmation page where a pin number may be entered. A successful entry of the pin number serves as a signature by the authorizing official. A certification form also may be printed from the Web site, and signed by the authorizing official and mailed to the Governments Division of the Bureau of the Census, at the address listed in the previous paragraph. This signed form must be mailed within five business days of Web form data submission.

Alternatively, SEAs may hand deliver submissions by 4 p.m. (Eastern Time) to: Governments Division, Bureau of the Census, 8905 Presidential Parkway, Washington Plaza II, Room 508, Upper Marlboro, MD 20772.

If an SEA's submission is received by the Bureau of the Census after September 4, 2007, in order for the submission to be accepted, the SEA must show one of the following as proof that the submission was mailed on or before the mandatory deadline date:

1. A legibly dated U.S. Postal Service postmark.
2. A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
3. A dated shipping label, invoice, or receipt from a commercial carrier.
4. Any other proof of mailing acceptable to the Secretary.

If the SEA mails ED Form 2447 through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

1. A private metered postmark.
2. A mail receipt that is not dated by the U.S. Postal Service.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an SEA should check with its local post office.

FOR FURTHER INFORMATION CONTACT: Ms. Terri Kennerly, Chief, Bureau of the Census, ATTENTION: Governments Division, Washington, DC 20233–6800. Telephone: (301) 763–1559. If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to: Frank Johnson, National Center for Education Statistics, Institute of Education Sciences, U.S. Department of Education, Washington, DC 20208–5651. Telephone: (202) 502–7362.

SUPPLEMENTARY INFORMATION: Under the authority of section 153(a)(1)(I) of the Education Sciences Reform Act of 2002, 20 U.S.C. 9543, which authorizes NCES to gather data on the financing of education, NCES collects data annually from SEAs through ED Form 2447. The report from SEAs includes attendance, revenue, and expenditure data from which NCES determines the average State per pupil expenditure (SPPE) for elementary and secondary education, as defined in the Elementary and Secondary Education Act of 1965, as amended (ESEA) (20 U.S.C. 7801(2)).

In addition to utilizing the SPPE data as general information on the financing of elementary and secondary education, the Secretary uses these data directly in calculating allocations for certain formula grant programs, including Title I of the ESEA, Impact Aid, and Indian Education programs. Other programs such as the Educational Technology State Grants program (Title II of the ESEA, Part D), the Education for Homeless Children and Youth Program under Title VII of the McKinney-Vento Homeless Assistance Act, the Teacher Quality State Grants program (Title II of the ESEA, Part A), and the Safe and Drug-Free Schools and Communities program (Title IV of the ESEA, Part A) make use of SPPE data indirectly because their formulas are based, in whole or in part, on State Title I allocations.

In January 2007, the Bureau of the Census, acting as the data collection agent for NCES, will e-mail to SEAs ED Form 2447 with instructions and request that SEAs submit data to the Bureau of the Census on March 15, 2007, or as soon as possible thereafter. SEAs are urged to submit accurate and complete data on March 15, or as soon as possible thereafter, to facilitate timely processing. Submissions by SEAs to the Bureau of the Census will be checked for accuracy and returned to each SEA for verification. All data, including any revisions, must be submitted to the Bureau of the Census by an SEA not later than September 4, 2007.

Having accurate and consistent information on time is critical to an efficient and fair allocation process and to the NCES statistical process. To ensure timely distribution of Federal education funds based on the best, most accurate data available, NCES establishes, for allocation purposes, September 4, 2007, as the final date by which the NPEFS Web form or ED Form 2447 must be submitted. If an SEA submits revised data after the final deadline that results in a lower SPPE figure, its allocations may be adjusted downward or the Department may request the SEA to return funds. SEAs should be aware that all of these data are subject to audit and that, if any inaccuracies are discovered in the audit process, the Department may seek recovery of overpayments for the applicable programs. If an SEA submits revised data after September 4, 2007, the data also may be too late to be included in the final NCES published dataset.

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*.

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*.

Authority: 20 U.S.C. 9543.

Dated: January 5, 2007.

Grover J. Whitehurst,

Director, Institute of Education Sciences.

[FR Doc. E7–201 Filed 1–9–07; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2006–0895, FRL–8267–3]

Agency Information Collection Activities; Proposed Collection; Comment Request; Engine Emission Defect Information Reports and Voluntary Emission Recall Reports; EPA ICR No. 0282.14, OMB Control No. 2060–0048

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44

U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on March 31, 2007. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before March 12, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2006–0895, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: a-and-r-Docket@epa.gov.*
- *Mail:* Air Docket, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Fax or Hand Delivery:* EPA's Public Reading Room was temporarily closed due to flooding and has reopened in the EPA Headquarters Library, Room 3334, in the EPA West Building, 1301 Constitution Avenue, NW., Washington, DC. In order to ensure to arrange for proper fax or hand delivery of materials at this time, please call the Air Docket at 202–566–1742. 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–2006–0895. 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 *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: Nydia Y. Reyes-Morales, USEPA Headquarters, Ariel Rios Building Mail Code 6403J, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: 202–343–9264; fax number: 202–343–2804; e-mail address: *reyes-morales.nydia@epa.gov.*

SUPPLEMENTARY INFORMATION:

How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2006–0895, which is available for online viewing at *www.regulations.gov,* and for in-person viewing at EPA's Public Reading Room. The Public Reading Room was temporarily closed due to flooding and reopened in the EPA Headquarters Library, Room 3334, in the EPA West Building, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST) in its new location, Monday through Friday, excluding legal holidays. The telephone number for the AIR Docket is 202–566–1742.

Use *www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified in this document.

What Information Is EPA Particularly Interested In?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) 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;

(ii) 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;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) 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. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under **DATES**.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What Information Collection Activity or ICR Does This Apply to?

Docket ID No. EPA–HQ–OAR–2006–0895

Affected entities: Entities potentially affected by this action are manufacturers of on-highway heavy-duty engines, non-road compression-ignition and spark-ignition engines (including engines used in recreational vehicles), marine engines, locomotives and locomotive engines.

Title: Engine Emission Defect Information Reports and Voluntary Emission Recall Reports.

ICR numbers: EPA ICR No. 0282.14, OMB Control No. 2060–0048.

ICR status: This ICR is currently scheduled to expire on March 31, 2007. 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: Per sections 207(c)(1) and 213 of the Clean Air Act (CAA), when a substantial number of properly maintained and used engines produced by a manufacturer do not conform to emission standards, the manufacturer is required to recall the engines. Manufacturers are also required to submit Defect Information Reports (DIRs) to alert EPA of the existence of emission-related defects on certain classes of engines that may cause the engines' emissions to exceed the standards and ultimately may lead to a recall. EPA uses these reports to target potentially nonconforming classes of engines for future testing, to monitor compliance with applicable regulations and to order a recall, if necessary. Manufacturers can also initiate a recall voluntarily by submitting a Voluntary Emission Recall Report (VERR). VERRs and VERR updates allow EPA to determine whether the manufacturer conducting the recall is acting in accordance with the CAA and to examine and monitor the effectiveness of the recall campaign.

The information is collected by the Heavy-duty and Nonroad Engine Group, Compliance and Innovative Strategies Division, Office of Transportation and Air Quality, Office of Air and Radiation. Confidentiality of proprietary information submitted by manufacturers is granted in accordance with the Freedom of Information Act, EPA regulations at 40 CFR part 2, and class determinations issued by EPA's Office of General Counsel.

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. The EPA would like to solicit comments to: (i) 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; (ii) 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; (iii) Enhance the quality, utility, and clarity of the information to be collected; and (iv) 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.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 20 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 which have subsequently changed; 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.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 17.

Frequency of response: DIRs and VERRs are submitted on occasion, whereas VERRs updates are submitted quarterly by some respondents.

Estimated total average number of responses for each respondent: Varies as needed.

Estimated total annual burden hours: 4,417.

Estimated total annual costs: $306,405.17. This includes an estimated cost of $413 for capital investment or maintenance and operational costs.

What Is the Next Step in the Process for This ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: January 4, 2007.

William L. Wehrum,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. E7–166 Filed 1–9–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2003–0004; FRL–8107–6]

Access to Confidential Business Information by Computer Sciences Corporation's Identified Subcontractors; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA issued a notice in the **Federal Register** of August 15, 2006, concerning the authorization of EPA's contractor Computer Sciences Corporation of Chantilly, VA and its subcontractors, Digital Intelligence Systems Corporation of Chantilly, VA, Tek Systems of Hanover, MD, and Yoh I.T. of Philadelphia, PA, to access information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). This document is being issued to correct errors in that notice.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For specific information contact: Scott M. Sherlock, TSCA Security Staff, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–8257; e-mail address: *sherlock.scott@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Notice Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those persons who are or may be required to conduct testing of chemical substances under TSCA. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Documents?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPPT–2003–0004. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include CBI or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center, Rm. 3334, EPA West, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566–1744, and the telephone number for the OPPT Docket, which is located in EPA Docket Center, is (202) 566–0280.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

II. What Does this Correction Do?

FR Doc. 06–6908 published in the **Federal Register** of August 15, 2006 (71 FR 46900) (FRL–8087–8) is corrected.

On page 46901, column 1, second full paragraph, sentence two is corrected to read as follows: ''All access to TCSA CBI under this contract will take place at EPA Headquaters and Research Triangle Park, NC facilities; the CSC facility at Research Triangle Park, NC; and also remote electronic access using secure means.''

List of Subjects

Environmental protection, Confidential business information.

Dated: January 3, 2007.

Brion Cook

Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. E7–176 Filed 1–9–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2005–0255; FRL–8110–7]

Pesticide Program Dialogue Committee Performance Measures Work Group; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA's Pesticide Program Dialogue Committee (PPDC) Performance Measures Workgroup will hold a public meeting on January 30, 2007. An agenda for this meeting is being developed and will be posted on EPA's website. The work group is developing advice and recommendations concerning performance management measures for EPA's pesticide program.

DATES: The meeting will be held on Tuesday, January 30, 2007, from 11 a.m. to 1 p.m.

To request accommodation of a disability, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

ADDRESSES: The meeting will be held at Room N–4830, One Potomac Yard (North Building), 2777 S. Crystal Drive, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Sherry Sterling, 7501P, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–0387; fax number: (703) 308–4776; e-mail address:*sterling.sherry@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of particular interest to persons who work in agricultural settings or persons who are concerned about implementation of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); the Federal Food, Drug, and Cosmetic Act (FFDCA); and the amendments to both of these major pesticide laws by the Food Quality Protection Act (FQPA) of 1996. Potentially affected entities may include, but are not limited to: Agricultural workers and farmers; pesticide industry and trade associations; environmental, consumer, and farmworker groups; pesticide users and growers; pest consultants; State, local and Tribal governments; academia; public health organizations; food processors; and the public. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number EPA–HQ–OPP–2005–0255. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Room S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the**Federal Register** listings at *http://www.epa.gov/fedrgstr*.

II. Background

The Office of Pesticide Programs is entrusted with the responsibility to help ensure the safety of the American food supply, the education and protection from unreasonable risk of those who apply or are exposed to pesticides occupationally or through use of products, and general protection of the

environment and special ecosystems from potential risks posed by pesticides.

The PPDC was established under the Federal Advisory Committee Act (FACA), Public Law 92–463, in September 1995 for a 2–year term and has been renewed every 2 years since that time. PPDC provides advice and recommendations to OPP on a broad range of pesticide regulatory, policy, and program implementation issues that are associated with evaluating and reducing risks from the use of pesticides. The following sectors are represented on the PPDC: Pesticide industry and trade associations; environmental/public interest and consumer groups; farm worker organizations; pesticide user, grower and commodity groups; Federal and State/local/Tribal governments; the general public; academia; and public health organizations. Copies of the PPDC charter are filed with appropriate committees of Congress and the Library of Congress and are available upon request.

III. How Can I Request to Participate in this Meeting?

PPDC meetings are open to the public and seating is available on a first-come basis. Persons interested in attending do not need to register in advance of the meeting. Opportunity will be provided for questions and comments by the public. Any person who wishes to file a written statement may do so before or after the meeting by giving a copy of the statement to the person listed under **FOR FURTHER INFORMATION CONTACT**. These statements will become part of the permanent record and will be available for public inspection at the address listed under Unit 1.B.1. Do not submit any information in your request that is considered confidential business information.

To request accommodation of a disability, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

List of Subjects

Environmental protection, Agricultural workers, Agriculture, Chemicals, Foods, Pesticides, Pests, Public health, Risk assessment, Tolerance reassessment.

Dated: December 29, 2006.

Marty Monell,

Acting Director, Office of Pesticide Programs.

[FR Doc. E7–89 Filed 1–9–07 8:45 am]

BILLING CODE 6560–50–S

EXPORT-IMPORT BANK OF THE UNITED STATES

Economic Impact Policy

This notice is to inform the public that the Export-Import Bank of the United States has received an application to finance the export of approximately $766 million in U.S. semiconductor manufacturing equipment to a dedicated foundry in Singapore. The U.S. exports will enable the dedicated foundry to increase production by 15,000 300-mm (non-DRAM) wafers per month across advanced process technology nodes for Phase II of its existing Fabrication Plant 7. Available information indicates that this new production will be exported from Singapore and consumed globally. Interested parties may submit comments on this transaction by e-mail to *economic.impact@exim.gov* or by mail to 811 Vermont Avenue, NW., Room 1238, Washington, DC 20571, within 14 days of the date this notice appears in the **Federal Register.**

Helene S. Walsh,

Director, Policy Oversight and Review.

[FR Doc. E7–123 Filed 1–9–07; 8:45 am]

BILLING CODE 6690–01–P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Regular Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the regular meeting of the Farm Credit Administration Board (Board).

Date and Time: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on January 11, 2007, from 9 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Roland E. Smith, Secretary to the Farm Credit Administration Board, (703) 883–4009, TTY (703) 883–4056.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

- December 14, 2006 (Open and Closed).

B. New Business

- Termination and Cancellation of the Charter for the Financial Assistance Corporation.

Reports.

- Auditors' Report on FCA FY 2006/2005 Financial Statements.
- OE Quarterly Report.

Closed Session*

- Update on OE Oversight Activities.

Dated: January 5, 2007.

James M. Morris,

Acting Secretary, Farm Credit Administration Board.

[FR Doc. 07–63 Filed 1–5–07; 4:57 pm]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget

January 4, 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 opportunityto 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.

* Session Closed—Exempt pursuant to 5 U.S.C. 552b(c)(8) and (9).

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before February 9, 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 Allison E. Zaleski, Office of Management and Budget, Room 10236 NEOB, Washington, DC 20503, (202) 395–6466, or via fax at 202–395–5167 or via Internet at *Allison_E._Zaleski@omb.eop.gov* and to *Judith-B.Herman@fcc.gov,* Federal Communications Commission, Room 1–B441, 445 12th Street, SW., DC 20554 or an email 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 FCC PRA Web page at: *http://www.fcc.gov/omd/pra.*

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–XXXX.

Title: Rural Health Care Support Mechanism.

Form No.: N/A.

Type of Review: New collection.

Respondents: Not-for-profit institutions and state, local and tribal government.

Number of Respondents: 20 respondents; 20 responses.

Estimated Time Per Response: 25 hours.

Frequency of Response: Annual reporting requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 500 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality. Respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this new information collection to OMB during this comment period to obtain the full three-year clearance.

The Commission requests OMB approval to establish a new information collection. The Order, WC Docket No. 02–60, FCC 06–144, at issue establishes a pilot program to assist public and non-profit health care providers build state and region-wide broadband networks dedicated to the provision of health care services, and connect those networks to a dedicated nationwide backbone, such as Internet2. The construction of such networks will bring the benefits of innovative telehealth, and particularly, telemedicine services to those areas of the county where the need for those benefits is most acute. The information collection consists of the application to participate in the pilot program.

The pilot program is designed to encourage health care providers to join together to aggregate the needs and develop a strategy for creating statewide and/or regional networks that will connect numerous health care providers, including rural health care providers, through a dedicated, broadband network. The pilot program will fund up to 85% of the costs incurred to deploy state or regional broadband networks dedicated to health care. The pilot program will also fund up to 85% of the costs of connecting the regional and/or statewide to a dedicated nationwide backbone such as Internet 2, that connects a number of government research instructions, as well as academic, public, and private health care institutions that are repositories of medical expertise and information.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 07–52 Filed 1–9–07; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority

December 27, 2006.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, 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: Persons wishing to comment on this information collection should submit comments March 12, 2007. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Allison E. Zaleski, Office of Management and Budget (OMB), Room 10236 NEOB, Washington, DC 20503, (202) 395–6466, or via fax at 202–395–5167, or via the Internet at *Allison_E._Zaleski@omb.eop.gov* and to *Judith-B.Herman@fcc.gov*, Federal Communications Commission (FCC), Room 1–B441, 445 12th Street, SW., Washington, DC 20554. To submit your comments by e-mail send them 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 FCC PRA Web page at: *http://www.fcc.gov/omd/pra.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s) send an e-mail to *PRA@fcc.gov* or contact Judith B. Herman at 202–418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0599.

Title: Sections 90.425 and 90.647, Station Identification.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 45.

Estimated Time Per Response: 1.66 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 75 hours.

Annual Cost Burden: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: This collection will be submitted as an extension (no change

in reporting requirements) after this 60 day comment period to Office of Management and Budget (OMB) in order to obtain the full three year clearance. There is no change in respondents or burden hours. Only the title of this collection has been changed. This information collection sets forth station identification requirements under Section 90.647 and 90.425. Section 90.425(e) states that 929–930 MHz nationwide paging licensees and MTA-based SMR licensees or MTA or EA-based SMR licensees are exempt from meeting these identification requirements as opposed to all other CMRS. Further the remaining CMRS providers need comply only once with the streamlined station identification requirements which amend requirements from once every 15 minutes to once an hour.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–179 Filed 1–9–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's Office of Agreements (202–523–5793 or *tradeanalysis@fmc.gov*).

Agreement No.: 011852–023.

Title: Maritime Security Discussion Agreement.

Parties: China Shipping Container Lines, Co., Ltd.; Hyundai Merchant Marine Co., Ltd.; Kawasaki Kisen Kaisha, Ltd.; Nippon Yusen Kaisha; Yang Ming Marine Transport Corp.; Zim Integrated Shipping Services, Ltd.; Alabama State Port Authority; Ceres Terminals, Inc.; Cooper/T. Smith Stevedoring Co., Inc.; Husky Terminal & Stevedoring, Inc.; International Shipping Agency; International Transportation Service, Inc.; Lambert's Point Docks Inc.; Maher Terminals, Inc.; Marine Terminals Corp.; Massachusetts Port Authority; P&O Ports North America, Inc.; Trans Bay Container Terminal, Inc.; TraPac Terminals; Virginia International Terminals; and Yusen Terminals, Inc.

Filing Parties: Carol N. Lambos; The Lambos Firm; 29 Broadway; 9th Floor; New York, NY 10006, and Charles T. Carroll, Jr.; Carroll & Froelich, PLLC; 919 18th Street, NW.; Suite 901; Washington, DC 20006.

Synopsis: The amendment changes Maher Terminals' name to Maher Terminals LLC and updates Maher Terminals' address.

Agreement No.: 011929–001.

Title: Hapag-Lloyd/Zim Mediterranean Slot Exchange Agreement.

Parties: Hapag-Lloyd Container Linie GmbH and Zim Integrated Shipping Services, Ltd.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

Synopsis: The amendment changes Hapag-Lloyd's name to Hapag-Lloyd AG.

By Order of the Federal Maritime Commission.

Dated: January 5, 2007.

Bryant L. VanBrakle,

Secretary.

[FR Doc. E7–180 Filed 1–9–07; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. Chapter 409 and 46 CFR part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel—Operating Common Carrier Ocean Transportation Intermediary Applicants:

A.W.E. Logistics Group LLC, One Cross Island Plaza, Suite 226, Rosedale, NY 11422, *Officer:* Dominic Luk, Managing Director (Qualifying Individual).

Haiti Shipping Lines, Inc. dba HSL Logistics, 555 NW So River Drive, Miami, FL 33136, *Officers:* Richard A. Dubin, Vice President (Qualifying Individual), Patrick Bellard, President.

ACME Freight Services Corp., 550 E. Carson Plaza Drive, Suite 201, Carson, CA 90746, *Officer:* Shia-Shung Shih, President (Qualifying Individual).

ENL Global (New York) Inc., 182–30 150th Road, Suite 128, Jamaica, NY 11413, *Officers:* Ming Wu, President (Qualifying Individual), Wai Man Tong, Vice President.

Non-Vessel—Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants:

New Haven International, Inc. dba Trans Express, 3901 Williams Blvd., Suite #24, Kenner, LA 70065, *Officers:* Lillia M. Martinez, Vice President of Opera (Qualifying Individual), Mario Jerez, President.

Sofilink Continental, Inc., 9960 Nn.W. 116th Way, Suite 10, Miami, FL 33178, *Officer:* Nelson A. Guillen, President (Qualifying Individual).

Ocean Air Land Freight Corp., dba Ocean Air Lines, 8600 NW 30th Terrace, Miami, FL 33122, *Officers:* Martha Zuluaga, President (Qualifying Individual), Maria Josefina Gori, Secretary.

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants:

Nhigroup Shipping Services, 9639 Hillcroft, Suite 892, Houston, TX 77906, Alex Okolie Anyikam, Sole Proprietor.

M & P Multi-Service Corp, dba M & P Multi-Service, 6153 Johnson Street, Houston, TX 33024. *Officer:* Victor M. Mercedes, President (Qualifying Individual).

Dated: January 5, 2007.

Bryant L. VanBrakle,

Secretary.

[FR Doc. E7–189 Filed 1–9–07; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the

Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 5, 2007.

A. Federal Reserve Bank of San Francisco (Tracy Basinger, Director, Regional and Community Bank Group) 101 Market Street, San Francisco, California 94105-1579:

1. Security Pacific Bancorp, Los Angeles, California; to acquire up to 24.9 percent of the voting shares of Pacific Premier Bancorp, Inc., and thereby indirectly acquire voting shares of Pacific Premier Bank, both of Costa Mesa, California.

Board of Governors of the Federal Reserve System, January 5, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–148 Filed 1–9–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of December 12, 2006

In accordance with § 271.25 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on December 12, 2006.[1]

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. To further its long–run objectives, the Committee in the immediate future seeks conditions in reserve markets consistent with maintaining the federal funds rate at an average of around 5¼ percent.

Nonetheless, the Committee judges that some inflation risks remain. The extent and timing of any additional firming that may be needed to address these risks will depend on the evolution of the outlook for both inflation and economic growth, as implied by incoming information.

By order of the Federal Open Market Committee, January 5, 2007.

Vincent R. Reinhart,

Secretary, Federal Open Market Committee.

[FR Doc. E7–182 Filed 1–9–07; 8:45 am]

BILLING CODE 6210–01–S

[1] Copies of the Minutes of the Federal Open Market Committee meeting on December 12, 2006, which includes the domestic policy directive issued at the meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, DC 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

GENERAL SERVICES ADMINISTRATION

Privacy Act of 1974; Notice of Updated System of Records

AGENCY: General Services Administration

ACTION: Notice of updated system of records.

SUMMARY: The General Services Administration (GSA) is providing notice of an update to the record system Grievance Records (GSA/HRO–10). The system includes grievances filed by agency employees under part 771 of OPM regulations. It also includes files of internal grievance and arbitration systems that are established through negotiations with recognized labor unions.

EFFECTIVE DATE: The system of records will become effective without further notice on February 9, 2007 unless comments received on or before that date result in a contrary determination.

FOR FURTHER INFORMATION CONTACT: Call or e-mail the GSA Privacy Act Officer: telephone 202–501–1452/202–208–1317; e-mail *gsa.privacyact@gsa.gov*.

ADDRESSES: Comments may be submitted to the Director, Human Capital Policy and Program Management Division (CHP), Office of Human Capital Management (CH), 1800 F Street NW, Washington, DC 20405.

SUPPLEMENTAL INFORMATION: GSA reviewed this Privacy Act system of records to ensure that it is relevant, necessary, accurate, up-to-date, and covered by the appropriate legal or regulatory authority. We are proposing to add exemptions to this system of record notice to protect information that is gathered during investigations for an examiner to make recommendations and final rulings.

Dated: January 4, 2007.

Cheryl M. Paige

Acting Director, Office of Information Management.

GSA\HRO–10

SYSTEM NAME:

Grievance Records

SYSTEM LOCATION:

The records are located in the Office of Human Resources Services at GSA or office in GSA in which grievances were filed. The offices are as follows:

Central Office, Central Office Human Resources Division (CHP), General Services Administration, 1800 F Street NW, Washington, DC 20405, (202) 501–0040.

National Capital Region, Human Resources Office (WCP),General Services Administration, 7th and D Streets SW, Washington, DC 20407, (202) 708–5335.

New England Region, Human Resources Office (1CP), General Services Administration, 10 Causeway Street, Boston, MA 02222, (617) 565–6634.

Northeast and Caribbean Region, Human Resources Office (2AR), General Services Administration, 26 Federal Plaza, New York, NY 10278, (212) 264–8138.

Mid-Atlantic Region, Human Resources Office (3CP), General Services Administration, The Strawbridge Building, 20 North Eighth Street, Philadelphia, PA 19107–3191, (215) 446–4951.

Southeast Sunbelt Region, Office of Human Resources (4AH),General Services Administration, 77 Forsyth Street, Suite 650, Atlanta, GA 30303, (404) 331–3186.

Great Lakes Region, Human Resources Office (5CP), General Services Administration, 230 South Dearborn Street, Chicago, IL 60604, (312) 353–5550.

The Heartland Region, Human Resources Office (6CP), General Services Administration, 1500 East Bannister Road, Kansas City, MO 64131, (816) 926–7206.

Greater Southwest Region, Human Resources Office (7CP), General Services Administration, 819 Taylor Street, Room 9A00, Forth Worth, TX 76102, (817) 978–3190.

Pacific Rim Region, Human Resources Office (9CP), General Services Administration, 450 Golden Gate Avenue, San Francisco, CA 94100, (415) 744–5185.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former employees who have filed grievances with GSA under part 771 of the Office of Personnel Management (OPM) Regulations (5 CFR Part 771) or a negotiated procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains grievances filed by agency employees under part 771 of OPM regulations. It also includes files of internal grievance and arbitration systems that are established through negotiations with recognized labor unions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Chapter 75; E.O. 10577, as amended; E.O. 11491, as amended.

PURPOSE:

To maintain an information system documenting employee grievances, including statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, a copy of the original and final decision, and related correspondence and exhibits.

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

System information may be accessed and used by authorized Federal agency employees or contractors to conduct official duties. Information from this system also may be disclosed as a routine use:

a. In any legal proceeding, where pertinent, to which GSA is a party before a court or administrative body.

b. To disclose information to any source from which additional information is requested in the course of processing a grievance, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested.

c. To authorized officials engaged in investigating or settling a grievance, complaint, or appeal filed by an individual who is the subject of the record.

d. To a Federal agency in connection with the hiring or retention of an employee; the issuance of a security clearance; the reporting of an investigation; the letting of a contract; or the issuance of a grant, license, or other benefit to the extent that the information is relevant and necessary to a decision.

e. By GSA or the Office of Personnel Management in the production of summary description statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

f. To officials of the Merit Systems Protection Board, including the Office of Special Counsel; the Federal Labor Relations Authority and its General Counsel, or Equal Employment Opportunity Commission when requested in performance of their authorized duties.

g. In response to a request for a discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

h. To provide information to officials of labor organizations reorganized under the Civil Service Reform Act when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

i. To a Member of Congress or staff on behalf of and at the request of the individual who is the subject of the record.

j. To an expert, consultant, or contractor of GSA in the performance of a Federal duty to which the information is relevant.

k. To the National Archives and Records Administration (NARA) for records management purposes.

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

STORAGE:

The records are maintained in file folders.

RETRIEVABILITY:

Records reside where the grievance action is processed. The records are filed numerically and/or alphabetically by name.

SAFEGUARDS:

These records are maintained in lockable metal filing cabinets to which only authorized personnel have access.

RETENTION AND DISPOSAL:

These records are disposed of 3 years after closing of the case. Disposal is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

The Director of Human Capital Policy and Program Management Division (CHP), Office of Human Capital Management (CH), 1800 F Street NW, Washington, DC 20405.

NOTIFICATION PROCEDURE:

Current employees may obtain information about whether they are a part of the system by contacting the designated office where the action was processed.

RECORD ACCESS PROCEDURE:

Requests from current employees to review information about themselves should be directed to the designated office where the action was processed. For the identification required, see 41 CFR part 105–64.

CONTESTING RECORD PROCEDURES:

Review of a request from an individual seeking to amend a grievance record that has been the subject of a judicial or quasi-judicial process is limited in scope. Review of this type of request is restricted to determining if the record accurately documents GSA's ruling on the case and does not include a review of the merits of an action, determination, or finding. An individual who wishes to amend his or her record to correct factual errors should contact the GSA Office of Human Resources Services (CHP) or the office where the grievance was processed. The individual must also follow the GSA Privacy Act procedures on amending records (CPO 1878.1).

RECORD SOURCE CATEGORIES:

Officials who manage records pertaining to employees who have filed grievances with GSA under part 771 of the Office of Personnel Management (OPM) Regulations (5 CFR Part 771) or a negotiated procedure.

FILES EXEMPTED FROM PARTS OF THE ACT:

Under 5 U.S.C. 552a(k)(2), this system of records is exempt from subsections (c)(3); (d); (e)(1); (e)(4)(G), (e)(4)(H), (e)(4)(I); and (f) of the Act when the records are complied for a law enforcement purpose and the record will not be used to deny a right, benefit, or privilege from the subject of the record.

[FR Doc. E7–165 Filed 1–9–07; 8:45 am]

BILLING CODE 6820–34–S

GENERAL SERVICE ADMINISTRATION

Privacy Act of 1974; Notice of updated System of Records

AGENCY: General Services Administration

ACTION: Notice of updated system of records

SUMMARY: The General Services Administration (GSA) is providing notice of an update to the record system

Occupational Health and Injury Files (GSA/HRO–3). The system includes accident reports, claims for compensation for injury or occupational disease, claims for continuance of compensation or account of disability, list of employees receiving medical services, health records, and statistical information.

EFFECTIVE DATE: The system of records will become effective without further notice on February 9, 2007 unless comments received on or before that date result in a contrary determination.

FOR FURTHER INFORMATION CONTACT: Call or e-mail the GSA Privacy Act Officer: telephone 202–501–1452/202–208–1317; e-mail

ADDRESSES: Comments may be submitted to the Chief, Employee Relations Branch (CPSE), Office of Human Resources Services (CP),1800 F Street NW, Washington, DC 20405.

SUPPLEMENTARY INFORMATION: GSA reviewed this Privacy Act system of record to ensure that it is relevant, necessary, accurate, up-to-date, and covered by the appropriate legal or regulatory authority. Nothing in the updated system notice indicates a change in authorities or practices regarding the collection and maintenance of information. Nor do the changes impact individuals' rights to access or amend their records in the system of records.

Dated: January 4, 2007.

Cheryl M. Paige

Acting Director,Office of Information Management

GSA/HRO–3

SYSTEM NUMBER:

GSA/HRO–3

SYSTEM NAME:

Occupational Health and Injury Files

SYSTEM LOCATION:

The system of records is used in the General Services Administration's Office of Human Resources Services; the Safety and Environmental Management Division, Office of Real Property Management and Safety, Public Building Service; and in the offices of supervisors of any employee who has had an occupational health problem or who was injured on the job. The data base is in computers at the Heartland Regional Office, Kansas City MO.

The Human Resources Services Offices are as follows:

Central Office, Central Office Human Resources Division (CPS), General Services Administration,1800 F Street NW, Washington, DC 20405, (202) 501–0040.

National Capital Region, Human Resources Office (WCP),General Services Administration, 7th and D Streets SW, Washington, DC 20407, (202) 708–5335.

New England Region, Human Resources Office (1CP), General Services Administration, 10 Causeway Street, Boston, MA 02222,(617) 565–6634.

Northeast and Caribbean Region, Human Resources Office (2AR),General Services Administration, 26 Federal Plaza, New York, NY 10278, (212) 264–8138.

Mid-Atlantic Region, Human Resources Office (3CP), General Services Administration, The Strawbridge Building, 20 North Eighth Street, Philadelphia, PA 19107–3191, (215) 446–4951.

Southeast Sunbelt Region, Office of Human Resources (4AH),General Services Administration, 77 Forsyth Street, Suite 650,Atlanta, GA 30303, (404) 331–3186.

Great Lakes Region, Human Resources Office (5CP), General Services Administration, 230 South Dearborn Street, Chicago, IL 60604, (312) 353–5550.

The Heartland Region, Human Resources Office (6CP), General Services Administration, 1500 East Bannister Road, Kansas City, MO 64131, (816) 926–7206.

Greater Southwest Region, Human Resources Office (7CP), General Services Administration, 819 Taylor Street, Room 9A00,Forth Worth, TX 76102,(817) 978–3190.

Pacific Rim Region, Human Resources Office (9CP), General Services Administration, 450 Golden Gate Avenue, San Francisco, CA 94100, (415) 744–5185.

PERSONS COVERED BY THE SYSTEM:

GSA employees who were injured or who have an occupational health problem.

TYPES OF RECORDS IN THE SYSTEM:

The system includes:

- Accident reports (including CA 1 and 2: Federal Employee's Notice of Injury or Occupational Disease);
- Claims for Compensation for Injury or Occupational Disease (CA 4 replaced with CA–2);
- Claims for Continuance of Compensation on Account of Disability (CA 8 replaced with CA–7); and
- Lists of employees receiving medical services, and health records.

The automated information system contains statistics such as occupation and sex of employees, age group, cost per injury, days lost, cause and severity of injuries, and part(s) injured.

AUTHORITY FOR MAINTAINING THE SYSTEM:

5 U.S.C. ch. 81 and 5 U.S.C. 7203 and 7901.

PURPOSE:

To maintain information for accident and occupational health reports, gather data for statistical reports, and record any employee who is injured or has an occupational health problem.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING THE TYPE OF USER AND THEIR PURPOSE IN USING THE RECORDS:

System information may be accessed and used by authorized Federal agency employees or contractors to conduct official duties. Information from this system also may be disclosed as a routine use:

a. To a Federal, State, or local public health agency on any employee who has a specific communicable disease or condition. The purpose is to prevent the spread of the disease or condition.

b. In any legal proceeding, where pertinent, to which GSA is a party before a court or administrative body.

c. To the Office of Worker's Compensation Programs on a claim for benefits filed by an employee.

d. To a Federal agency in connection with the hiring or retention of an employee; the issuance of a security clearance; the reporting of an investigation; the letting of a contract; or the issuance of a grant, license, or other benefit to the extent that the information is relevant and necessary to a decision.

e. To the Office of Personnel Management (OPM), the Office of Management and Budget (OMB), or the Government Accountability Office (GAO) when the information is required for program evaluation purposes.

f. To a Member of Congress or staff on behalf of and at the request of the individual who is the subject of the record.

g. To the Occupational Safety and Health Administration, as required by section 19 of the Occupational Safety and Health Act.

h. To Central Office and regional office managers and supervisors to identify trends in injuries and better manage the program.

i. To the Department of Labor to verify payments to an injured employee.

j. To an expert, consultant, or contractor of GSA in the performance of a Federal duty to which the information is relevant.

k. To the National Archives and Records Administration (NARA) for records management purposes.

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

STORAGE:

Paper records are kept in file folders. Magnetic tapes and disks are stored in libraries. Electronic records are stored in computers and attached equipment.

RETRIEVABILITY:

Records are filed and retrieved by Social Security Number or claim number.

SAFEGUARDS:

Records are stored in locked file cabinets or in secured rooms. Computer records are protected by a password system.

RETENTION AND DISPOSAL:

The Office of Human Resources Services disposes of the records as scheduled in the handbook, GSA Records Maintenance and Disposition system (OAD P 1820.2A).

SYSTEM MANAGER AND ADDRESS:

Chief, Employee Relations Branch, (CPSE), Office of Human Resources Services (CP), General Services Administration (CP), 18th and F Streets NW, Washington, DC 20405.

NOTIFICATION PROCEDURES:

Current employees should address requests to their supervisor or to the Human Resources Services officer. Former employees should address requests to the Human Resources Services officer.

RECORD ACCESS PROCEDURES:

Current employees should address requests to their supervisor or to the Human Resources Services officer. Former employees should address requests to the Human Resources Services officer. For the identification required, see 41 CFR part 105–64.

PROCEDURE FOR CONTESTING THE CONTENT OF A RECORD:

GSA rules for contesting the content and appealing an initial decision are in 41 CFR part 105–64.

RECORD SOURCES:

The employee and the personnel specialist who prepared a claim.

[FR Doc. E7–167 Filed 1–9–07; 8:45 am]

BILLING CODE 6820–34–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006D–0515]

Guidance for Industry and Food and Drug Administration Staff; Class II Special Controls Guidance Document: Quality Control Material for Cystic Fibrosis Nucleic Acid Assays; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the guidance entitled ''Class II Special Controls Guidance Document: Quality Control Material for Cystic Fibrosis Nucleic Acid Assays.'' This guidance document describes a means by which quality control material for cystic fibrosis nucleic acid assays may comply with the requirement of special controls for class II devices. It includes recommendations for validation of performance characteristics and recommendations for product labeling. Elsewhere in this issue of the **Federal Register**, FDA is publishing a final rule to classify quality control material for cystic fibrosis nucleic acid assays into class II (special controls). This guidance document is being immediately implemented as the special control for quality control material for cystic fibrosis nucleic acid assays, but it remains subject to comment in accordance with the agency's good guidance practices (GGPs).

DATES: Submit written or electronic comments on this guidance at any time.

ADDRESSES: Submit written requests for single copies of the guidance document entitled ''Class II Special Controls Guidance Document: Quality Control Material for Cystic Fibrosis Nucleic Acid Assays'' to the Division of Small Manufacturers, International, and Consumer Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 240–276–3151. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit written comments concerning this guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Zivana Tezak, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 240–276–0496 ext. 117.

SUPPLEMENTARY INFORMATION:

I. Background

Elsewhere in this issue of the **Federal Register**, FDA is publishing a final rule classifying quality control material for cystic fibrosis nucleic acid assays into class II (special controls) under section 513(f)(2) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c(f)(2)). This guidance document will serve as the special control for quality control material for cystic fibrosis nucleic acid assays devices. Section 513(f)(2) of the act provides that any person who submits a premarket notification under section 510(k) of the act (21 U.S.C. 360(k)) for a device that has not previously been classified may, within 30 days after receiving an order classifying the device in class III under section 513(f)(1) of the act, request FDA to classify the device under the criteria set forth in section 513(a)(1) of the act. FDA shall, within 60 days of receiving such a request, classify the device by written order. This classification shall be the initial classification of the device. Within 30 days after the issuance of an order classifying the device, FDA must publish a notice in the **Federal Register** announcing such classification. Because of the time frames established by section 513(f)(2) of the act, FDA has determined, under § 10.115(g)(2) (21 CFR 10.115(g)(2)), that it is not feasible to allow for public participation before issuing this guidance as a final guidance document. Thus, FDA is issuing this guidance document as a level 1 guidance document that is immediately in effect. FDA will consider any comments that are received in response to this notice to determine whether to amend the guidance document.

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the agency's current thinking on quality control material for cystic fibrosis nucleic acid assays. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if

such approach satisfies the requirements of the applicable statute and regulations.

III. Electronic Access

In order to receive ''Class II Special Controls Guidance Document: Quality Control Material for Cystic Fibrosis Nucleic Acid Assays,'' you may either send an e-mail request to *dsmica@fda.hhs.gov* to receive an electronic copy of the document, or send a fax request to 240–276–3151 to receive a hard copy. Please use the document number 1614 to identify the guidance you are requesting.

Persons interested in obtaining a copy of the guidance may also do so by using the Internet. CDRH maintains an entry on the Internet for easy access to information, including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturer's assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH web site may be accessed at *http://www.fda.gov/cdrh*. A search capability for all CDRH guidance documents is available at *http://www.fda.gov/cdrh/guidance.html*. Guidance documents are also available on the Division of Dockets Management Internet site at *http://www.fda.gov/ohrms/dockets*.

IV. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 807, subpart E, have been approved under OMB Control No. 0910–0120; the collections of information in 21 CFR part 814 have been approved under OMB Control No 0910–0231; the collections of information in 21 CFR part 809 have been approved under OMB Control No. 0910–0485.

V. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. Submit two paper copies of any mailed comments, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments received may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 29, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–120 Filed 1–9–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2006–0080]

Notice of Meeting of National Infrastructure Advisory Council (NIAC)

AGENCY: Directorate for Preparedness, DHS.

ACTION: Notice of meeting.

SUMMARY: The National Infrastructure Advisory Council (NIAC) will meet in open session.

DATES: Tuesday, January 16, 2007, from 1:30 p.m. to 4:30 p.m.

ADDRESSES: National Press Club, 529 14th Street, NW., Washington, DC 20045.

You may submit comments, identified by DHS–2006–0080, by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: william.corcoran@associates.dhs.gov.* When submitting comments electronically, please include by DHS–2006–0080, in the subject line of the message.
- *Mail:* Jenny Menna, Department of Homeland Security, Directorate for Preparedness, Washington, DC 20528. To ensure proper handling, please reference by DHS–2006–0080, on your correspondence. This mailing address may be used for paper, disk or CD–ROM submissions.
- *Hand Delivery/Courier:* Jenny Menna, Department of Homeland Security, Directorate for Preparedness, Washington, DC 20528. Contact Telephone Number 703–235–5316.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and DHS–2006–0080, the docket number for this action. Comments received will be posted without alteration at *www.regulations.gov*, including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Jenny Menna, NIAC Designated Federal Officer, Department of Homeland Security, Washington, DC 20528; telephone 703–235–5316.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act (FACA), Pub. L. 92–463, as amended (5 U.S.C. App.). At this meeting, the NIAC will be briefed on the status of several Working Group activities in which the Council is currently engaged.

Due to a clerical error at DHS, this Notice was not published in the **Federal Register** in a timely fashion. However, because of scheduling concerns, it is impossible for DHS to reschedule the meeting; accordingly, this Notice is presented late pursuant to 41 CFR 102–3.150(b). In light of the late publication, DHS is making additional outreach efforts to notify stakeholders of this meeting.

This meeting is open to the public on a first-come, first-served basis. Please note that the meeting may close early if all business is finished.

A tentative agenda for the meeting is set forth below, but may be updated. Please consult the NIAC Web site, *http://www.dhs.gov/niac*, for the most current agenda. *Information on Services for Individuals with Disabilities:* For information on facilities or services for individuals with disabilities, or to request special assistance at the meeting, telephone the Designated Federal Officer as soon as possible.

Dated: January 5, 2007.

Mary Kate Whalen,

Deputy Associate General Counsel for Regulatory Affairs.

DRAFT AGENDA OF JANUARY 16, 2007 MEETING

I. Opening of Meeting	Jenny Menna, Designated Federal Officer, NIAC, Department of Homeland Security.
II. Roll Call of Members	Jenny Menna.

DRAFT AGENDA OF JANUARY 16, 2007 MEETING—Continued

III. Opening Remarks and Introductions	NIAC Chairman, Erle A. Nye, Chairman Emeritus, TXU and Corp. Michael Chertoff, Secretary, Department of Homeland Security (DHS), (Invited). Michael O. Leavitt, Secretary, Department of Health and Human Services (Invited). Frances Fragos Townsend, Assistant to the President for Homeland Security and Counterterrorism (Invited).
IV. Approval of October Minutes	NIAC Chairman, Erle A. Nye.
V. Final Reports and Deliberations	NIAC Chairman, Erle A. Nye Presiding.
A. Convergence of Physical and Cyber Technologies and Related Security Management Challenges.	George Conrades, Executive Chairman, Akamai of Technologies, NIAC Member, Margaret Grayson, President, Grayson and Associates, NIAC Member, and Gregory A. Peters, Managing Partner, Collective IQ, NIAC Member.
B. Deliberation and Approval of Recommendations of Final Report	NIAC Members.
C. The Prioritization of Critical Infrastructures for a Pandemic Outbreak in the United States.	Chief Rebecca F. Denlinger, Fire Chief, Cobb County, Georgia Fire and Emergency Services, NIAC Member, Martha H. Marsh, Chairman and CEO, Stanford Hospital and Clinics, NIAC Member and Bruce Rohde, Chairman and CEO Emeritus, ConAgra Foods, Inc.
D. Deliberation and Approval of Recommendations of Final Report	NIAC Members.
VI. New Business	NIAC Chairman, Erle A. Nye, NIAC Members TBD.
A. Introduction of New Working Group Topic: Assessment of the Insider Threat on Critical Infrastructure.	NIAC Members TBD.
B. Recommendation Follow-up	Greg Garcia, Assistant Secretary for Cyber Security and Telecommunications, DHS (Invited).
VII. Adjournment	NIAC Chairman, Erle A. Nye.

[FR Doc. 07–59 Filed 1–5–07; 4:30 pm]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1673–DR]

Missouri; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Missouri (FEMA–1673–DR), dated December 29, 2006, and related determinations.

DATES: *Effective Date:* December 29, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated December 29, 2006, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Missouri resulting from severe winter storms during the period of November 30 to December 2, 2006, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Missouri.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated area, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Other Needs Assistance under Section 408 of the Stafford Act is later requested and warranted, Federal funding under that program will also be limited to 75 percent of the total eligible costs. Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Director, under Executive Order 12148, as amended, Thomas J. Costello, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Missouri to have been affected adversely by this declared major disaster:

Boone, Cole, Greene, Iron, Reynolds, St. Francois, Ste. Genevieve, St. Louis, and Washington Counties, and the independent City of St. Louis for Public Assistance.

All jurisdictions within the State of Missouri are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050, Individuals and Households Program—Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E7–115 Filed 1–9–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5124–N–01]

Notice of Submission of Proposed Information Collection to OMB; Implementation of the Violence Against Women (VAWA) and Justice Department Reauthorization Act of 2005

AGENCY: Office of the Assistant Secretary for Public and Indian Housing (PIH), HUD.

ACTION: Notice of information collection.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review and approval, as required by the paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

This is a request for information collection that will be used by PHAs and owners to request that an individual, in response to an incident or incidents of actual or threatened domestic violence, dating violence or stalking that may affect a tenant's participation in the housing program to request in writing that an individual complete, sign and submit within 14 business days of the request, a HUD-approved certification form. On the form, the individual certifies that he/she is a victim of domestic violence, dating violence, or stalking, and that the incident or incidences in question are bona fide incidences of such actual or threatened abuse. On the certification form, the individual must provide the name of the perpetrator.

PHAs are instructed that the delivery of the certification form to the tenant in response to incident via mail may place the victim at risk, *e.g.,* the abuser may monitor the mail; consequently, PHAs, owners and managers may require that the tenant come into the office to pick up the certification form. PHAs and owners are also encouraged to work with tenants to make delivery arrangements that do not place the tenant at risk.

If the individual does not provide the certification form or alternate documentation that may satisfy the certification requirements by the 14th business days or after any extension of that date provided by the PHA, owner or manager, none of the protections afforded to the victim of domestic violence, dating violence or stalking by sections 606 or 607 will apply. The PHA, owner or manager would therefore be free to evict, or terminate assistance, in the circumstances authorized by otherwise applicable law and lease provisions, without regard to the amendments made by section 606 and 607.

DATES: *Comments due date:* March 12, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Aneita Waites, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Aneita Waites, Reports Liaison Officer, PIH, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Aneita_L._Waites@hud.gov,* telephone (202) 708–0713. This is not a toll-free number. Copies of the proposed form(s) and other available documents may be obtained from Ms. Waites.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the U.S. Department of Housing and Urban Development (HUD) has submitted to OMB, for processing, an information collection requirement as described above.

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Implementation of the Violence Against Women and Justice Department Reauthorization Act 2005.

Description of Information Collection: This is information collection obtaining signed certification from victims of domestic violence, dating violence or stalking.

OMB Control Number: 2577–0249.

Agency Form Numbers, if applicable: HUD–50066.

Members of Affected Public: Public Housing authorities (PHAs) and Owners participating in the public housing and Section 8 Housing Voucher programs.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of responses, and hours of response: An estimation of the total number of hours needed to prepare the information collection is 60 minutes per applicant. The estimated number of respondents is 200. The frequency of response is once. The total public burden is estimated to be 200 hours.

Status of the Information Collection: Renewal of the previously approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: January 4, 2007.

Bessy Kong,

Deputy Assistant Secretary for Policy, Program and Legislative Initiatives.

[FR Doc. 07–53 Filed 1–9–07; 8:45am]

BILLING CODE 4210–67–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Blackstone River Valley National Heritage Corridor Commission: Notice of Meeting

Notice is hereby given in accordance with Section 552b of Title 5, United States Code, that a meeting of the John H. Chafee Blackstone River Valley National Heritage Corridor Commission will be held on Thursday, February 15, 2007.

The Commission was established pursuant to Public Law 99–647. The purpose of the Commission is to assist Federal, State and local authorities in the development and implementation of an integrated resource management plan for those lands and waters within the Corridor.

The meeting will convene on February 15, 2007 at 9 a.m. at the Blackstone River Valley National Heritage Corridor Commission office at One Depot Square, Woonsocket, RI

1. Approval of Minutes.
2. Chairman's Report.
3. Executive Director's Report.
4. Financial Budget.
5. Public Input.

It is anticipated that about twenty-five people will be able to attend the session in addition to the Commission members.

Interested persons may make oral or written presentations to the Commission or file written statements. Such requests should be made prior to the meeting to:

Thomas Ross, Acting Executive Director, John H. Chafee, Blackstone River Valley National Heritage Corridor Commission, One Depot Square, Woonsocket, RI 02895, Tel.: (401) 762-0250.

Further information concerning this meeting may be obtained from Larry Gall, Interim Executive Director of the Commission at the aforementioned address.

Thomas Ross,

Acting Executive Director, BRVNHCC.

[FR Doc. E7–135 Filed 1–9–07; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–910–1310PP–ARAC]

Notice of Public Meeting, Alaska Resource Advisory Council

AGENCY: Bureau of Land Management, Alaska State Office, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Alaska Resource Advisory Council will meet as indicated below.

DATES: The meeting will be held February 7–8, 2007, at the Inupiat Heritage Center, 5421 North Star Street in Barrow, Alaska. On February 7 the meeting starts at noon. On February 8 the meeting begins at 8:30 a.m and the council will accept public comment at 1 p.m.

FOR FURTHER INFORMATION CONTACT: Danielle Allen, Alaska State Office, 222 W. 7th Avenue #13, Anchorage, AK 99513. Telephone (907) 271–3335 or e-mail *Danielle_Allen@ak.blm.gov*.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in Alaska. At this meeting, topics planned for discussion include:

- South National Petroleum Reserve-Alaska.
- North Slope Borough's Community Based Planning.
- Resource Management Planning.
- Introduction of BLM's Barrow representative.
- Other topics the Council may raise.

All meetings are open to the public. The public may present written comments to the Council. Each formal Council meeting will also have time allotted for hearing public comments. Depending on the number of people wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, transportation, or other reasonable accommodations, should contact BLM.

Dated: January 4, 2007.

Julia Dougan,

Acting State Director.

[FR Doc. E7–136 Filed 1–9–07; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1920–ET–4662; NVN 82752; 7–08807]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of Energy (DOE) has filed an application with the Bureau of Land Management (BLM) requesting the Secretary of the Interior to withdraw 208,037 acres of public lands from surface entry and mining through December 27, 2015, to evaluate the lands for the potential construction, operation, and maintenance of a rail line for the transportation of spent nuclear fuel and high-level radioactive waste in the event the Nuclear Regulatory Commission authorizes a geologic repository at Yucca Mountain as provided for under the Nuclear Waste Policy Act of 1982, as amended. This notice segregates the lands from surface entry and mining for up to 2 years while various studies and analyses are made to support a final decision on the withdrawal application.

DATES: Comments and requests for a public meeting should be received on April 10, 2007.

ADDRESSES: Comments and meeting requests should be sent to the Nevada State Director, BLM, P.O. Box 12000, Reno, Nevada 89520–0006.

FOR FURTHER INFORMATION CONTACT: Dennis J. Samuelson, BLM Nevada State Office, 775–861–6532.

SUPPLEMENTARY INFORMATION: The DOE has filed an application with the BLM requesting the Secretary of the Interior to withdraw the following described public lands from settlement, sale, location, or entry under the general land laws, including the United States mining laws, but not from leasing under the mineral leasing laws, subject to valid existing rights:

Mount Diablo Meridian

A corridor 1-mile in width that contains a portion of, or is wholly encompassed within the following sections and/or quarter sections and government lots:

Caliente Rail Corridor (additional lands)

T. 1 S., R. 42 E.,
Sec. 36, E½SE¼.
T. 2 S., R. 42 E.,
Sec. 1;
Sec. 2, SE¼;
Sec. 10, SE¼;
Sec. 11;
Sec. 12, N½ and SW¼;
Sec. 13, NW¼NW¼;
Secs. 14 and 15 (except patented land);
Sec. 22 (except patented land);
Sec. 23, W½NW¼ and W½SW¼ (except patented land);
Sec. 26, W½NW¼ and W½SW¼ (except patented land);
Secs. 27 and 34 (except patented land);
Sec. 35, W½ (except patented land).
T. 3 S., R. 42 E.,
Sec. 3 (except patented land);
Sec. 10, E½ and NE¼NW¼;
Secs. 11 and 12 (except patented land);
Sec. 13, N½ and N½SE¼;
Sec. 14, NE¼ and NE¼NW¼.
T. 1 N., R. 43 E.,
Sec. 33, SE¼SW¼ and SE¼.
T. 1 S., R. 43 E.,
Sec. 4, W½;
Sec. 5, SE¼NE¼ and SE¼;
Sec. 8, E½;
Sec. 9, W½;
Sec. 13, SW¼SW¼;
Sec. 14, SW¼;
Sec. 16, W½;
Sec. 17, E½;
Sec. 20;
Sec. 22, SE¼;
Sec. 23, W½ and SE¼;
Sec. 24, W½NW¼;
Sec. 26;
Sec. 27, E½;
Sec. 29;
Sec. 30, E½ and SE¼SW¼;
Sec. 31;
Sec. 32, NW¼NE¼ and W½;
Sec. 34, E½;
Sec. 35;
Sec. 36, W½ and W½SE¼.
T. 2 S., R. 43 E.,
Sec. 1;
Sec. 2, E½ and SE¼SW¼;
Sec. 6;
Sec. 7, NW¼NW¼;
Sec. 8, E½SE¼;
Sec. 11;
Sec. 12, NW¼NE¼, NW¼, and W½SW¼;
Sec. 13, W½;
Sec. 14;
Sec. 17, SE¼SE¼ (except patented land);
Sec. 20, NE¼ and SE¼SW¼ (except patented land);
Sec. 23, E½ and E½NW¼;
Sec. 24, NW¼NE¼, W½, and W½SE¼;
Sec. 25;
Sec. 26, NE¼ and E½SE¼ (except patented land);
Sec. 29, E½NW¼ and E½SW¼ (except patented land);
Sec. 32, NE¼NW¼ (except patented land);
Sec. 35, NE¼;
Sec. 36, E½ and NW¼.
T. 3 S., R. 43 E.,
Sec. 4, SE¼ (except patented land);
Sec. 7, (except patented land);
Sec. 8, S½ (except patented land);
Sec. 9, NE¼NE¼ (except patented land);
Sec. 13, SE¼;
Sec. 16, W½NW¼ and W½SW¼;
Sec. 17 (except patented land);
Sec. 18, lots 1, 2, and 3, NE¼, E½NW¼, NE¼SW¼, and N½SE¼ (except patented land);
Sec. 19, E½ and SE¼SW¼;
Sec. 20;

Sec. 21, NW¼NW¼;
Sec. 27, SW¼;
Sec. 28, S½NW¼ and S½;
Sec. 29;
Sec. 30, E½, E½NW¼, and NE¼SW¼;
Sec. 31, NE¼NE¼;
Sec. 32, N½;
Sec. 33, N½, NE¼SW¼, and N½SE¼;
Sec. 34, W½.
T. 4 S., R. 43 E.,
Sec. 3, lot 3 and SE¼NW¼;
Sec. 13, W½NW¼ and W½SW¼;
Sec. 21, SE¼SE¼;
Sec. 23, E½;
Sec. 24, NW¼NW¼;
Sec. 28, SE¼SW¼;
Sec. 32, SE¼SE¼.
T. 5 S., R. 43 E.,
Sec. 20, E½NE¼ and E½SE¼;
Sec. 29, NE¼NE¼.
T. 6 S., R. 44 E., Unsurveyed
Sec. 7;
Sec. 18, E½, E½NW¼, and E½SW¼;
Sec. 19, E½ and E½NW¼;
Sec. 20;
Secs. 28 and 29;
Sec. 30, E½NE¼;
Sec. 32, NE¼NE¼;
Sec. 33.
T. 7 S., R. 44 E., Partially Surveyed
Sec. 3, W½NW¼ and W½SW¼;
Sec. 4;
Sec. 5, S½SW¼ and SE¼SE¼;
Secs. 8 and 9;
Sec. 10, SW¼NW¼ and SW¼;
Secs. 15, 16, and 22;
Sec. 23, W½ and SW¼SE¼;
Sec. 25, SW¼SW¼;
Sec. 26;
Sec. 34, NE¼NE¼;
Sec. 35;
Sec. 36, W½ and SW¼SE¼.
T. 8 S., R. 44 E.,
Sec. 1;
Sec. 13, E½;
Sec. 24, NE¼NE¼.
T. 8 S., R. 45 E.,
Sec. 6, W½SW¼;
Sec. 7, W½ and SW¼SE¼;
Sec. 17, SW¼SW¼;
Sec. 19;
Sec. 20, W½.
T. 1 N., R 46 E.,
Sec. 30, lot 3.
T. 9 S., R. 46 E.,
Sec. 8, SW¼SW¼;
Sec. 16, SW¼ and SW¼SE¼;
Sec. 22, NW¼ and SE¼;
Sec. 23, S½SW¼.
T. 10 S., R. 46 E.,
Sec. 11, NE¼.
T. 1 N., R. 47 E.,
Sec. 9, SE¼SE¼;
Sec. 31, NE¼SW¼.
T. 2 N., R. 47 E.,
Sec. 24, SE¼SE¼;
Sec. 35, SE¼SW¼.
T. 10 S., R. 47 E.,
Sec. 9, SE¼;
Sec. 10, S½ and SE¼NE¼;
Sec. 11, S½NE¼, S½NW¼, and S½;
Sec. 13, W½;
Sec. 14 (except patented land);
Sec. 15, NE¼;
Sec. 22, W½NE¼ (except patented land);
Sec. 23, E½ and N½NW¼ (except patented land);
Sec. 24, W½NW¼;
Sec. 26, W½NE¼ and NW¼SE¼.
T. 11 S., R. 47 E.,
Sec. 10, NE¼NE¼;
Sec. 23, NE¼NE¼;
Sec. 24, E½SW¼;
Sec. 25, NE¼SE¼;
Sec. 36, E½NE¼.
T. 2 N., R. 48 E.,
Sec. 8, SE¼SW¼;
Sec. 19, SE¼NW¼.
T. 3 N., R. 48 E.,
Sec. 23, SE¼SW¼;
Sec. 33, SE¼SE¼.
T. 3 N., R. 49 E.,
Sec. 7, SE¼NE¼.
T. 3 N., R. 50 E.,
Sec. 22, E½SE¼.
T. 1 S., R. 51 E.,
Sec. 10, E½NE¼;
Sec. 14, E½NW¼;
Sec. 23, NE¼NE¼;
Sec. 25, W½;
Sec. 36, E½NW¼ and E½SW¼.
T. 2 N., R. 51 E.,
Sec. 18, lot 2.
T. 2 S., R. 52 E.,
Sec. 24, N½NE¼ and N½NW¼.
T. 1 S., R. 53 E.,
Sec. 26, SE¼SE¼;
Sec. 35, SE¼NW¼.
T. 1 S., R. 54 E.,
Sec. 1, lot 1;
Sec. 13, NW¼SW¼;
Sec. 16, SE¼SW¼;
Sec. 20, NE¼ and SE¼NW¼;
Sec. 23, NW¼NE¼.
T. 1 N., R. 55 E.,
Sec. 22, SE¼NW¼;
Sec. 29, S½NW¼.
T. 1 N., R. 56 E.,
Sec. 12, NW¼SE¼;
Sec. 14, NW¼SW¼;
Sec. 18, SE¼NW¼.
T. 1 N., R. 57 E.,
Sec. 2, lots 1 to 4, inclusive, and S½NW¼;
Sec. 3, NE¼;
Sec. 4, S½NE¼;
Sec. 5, NE¼SW¼ and NW¼SE¼;
Sec. 7, lot 1.
T. 2 N., R. 57 E.,
Sec. 1, lots 1 to 4, inclusive, S½NE¼, S½NW¼, and SW¼;
Sec. 2;
Sec. 3, SE¼NE¼ and SE¼;
Sec. 9, SE¼SE¼;
Sec. 10;
Sec. 11, N½ and SW¼;
Sec. 14, NW¼NW¼;
Sec. 15;
Sec. 16, E½ and S½SW¼;
Sec. 20, E½ and SW¼;
Sec. 21;
Sec. 22, NW¼NE¼ and NW¼;
Sec. 29, N½;
Sec. 30, E½ and SE¼SW¼;
Sec. 31, lots 1 and 2, and E½NW¼;
Sec. 36, SE¼.
T. 3 N., R. 57 E.,
Sec. 25, SE¼SE¼;
Sec. 35, SE¼;
Sec. 36.
T. 2 N., R. 58 E.,
Sec. 6, lot 4;
Sec. 25, S½;
Sec. 26, S½;
Sec. 31, lots 3 and 4, E½SW¼, and SE¼;
Sec. 32, S½;
Secs. 33 and 34;
Sec. 35, N½, SW¼, and NW¼SE¼;
Sec. 36, NW¼NW¼.
T. 3. N., R. 58 E.,
Sec. 13, S½NE¼, S½NW¼, and S½;
Sec. 14, S½NE¼, S½NW¼, and S½;
Sec. 15, S½;
Sec. 16, SE¼SE¼;
Sec. 20, SE¼SW¼ and SE¼;
Secs. 21 and 22;
Sec. 23, N½;
Sec. 24, N½;
Sec. 27, NW¼NW¼;
Sec. 28, N½ and SW¼;
Sec. 29;
Sec. 30, lots 3 and 4, S½NE¼, E½SW¼, and SE¼;
Sec. 31;
Sec. 32, NW¼NE¼ and NW¼.
T. 2 N., R. 59 E.,
Sec. 5, SE¼SE¼;
Sec. 7, SE¼SE¼;
Sec. 20, NW¼NE¼;
Sec. 30, lots 1 and 2, and E½NW¼.
T. 3 N., R. 59 E.,
Sec. 14, NE¼ and SW¼;
Sec. 17, SW¼SW¼;
Sec. 18, lots 2, 3, and 4, E½SW¼, and SE¼;
Sec. 19, lots 1 and 2, and W½NE¼;
Sec. 33, NE¼ and E½SW¼.
T. 4 N., R. 60 E.,
Sec. 21, S½NE¼ and SE¼NW¼;
Sec. 31, SE¼NW¼.
T. 4. N., R. 61 E.,
Sec. 19, S½NE¼ and SE¼NW¼;
Sec. 20, SW¼SE¼.
T. 2 N., R. 62 E.,
Sec. 9, NE¼NE¼;
Sec. 15, NE¼SE¼;
Sec. 23, E½ and NE¼NW¼.
T. 1 N., R. 63 E.,
Sec. 22, SW¼SW¼.
T. 1 S., R. 64 E.,
Sec. 19, lot 1.
T 2 S., R. 65 E.,
Sec. 1, lots 3 and 4, and S½NW¼.
T. 1 S., R. 66 E.,
Sec. 35, S½SW¼ and S½SE¼.
T. 2 S., R. 67 E.,
Sec. 21, E½SW¼;
Sec. 24, NE¼SW¼.
T. 3 S., R. 67 E.,
Sec. 21, SE¼NW¼ and S½SW¼SE¼;
Sec. 26, E½NE¼.
T. 4 S., R. 68 E.,
Sec. 7, E½NW¼;
Sec. 8, W½SE¼;
Sec. 17, NW¼NE¼.

The additional lands for the Caliente Corridor aggregate 68,646 acres in Esmeralda, Lincoln, and Nye Counties.

Mina Rail Corridor

T. 15 N., R. 26 E.,
Sec. 26, S½SE¼;
Sec. 35, lots 2, 3, and 4, E½NW¼, NE¼, and SE¼;
Sec. 36.
T. 9 N., R. 31 E.,
Sec. 32, lots 1 to 4, inclusive, N½SW¼, and N½SE¼.
T. 8 N., R. 32 E.,
Sec. 7, lots 3 and 4, E½SW¼;

Sec. 13, S½SW¼ and S½SE¼;
Sec. 14, S½SW¼ and S½SE¼;
Sec. 15, SW¼ and S½SE¼;
Sec. 16, S½NE¼, W½, and SE ¼;
Sec. 17, SE¼SW¼;
Sec. 19, N½NE¼ and N½NW¼;
Sec. 20, NE¼ and N½NW¼;
Sec. 21, N½ and N½SE¼ (except patented land);
Sec. 22, N½, N½SW¼, and SE¼;
Secs. 23 and 24.
T. 8 N., R. 33 E.,
Sec. 17, S½SW¼ and S½SE¼;
Sec. 18, lot 4, SE¼SW¼, and S½SE¼;
Secs. 19 to 24, inclusive;
Sec. 25, N½;
Sec. 26, N½;
Sec. 27, N½NE¼ and N½NW¼;
Sec. 28, N½NE¼ and N½NW¼;
Sec. 29, N½NE ¼ and N½NW ¼.
T. 7 N., R. 34 E.,
Sec. 1, lot 1 and SE¼NE¼.
T. 8 N., R. 34 E.,
Sec. 19, lots 2, 3, and 4, S½NE¼, SE¼NW¼, W½SW¼, and SE¼;
Sec. 20, S½NE¼, S½NW¼, and S½;
Sec. 21, S½NE¼, S½NW¼, and S½;
Sec. 22, S½;
Sec. 23, S½;
Sec. 24, S½ (except patented land);
Sec. 25;
Sec. 26, N½, N½SW¼, and N½SE¼;
Sec. 27, N½, N½SW¼, and N½SE¼;
Sec. 28, N½ and N½SE¼;
Sec. 29, N½;
Sec. 30, lots 1 and 2, NE¼, and E½NW¼;
Sec. 36, E½ and N½NW¼.
T. 4 N., R. 35 E.,
Sec. 1, N½ and SE¼;
Sec. 2, NE¼;
Sec. 12, N½NE¼.
T. 5 N., R. 35 E.,
Sec. 1, S½NE¼, S½NW¼, and S½;
Sec. 2;
Sec. 3, lots 1, 2, and 3, S½NE¼, and SE¼;
Sec. 11, NE¼ and N½NW¼;
Sec. 12, E½, NW¼, and E½SW¼;
Sec. 13, NE¼ and E½SE¼;
Sec. 24, E½;
Sec. 25, E½, E½NW¼, and SW¼;
Sec. 36.
T. 6 N., R. 35 E.,
Sec. 4, lot 4, SW¼NW¼, SW¼, and S½SE¼;
Sec. 5;
Sec. 8 (except patented lands);
Sec. 9;
Sec. 10, S½NW¼ and SW¼;
Sec. 15, W½ and W½SE¼;
Sec. 16, E½, NW¼, and E½SW¼;
Sec. 21, E½;
Sec. 22, W½NE¼, W½, and W½SE¼;
Sec. 27, W½NE¼, W½, and W½SE¼;
Sec. 28, NE¼ and N½SW¼;
Sec. 33, E½ (except patented land);
Sec. 34;
Sec. 35, S½SW¼.
T. 7 N., R. 35 E.,
Sec. 5, lot 4, S½NW¼, and SW¼;
Sec. 6;
Sec. 7, N½NE¼, E½NW¼, and SE¼;
Sec. 8, W½NE¼, W½, and SE¼;
Sec. 16, W½NW¼ and SW¼;
Sec. 17;
Sec. 18, E½NE¼;
Sec. 20;
Sec. 21, W½;
Sec. 28, NW¼ and W½SW¼;
Sec. 29;
Sec. 30, S½SE¼;
Sec. 31, E½NE¼;
Sec. 32;
Sec. 33, W½SW¼.
T. 8 N., R. 35 E.,
Sec. 30, lots 1 to 4, inclusive, E½NW¼, E½SW¼, and W½SE¼ (except patented land);
Sec. 31 (except patented land).
T. 3 N., R. 36 E.,
Sec. 1;
Sec. 12, E½, E½NW¼, and E½SW¼;
Sec. 13, E½;
Sec. 24, E½;
Sec. 25, N½NE¼.
T. 4 N., R. 36 E., Unsurveyed
Sec. 5, SW¼;
Sec. 6;
Sec. 7, N½ and SE¼;
Sec. 8, W½ and SE¼;
Sec. 9, S½SW¼;
Sec. 15, SW¼;
Sec. 16, W½ and SE¼;
Sec. 17;
Sec. 18, NE¼;
Sec. 20, NE¼;
Sec. 21, N½ and SE¼;
Sec. 22;
Sec. 23, S½;
Sec. 25, W½;
Sec. 26;
Sec. 27, N½;
Sec. 35, N½ and SE¼;
Sec. 36.
T. 5 N., R. 36 E., Unsurveyed
Sec. 6, SW¼;
Sec. 7, W½;
Sec. 18, W½;
Sec. 19, W½;
Sec. 30, W½;
Sec. 31, W½.
T. 2 N., R. 37 E.,
Sec. 4, W½SW¼;
Sec. 5;
Sec. 6, lots 1 and 2, S½NE¼, and E½SE¼;
Sec. 8;
Sec. 9, W½NW¼, SW¼, and S½SE¼;
Sec. 13, S½NE¼, S½NW¼, and S½;
Sec. 14, S½NE¼ and S½;
Sec. 15, NW¼ and S½;
Sec. 16;
Sec. 17, N½NE¼, SE¼NE¼, E½NW¼, and E½SE¼;
Sec. 21, NE¼;
Sec. 22, N½, N½SW¼, and N½SE¼;
Sec. 23, N½ and N½SW¼;
Sec. 24, N½.
T. 3 N., R. 37 E., Unsurveyed
Sec. 6, W½;
Sec. 7, W½ and E½SE¼;
Sec. 18, W½NE¼, W½, and W½SE¼;
Sec. 19;
Sec. 29, W½;
Sec. 30;
Sec. 31, E½ and E½NW¼;
Sec. 32, W½NE¼, W½, and W½SE¼.
T. 4 N., R. 37 E., Unsurveyed
Sec. 31, S½SW¼.
T. 1 N., R. 38 E., Unsurveyed
Sec. 3, W½NW¼ and SW¼;
Sec. 4;
Sec. 5, E½NE¼;
Sec. 9, E½ and E½NW¼;
Sec. 10;
Sec. 11, SW¼;
Sec. 14, W½NE¼, W½, and SE¼;
Sec. 15, E½ , NW¼, and N½SW¼;
Sec. 16, N½NE¼;
Sec. 22, NE¼;
Sec. 23;
Sec. 24, W½ and W½SE¼;
Sec. 25;
Sec. 26, NE¼ and E½SE¼;
Sec. 36, NE¼ and N½NW¼.
T. 2 N., R. 38 E., Unsurveyed
Sec. 13, S½SW¼ and SE¼;
Sec. 16, S½NW¼ and SW¼;
Secs. 17 and 18;
Sec. 19, N½;
Sec. 20, E½ and NW¼;
Sec. 21, W½ and SE¼;
Sec. 22, S½;
Sec. 23, NE¼, S½NW¼, and S½;
Sec. 24;
Sec. 25, N½NW¼;
Sec. 26, N½;
Sec. 27, N½;
Sec. 28;
Sec. 29, E½;
Sec. 32, E½;
Sec. 33.
T. 1 N., R. 38.2 E., Unsurveyed
Sec. 30, S½NW¼, SW¼, and S½SE¼;
Sec. 31, N½, N½SW¼, and SE¼;
Sec. 32, W½ and SE¼.
T. 2 N., R. 38.2 E.,
Sec. 4;
Sec. 5, S½SE¼;
Sec. 7, S½SE¼;
Sec. 8, E½, S½NW¼, and SW¼;
Sec. 9;
Sec. 16, N½NW¼;
Sec. 17, N½, SW¼, and N½SE¼;
Sec. 18;
Sec. 19, N½ and N½SW¼;
Sec. 20, N½NW¼.
T. 1 S., R. 39 E.,
Sec. 4, lots 3 and 4, S½NW¼, and S½;
Sec. 5;
Sec. 6, lots 1 and 2, and S½NE¼;
Sec. 8, NE¼;
Sec. 9;
Sec. 10, W½NW¼ and SW¼;
Sec. 14, W½SW¼;
Sec. 15;
Sec. 16, E½ and E½NW¼;
Sec. 21, N½NE¼;
Sec. 22;
Sec. 23, W½NW¼ and W½SW¼;
Sec. 26, W½NW¼ and W½SW¼;
Sec. 27, E½, E½NW¼, and E½SW¼;
Sec. 34, E½, E½NW¼, and SW¼;
Sec. 35, W½.
T. 2 N., R. 39 E., Unsurveyed
Sec. 4, NW¼;
Sec. 5, N½ and SW¼;
Sec. 6;
Sec. 7, N½ and SW¼.
T. 2 S., R. 39 E.,
Sec. 2, lot 4, S½NW¼, and SW¼;
Sec. 3, lots 1 to 4, inclusive, S½NE¼, S½NW¼, E½SW¼, and SE¼;
Sec. 10, E½, E½NW¼, and E½SW¼;
Sec. 11, W½;
Sec. 14, W½NE¼, W½, and W½SE¼;
Sec. 15, E½ and E½NW¼;
Sec. 22 (except patented land);
Sec. 23, W½NE¼, W½, and W½SE¼;
Sec. 25, S½SW¼;

Sec. 26;
Sec. 27, E½;
Sec. 34, N½NE¼;
Sec. 35;
Sec. 36, W½ and SE¼.
T. 3 N., R. 39 E.,
Sec. 13, S½SE¼;
Sec. 22, S½SE¼;
Sec. 23, S½NE¼ and S½;
Sec. 24;
Sec. 25, N½ and N½SW¼;
Secs. 26 and 27;
Sec. 28, S½NE¼ and S½;
Sec. 29, S½SE¼;
Sec. 31, S½SW¼ and SE¼;
Secs. 32 and 33;
Sec. 34, N½ and N½SW¼;
Sec. 35, N½NW¼.
T. 3 S., R. 39 E.,
Sec. 1;
Sec. 2, lots 1 and 2, S½NE¼, and E½SE¼;
Sec. 12, NE¼.
T. 2 S., R. 40 E.,
Sec. 22, S½SW¼ and SE¼;
Sec. 23, S½ and S½NE¼;
Sec. 24, NE¼, S½NW¼, and S½;
Sec. 25, N½;
Sec. 26, N½, N½SW¼, and N½SE¼;
Sec. 27;
Sec. 28, lot 1 and lots 3 to 8, inclusive, and SW¼;
Sec. 29, S½SE¼;
Sec. 31, E½SW¼ and SE¼;
Sec. 32;
Sec. 33, N½, SW¼, and N½SE¼;
Sec. 34, NW¼.
T. 3 N., R. 40 E.,
Sec. 8, S½SE¼;
Sec. 9, S½NE¼ and S½;
Sec. 10 (except patented land);
Sec. 11 (except patented land);
Sec. 12, S½NE¼, S½NW¼, and S½;
Sec. 13, N½ and N½SE¼;
Sec. 14, N½ (except patented land);
Sec. 15, N½ and N½SW¼;
Secs. 16 and 17;
Sec. 18, lot 4, S½NE¼, E½SW¼, and SE¼;
Sec. 19;
Sec. 20, N½ and N½SW¼;
Sec. 21, N½NW¼;
Sec. 30, lot 1 and E½NW¼.
T. 3 S., R. 40 E.,
Sec. 4, lot 4;
Sec. 5, lots 1 to 4, inclusive, S½NE¼, S½NW¼, and SW¼;
Sec. 6;
Sec. 7, lot 1, E½NW¼, and N½NE¼.
T. 2 S., R. 40.2 E., Unsurveyed
Sec. 4, S½SE¼;
Sec. 8, E½ and SW¼;
Sec. 9;
Sec. 16, N½;
Sec. 17;
Sec. 18, S½NE¼, S½SW¼, and SE¼;
Sec. 19;
Sec. 20, NE¼ and W½;
Sec. 30, N½.
T. 1 N., R. 41 E.,
Sec. 1;
Sec. 2, lots 1 and 2, S½NE¼, and E½SE¼;
Sec. 12, N½, E½SW¼, and SE¼;
Sec. 13, E½.
T. 2 N., R. 41 E.,
Sec. 3, lots 2, 3, and 4, S½NE¼, S½NW¼, and S½;
Sec. 4, lots 1, 2, and 3, S½NE¼, S½NW¼, and SE¼;
Sec. 9, NE¼;
Sec. 10;
Sec. 11, W½;
Sec. 14;
Sec. 15, E½ and E½NW¼;
Sec. 22, N½NE¼;
Sec. 23;
Sec. 24, W½NW¼ and W½SW¼;
Sec. 25, W½;
Sec. 26, E½, NW¼, and E½SW¼;
Sec. 35, E½ and E½NW¼;
Sec. 36, W½NE¼, W½, and SE¼.
T. 2 S., R. 41 E.,
Sec. 3, W½SW¼;
Sec. 4, S½NE¼, S½NW¼, and S½;
Sec. 5, S½NE¼ and S½;
Sec. 6, lots 10 to 16, inclusive, and S½SE¼;
Secs. 7, 8, and 9;
Sec. 10, W½NW¼ and W½SW¼;
Sec. 15, W½NW¼;
Sec. 16;
Sec. 17, E½ and SW¼;
Sec. 18, N½NE¼;
Sec. 19, E½NE¼ and E½SE¼;
Sec. 20;
Sec. 21, NW¼ and N½SW¼;
Sec. 29, NE¼, W½, and W½SE¼;
Sec. 30, E½;
Sec. 31, lots 8 to 11, inclusive, and E½;
Sec. 32, N½NE¼ and W½.
T. 3 N., R. 41 E.,
Sec. 7, lots 3 and 4, E½SW¼, and SE¼;
Sec. 8, SW¼;
Sec. 16, S½SW¼; secs. 17 and 18;
Sec. 19, N½NE¼;
Sec. 20;
Sec. 21, W½ and W½SE¼;
Sec. 27, S½SW¼;
Sec. 28;
Sec. 29, E½;
Sec. 32, N½NE¼;
Sec. 33;
Sec. 34, W½ and S½SE¼.
T. 3 S., R. 41 E.,
Sec. 4, lot 4 and S½NW¼;
Sec. 5;
Sec. 6, lot 1, SE¼NE¼, and SE¼;
Sec. 7, E½;
Sec. 8, W½NE¼, W½, and W½SE¼;
Sec. 16, SW¼ and S½SE¼ (except patented land);
Sec. 17;
Sec. 18, E½;
Sec. 19, N½NE¼;
Sec. 20, N½ and SE¼;
Sec. 21;
Sec. 22, S½NE¼, W½, and SE¼;
Sec. 23, S½;
Sec. 24, S½;
Sec. 25;
Sec. 26, N½, N½SW¼, and N½SE¼;
Sec. 27, N½;
Sec. 28, NE ¼.
T. 1 N., R. 42 E.,
Sec. 6, lots 6 and 7, and E½SW¼;
Sec. 7, lots 1 to 4, inclusive, E½NW¼, E½SW¼, and W½SE¼;
Sec. 17, SW¼;
Sec. 18;
Sec. 19, lot 1, E½NW¼, and E½;
Sec. 20;
Sec. 21, SW¼;
Sec. 28, W½NE¼, W½, and SE¼;
Sec. 29;
Sec. 30, N½NE¼;
Sec. 32, NE¼;
Sec. 33;
Sec. 34, W½ and W½SE¼.
T. 1 S., R. 42 E.,
Sec. 3;
Sec. 4, lots 1 and 2, S½NE¼, and SE¼;
Sec. 9, E½NE¼;
Sec. 10;
Sec. 11, W½SW¼;
Sec. 14, W½NW¼ and W½SW¼;
Secs. 15 and 22;
Sec. 23, W½;
Sec. 26, W½;
Sec. 27, E½, E½NW¼, and E½SW¼;
Sec. 34, E½, E½NW¼, and E½SW¼;
Sec. 35, W½.
T. 2 S., R. 42 E.,
Sec. 2, lots 3 and 4, S½NW¼, and W½SW¼;
Sec. 3, lots 1, 2, and 3, S½NE¼, S½NW¼, E½SW¼, and SE¼;
Sec. 10;
Sec. 11, W½NW¼ and W½SW¼;
Sec. 14, W½NW¼ and W½SW¼ (except patented land);
Secs. 15 and 22 (except patented land);
Sec. 23, W½NW¼ and W½SW¼ (except patented land);
Sec. 26, W½NW¼ and W½SW¼ (except patented land);
Secs. 27 and 34 (except patented land);
Sec. 35, W½NW¼ and W½SW¼ (except patented land).
T. 3 S., R. 42 E.,
Sec. 3, lots 1, 2, and 3, S½NE¼, S½NW¼, E½SW¼, and SE¼ (except patented land);
Sec. 10, NE¼ and E½SE¼ (except patented land);
Secs. 11 and 12 (except patented land);
Sec. 13, N½ (except patented land);
Sec. 14, N½NE¼ (except patented land);
Sec. 19, lots 4 to 9 inclusive, and S½SE¼;
Sec. 20, S½SW¼ and S½SE¼;
Sec. 28, W½NE¼, W½, and SE¼;
Secs. 29 and 30;
Sec. 32, N½NE¼ and S½SE¼;
Sec. 33.
T. 4 S., R. 42 E.,
Sec. 4;
Sec. 5, lot 1, S½NE¼, and SE¼;
Sec. 8, E½, E½NW¼, and E½SW¼;
Sec. 9, W½NE¼ and W½;
Sec. 16, W½;
Sec. 17;
Sec. 18, S½SE¼;
Sec. 19, E½NE¼ and E½SE¼;
Sec. 20;
Sec. 23, S½SW¼ and S½SE¼;
Sec. 24, S½SW¼ and S½SE¼;
Secs. 25 and 26;
Sec. 27, NE¼ and S½;
Sec. 28, W½NW¼, W½SW¼, and SE¼;
Secs. 29, 32, and 33;
Sec. 34, N½, SW¼, and N½SE¼;
Sec. 35, N½NE¼ and NW¼.
T. 5 S., R. 42 E., Unsurveyed
Sec. 4, N½NE¼ and N½NW¼;
Sec. 5, N½NE¼.
T. 3 S., R. 43 E.,
Sec. 7 (except patented land);
Sec. 8, S½ (except patented land);
Sec. 16, W½NW¼ and W½SW¼;
Secs. 17 and 18 (except patented land);

Sec. 19, E½ and E½SW¼;
Sec. 20;
Sec. 21, N½NW¼;
Sec. 27, S½;
Sec. 28, S½NE¼, S½NW¼, and S½;
Sec. 29;
Sec. 30, E½ and E½NW¼;
Sec. 31, N½NE¼;
Sec. 32, N½;
Sec. 33, N½ and SE¼;
Sec. 34;
Sec. 35, E½NW¼ and E½SW¼.
T. 5 S., R. 43 E., Unsurveyed
Sec. 6;
Sec. 7, E½ and E½NW¼;
Sec. 18, N½NE¼.

The lands in the Mina Corridor aggregate 139,391 acres in Esmeralda, Lyon, and Mineral Counties.

Public Land Order (PLO) No. 7653, 70 FR 76854–76858 (December 28, 2005), withdrew approximately 308,600 acres of public lands from surface entry and mining for the purpose of evaluating a suite of alternative rail alignments along the Caliente Corridor, as described in the DOE's Final Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada, February 2002. The evaluation is for the potential construction, operation, and maintenance of a rail line which would be used to transport spent nuclear fuel and high-level radioactive waste to the proposed Yucca Mountain Repository as part of the DOE's responsibility under the Nuclear Waste Policy Act, as amended, 42 U.S.C. 10101 *et seq.*

The DOE has identified an additional 68,646 acres of public lands for evaluation along the Caliente Corridor. Since PLO No. 7653 can not be amended to add lands, the DOE has filed this new withdrawal application for those additional lands.

The DOE's withdrawal application also includes 139,391 acres of public lands for the purpose of evaluating the potential construction, operation, and maintenance of a rail line along a suite of alternative rail alignments referred to by the DOE as the ''Mina Route.'' The width of the withdrawal is 1 mile.

The expiration date for this proposed withdrawal would be the same as the expiration date for PLO No. 7653, which is December 27, 2015.

The use of a right-of-way, interagency agreement, or cooperative agreement would not adequately constrain non-discretionary uses that could irrevocably affect the evaluation of these lands for a potential rail line alignment.

There are no suitable alternative sites, since the lands described identify the alternative alignments that need to be evaluated.

No water rights will be needed to fulfill the purpose of the withdrawal.

Possible mineral deposits present in the above-described land areas include some locatable and salable minerals.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the BLM Nevada State Director.

Comments, including names and street addresses of respondents, will be available for public review at the BLM Nevada State Office, 1340 Financial Blvd., Reno, Nevada, during regular business hours, 7:30 a.m. to 4:30 p.m., Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Such requests will be honored to the extent allowed by the law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Notice is hereby given that in addition and subsequent to the 90-day public comment period mentioned above, there will be at least one public meeting in connection with the proposed withdrawal to be announced at a later date. A notice of the time, place, and date will be published in the **Federal Register** and a local newspaper at least 30 days before the scheduled date of a meeting.

This withdrawal proposal will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register,** the lands described above will be segregated as specified above unless the application is denied or cancelled or the withdrawal is approved prior to that date.

Licenses, permits, cooperative agreements, or discretionary land use authorizations of a temporary nature which will not significantly impact the purpose of the proposed withdrawal may be allowed with the approval of the authorized officer of the BLM during the segregative period.

(Authority: 43 CFR 2310.3–1(a))

Dated: October 30, 2006.

Margaret L. Jensen,

Deputy State Director, Natural Resources, Lands, and Planning.

[FR Doc. E7–84 Filed 1–9–07; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[FES–06–53]

Transfer of Title to Facilities, Works, and Lands of the Gila Project, Wellton-Mohawk Division, to the Wellton-Mohawk Irrigation and Drainage District, Yuma County, AZ (Wellton-Mohawk Title Transfer)

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of Availability, Final Environmental Impact Statement, Wellton-Mohawk Title Transfer.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended, the Bureau of Reclamation (Reclamation) has prepared a Final Environmental Impact Statement (FEIS) to evaluate the potential effects of the proposed Wellton-Mohawk Title Transfer. The title transfer would transfer ownership and divest Reclamation of the responsibility for the operation, maintenance, management, regulation of, and liability for the identified project facilities and appurtenant lands to the Wellton-Mohawk Irrigation and Drainage District (District). This title transfer would consolidate management responsibility with the District, thereby allowing them to have greater authority in the management of growth and land-based issues in the Wellton-Mohawk Valley, protect against encroachment on agriculture, and consolidate ownership of lands, facilities, and the Gila River Flood Channel.

ADDRESSES: To obtain a compact disc or paper copy of the FEIS, please e-mail Christa Monaco at *cmonaco@lc.usbr.gov* or write Ms. Monaco at the Bureau of Reclamation, Lower Colorado Regional Office, P.O. Box 61470, Boulder City, NV 89006–1470. A copy of the FEIS is available for public review and inspection on the Region's Web site at *http://www.usbr.gov/lc* under ''Latest News and Info'', or at the following locations:

- Wellton-Mohawk Irrigation and Drainage District, 30570 Wellton-Mohawk Drive, Wellton, AZ, telephone: (928) 785–3351.

• Dateland School Branch Library, Avenue 64 East, Dateland, AZ, telephone: (928) 454–2243.

• Foothills Branch Library, 11279 South Glenwood Avenue, Yuma, AZ, telephone: (928) 342–1640.

• Roll Branch Library, 5151 South Avenue 39 East, Roll, AZ, telephone: (928) 785–3701.

• Wellton Branch Library, 10425 Williams Street, Wellton, AZ, telephone: (928) 785–9575.

• Yuma County Main Library, 350 South 3rd Avenue, Yuma, AZ, telephone: (928) 782–1871.

• Bureau of Reclamation, Yuma Area Office, 800 Calle Agua Salada, Yuma, AZ, telephone: (928) 343–8139.

• Bureau of Reclamation, Public Affairs Office, Annex Building, corner of Nevada Highway and Park Street, Boulder City, NV, telephone: (702) 293–8421.

• Bureau of Reclamation, Denver Office Library, Building 67, Room 167, Denver Federal Center, 6th and Kipling, Denver, CO telephone: (303) 445–2072.

FOR FURTHER INFORMATION CONTACT: Ms. Renee Kolvet, Project Lead, Lower Colorado Regional Office, Bureau of Reclamation, 702–293–8443, fax 702–293–8146 or e-mail: *rkolvet@lc.usbr.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Draft Environmental Impact Statement (DEIS) Notice of Availability was published in the **Federal Register** on September 4, 2003 (68 FR 52613). The public review period ended on October 29, 2003. All comments received on the DEIS were carefully reviewed and considered in preparing the FEIS. Where appropriate, responses to comments received from interested organizations and individuals during the review period are addressed in the FEIS.

The amount of land to be transferred has been reduced by approximately 8,850 acres from that identified in the Proposed Action of the DEIS. These changes were made to reflect the correct legal land ownership status and in response to concerns raised during consultations with tribal governments. No additional adverse environmental impacts would result from the changes as documented in the FEIS.

Reclamation will not make a decision on the proposed action until at least 30 days after Environmental Protection Agency's Notice of Availability of the FEIS is published in the **Federal Register**. After the 30-day waiting period, Reclamation may complete a Record of Decision (ROD) which would state the action that will be implemented and would discuss all factors leading to the decision.

The FEIS will be used in the decision-making process pursuant to the Wellton-Mohawk Transfer Act of June 2000 (Pub. L. 106–221), whereby the Secretary of the Interior was authorized to transfer title to the Wellton-Mohawk Division of the Gila Project works and facilities, and certain federally-owned lands from the United States to the District. The District is a political subdivision of the State of Arizona constituted to own lands and facilities and to contract with Reclamation for diversion of Colorado River water for delivery to its landowners. Reclamation and the District signed a Memorandum of Agreement (MOA) in July 1998, as amended, which defines the methods and principles of this title transfer process.

Two alternatives are evaluated in the FEIS: (1) The No Action Alternative, under which facilities of the Wellton-Mohawk Division of the Gila Project and lands within or adjacent to the Gila Project would remain in Federal ownership, and (2) the Proposed Action/Preferred Alternative under which Reclamation would transfer title to the facilities of the Wellton-Mohawk Division of the Gila Project and lands within or adjacent to the Gila Project to the District.

Dated: November 29, 2006.

Jayne Harkins,

Deputy Regional Director, Lower Colorado Region.

[FR Doc. E7–177 Filed 1–9–07; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–543]

In the Matter of Certain Baseband Processor Chips and Chipsets, Transmitter and Receiver (RADIO) Chips, Power Control Chips, and Products Containing Same, Including Cellular Telephone Handsets; Notice of Commission Decision To Modify the Schedule for Filing Written Submissions on Remedy, the Public Interest, and Bonding, and To Extend the Target Date for Completion of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to modify a schedule for filing written submissions on remedy, the public interest, and bonding, and to extend the target date for completion of the above-captioned investigation by thirteen (13) days to March 8, 2007.

FOR FURTHER INFORMATION: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–3152. Copies of the ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: On June 21, 2005, the Commission instituted an investigation under section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, based on a complaint filed by Broadcom Corporation of Irvine, California, alleging a violation of section 337 in the importation, sale for importation, and sale within the United States after importation of certain baseband processor chips and chipsets, transmitter and receiver (radio) chips, power control chips, and products containing same, including cellular telephone handsets by reason of infringement of certain claims of U.S. Patent Nos. 6,374,311; 6,714,983; 5,682,379 (''the '379 patent''); 6,359,872 (''the '872 patent''); and 6,583,675. 70 FR 35707 (June 21, 2005). The complainant named Qualcomm Incorporated of San Diego, California as the only respondent. The '379 patent and '872 patent were terminated from this investigation.

On October 19, 2006, the presiding administrative law judge (''ALJ'') issued an Initial Determination on Violation of Section 337 and Recommended Determination on Remedy and Bond (''ID''), finding a violation of section 337. On December 8, 2006, the Commission issued a notice of its decision to review and modify in part the ALJ's final ID. The Commission also requested the parties to the investigation, interested government agencies, and any other interested

persons to file written submissions on the issues of remedy, the public interest, and bonding.

On December 11, 2006, the ALJ announced that the public version of the ID will not be available before December 21, 2006. On December 20, the Commission determined to extend by fourteen (14) days the then-existing deadlines for filing the opening and reply submissions on the issues of remedy, the public interest, and bonding. The respective deadlines were set as follows: (1) Written submissions and proposed remedial orders on the issues of remedy, the public interest, and bonding were due no later than close of business on January 5, 2007, and (2) respective reply submissions were due no later than the close of business on January 17, 2007. The Commission also determined to extend the target date for completion of this investigation by fourteen (14) days to February 23, 2007.

On January 3, 2007, the ALJ's office indicated that the public version of the ID at issue will not be available before Monday, January 8, 2007. Accordingly, the Commission has determined to extend by ten (10) days after issuance of the public version of the final ID the existing deadline for filing the opening submissions on the issues of remedy, the public interest, and bonding. The Commission has also determined to extend the existing deadline for filing the respective reply submissions, and the existing target date for completion of this investigation. Thus, the respective deadlines are as follows: (1) Written opening submissions and proposed remedial orders on the issues of remedy, the public interest, and bonding must be filed no later than close of business on January 18, 2007, and (2) respective reply submissions must be filed no later than the close of business on January 25, 2007. The Commission has also determined to extend the target date for completion of this investigation by thirteen (13) days to March 8, 2007.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.42(h) of the Commission's Rules of Practice and Procedure (19 CFR 210.42(h)).

By order of the Commission.

Issued: January 4, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–188 Filed 1–9–07; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–545]

In the Matter of Certain Laminated Floor Panels; Notice of Final Determination; Issuance of General Exclusion Order and Cease and Desist Orders; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has found a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 337) based on the infringement of nine asserted claims of three asserted patents and has issued a general exclusion order and cease and desist orders in the above-captioned investigation. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Michael Haldenstein, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3041. Copies of all nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on July 29, 2005, based on a complaint filed by Unilin Beheer B.V., Flooring Industries Ltd., and Unilin Flooring N.C. LLC (collectively ''Unilin''). 70 FR 44694 (August 3, 2005). The complaint (as amended) alleged violations of section 337 of the Tariff Act of 1930 (''section 337'') in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain laminated floor panels by reason of infringement of one or more of claims 1, 14, 17, 19, 20, 21, 37, 52, 65, and 66 of U.S. Patent No. 6,006,486 (''the '486 patent''), claims 1, 2, 10, 13, 18, 19, 22, 23, 24, and 27 of U.S. Patent No. 6,490,836 (''the '836 patent''), claims 1–6 of U.S. Patent No. 6,874,292 (''the '292 patent''), and claims 1, 5, 13, 17, 27, and 28 of U.S. Patent No. 6,928,779 (''the '779 patent''). The investigation was subsequently terminated with respect to the '486 patent. The Commission named as respondents 32 companies located in Canada, China, South Korea, Malaysia, and the United States. Id. Two respondents have been terminated from the investigation as a result of settlement agreements.

On July 3, 2006, the ALJ issued his final initial determination (''ID''), including his recommended determination on remedy and bonding. The complainants, the Commission investigative attorney (''IA''), and several respondents petitioned for review of various portions of the final ID.

On September 25, 2006, after considering the final ID, the written submissions and other relevant portions of the record, the Commission determined to review those portions of the ALJ's final ID concerning: (1) Construction of the ''elastically bendable portion'' limitation of claim 1 of the '836 patent and claim 4 of the '292 patent, (2) infringement of claims 1 and 2 of the '836 patent and claims 3 and 4 of the '292 patent; (3) infringement by the defaulting respondents; (4) invalidity of the asserted claims of the '779 patent; and (5) the validity of the asserted claims of the '836 and '292 patents to the extent implicated by the Commission's review described in item (1). The Commission received written submissions on the issues under review and on remedy, the public interest, and bonding.

Having examined the record in this investigation, including the submissions on review and responses thereto, the Commission has determined that there is a violation of section 337 with respect to claims 1, 2, 10, 18, and 23 of the '836 patent, claims 3 and 4 of the '292 patent, and claims 5 and 17 of the '779 patent.

The Commission has also made determinations on the issues of remedy, the public interest, and bonding. The Commission has determined that the appropriate form of relief is a general exclusion order prohibiting the unlicensed entry of laminated floor panels covered by claims 1, 2, 10, 18, and 23 of the '836 patent, claims 3 and 4 of the '292 patent, and claims 5 and 17 of the '779 patent. The Commission has also determined to issue cease and desist orders limited to claim 1 of the '836 patent and directed to defaulting domestic respondents Dalton Carpet Liquidators, Inc., Pacific Flooring

Manufacture, Inc., P.J. Flooring Distributor, R.A.H. Carpet Supplies, Inc., Salvage Building Material, Inc., Stalheim (USA), Inc., Universal Floor Covering, Inc., and Vegas Laminate Hardwood Floors LLC.

The Commission has determined that the public interest factors enumerated in 19 U.S.C. 1337(d), (f), and (g) do not preclude issuance of the aforementioned remedial orders, and that the bond during the Presidential period of review shall be set at 100 percent of the entered value for any covered laminated floor panels.

The authority for the Commission's determinations is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in sections 210.45–210.51 of the Commission's Rules of Practice and Procedure (19 CFR 210.45–210.51).

By order of the Commission.

Issued: January 5, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–190 Filed 1–9–07; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–580]

In the Matter of Certain Peripheral Devices and Components Thereof and Products Containing Same; Notice of a Commission Determination Not To Review an Initial Determination Terminating the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') of the presiding administrative law judge (''ALJ'') terminating the above-captioned investigation under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). The Commission has terminated the investigation based on settlement and licensing agreements.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., telephone 202–708–2310, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Copies of all nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on September 6, 2006, based on a complaint filed on August 1, 2006, by Microsoft Corporation of Redmond, Washington. 71 FR 52578. The complaint alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain peripheral devices and components thereof and products containing same by reason of infringement of U.S. Patent No. 6,460,094 and U.S. Patent No. 6,795,949. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337. The complaint named a single respondent: Belkin Corporation of Compton, California. The complaint further alleged that an industry in the United States exists as required by subsection (a)(2) of section 337.

On November 30, 2006, the complainant and the only respondent filed a joint motion to terminate the investigation on the basis of settlement and licensing agreements. The Commission Investigative Attorney filed a response in support of the motion on December 11, 2006.

The ALJ issued the subject ID on December 19, 2006, granting the joint motion for termination. No party petitioned for review of the ID pursuant to 19 CFR 210.43(a), and the Commission found no basis for ordering a review on its own initiative pursuant to 19 CFR 210.44. The Commission has determined not to review the ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in sections 210.21(a)(2), (b) and 210.42(h)(3) of the Commission's Rules of Practice and Procedure.

By order of the Commission.

Issued: January 4, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–122 Filed 1–9–07; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–991 (Final) (Remand)]

Silicon Metal From Russia; Notice and Scheduling of Remand Proceeding

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: The United States International Trade Commission (Commission) gives notice of the court-ordered remand of its final antidumping duty investigation No. 731–TA–991 (Final) (Remand).

FOR FURTHER INFORMATION CONTACT: June B. Brown, Esq., Office of the General Counsel, telephone (202) 205–3042, or Diane Mazur, Office of Investigations, telephone (202) 205–3184, 500 E Street, SW., Washington, DC 20436, U.S. International Trade Commission. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*).

SUPPLEMENTARY INFORMATION:

Reopening the Record

In March 2003, the Commission made a final affirmative determination in the referenced investigation. The determination was appealed to the U.S. Court of International Trade (CIT), which affirmed the Commission upon remand, and was then appealed to the U.S. Court of Appeals for the Federal Circuit, which vacated and remanded the Commission's determination. *Bratsk Aluminum Smelter* v. *United States*, 444 F.3d 1369 (Fed. Cir. 2006). On August 17, 2006, the CIT issued an order remanding the case to the Commission to comply with the Federal Circuit's decision in *Bratsk*. By order of September 22, 2006, the remand proceeding was stayed upon the Commission's motion. On December 22, 2006, the CIT issued an order lifting the stay and giving the Commission 90 days to issue its remand determination.

In order to assist it in making its determination on remand, the Commission is reopening the record on remand in this investigation to include additional information on the role of non-subject imports of silicon metal in the U.S. market during the original period of investigation. The record in this proceeding will encompass the material from the record of the original

investigation and additional information placed by Commission staff on the record during this remand proceeding.

Participation in the Proceeding

Only those persons who were interested parties in the original administrative proceeding and are parties to the ongoing litigation (i.e., persons listed on the Commission Secretary's service list and parties to *Bratsk Aluminum Smelter* v. *United States*, Consol. Ct. No. 03–00200) may participate as interested parties in this remand proceeding.

Nature of the Remand Proceeding

On February 16, 2007, the Commission will make available to parties who are participating in the remand proceeding information that has been gathered by the Commission as part of this remand proceeding. These parties may file comments on or before February 27, 2007 on the legal issues raised in *Bratsk* with respect to non-subject imports and on the information on the record that is relevant to how the Commission addresses these issues in its remand determination. No additional new factual information may be included in such comments. Such comments shall not exceed 25 double-spaced pages.

All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain business proprietary information (BPI) must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002). Each document filed by a party participating in the remand investigation must be served on all other parties who may participate in the remand investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service. Parties are also advised to consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subpart A (19 CFR part 207), for provisions of general applicability concerning written submissions to the Commission.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Information obtained during the remand investigation will be released to the referenced parties, as appropriate, under the administrative protective order (APO) in effect in the original investigation. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO in this remand investigation.

Authority: This action is taken under the authority of the Tariff Act of 1930, title VII.

By order of the Commission.

Issued: January 4, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–187 Filed 1–9–07; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–678, 679, 681, and 682 (Second Review)]

Stainless Steel Bar From Brazil, India, Japan, And Spain

Determinations

On the basis of the record[1] developed in the subject five-year reviews, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act), that revocation of the antidumping duty orders on stainless steel bar from Brazil, India, Japan, and Spain would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[2]

Background

The Commission instituted these reviews on March 1, 2006 (71 FR 10552) and determined on June 5, 2006 that it would conduct full reviews (71 FR 34391, June 14, 2006). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on June 20, 2006 (71 FR 36359). The hearing was held in Washington, DC, on October 12, 2006, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these reviews to the Secretary of Commerce on January 5, 2007. The views of the Commission are contained in USITC Publication 3895 (January, 2007), entitled Stainless Steel Bar from Brazil, India, Japan, and Spain: Investigation Nos. 731–TA–678, 679, 681, 682 (Second Review).

By order of the Commission.

Issued: January 5, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–191 Filed 1–9–07; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Chairman Daniel R. Pearson and Commissioner Deanna Tanner Okun dissenting with respect to Brazil and Spain.

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

January 5, 2007.

The Department of Labor (DOL) has submitted the following public information collection requests (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of each ICR, with applicable supporting documentation, may be obtained from RegInfo.gov 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.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employee Benefits Security Administration (EBSA), 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), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information,

including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employee Benefits Security Administration.

Type of Review: Extension without change of currently approved collection.

Title: Annual Report for Multiple Employer Welfare Arrangements (Form M–1).

OMB Number: 1210–0116.

Frequency: Annually.

Type of Response: Reporting.

Affected Public: Private Sector: Business or other for-profit and Not-for-profit institutions.

Estimated Number of Respondents: 515.

Estimated Number of Annual Responses: 515.

Average Response Time: Approximately 9 minutes (average across all filers).

Estimated Total Burden Hours: 78.

Estimated Total Annualized capital/startup costs: $0.

Estimated Total Annual Costs (operating/maintaining systems or purchasing services): $45,520.

Description: The Department's regulation at 29 CFR 2520.101–2 requires annual reporting by ''multiple employer welfare arrangements,'' as defined in section 3(40) of Employee Retirement Income Security Act (ERISA), and certain other entities claiming an exception from the ERISA definition of ''multiple employer welfare arrangements,'' for the purpose of determining the extent to which such entities comply with Part 7 of ERISA. The Department provides a form (Form M–1) for the required reporting and also provides an electronic filing system through which entities may complete the required Form M–1 and file it without cost.

Pursuant to section 101(g) of ERISA, the Form M–1 information is used by governmental oversight entities to determine the extent of compliance with the requirements of Part 7 of ERISA by multiple employer welfare arrangements and entities claiming exception under section 3(40) of ERISA and to take appropriate compliance assistance and enforcement actions.

Agency: Employee Benefits Security Administration.

Type of Review: Extension without change of currently approved collection.

Title: ERISA Investment Manager Electronic Registration.

OMB Number: 1210–0125.

Frequency: Annually.

Type of Response: Reporting.

Affected Public: Private Sector: Business or other for-profit and Not-for-profit institutions.

Estimated Number of Respondents: 500.

Estimated Number of Annual Responses: 500.

Average Response Time: 2 hours for new filers and 1 hour for existing annual filers.

Estimated Total Burden Hours: 550.

Estimated Total Annualized capital/startup costs: $0.

Estimated Total Annual Costs (operating/maintaining systems or purchasing services): $17,500.

Description: The Department's regulation at 29 CFR 2510.3–38 provides that, in order to meet the definition of investment manager in the Employee Retirement Income Security Act 3(38), state-registered investment advisers must register electronically through a centralized electronic filing system established by the Securities and Extension Commission and state investment authorities (''Investment Advisor Registration Depository''/IARD) rather than providing a paper copy of their state registration to the Secretary of Labor.

Although the primary users of the information collected through the Department's regulation are plan fiduciaries, who can review the IARD registration statements for information about investment advisers that are either currently service providers to the plan or potential service providers to the plan, EBSA also uses the information for enforcement and compliance purposes. EBSA investigators are expected to review IARD data whenever they conduct an investigation that involves investment advisers or investment managers.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. E7–164 Filed 1–9–07; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–60,659]

Colgate Palmolive Company; Kansas City, KS; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on December 22, 2006, in response to a worker petition filed by the Missouri Workforce Development Specialist on behalf of workers at Colgate Palmolive Company, Kansas City, Kansas.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 28th day of December, 2006.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–146 Filed 1–9–07; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–60,045]

International Business Machines Corporation; IBM/ITOS Rocklin; Rocklin, CA; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at International Business Machines Corporation, IBM/ITOS Rocklin, Rocklin, California. The application did not contain new information supporting a conclusion that the determination was erroneous, and also did not provide a justification for reconsideration of the determination that was based on either mistaken facts or a misinterpretation of facts or of the law. Therefore, dismissal of the application was issued.

TA–W–60,045; International Business Machine Corporation, IBM/ITOS Rocklin, Rocklin, California (December 27, 2006)

Signed at Washington, DC, this 28th day of December 2006.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–139 Filed 1–9–07; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–60,451]

Kester, Inc.; Des Plaines, IL; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on November 16, 2006 in response to a worker petition filed by a company official on behalf of workers of Kester, Inc., Des Plaines, Illinois.

The petitioning group of workers is covered by an active certification (TA–W–56,972) which expires on May 11, 2007. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 21st day of December 2006.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–143 Filed 1–9–07; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than January 22, 2007.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than January 22, 2007.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington DC this 28th day of December 2006.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

APPENDIX

[TAA petitions instituted between 12/18/06 and 12/22/06]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
60624	R and A Tool and Engineering (Wkrs)	Westland, MI	12/18/06	12/13/06
60625	Huntington Foam Corporation (Wkrs)	Mt. Pleasant, PA	12/18/06	12/14/06
60626	Baseline Tool Company, Inc. (Comp)	Wawaka, IN	12/18/06	12/15/06
60627	Advanced Technology Corporation (USW)	Geneva, OH	12/18/06	12/14/06
60628	Quadra Fab Corporation (Wkrs)	Plattsburgh, NY	12/18/06	12/15/06
60629	General Electric Lighting, Inc. (Wkrs)	Youngstown, OH	12/18/06	12/12/06
60630	Bloomsburg Mills, Inc. (Comp)	Bloomsburg, PA	12/18/06	12/15/06
60631	Jay-Enn Corporation (State)	Troy, MI	12/18/06	12/15/06
60632	Pfizer, Inc. (State)	Holland, MI	12/18/06	12/15/06
60633	Alevale Furniture Co. (Comp)	Taylorsville, NC	12/18/06	12/15/06
60634	Time Warner Cable (Wkrs)	Coudersport, PA	12/18/06	12/14/06
60635	Mastercraft Fabrics, LLC (Comp)	Cramerton, NC	12/19/06	12/18/06
60636	Fencemaster (Comp)	Jackson, TN	12/19/06	12/14/06
60637	Zomax, Inc. (State)	Plymouth, MN	12/19/06	12/18/06
60638	Acme Face Veneer Co., Inc. (Comp)	Lexington, NC	12/19/06	12/13/06
60639	Hospira Worldwide, Inc. (State)	N. Billerica, MA	12/19/06	12/15/06
60640	National Apparel, Inc. (Wkrs)	San Francisco, CA	12/19/06	12/16/06
60641	Collis, Inc. (Comp)	Evansville, IN	12/19/06	12/19/06
60642	M.A. Moslow and Brothers, Inc. (IAMAW)	Buffalo, NY	12/19/06	12/03/06
60643	Hutchings Automotive Products, Inc. (Wkrs)	Grand Blanc, MI	12/19/06	12/14/06
60644	ISM Fastening Systems (Comp)	Butler, PA	12/20/06	12/18/06
60645	Diamond Back, Inc. (Wkrs)	Morrisville, VT	12/20/06	12/15/06
60646	Hollister, Inc. (Wkrs)	Kirksville, MO	12/20/06	12/19/06
60647	Ito Cariani Foods (State)	Hayward, CA	12/20/06	12/11/06
60648	Potlatch Corp. (State)	Prescott, AR	12/20/06	12/19/06
60649	Strattec Security Corp. (Comp)	Milwaukee, WI	12/20/06	12/14/06
60650	Bourns Automotive Div. (Comp)	Janesville, WI	12/20/06	12/19/06
60651	AOL, LLC (Wkrs)	Oklahoma City, OK	12/20/06	12/19/06
60652	Celestica (Comp)	Charlotte, NC	12/21/06	12/19/06
60653	Progress Casting Group, Inc. (State)	Plymouth, MN	12/21/06	12/20/06
60654	Badger Fire Protection (Comp)	Charlottesville, VA	12/21/06	12/20/06
60655	David Brooks Company (Comp)	Costa Mesa, CA	12/21/06	12/20/06
60656	Carpenter Company (Comp)	Hickory, NC	12/21/06	12/20/06
60657	Dura Automotive Systems,Inc. (UAW)	Mancelona, MI	12/22/06	12/20/06
60658	Victor Mill, Inc. (Wkrs)	Greenville, SC	12/22/06	12/14/06
60659	Colgate Palmolive Company (State)	Kansas City, KS	12/22/06	12/21/06

APPENDIX—Continued

[TAA petitions instituted between 12/18/06 and 12/22/06]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
60660	Alcoa Wheel Products (Comp)	Lebanon, VA	12/22/06	12/21/06
60661	Lear Corporation (UAW)	Janesville, WI	12/22/06	12/21/06
60662	Irving Forest Products (Comp)	Ashland, ME	12/22/06	12/19/06
60663	Choy Sang, Inc. (Wkrs)	New York, NY	12/22/06	12/21/06
60664	Hoffman LaRoche (Comp)	Nutley, NJ	12/22/06	12/21/06
60665	American and Efird, Inc. (Comp)	Clarks Summit, PA	12/22/06	12/20/06
60666	Spaulding Composites, Inc. (Comp)	DeKalb, IL	12/22/06	12/21/06

[FR Doc. E7–137 Filed 1–9–07; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–60,353]

Rice Mills, Incorporated; Belton, SC; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on November 16, 2006, applicable to workers of Rice Mills, Incorporated, Belton, South Carolina. The notice was published in the **Federal Register** on November 28, 2006 (71 FR 68840).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of kid's and adults' sleepwear.

New findings show that there was a previous certification, TA–W–54,637, issued on May 4, 2004, covering the identical worker group as the subject firm, who were engaged in employment related to the production of kid's and adults' sleepwear. That certification expired on May 4, 2006. To avoid an overlap in worker group coverage, the certification is being amended to change the impact date from October 23, 2005 to May 5, 2006, for workers of the subject firm.

The amended notice applicable to TA–W–60,353 is hereby issued as follows:

''All workers of Rice Mills, Incorporated, Belton, South Carolina, who became totally or partially separated from employment on or after May 5, 2006, through November 16, 2008, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974 and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.''

Signed at Washington, DC this 21st day of December 2006.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–141 Filed 1–9–07; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–60,512]

Showood, Inc.; Ecru, MS; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on November 30, 2006 in response to a worker petition filed by a company official on behalf of workers of Showood, Inc., Ecru Mississippi.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 21st day of December 2006.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–144 Filed 1–9–07; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–59,283; TA–W–59,283A]

Staktek Group L.P., Austin, TX, Including an Employee of Staktek Group L.P., Austin, TX Located in Poughquag, NY; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Negative Determination Regarding Eligibility To Apply for Alternative Trade Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification Regarding Eligibility to Apply for Worker Adjustment Assistance and a Negative Determination Regarding Eligibility To Apply For Alternative Trade Adjustment Assistance on June 7, 2006, applicable to workers of Staktek Group L.P., Austin, Texas. The notice was published in the **Federal Register** on July 14, 2006 (71 FR 40159).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information shows that a worker separation has occurred involving an employee of the Austin, Texas facility of Staktek Group L.P., located in Poughquag, New York.

Mr. Jerry Barbaro provided sales function services related to the production of stacked memory chips produced by the subject firm.

Based on these findings, the Department is amending this certification to include employees of the Austin, Texas facility of Staktek Group L.P. located in Poughquag, New York.

The intent of the Department's certification is to include all workers of Staktek L.P., Austin, Texas who were adversely affected by a shift in production to Mexico.

The amended notice applicable to TA–W–59,283 is hereby issued as follows:

''All workers of Staktek Group L.P., Austin, Texas (TA–W–59,283), and including an employee located in Poughquag, New York (TA–W–59,283A), who became totally or partially separated from employment on or after April 25, 2005, through June 7, 2008, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.'' I further determine that all workers of Staktek Group L.P., Austin, Texas are denied eligibility to apply for alternative trade adjustment assistance under section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 29th day of December 2006.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–138 Filed 1–9–07; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–60,604]

T.A. Service Corporation; Newark, NJ; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on December 15, 2006, in response to a worker petition filed by the State Trade Coordinator on behalf of workers at T.A. Service Corporation, Newark, New Jersey.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 19th day of December, 2006.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–145 Filed 1–9–07; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–60,331]

UGM, Inc.; Salida, CA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on October 31, 2006 in response to a petition filed by a company official on behalf of workers at UGM, Inc., Salida, California (TA–W–60,331).

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 22nd day of December, 2006.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–140 Filed 1–9–07; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the proposed collection: Vehicle Mechanical Inspection Report for Transportation Subject to Department of Transportation Requirements (WH–514); Vehicle Mechanical Inspection Report for Transportation Subject to Department of Labor Safety Standards (WH–514a) and Doctor's Certificate (WH–515). A copy of the proposed information collection request can be obtained by contacting the office listed below in the **ADDRESSES** section of this Notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before March 12, 2007.

ADDRESSES: Ms. Hazel M. Bell, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–3201, Washington, DC 20210, telephone (202) 693–0418, fax (202) 693–1451, e-mail *bell.hazel@dol.gov*. Please use only one method of transmission for comments (mail, fax, or e-mail).

SUPPLEMENTARY INFORMATION:

I. Background

Migrant and Seasonal Agricultural Worker Protection Act (MSPA) section 401 (29 U.S.C. 1841) requires, subject to certain exceptions, all Farm Labor Contractors (FLCs), Agricultural Employers (AGERs), and Agricultural Associations (AGASs) to ensure that any vehicle they use or cause to be used to transport or drive any migrant or seasonal agricultural worker conforms to safety and health standards prescribed by the Secretary of Labor under the MSPA and with other applicable Federal and State safety standards. These MSPA safety standards address the vehicle, driver, and insurance. The Wage and Hour Division (WHD) has created Forms WH–514, WH–514a, and WH–515, which allow FLC applicants to verify to the WHD that the vehicles used to transport migrant/seasonal agricultural workers meet the MSPA vehicle safety standards and that anyone who drives such workers meets the Act's minimum physical requirements. The WHD uses the information in deciding whether to authorize the FLC/FLC Employee applicant to transport/drive any migrant/seasonal agricultural workers or to cause such transportation. Form WH–514 is used to verify that any vehicle used or caused to be used to transport any migrant/seasonal agricultural worker(s) meets the Department of Transportation (DOT) safety standards. When the adopted DOT rules do not apply, FLC applicants seeking authorization to transport any migrant/seasonal agricultural workers use Form WH–514a to verify that the vehicles meet the DOL safety standards and upon the vehicle meeting the required safety standards, the form is completed. Form WH–515 is a doctor's certificate used to document that a motor vehicle driver or operator meets the minimum DOT physical requirements that the DOL has adopted. This information collection is currently approved for use through July 31, 2007.

II. Review Focus

The Department of Labor 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 submissions of responses.

III. Current Actions

The Department of Labor seeks approval for the extension of this information collection in order to verify that farm labor contractors, agricultural employers, and agricultural associations have complied with the applicable safety standards.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: Vehicle Mechanical Inspection Report for Transportation Subject to Department of Transportation Requirements (WH–514); Vehicle Mechanical Inspection Report for Transportation Subject to Department of Labor Safety Standards (WH–514a); Doctor's Certificate (WH–515).

OMB Number: 1215–0036.

Agency Number: WH–514, WH–514a, and WH–515.

Affected Public: Business or other for profit; Farms.

Total Respondents: 2,400.

Total Responses: 3,900.

Average Time per Response: 5 minutes.

Average Time per Response for Recordkeeping: 1 minute.

Estimated Recordkeeping Hours: 35 hours.

Estimated Total Burden Hours: 360 hours.

Frequency: On Occasion.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $215,100.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: January 4, 2007.

Ruben Wiley,

Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. E7–159 Filed 1–9–07; 8:45 am]

BILLING CODE 4510–27–P

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the proposed collection: Claim for Reimbursement of Benefit Payments and Claims Expense Under the War Hazards Compensation Act (CA–278). A copy of the proposed information collection request can be obtained by contacting the office listed below in the **ADDRESSES** section of this Notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before March 12, 2007.

ADDRESSES: Ms. Hazel M. Bell, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–3201, Washington, DC 20210, telephone (202) 693–0418, FAX (202) 693–1451, E-mail *bell.hazel@dol.gov*. Please use only one method of transmission for comments (mail, FAX, or E-mail).

SUPPLEMENTARY INFORMATION:

I. Background

The Office of Workers' Compensation Programs (OWCP) is the federal agency responsible for administration of the War Hazards Compensation Act (WHCA), 42 U.S.C. 1701 et seq. Under section 1704(a) of the WHCA, an insurance carrier or self-insured who has paid workers' compensation benefits to or on account of any person for a war-risk hazard may seek reimbursement for benefits paid (plus expenses) out of the Employees Compensation Fund for the Federal Employees' Compensation Act (FECA) at 5 U.S.C. 8147.

The information collected by Form CA–278 is used by insurance carriers and the self-insured to request reimbursement. The information collected is used by OWCP staff to process requests for reimbursement of WHCA benefit payments and claims expense that are submitted by insurance carriers and self-insureds. The information is also used by OWCP to decide whether it should opt to pay ongoing WHCA benefits directly to the injured worker. This information collection is currently approved for use through June 30, 2007.

II. Review Focus

The Department of Labor 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 submissions of responses.

III. Current Actions

The Department of Labor seeks approval to collect this information in order to carry out its responsibility to reimburse insurance carriers and self-insureds who meet the statutory requirements of the War Hazards Compensation Act (WHCA) for reimbursement.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: Claim for Reimbursement of Benefit Payments and Claims Expense Under the War Hazards Compensation Act.

OMB Number: 1215–0202.

Agency Number: CA–278.

Affected Public: Business or other for-profit.

Total Respondents: 7.

Total Responses: 140.

Estimated Total Burden Hours: 70.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $239.00.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: January 4, 2007.

Ruben Wiley,

Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. E7–160 Filed 1–9–07; 8:45 am]

BILLING CODE 4510–CH–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8838–MLA; ASLBP No. 00–776–04–MLA]

Atomic Safety and Licensing Board; Before Administrative Judges: Alan S. Rosenthal, Chairman, Dr. Paul B. Abramson, Dr. Richard F. Cole; In the Matter of U.S. Army (Jefferson Proving Ground Site); Notice of Hearing (Application for Materials License Amendment)

January 4, 2007.

This proceeding involves the May 25, 2005 application submitted by the Department of the Army (Licensee) for an amendment to its NRC materials license (License No. SUB–1435). The amendment would authorize an alternate schedule for the submittal to the NRC Staff of a decommissioning plan for the Licensee's Jefferson Proving Ground (JPG) site located in Madison, Indiana. Such a plan is required because there is currently amassed on that site a considerable quantity of depleted uranium (DU) munitions, the result of the Licensee's conduct, between 1984 and 1994 and under the auspices of the NRC materials license, of accuracy testing of DU tank penetration rounds. On December 9, 2005, this Atomic Safety and Licensing Board was established by the Commission to preside over the proceeding.

On February 2, 2006, this Atomic Safety and Licensing Board granted a petition to intervene and request for hearing filed by Save the Valley, Inc., and deferred any hearing pending the completion of the NRC Staff's technical review. LBP–06–06, 63 NRC 167, 185–86 (2006). On December 20, 2006, after the completion of the Staff's technical review and issuance of the requested license amendment, this Board issued a Memorandum and Order in which we determined the scope of the evidentiary hearing. LBP–06–27, 64 NRC_(slip op.) (Dec. 20, 2006).

In light of the foregoing, please take notice that a hearing will be conducted in this proceeding. The hearing will be governed by the informal hearing procedures set forth in 10 CFR Part 2, Subpart L (10 CFR 2.1200–.1213). During the course of the proceeding, the Board may conduct an oral argument (*id.* § 2.331), may hold pre-hearing conferences (*id.* § 2.329), and may conduct evidentiary hearings (*id.* § 2.1207). The public is invited to attend any oral argument, pre-hearing conference, or evidentiary hearing unless otherwise ordered by the Commission (*id.* §§ 2.327(b), 2.328). Notices of these sessions will be published in the **Federal Register** and/or made available to the public at the NRC Public Document Room, located at One White Flint, 11555 Rockville Pike (first floor), Rockville, Maryland, and through the NRC Web site, *http://www.nrc.gov*.

Additionally, as provided in 10 CFR 2.315(a), any person not a party to the proceeding may submit a written limited appearance statement setting forth his or her position on the issues in this proceeding. These statements do not constitute evidence, but may assist the Board and/or parties in defining the issues being considered. Persons wishing to submit a written limited appearance statement should send it by mail to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff. A copy of the statement should also be served on the Chairman of this Atomic Safety and Licensing Board by mail to the Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Documents relating to this proceeding are available for public inspection at the NRC's Public Document Room or electronically from the publicly available records component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS may contact the NRC Public Document Room reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail to *pdr@nrc.gov*.

It is so ordered.

For the Atomic Safety and Licensing Board.[1]

Dated: January 4, 2007 in Rockville, Maryland.

Alan S. Rosenthal,

Chairman, Administrative Judge.

[FR Doc. E7–175 Filed 1–9–07; 8:45 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

January 11, 2007 Public Hearing

OPIC's Sunshine Act notice of its Annual Public Hearing meeting was published in the **Federal Register** (Volume 71, Number 246, Page 77074) on December 22, 2006. No requests were received to provide testimony or submit written statements for the record; therefore, OPIC's annual public hearing scheduled for 2 p.m. on January 11, 2007 has been cancelled.

Contact Person for Information: Information on the hearing cancellation may be obtained from Connie M. Downs at (202) 336–8438, via facsimile at (202) 218–0136, or via e-mail at *cdown@opic.gov*.

Dated: January 8, 2007.

Connie M. Downs,

OPIC Corporate Secretary.

[FR Doc. 07–84 Filed 1–8–07; 3:19 pm]

BILLING CODE 3210–01–M

OVERSEAS PRIVATE INVESTMENT CORPORATION

January 11, 2007 Public Hearing

OPIC's Sunshine Act notice of its Public Hearing in Conjunction with each Board meeting was published in the **Federal Register** (Volume 71, Number 246, Page 77074) on December 22, 2006. No requests were received to provide testimony or submit written statements for the record; OPIC's public hearing scheduled for 3 p.m., January 11, 2007 in conjunction with OPIC's January 18, 2007 Board of Directors meeting has been cancelled.

Contact Person for Information: Information on the hearing cancellation may be obtained from Connie M. Downs at (202) 336–8438, via facsimile at (202) 218–0136, or via e-mail at *cdown@opic.gov.*

[1] Copies of this Notice of Hearing were sent this date by Internet e-mail to counsel for (1) the Department of the Army, (2) the NRC Staff, and (3) Save the Valley, Inc.

Dated: January 8, 2007.

Connie M. Downs,

OPIC Corporate Secretary.

[FR Doc. 07–85 Filed 1–8–07; 3:19 pm]

BILLING CODE 3210–01–M

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Act Meeting

DATE AND TIME: Tuesday, January 9, 2007, at 2 p.m.; and Wednesday, January 10, 2007, at 8:30 a.m. and 10:30 a.m.

PLACE: Washington, DC, at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW., in the Benjamin Franklin Room.

STATUS: January 9—2 p.m.—Closed; January 10–8:30 a.m.—Open; January 10—10:30 a.m.—Closed.

MATTERS TO BE CONSIDERED:

Tuesday, January 9 at 2 p.m. (Closed)

1. Strategic Planning.
2. Rate Case Update.
3. Financial Update.
4. Labor Negotiations Update.
5. Personnel Matters and Compensation Issues.
6. Governors' Executive Session—Discussion of prior agenda items and Board Governance.

Wednesday, January 10 at 8:30 a.m. (Open)

1. Minutes of the Previous Meeting, December 5–6, 2006.
2. Remarks of the Postmaster General and CEO Jack Potter.
3. Committee Reports.
4. Consideration of Board Resolution on Capital Funding.
5. Consideration of Annual Report on Government in the Sunshine Act Compliance.
6. Consideration of Fiscal Year 2006 Comprehensive Statement on Postal Operations, including the Preliminary Fiscal Year 2008 Annual Performance Plan—GPRA.
7. Briefing on Mail Visibility, Seamless Acceptance and Payment.
8. Consideration of the Price of Semipostal Stamps.
9. Capital Investment—5,856 Carrier Route Vehicles.
10. Election of Chairman and Vice Chairman of the Board of Governors.
11. Tentative Agenda for the March 28–29, 2007, meeting in Washington, DC.

Wednesday, January 10 at 10:30 a.m. (Closed)—If Needed.

1. Continuation of Tuesday's closed session agenda.

CONTACT PERSON FOR MORE INFORMATION: Wendy A. Hocking, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–1000. Telephone (202) 268–4800.

Wendy A. Hocking,

Secretary.

[FR Doc. 07–82 Filed 1–8–07; 3:19 pm]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 27653; 812–13319]

New River Funds and New River Advisers LLC; Notice of Application

January 3, 2007.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act, as well as from certain disclosure requirements.

SUMMARY OF THE APPLICATION: Applicants request an order that would permit them to enter into and materially amend subadvisory agreements without shareholder approval and would grant relief from certain disclosure requirements.

APPLICANTS: New River Funds (''Trust''), and New River Advisers LLC (''Manager'').

FILING DATES: The application was filed on August 1, 2006, and amended on December 27, 2006.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 29, 2007 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090. Applicants, c/o Doit L. Koppler II, New River Advisers LLC, 1881 Grove Avenue, Radford, VA 24141.

FOR FURTHER INFORMATION CONTACT: Barbara T. Heussler, Senior Counsel, at (202) 551–6990, or Julia Kim Gilmer, Branch Chief, at (202) 551–6871 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 100 F Street, NE., Washington, DC 20549–0102 (telephone (202) 551–5850).

Applicants' Representations

1. The Trust, a Delaware statutory trust, is registered under the Act as an open-end management investment company. The Trust currently is comprised of two series (''Funds''), each with separate investment objectives, policies, and restrictions.[1] The Manager, a Virginia limited liability company, is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act'') and serves as investment manager to the Trust and each of the Funds pursuant to an investment management agreement (''Management Agreement''). The Management Agreement has been approved by the Trust's board of trustees (''Board''), including a majority of the trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act, of the Trust or the Manager (''Independent Trustees''), as well as by the shareholders of each Fund.

2. Under the Management Agreement, the Manager is responsible for providing investment advisory and administrative services to the Funds, subject to oversight by the Board. The Management Agreement permits the Manager to enter into a separate sub-advisory agreement (''Sub-Advisory Agreement'') with one or more sub-advisers (each, a ''Sub-Adviser'') to carry out the investment program of a Fund, subject to the approval of the Board and the shareholders of the Fund. The Adviser has entered into Sub-Advisory Agreements with two Sub-Advisers. Each Sub-Adviser is registered

[1] Applicants also request relief with respect to future series of the Trust and any other existing or future registered open-end management investment company or series thereof that: (a) Is advised by the Manager; (b) uses the management structure as described in the application; and (c) complies with the terms and conditions of the application (included in the term ''Fund''). The only existing registered open-end management investment company that currently intends to rely on the requested order is named as an applicant. If the name of any Fund contains the name of a Sub-Adviser (as defined below), the name of the Manager will precede the name of the Sub-Adviser.

as an investment adviser under the Advisers Act. The Manager monitors and evaluates the Sub-Advisers and makes recommendations to the Board, regarding their hiring, retention and termination. The shareholders and the Board, including a majority of the Independent Trustees, approve the Sub-Advisory Agreements. The Manager compensates each Sub-Adviser out of the fees paid to the Manager under the Management Agreement.

3. Applicants request relief to permit the Manager, subject to Board approval, to enter into and materially amend Sub-Advisory Agreements for the Funds without shareholder approval. The requested relief will not extend to any Sub-Adviser that is an ''affiliated person,'' as defined in section 2(a)(3) of the Act, of a Fund or of the Manager, other than by reason of serving as a Sub-Adviser to one or more of the Funds (''Affiliated Sub-Adviser'').

4. Applicants also request an exemption from the various disclosure provisions described below that may require the Funds to disclose the fees paid by the Manager to each Sub-Adviser. An exemption is requested to permit each Fund to disclose, both as a dollar amount and as a percentage of a Fund's net assets: (a) the aggregate fees paid to the Manager and Affiliated Sub-Advisers; and (b) the aggregate fees paid to Sub-Advisers other than Affiliated Sub-Advisers (''Aggregate Fee Disclosure''). For any Fund that employs an Affiliated Sub-Adviser, the Fund will provide separate disclosure of any fees paid to such Affiliated Sub-Adviser.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except under a written contract that has been approved by the vote of a majority of the company's outstanding voting securities. Rule 18f–2 under the Act provides that each series or class of stock in a series company affected by a matter must approve such matter if the Act requires shareholder approval.

2. Form N–1A is the registration statement used by open-end investment companies. Item 14(a)(3) of Form N–1A requires disclosure of the method and amount of the investment adviser's compensation.

3. Rule 20a–1 under the Act requires proxies solicited with respect to an investment company to comply with Schedule 14A under the Securities Exchange Act of 1934 (''1934 Act''). Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A, taken together, require a proxy statement for a shareholder meeting at which the advisory contract will be voted upon to include the ''rate of compensation of the investment adviser,'' the ''aggregate amount of the investment adviser's fees,'' a description of the ''terms of the contract to be acted upon,'' and, if a change in the advisory fee is proposed, the existing and proposed fees and the difference between the two fees.

4. Form N–SAR is the semi-annual report filed with the Commission by registered investment companies. Item 48 of Form N–SAR requires investment companies to disclose the rate schedule for fees paid to their investment advisers, including the Sub-Advisers.

5. Regulation S–X sets forth the requirements for financial statements required to be included as part of investment company registration statements and shareholder reports filed with the Commission. Sections 6–07(2)(a), (b), and (c) of Regulation S–X require that investment companies include in their financial statements information about investment advisory fees.

6. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or from any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that their requested relief meets this standard for the reasons discussed below.

7. Applicants assert that permitting the Manager to hire or change Sub-Advisers without incurring the unnecessary delay and expense of obtaining shareholder approval of each Sub-Advisory Agreement is appropriate in the interest of the Fund's shareholders and will allow each Fund to potentially operate more efficiently. Applicants assert that the shareholders have an expectation that the Manager will select the most appropriate Sub-Adviser. Applicants compare the role of Sub-Advisers to that of individual portfolio managers employed by traditionally managed funds. Applicants note that the Management Agreements will continue to be subject to section 15(a) of the Act and rule 18f–2 under the Act.

8. Applicants assert that many investment advisers charge their customers for advisory services according to a ''posted'' fee schedule. Applicants state that while investment advisers typically are willing to negotiate fees lower than those posted in the schedule, they are reluctant to do so where the fees are disclosed to other prospective and existing customers. Applicants submit that the requested relief will encourage Sub-Advisers to negotiate lower sub-advisory fees with the Manager.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Before a Fund may rely on the requested order, the operation of the Fund in the manner described in this application will be approved by a majority of the Fund's outstanding voting securities (as such term is defined in Section 2(a)(42) of the Act), or, in the case of a Fund whose public shareholders purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the initial shareholder(s) before offering the Fund's shares to the public.

2. The prospectus for each Fund will disclose the existence, substance and effect of any order granted pursuant to this application. Each Fund relying on the order will hold itself out to the public as employing the manager-of-managers arrangement described in this application. The prospectus relating to each Fund will prominently disclose that its Manager has the ultimate responsibility (subject to oversight by the Board) to oversee Sub-Advisers and to recommend their hiring, termination, and replacement.

3. Within 90 days of the hiring of a new Sub-Adviser for a Fund, the affected Fund's shareholders will be furnished all information about the new Sub-Adviser that would be included in a proxy statement except as modified to permit the Aggregate Fee Disclosure. This information will include Aggregate Fee Disclosure and any change in such disclosure caused by the addition of a new Sub-Adviser. To meet this condition, the Fund will provide shareholders within 90 days of the hiring of a new Sub-Adviser with an information statement meeting the requirements of Regulation 14C, Schedule 14C and Item 22 of Schedule 14A under the 1934 Act, except as modified by the order to permit Aggregate Fee Disclosure.

4. The Manager will not enter into a Sub-Advisory Agreement with any Affiliated Sub-Adviser, without that agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Fund.

5. At all times, a majority of the Board will be Independent Trustees, and the nomination of new or additional Independent Trustees will be placed within the discretion of the then-existing Independent Trustees.

6. When a Sub-Adviser change is proposed for a Fund with an Affiliated Sub-Adviser, the Board, including a majority of the Independent Trustees, will make a separate finding, reflected in the applicable Board minutes, that such change is in the best interests of such Fund and its shareholders and does not involve a conflict of interest from which the Manager or the Affiliated Sub-Adviser derives an inappropriate advantage.

7. The Manager will provide general management services to each Fund, including overall supervisory responsibility for the general management and investment of the Fund's assets and, subject to review and approval of the Board, will: (i) Set each Fund's overall investment strategies; (ii) evaluate, select and recommend Sub-Advisers to manage all or a part of the Fund's assets; (iii) when appropriate, allocate and reallocate the Fund's assets among multiple Sub-Advisers; (iv) monitor and evaluate the investment performance of the Sub-Advisers; and (v) implement procedures reasonably designed to ensure compliance by the Sub-Advisers with the Fund's investment objectives, policies and restrictions.

8. No trustee or officer of the Trust, or director or officer of the Manager will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by such person) any interest in a Sub-Adviser except for: (i) Ownership of interests in the Manager or any entity that controls, is controlled by, or is under common control with the Manager; or (ii) ownership of less than 1% of the outstanding securities of any class of equity or debt of any publicly traded company that is either a Sub-Adviser or an entity that controls, is controlled by, or is under common control with a Sub-Adviser.

9. Each Fund will disclose in its registration statement the Aggregate Fee Disclosure.

10. Independent legal counsel, as defined in rule 0–1(a)(6) under the Act, will be engaged to represent the Independent Trustees. The selection of such counsel will be within the discretion of the then-existing Independent Trustees.

11. The Manager will provide the Board, no less frequently than quarterly, with information about the profitability of the Manager on a per-Fund basis. The information will reflect the impact on profitability of the hiring or termination of any Sub-Adviser during the applicable quarter.

12. Whenever a Sub-Adviser is hired or terminated, the Manager will provide the Board with information showing the expected impact on the profitability of the Manager.

13. The requested order will expire on the effective date of rule 15a–5 under the Act, if adopted.

For the Commission, by the Division of Investment Management, under delegated authority.

Nancy M. Morris,

Secretary.

[FR Doc. E7–161 Filed 1–9–07; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of January 8, 2007:

A Closed Meeting will be held on Thursday, January 11, 2007 at 2 p.m.

Commissioners, Counsels to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (4), (5), (7), (8), (9)(B) and (10) and 17 CFR 200.402(a) (3), (4), (5), (7), (8), (9)(ii), and (10) permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Nazareth, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matters of the Closed Meeting scheduled for Thursday, January 11, 2007 will be:

Formal orders of investigation;
Institution and settlement of injunctive actions;
Institution and settlement of administrative proceedings of an enforcement nature;
An adjudicatory matter;
A regulatory matter regarding a financial institution;
Amicus consideration; and
Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: January 4, 2007.

Nancy M. Morris,

Secretary.

[FR Doc. 07–62 Filed 1–5–07; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55037; File No. SR–FICC–2006–10]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change To Amend the Rules of Its Mortgage-Backed Securities Division Regarding Membership Requirements for Unregistered Investment Pools

January 3, 2007.

I. Introduction

On June 9, 2006, the Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–FICC–2006–10 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on November 24, 2006.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description

FICC is proposing to amend the rules of its Mortgage-Backed Securities Division (''MBSD'') regarding the membership requirements of ''Unregistered Investment Pools.''[3] Currently, unregistered investment pools have essentially the same membership standards as other MBSD non-broker clearing members.[4] The size

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 54769 (November 16, 2006), 71 FR 67946.

[3] As noted below, the term ''Unregistered Investment Pool'' is a newly-defined term in the MBSD's Rules.

[4] Currently, a clearing applicant or participant that is an unregistered investment pool and whose financial statements are prepared in accordance with U.S. generally accepted accounting principles (''GAAP'') must satisfy a minimum financial requirement of $10 million in net asset value. In this filing, FICC is making a technical change to replace the term ''net asset value'' with the term

of the unregistered investment pool industry has grown, and Unregistered Investment Pools and their advisers have become significant participants in the industry. FICC reexamined its treatment of participants that are Unregistered Investment Pools and has determined it is necessary to enhance the clearing membership standards applicable to these entities.

FICC is proposing to adopt a definition for Unregistered Investment Pool, which will identify the entities that would become subject to the enhanced membership requirements for such entities. Under the new membership requirements, an Unregistered Investment Pool is an entity that holds a pool of securities and/or other assets that meets the following criteria: (i) It is not registered as an investment company under the Investment Company Act of 1940, (ii) it does not register its securities offerings under the Securities Act of 1933, and (iii) it has an investment advisor that is registered with the Commission under the Investment Advisers Act of 1940, or if the investment adviser is not registered, the Unregistered Investment Pool has a lock-up period of two (2) years or greater.

Entities that meet the definition of Unregistered Investment Pool will be eligible to apply to become MBSD clearing participants only if they meet the new membership criteria set forth below.[5] The MBSD's current participants that fall within the definition of Unregistered Investment Pool will have one year from the date of approval of this rule filing in which to conform to the new minimum financial and qualitative rating requirements.

The new membership requirements for Unregistered Investment Pools are as follows:

(1) *SEC Registration:* The investment advisor of the Unregistered Investment Pool must: (i) be registered with the Commission under the Investment Advisers Act of 1940 or (ii) if it is not registered with the Commission, the Unregistered Investment Pool that the investment adviser advises must have an initial lock-up period of two (2) years or greater.

(2) *Minimum Net Assets:* The Unregistered Investment Pool will be required to have and to maintain net assets of $250 million or greater.[6] If the Unregistered Investment Pool does not meet the $250 million net asset requirement but the Unregistered Investment Pool has net assets of at least $50 million [7] or greater, the Unregistered Investment Pool will be eligible for MBSD clearing membership if its investment advisor has assets under management of at least $1.5 billion and advises an existing MBSD clearing participant.

(3) *Qualitative Rating:* The MBSD will require an Unregistered Investment Pool to obtain a minimum required rating of ''above average'' as a result of an FICC internal qualitative assessment. FICC believes it is important to consider qualitative factors in order to assess both Unregistered Investment Pool applicants and members.[8]

III. Discussion

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in its custody or control.[9] The Commission finds that FICC's proposed rule change is consistent with this requirement because by enhancing membership requirements for Unregistered Investment Pools, FICC should be better able to mitigate financial risk to itself and to its members and therefore should be better able to assure the safeguarding of securities and funds that are in its custody or control or for which it is responsible.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act [10] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–FICC–2006–10) be and hereby is approved.[11]

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–158 Filed 1–9–07; 8:45 am]

BILLING CODE 8011–01–P

''net assets'' to more accurately state the financial requirement.

[5] It is important to note that entities that meet the MBSD's definition of Unregistered Investment Pool will be treated as such by the MBSD regardless of whether the entity considers itself to be an Unregistered Investment Pool.

[6] The $250 million net assets requirement is the requirement that will be applicable to Unregistered Investment Pools whose financial statements are prepared in accordance with U.S. GAAP. Those Unregistered Investment Pools whose financial statements are prepared using other types of GAAP will be subject to the higher minimum requirements as determined by Article III, Rule 1, Section 2 of the MBSD's Rules.

[7] The $50 million net assets requirement is the requirement that will be applicable to Unregistered Investment Pools whose financial statements are prepared in accordance with U.S. GAAP. Those Unregistered Investment Pools whose financial statements are prepared using other types of GAAP will be subject to the higher minimum requirements as determined by Article III, Rule 1, Section 2 of the MBSD's Rules.

[8] Staff in the MBSD's Risk Division will determine a qualitative rating for each Unregistered Investment Pool applicant and will review qualitative ratings of Unregistered Investment Pool members on an annual basis. The assessment will include consideration of factors deemed relevant by the Risk Division, including management, capital, strategy and risk profile, and internal controls. (Because responsibility for these factors with respect to a particular Unregistered Investment Pool may be with the Unregistered Investment Pool, with the investment advisor, with some other entity (*i.e.*, a third party service provider), or with some combination of these, Risk staff will perform the assessment for each factor with the entity or entities it deems appropriate.) The assessment will assess the strengths and weaknesses of these factors and will assign a qualitative rating to the Unregistered Investment Pool. In order to qualify for membership, Unregistered Investment Pools must meet a qualitative rating of at least ''above average'' as determined by the Risk Division's staff.

[9] 15 U.S.C. 78q–1(b)(3)(F).

[10] 15 U.S.C. 78q–1.

[11] In approving the proposed rule change, the Commission considered efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55033; File No. SR–NYSEArca-2006–75]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment Nos. 1 and 2 Relating to Trading Claymore MACROshares Oil Up Tradeable Shares and Claymore MACROshares Oil Down Tradeable Shares Pursuant to Unlisted Trading Privileges

December 29, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 10, 2006, NYSE Arca, Inc. (the ''Exchange''), through its wholly owned subsidiary NYSE Arca Equities, Inc. (''NYSE Arca Equities''), filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. On November 9, 2006, the Exchange filed Amendment No. 1 to the proposed

rule change.[3] The Exchange filed Amendment No. 2 to the proposed rule change on December 12, 2006.[4] The Commission is publishing this notice and order to solicit comment on the proposed rule change, as amended, from interested persons and to approve the proposed rule change and Amendment Nos. 1 and 2 thereto on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange, through its wholly-owned subsidiary NYSE Arca Equities, proposes to amend its rules governing NYSE Arca, LLC (also referred to as the ''NYSE Arca Marketplace''), the equities trading facility of NYSE Arca Equities. The Exchange proposes new NYSE Arca Equities Rule 8.400 to permit trading, either by listing or pursuant to unlisted trading privileges (''UTP''), of ''Paired Trust Shares.'' Pursuant to this proposed new rule, the Exchange initially proposes to trade, pursuant to UTP: (1) Claymore MACROshares Oil Up Tradeable Shares (the ''Up-MACRO[5] Tradeable Shares'') and (2) Claymore MACROshares Oil Down Tradeable Shares (the ''Down-MACRO Tradeable Shares'' and together with the Up-MACRO Tradeable Shares, the ''MACRO Tradeable Shares'').

The MACRO Tradeable Shares are issued by and represent an undivided beneficial interest in (1) the Claymore MACROshares Oil Up Tradeable Trust (the ''Up-MACRO Tradeable Trust'') and (2) the Claymore MACROshares Oil Down Tradeable Trust (the ''Down-MACRO Tradeable Trust''), respectively. The assets of these trusts (collectively, the ''MACRO Tradeable Trusts'') each will consist exclusively of a majority of the Claymore MACROshares Oil Up Holding Shares (''Up-MACRO Holding Shares'') issued by the Claymore MACROshares Oil Up Holding Trust (''Up-MACRO Holding Trust'') and the Claymore MACROshares Oil Down Holding Shares (''Down-MACRO Holding Shares'') issued by the Claymore MACROshares Oil Down Holding Trust (''Down-MACRO Holding Trust'').[6]

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nysearca.com,* at the principal office of the Exchange and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The Exchange proposes to add new NYSE Arca Equities Rule 8.400 to permit trading, either by listing or pursuant to UTP, of securities issued by a pair of related trusts and based on an index or other numerical variable (''Reference Price'') whose value reflects the value of assets, prices or other economic interests. When the Exchange is the listing market for Paired Trust Shares, the Paired Trust Shares will be subject to the continued listing and trading criteria under proposed new NYSE Arca Rule 8.400(d). For each separate and discrete Reference Price that may underlie Paired Trust Shares, the Exchange will submit a filing pursuant to Section 19(b)[7] of the Act subject to Commission review and approval. The Exchange may eventually seek to revise the proposed listing criteria and trading rules to permit the listing and trading of Paired Trust Shares pursuant to Rule 19b–4(e) under the Act.

Pursuant to proposed NYSE Arca Equities Rule 8.400, the Exchange proposes to trade pursuant to UTP the MACRO Tradeable Shares. The Commission previously approved the listing and trading of the MACRO Tradeable Shares on the American Stock Exchange LLC (''Amex'').[8]

The Exchange deems the MACRO Tradeable Shares to be equity securities, thus rendering trading in the MACRO Tradeable Shares subject to the Exchange's existing rules governing the trading of equity securities. The MACRO Tradeable Shares will trade on the NYSE Arca Marketplace from 9:30 a.m. until 4:15 p.m. (New York time).

Quotations for and last sale information regarding the MACRO Tradeable Shares are disseminated through the Consolidated Tape System (''CTS''). During each trading day, the Amex, acting as the calculation agent, will publish to the CTS, at least every 15 seconds during the entire time that the MACRO Tradeable Shares trade on the Amex (normally 9:30 a.m. to 4:15 p.m. each Price Determination Day[9]), an indicative value, referred to as an Indicative Intraday Value (''IIV''), representing the estimated underlying value per share of both the Up-MACRO Tradeable Shares and the Down-MACRO Tradeable Shares. The Amex will also publish these values on its

[3] Amendment No. 1 replaced and superseded the original filing in its entirety.

[4] In Amendment No. 2, the Exchange, among other things, (1) Added proposed NYSE Arca Equities Rule 8.400(e)(1) and (4) relating to limitations on dealings of certain Market Makers in order to address potential conflicts of interest in connection with acting as a Market Maker in Paired Trust Shares, (2) added proposed NYSE Arca Equities Rule 8.400(e)(2)–(3) to ensure that Market Makers handling the Paired Trust Shares provide the Exchange with all the necessary information relating to their trading in the asset, commodity or other economic interest underlying the Reference Price for the Paired Trust Shares, or their trading in any related derivatives, (3) revised the description of the offering process for the MACRO Tradeable Shares and the MACRO Holding Shares to reflect that there will be a continuous creation and offering of MACRO Tradeable Shares and MACRO Holding Shares by Authorized Participants, (4) eliminated the rule text providing for possible recapitalization of the Holding Trust based on specified event, (5) revised the continued listing standards (in the event that the Exchange is the listing market for a series of Paired Trust Shares in the future) in proposed NYSE Arca Equities Rule 8.400(d) to require the availability on an intraday basis at 15-second intervals of certain market data and estimates of per share underlying values, to require the underlying value of each paired Holding Trust to be available on a daily basis to all market participants at the same time, and to require the Exchange to file a proposed rule change pursuant to Rule 19b–4 of the Act if a substitute index or other replacement benchmark is selected for the determination of the Referenced Price, (6) clarified certain trading rules applicable to the MACRO Tradeable Shares, and (7) made a number of other corrections and clarifications to the description in the Purpose Section of the characteristics of the MACRO Holding Trusts, MACRO Tradeable Trusts, MACRO Holding Shares and the MACRO Tradeable Shares.

[5] MACRO® is a federally-registered servicemark of MacroMarkets LLC (''MacroMarkets'').

[6] The Up-MACRO Holding Shares and Down-MACRO Holding Shares (collectively, MACRO Holding Shares'') will not be listed or traded on the Exchange.

[7] 15 U.S.C. 78s(b).

[8] *See* Securities Exchange Act Release No. 34–54839 (SR–Amex–2006–82) (November 29, 2006) (the ''Amex Order'').

[9] A ''Price Determination Day'' for this purpose is each day on which trading of the light sweet crude oil futures contract of the designated maturity occurs by open outcry on the trading floor of the NYMEX (located in New York City, New York) through the use of verbal or hand signals, rather than through electronic or other means. Price Determination Days are generally the same as business days—that is, any day other than a Saturday, a Sunday or a day on which banking institutions and stock exchanges in New York, New York are authorized or required by law, regulation or executive order to close. If a substitute reference oil price is being used, the Price Determination Day will be each day on which this price is determined by, or in accordance with the rules of, the substitute oil price provider.

Web site. To enable this calculation, the Amex will receive real time price data from the NYMEX for the light sweet crude oil futures contract that trades on the NYMEX from two major market data vendors, from the opening of trading of the light sweet crude oil futures contract on NYMEX at 10 a.m. to the close of trading of the MACRO Tradeable Shares on the Amex at 4:15 p.m. (New York City time). In addition, the closing price of the MACRO Tradeable Shares on the NYSE Arca Marketplace will be available on the Exchange's Web site.

Because the NYMEX market for the light sweet crude oil futures contract will be closed for portions of the period from 9:30 a.m. to 4:15 p.m. ET, the IIV calculated values will become fixed at such time as the NYMEX contract stops trading during this time.[10] From 9:30 a.m. to 4:15 p.m. ET, however, if trading in the NYMEX light sweet crude oil futures contract is occurring on the CME Globex electronic trading platform, then those trades will be used to update IIV values.

The administrative agent, Claymore Securities, will maintain a Web site (*http://www.ClaymoreMacroShares.com*) that is publicly accessible at no charge and will contain the following information posted by the trustee on each Price Determination Day: [11]

- The daily Price Level Percentage Change of the Applicable Reference Price of Crude Oil;
- The daily underlying value [12] of the Up-MACRO Holding Trust and the per share underlying value of the Up-MACRO Holding Shares and the Up-MACRO Tradeable Shares; and
- The daily underlying value of the Down-MACRO Holding Trust and the per share underlying value of the Down-MACRO Holding Shares and the Down-MACRO Tradeable Shares.

Pricing and other information for NYMEX light sweet crude oil futures contracts, including those designated to be the Applicable Reference Price, is available through major market data vendors such as Reuters and Bloomberg.

Unless exemptive or no-action relief is available, the MACRO Tradeable Shares will be subject to the short sale rule, Rule 10a–1 under the Securities Exchange Act of 1934, as amended (the ''Act''). If exemptive or no-action relief is provided, the Exchange will issue a notice detailing the terms of the exemption or relief.

Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the MACRO Tradeable Shares. Specifically, the Information Bulletin will discuss the following: (1) What the MACRO Tradeable Shares are; (2) how they are created and exchanged for MACRO Holding Shares by Authorized Participants (and that MACRO Holding Shares are issuable and redeemable only in MACRO Units); (3) NYSE Arca Equities Rule 9.2(a),[13] which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (4) dissemination of information regarding the underlying value of each paired MACRO Holding Trust and the share of that underlying value allocable to one Up-MACRO Holding Share, one Up-MACRO Tradeable Share, one Down-MACRO Holding Share and one Down-MACRO Tradeable Share; (5) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued MACRO Tradeable Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Information Bulletin will reference that the MACRO Holding Trusts and the MACRO Tradeable Trusts are subject to various fees and expenses described in the Registration Statement. The Information Bulletin will also reference that the Commission has no jurisdiction over the trading of the NYMEX light sweet crude oil futures contract. The Information Bulletin will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

The Exchange intends to utilize its existing surveillance procedures applicable to derivative products to monitor trading in the MACRO Tradeable Shares. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the MACRO Tradeable Shares and to deter and detect violations of Exchange rules.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) [14] of the Act, in general, and furthers the objectives of Section 6(b)(5) [15] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

In addition, the proposed rule change is consistent with Rule 12f–5 [16] under the Act because it deems the MACRO Tradeable Shares to be equity securities, thus rendering the MACRO Tradeable Shares subject to the Exchange's rules governing the trading of equity securities.

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

Written comments on the proposed rule change were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing,

[10] The IIV calculated value between the opening of trading of the MACRO Tradeable Shares at 9:30 a.m. and the opening of trading of the light sweet crude oil futures contract on NYMEX at 10 a.m. (New York City time) will be based on the final price from the prior trading day.

[11] As a condition of initial listing, the Exchange will receive a representation on behalf of the Holding Trusts and Tradeable Trusts that the underlying value per share of each Holding Share and each Tradeable Share will be calculated daily and will be made available to all market participants at the same time.

[12] The ''underlying value'' of a MACRO Holding Trust on each Price Determination Day represents the aggregate amount of the assets in the paired MACRO Holding Trusts to which that MACRO Holding Trust would be entitled if the settlement contracts were settled on that day. The determination of the ''underlying value'' of a MACRO Holding Trust on a given Price Determination Day is calculated using the following formula, which is designed to ensure that a $1 change in the settlement price of the Applicable Reference Price of Crude Oil will result in a $1 change in the per share underlying value of each MACRO Holding Share.

[13] The Exchange amended NYSE Arca Equities Rule 9.2(a) to provide that ETP Holders, before recommending a transaction, must have reasonable grounds to believe that the recommendation is suitable for the customer based on any facts disclosed by the customer as to his other security holdings and as to his financial situation and needs. Further, the proposed rule amendment provides, with a limited exception, that prior to the execution of a transaction recommended to a non-institutional customer, the ETP Holders shall make reasonable efforts to obtain information concerning the customer's financial status, tax status, investment objectives, and any other information that they believe would be useful to make a recommendation. See Securities Exchange Act Release No. 54045 (June 26, 2006), 71 FR 37971 (July 3, 2006) (SR–PCX–2005–115).

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] 17 CFR 240.12f–5.

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 No. SR–NYSEArca–2006–75 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NYSEArca–2006–75. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSEArca–2006–75 and should be submitted on or before January 31, 2007.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[17] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[18] which requires that an exchange have rules designed, among other things, 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.

In addition, the Commission finds that the proposal is consistent with Section 12(f) of the Act,[19] which permits an exchange to trade, pursuant to UTP, a security that is listed and registered on another exchange.[20] The Commission notes that it previously approved the listing and trading of the MACRO Tradeable Shares on Amex.[21] The Commission also finds that the proposal is consistent with Rule 12f–5 under the Act,[22] which provides that an exchange shall not extend UTP to a security unless the exchange has in effect a rule or rules providing for transactions in the class or type of security to which the exchange extends UTP.[23] The Exchange has represented that it meets this requirement because it deems the MACRO Tradeable Shares to be equity securities, thus rendering trading in the MACRO Tradeable Shares subject to the Exchange's existing rules governing the trading of equity securities.

The Commission further believes that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act,[24] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities.

A. Surveillance

The Commission notes that the Exchange has represented that its surveillance procedures are adequate to monitor trading in the Paired Trust Shares. The Exchange's Information Sharing Agreement with the NYMEX for the purpose of providing information in connection with trading in or related to futures contracts traded on the NYMEX creates the basis for the Exchange to monitor for fraudulent and manipulative practices in the trading of the Paired Trust Shares.

Moreover, adoption of proposed NYSE Arca Equities Rule 8.400(e) should facilitate surveillance because it will require ETP Holders acting as registered Market Makers in the Paired Trust Shares to provide the Exchange with information relating to trading in the asset, commodity or other economic interest underlying the Reference Price, options, related futures or options on futures, or any other related derivatives.

B. Dissemination of Information

Quotations for and last sale information regarding the MACRO Trust Shares are disseminated through the CTS. Furthermore, Amex will publish through the CTS and on its Web site the IIV, representing the estimated underlying value per share of both the UP–MACRO Tradeable Shares and the Down-MACRO Tradeable Shares every 15 seconds during the entire time between 9:30 a.m. to 4:15 p.m.

NYSE Arca Equities Rule 7.34 describes the situations when the Exchange will halt trading. In particular, NYSE Arca Equities Rule 7.34(a)(4)(B) requires the Exchange to immediately halt trading in the MACRO Tradeable Shares if the listing market halts trading because the IIV or the value of the applicable Index is not calculated or widely disseminated. In cases were the Exchange is acting as the listing market for a series of Paired Trust Shares, the Exchange will halt trading no later than the beginning of the trading day following the interruption if the interruption to the dissemination of the IIVs or the futures contract prices persists past the trading day in which it occurred. The Commission believes that these trading halt rules will help ensure that an appropriate level of transparency exists with respect to MACRO Tradeable Shares to allow for the maintenance of fair and orderly markets.

C. Listing and Trading

The Commission finds that the Exchange's proposed rules and procedures for the listing and trading of the Paired Trust Shares are consistent with the Act. The Paired Trust Shares will trade as equity securities subject to the Exchange's existing rules governing the trading of equity securities. The Commission finds that proposed NYSE

[17] In approving this rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[18] 15 U.S.C. 78f(b)(5).

[19] 15 U.S.C. 78*l*(f).

[20] Section 12(a) of the Act, 15 U.S.C. 78*l*(a), generally prohibits a broker-dealer from trading a security on a national securities exchange unless the security is registered on that exchange pursuant to Section 12 of the Act. Section 12(f) of the Act excludes from this restriction trading in any security to which an exchange ''extends UTP.'' When an exchange extends UTP to a security, it allows its members to trade the security as if it were listed and registered on the exchange even though it is not so listed and registered.

[21] *See* Amex Order, *supra* note 7.

[22] 17 CFR 240.12f–5.

[23] The Exchange has adopted in conjunction with the approval of this filing new NYSE Arca Equities Rule 8.400 to permit trading, either by listing or pursuant to UTP, of Paired Trust Shares.

[24] 15 U.S.C. 78k–1(a)(1)(C)(iii).

Arca Equities Rule 8.400(e) establishing certain restrictions on ETP Holders acting as registered Market Makers in Paired Trust Shares is reasonably designed to address potential conflicts of interest in connection with ETP Holders acting as registered Market Makers in Paired Trust Shares.[25]

The Commission believes that the listing and delisting criteria for the Paired Trust Shares should help to maintain a minimum level of liquidity and therefore minimize the potential for manipulation of the Paired Trust Shares. Additionally, the Commission finds that proposed NYSE Arca Equities Rule 8.400(e) is reasonably designed to help ensure that an ETP Holder acting as a Market Maker in Paired Trust Shares provide the Exchange with all the necessary information relating to their trading in the asset, commodity or other economic interest underlying the Reference Price, related options, related futures or options on futures, or any other related derivatives.

The Commission notes that, if the MACRO Tradeable Shares should be delisted by the listing exchange, the Exchange would no longer have authority to trade the MACRO Tradeable Shares pursuant to this approval order.

In support of this proposal, the Exchange has made the following representations:

1. The Exchange's surveillance procedures are adequate to properly monitor Exchange trading of the MACRO Tradeable Shares.

2. Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the MACRO Tradeable Shares.

3. The Exchange will require ETP Holders to deliver a prospectus to investors purchasing newly issued MACRO Tradeable Shares prior to or concurrently with the confirmation of a transaction and will note this prospectus delivery requirement in the information circular.

This approval order is conditioned on the Exchange's adherence to these representations.

The Commission finds good cause for approving this proposal before the thirtieth day after the publication of notice thereof in the **Federal Register**. As noted previously, the Commission previously found that the listing and trading of the MACRO Tradeable Shares on Amex is consistent with the Act. The Commission presently is not aware of any regulatory issue that should cause it to revisit that earlier finding or preclude the trading of the MACRO Tradeable Shares on the Exchange pursuant to UTP. Therefore, accelerating approval of this proposal should benefit investors by creating, without undue delay, additional competition in the market for the MACRO Tradeable Shares.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[26] that the proposed rule change (SR–NYSEArca–2006–75), as amended by Amendment Nos. 1 and 2, be and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[27]

Nancy M. Morris,

Secretary.

[FR Doc. E7–157 Filed 1–9–07; 8:45 am]

BILLING CODE 8011–01–P

[25] Proposed NYSE Arca Equities Rule 8.400(e) provides that the prohibitions in NYSE Arca Equities Rule 7.26 apply to an ETP Holder acting as a registered Market Maker in Paired Trust Shares.

[26] 15 U.S.C. 78s(b)(2).

[27] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #10770 and #10771]

New York Disaster #NY–00041

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of New York (FEMA–1670–DR), dated 12/22/2006.

Incident: Severe Storms and Flooding.

Incident Period: 11/16/2006 through 11/17/2006.

Effective Date: 12/22/2006.

Physical Loan Application Deadline Date: 2/20/2007.

Economic Injury (Eidl) Loan Application Deadline Date: 9/24/2007.

ADDRESSES: Submit completed loan applications to:

U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 12/22/2006, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans):

Broome, Chenango.

Contiguous Counties (Economic Injury Loans Only):

New York; Cortland, Delaware, Madison, Otsego, Tioga.

Pennsylvania; Susquehanna, Wayne.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere:	6.000
Homeowners Without Credit Available Elsewhere:	3.000
Businesses With Credit Available Elsewhere:	8.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere:	5.250
Businesses and Non-Profit Organizations Without Credit Available Elsewhere:	4.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 10770 B and for economic injury is 107710.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E7–142 Filed 1–9–07; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #10768 and #10769]

Pennsylvania Disaster #PA–00007

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the Commonwealth of Pennsylvania dated 12/27/2006.

Incident: Severe Storms and Tornadoes.

Incident Period: 12/1/2006.

Effective Date: 12/27/2006.

Physical Loan Application Deadline Date: 2/26/2007.

Economic Injury (EIDL) Loan Application Deadline Date: 9/27/2007.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth , TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Luzerne

Contiguous Counties:

Pennsylvania: Carbon; Columbia; Lackawanna; Monroe; Schuylkill Sullivan; Wyoming

The Interest Rates are:

	Percent
Homeowners With Credit Available Elsewhere	6.000
Homeowners Without Credit Available Elsewhere	3.000
Businesses With Credit Available Elsewhere	8.000
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	5.250
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 10768 C and for economic injury is 10769 0.

The Commonwealth which received an EIDL Declaration # is Pennsylvania.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: December 28, 2006.

Steven C. Preston,

Administrator.

[FR Doc. E7–149 Filed 1–9–07; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on Surplus Property Release at the Myrtle Beach International Airport, Myrtle Beach, SC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: Under the provisions of Title 49, U.S.C. Section 47153(c), notice is being given that the FAA is considering a request from Horry County to waive the requirement that approximately 33—acres of surplus property, located at the Myrtle Beach International Airport, be used for aeronautical purposes.

DATES: Comments must be received on or before February 9, 2007.

ADDRESSES: Comments on this notice may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airports District Office, Attn; Parks Preston, Program Manager, 1701 Columbia Ave., Suite 2–260, Atlanta, GA 30337–2747.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Robert J. Kemp, Director of Airports, at the following address: Myrtle Beach International Airport, 1100 Jetport Road, Myrtle Beach, SC 29577.

FOR FURTHER INFORMATION CONTACT: Parks Preston, Program Manager, Atlanta Airports District Office, 1701 Columbia Ave., Suite 2–260, Atlanta, GA 30337–2747, (404) 305–7149. The application may be reviewed in person at the same location.

SUPPLEMENTARY INFORMATION: The FAA is reviewing a request by Horry County to release approximately 33 acres of surplus property at the Myrtle Beach International Airport. The property is located from approximately 0.60 miles west of US Route 501 to approximately 1.17 miles east of SC Route 707/from Harrelson Boulevard to George Bishop Parkway on Fantasy Harbor Interchange at US. 17/Fantasy Harbor Bridge over the Intracostal Waterway. This property is currently shown on the approved Airport Layout Plan as aeronautical use land; however the property is currently not being used for aeronautical purposes and the proposed use of this property is compatible with airport operations. The land will ultimately be used by the South Carolina Department of Transportation for the construction of the Fantasy Harbor Interchange, which will result in an additional access route across the Intracostal Waterway to the airport.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.** In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the Myrtle Beach International Airport.

Issued in Atlanta, Georgia, on December 20, 2006.

Scott L. Seritt,

Manager, Atlanta Airports District Office, Southern Region.

[FR Doc. 07–35 Filed 1–9–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In November 2006, there were three applications approved. This notice also includes information on three applications, one approved in August 2006 and the other two approved in October 2006, inadvertently left off the August 2006 and October 2006 notices, respectively. Additionally, 10 approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: Dubuque Regional Airport Commission, Dubuque, Iowa.

Application Number: 06–08–C–00–DBQ.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $288,718.

Earliest Charge Effective Date: November 1, 2006.

Estimated Charge Expiration Date: March 1, 2008.

Class of Air Carriers Not Required to Collect PFC's: On-demand air taxi/commercial operations.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Dubuque Regional Airport.

Brief Description of Projects Approved for Collection and Use:

Snow removal equipment.
Secondary radar equipment.
Master drainage study.
PFC administration.
Runway safety area.
Land acquisition.
Runway 31 parallel and connecting taxiways.
Terminal schematic/site design,

Decision Date: August 16, 2006.

FOR FURTHER INFORMATION CONTACT: Lorna Sandridge, Central Region Airports Division, (816) 329–2641.

Public Agency: City of Lynchburg, Virginia.

Application Number: 06–05–U–00–LYH.

Application Type: Use PFC revenue.

PFC Level: $4.50.

Total PFC Revenue to be Used in This Decision: $1,560,000.

Charge Effective Date: May 1, 2005.

Estimated Charge Expiration Date: November 1, 2010.

Class of Air Carriers Not Required to Collect PFC's: No change from previous decision.

Brief Description of Projects Approved for Use:

Runway 4/22 extension (phase IV construction).

Rehabilitation of hangars 7 and 8 ramp.

Decision Date: October 4, 2006.

FOR FURTHER INFORMATION CONTACT: Luis Loarte, Washington Airports District Office, (703) 661–1365.

Public Agency: City of Rapid City, South Dakota.

Application Number: 07–04–C–00–RAP.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $1,401,088.

Earliest Charge Effective Date: May 1, 2007.

Estimated Charge Expiration Date: September 1, 2008.

Class of Air Carriers not Required to Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Rapid City Regional Airport.

Brief Description of Projects Approved for Collection and Use:

Terminal security modifications (exit lane).

Taxiway A separation, environmental assessment, phases 1 through 4.

General aviation area lighting improvements.

Airport master plan.

General aviation 1 ramp strengthening.

Baggage claim carousel 2 installation.

Regional boarding bridge.

Decision Date: October 30, 2006.

FOR FURTHER INFORMATION CONTACT: Thomas Schauer, Bismarck Airports District Office, (713) 323–7383.

Public Agency: City of Pocatello, Idaho.

Application Number: 07–05–C–00–PIH.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $405,300.

Earliest Charge Effective Date: April 1, 2008.

Estimated Charge Expiration Date: June 1, 2011.

Class of Air Carriers Not Required to Collect PFC's Non-scheduled air taxi/commercial operators, utilizing aircraft having a seating capacity of less than 20 passengers.

Determination Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Pocatello Regional Airport.

Brief Description of Project Approved for Collection and Use:

Rehabilitate runway 17/35.

Reconstruct terminal auto parking.

Replacement of midfield runway 17/35 circuit.

Terminal rehabilitation.

PFC administration costs.

Decision Date: November 13, 2006.

FOR FURTHER INFORMATION CONTACT: Suzanne Lee-Pang, Seattle Airports District Office, (425) 227–2654.

Public Agency: City of Chicago, Illinois.

Application Number: 06–11–C–00–MDW.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $1,300,000.

Earliest Charge Effective Date: February 1, 2040.

Estimated Charge Expiration Date: March 1, 2040.

Class of Air Carriers Not Required to Collect PFC's: Air taxi.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Chicago Midway International Airport (MDW).

Brief Description of Project Approved for Collection at MDW and Use at Gary/Chicago International Airport:

Railroad relocation and runway extension.

Decision Date: November 17, 2006.

FOR FURTHER INFORMATION CONTACT: Gregory Sweeny, Chicago Airports District Office, (847) 294–7526.

Public Agency: City of Chicago, Illinois.

Application Number: 06–18–C–00–ORD.

Application Type: Impose and use a PFC.

PFC Level: $3.00

Total PFC Revenue Approved in this Decision: $8,200,000.

Earliest Charge Effective Date: June 1, 2016.

Estimated Charge Expiration Date: July 1, 2016.

Class of Air Carriers not Required to Collect PFC's: Air taxi.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Chicago O'Hare International Airport (ORD).

Brief Description of Project Approved for Collection at ORD and Use at Gary/Chicago International Airport:

Railroad relocation and runway extension.

Decision Date: November 17, 2006.

FOR FURTHER INFORMATION CONTACT: Gregory Sweeny, Chicago Airports District Office, (847) 294–7526.

AMENDMENT TO PFC APPROVALS

Amendment No., city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
05–08–C–01–BGM, Binghampton, NY	11/01/06	$1,356,196	$1,360,195	02/01/08	02/01/08
04–07–C–01–JNU, Juneau, AK	11/03/06	$4,706,313	$5,143,039	04/01/09	09/01/09
91–01–C–07–LAS, Las Vegas, NV*	11/03/06	849,713,056	849,713,056	07/01/11	07/01/09
03–03–C–02–ERI, Erie, PA	11/03/06	669,555	618,885	01/01/05	01/01/05
05–05–U–01–ERI, Erie, PA	11/03/06	NA	NA	01/01/05	01/01/05
00–03–C–03–BHM, Birmingham, AL	11/06/06	15,100,000	14,075,718	11/01/03	11/01/03

AMENDMENT TO PFC APPROVALS—Continued

Amendment No., city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
02–06–C–04–JNU, Juneau, AK	11/06/06	2,589,669	716,769	05/01/05	05/01/05
97–01–C–02–GPZ, Grand Rapids, MN	11/07/06	1,297,059	151,263	05/01/31	01/01/07
01–06–C–01–MFR, Medford, OR	11/09/06	271,648	270,317	07/01/03	07/01/03
95–04–I–02–MDW, Chicago, IL**	11/17/07	149,227,344	347,160,810	12/01/09	11/01/12

Notes:

The amendment denoted by an asterisk (*) includes a change to the PFC level charged from $3.00 per enplaned passenger to $4.00 per enplaned passenger. For Las Vegas, NV, this change is effective on January 1, 2007.

The amendment denoted by a double asterisk (**) includes a change to the PFC level charged from $3.00 per enplaned passenger to $4.50 per enplaned passenger. For Chicago Midway International Airport, Chicago, IL, this change is effective on January 1, 2007.

Dated: Issued in Washington, DC, on January 3, 2007.

Joe Hebert,

Manager, Financial Analysis and Passenger Facility Charge Branch.

[FR Doc. 07–47 Filed 1–9–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In December 2006, there were two applications approved. This notice also includes information on seven other applications, one approved in August 2006, and the remaining six approved in November 2006, inadvertently left off the August 2006 and November 2006 notices, respectively. Additionally, nine approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: City of Lubbock, Texas.

Application Number: 06–06–C–00–LBB.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $9,731,125.

Earliest Charge Effective Date: February 1, 2007.

Estimated Charge Expiration Date: March 1, 2013.

Classes of Air Carriers Not Required to Collect PFC's: (1) Part 135 air taxi/commercial operators filing FAA Form 1800–31; (2) commuters and small certificated air carriers filing Department of Transportation (DOT) Form T–100 for non-scheduled enplanements; (3) large certificated route air carriers filing DOT Form T–100 for non-scheduled enplanements.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that each approved class accounts for less than 1 percent of the total annual enplanements at Lubbock International Airport.

Brief Description of Projects Approved for Collection and Use:

PFC administrative fee.
General aviation ramp improvements, phase 2.
Terminal building improvement.
Terminal building improvements.
Conduct airfield pavement study.
Terminal building improvements.
Airfield drainage and safety mitigation improvements.
Entrance road improvements.
Conduct environmental assessment for runway 8/26 extension.
Acquire aircraft rescue and firefighting vehicle.

Decision Date: August 11, 2006.

FOR FURTHER INFORMATION CONTACT: Gullermo Villalobos, Texas Airports Development Office, (817) 222–5657.

Public Agency: Charlottesville-Albermarle Airport Authority, Charlottesville, Virginia.

Application Number: 07–18–C–00–CHO.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $426,400.

Earliest Charge Effective Date: July 1, 2009.

Estimated Charge Expiration Date: January 1, 2010.

Class of Air Carriers Not Required to Collect PFC'S: Air taxi/commercial operators filing or requested to file FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Charlottesville-Albermarle Airport.

Brief Description of Projects Approved for Collection and Use:

Acquire interactive employee training system.
Seal coat general aviation apron.
PFC project administration fees.

Brief Description of Projects Approved for Collection:

Land acquisition—runway 21 runway protection zone.
Construct snow removal equipment building.
Construct access road—west side.

Decision Date: November 20, 2006.

FOR FURTHER INFORMATION CONTACT: Luis Loarte, Washington Airports District Office, (703) 661–1365.

Public Agency: Birmingham Airport Authority, Birmingham, Alabama.

Application Number: 06–05–C–00–BHM

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $1,335,697.

Charge Effective Date: April 1, 2007.

Estimated Charge Expiration Date: August 1, 2007.

Classes of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Birmingham International Airport.

Brief Description of Projects Approved for Collection and Use:

Preliminary design of a terminal building renovation.
Install new flight information display system/baggage information display system.

Decision Date: November 27, 2006.

FOR FURTHER INFORMATION CONTACT: Rans Black, Jackson Airports District Office, (601) 664–9892.

Public Agency: Birmingham Airport Authority, Birmingham, Alabama.

Application Number: 06–06–C–00–BHM.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $5,300,000.

Charge Effective Date: August 1, 2007.

Estimated Charge Expiration Date: October 1, 2008.

Classes of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Lubbock International Airport.

Brief Description of Projects Approved for Collection and Use: Runway 24 extension.

Decision Date: November 27, 2006.

FOR FURTHER INFORMATION CONTACT: Rans Black, Jackson Airports District Office, (601) 664–9892.

Public Agency: State of Hawaii, Honolulu, Hawaii.

Application Number: 06–01–C–00–ITO; 06–02–C–00–HNL; 06–01–C–00–OGG; 06–02–C–00–KOA; 06–02–C–00–LIH.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision for Collection at all Five Airports: $104,458,000.

Total PFC revenue approved in this decision for collection at Hilo International Airport (ITO): $781,000.

Total PFC revenue approved in this decision for collection at Honolulu International Airport (HNL): $78,050,000.

Total PFC revenue approved in this decision for collection at Kahului Airport: $16,000,000.

Total PFC revenue approved in this decision for collection at Kona International at Keahole Airport (KIOA): $6,281,000.

Total PFC revenue approved in this decision for collection at Lihue Airport: $3,346,000.

Earliest Charge Effective Date at Each Airport: February 1, 2007.

Estimated Charge Expiration Date at Each Airport: July 1, 2011.

Class of Air Carriers Not Required to Collect PFC's at Each Airport: None.

Brief Description of Projects Approved For Collection at ITO, HNL, OGG, KOA, and LIH and Use at HNL:

Aircraft rescue and firefighting facilities improvements.
Elevator and escalator improvements.
Loading bridge replacement.
International arrivals building ceiling replacement.
Air conditioning system improvements, phase II.
PFC administrative costs.

Decision Date: November 27, 2006.

FOR FURTHER INFORMATION CONTACT: Steve Wong, Honolulu Airports District Office, (808) 541–1225.

Public Agency: County of Oneida and City of Rhinelander, Rhinelander, Wisconsin.

Application Number: 07–10–C–00–RHI.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $110,946.

Earliest Charge Effective Date: November 1, 2011.

Estimated Charge Expiration Date: May 1, 2012.

Class of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Rhinelander/Oneida County Airport.

Brief Description of Projects Approved for Collection and Use:

Acquire snow removal equipment.
Reconstruct/extend runway 15/33.
PFC administration.

Decision Date: November 27, 2006.

FOR FURTHER INFORMATION CONTACT: Nancy Cistler, Minneapolis Airports District Office, (612) 713–4353.

Public Agency: Cities of Fort Collins and Loveland, Colorado.

Application Number: 07–05–C–00–FNL.

Application Type: Impose and use a PFC.

PFC Level: $4.50

Total PFC Revenue Approved in This Decision: $353,976.

Earliest Charge Effective Date: March 1, 2007.

Estimated Charge Expiration Date: November 1, 2009.

Class of Air Carriers Not Required to Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Rehabilitate apron, phases 1 and 2 design.
Security enhancements 1.
Acquire snow removal equipment.
Acquire terminal hold room and baggage claim.
Acquire handicap passenger device.
Rehabilitate taxiway A.
Security enhancements 2.
Pavement maintenance.
Rehabilitate and strengthen runway 15/33.
Replace runway 15/33 high intensity runway lights.

Decision Date: November 29, 2006.

FOR FURTHER INFORMATION CONTACT: Christopher J. Schaffer, Denver Airports District Office, (303) 342–1258.

Public Agency: Cedar City Corporation, Cedar City, Utah.

Application Number: 07–01–C–00–CDC.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $229,900.

Earliest Charge Effective Date: February 1, 2007.

Estimated Charge Expiration Date: October 1, 2011.

Class of Air Carriers Not Required to Collect PFC's: Non-scheduled/on-demand air carriers filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Cedar City Regional Airport.

Brief Description of Projects Approved for Collection and Use:

Construct new terminal and associated apron.
Purchase aircraft rescue and firefighting vehicle.

Decision Date: December 6, 2006.

FOR FURTHER INFORMATION CONTACT: Christopher J. Schaffer, Denver Airports District Office, (303) 342–1258.

Public Agency: County of San Joaquin, Stockton, California.

Application Number: 07–01–C–00–SCK.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $322,665.

Earliest Charge Effective Date: February 1, 2007.

Estimated Charge Expiration Date: August 1, 2009.

Class of Air Carriers Not Required to Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Construct northeast air cargo apron, connecting taxiway, and associated utilities.

Rehabilitate terminal apron.

Construct general aviation aprons.

Construct connecting taxiway D–7 and portion of parallel taxiway D.

Upgrade airport security.

PFC administration.

Decision Date: December 21, 2006.

FOR FURTHER INFORMATION CONTACT: Peter Long, San Francisco, Airports District Office, (650) 876–2778, extension 624.

AMENDMENTS TO PFC APPROVALS

Amendment No., city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
05–17–C–01–CHO, Charlottesville, VA	11/20/06	$2,871,360	$2,942,084	07/01/09	06/01/09
05–04–C–01–FNL, Fort Collins, CO	11/29/06	315,329	276,130	11/01/07	03/01/07
03–06–C–01–MLB, Melbourne, FL	11/29/06	8,563,500	6,806,435	06/01/18	09/01/17
96–03–C–02–RHI, Rhinelander, WI	11/29/06	363,927	352,997	07/01/00	07/01/00
96–05–C–03–MDW, Chicago, IL	12/01/06	178,087,493	178,087,493	11/01/20	11/01/16
02–03–U–01–PUW, Pullman, WA	12/13/05	NA	NA	10/01/05	10/01/05
02–04–C–03–MOB, Mobile, AL	12/05/06	3,160,496	3,365,372	02/01/17	02/01/07
01–03–I–02–TEX, Telluride, CO	12/06/06	215,000	268,750	02/01/06	01/01/08
05–04–U–01–TEX, Telluride, CO	12/06/06	NA	NA	02/01/06	01/01/08

Issued in Washington, DC, on January 3, 2007.

Joe Hebert,

Manager, Financial Analysis and Passenger Facility Charge Branch.

[FR Doc. 07–46 Filed 1–9–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Title 49 Code of Federal Regulations (CFR) Part 211, notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance from certain Federal railroad safety requirements. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Twin Cities and Western Railroad

[Docket Number FRA–2006–26093]

Twin Cities and Western Railroad (TC&W) seeks a permanent waiver of compliance from certain provisions of the Railroad Safety Appliance Standards in 49 CFR part 231, concerning RailRunner® train operations over their system. Specifically, TC&W requests relief from those sections of 49 CFR part 231 that stipulate the number, location, and dimensions for handholds, ladders, sill steps, uncoupling levers, and handbrakes. TC&W also seeks relief from 49 CFR 231.31, which sets the standard height for drawbars.

TC&W states that this waiver is necessary to permit them to begin operation of RailRunner® equipment between Appleton, Minnesota, and Minneapolis, Minnesota. TC&W requests that this petition, if approved, be modeled on conditions contained in waiver FRA–2003–16203, which was granted to the Norfolk Southern Railway and RailRunner® on March 25, 2005.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA in writing before the end of the comment period and specify the basis for their request.

All communications concerning this petition should identify the appropriate docket number (FRA–2006–26093) and may be submitted by one of the following methods:

- *Web site: http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic site;
- *Fax:* 202–493–2251;
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001; or
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communication received within 45 days of the date of this notice will be considered by FRA prior to final action being taken. Comments received after that date will be considered to the extent practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

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

Issued in Washington, DC, on January 5, 2007.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E7–186 Filed 1–9–07; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2006–25555; Notice 2]

Foreign Tire Sales, Inc., Denial of Petition for Decision of Inconsequential Noncompliance

Foreign Tire Sales, Inc. (FTS) has determined that certain tires that it

imported in 2005 and 2006 do not comply with S6.5(d) of Federal Motor Vehicle Safety Standard (FMVSS) No. 119, ''New Pneumatic Tires For Vehicles Other Than Passenger Cars.'' FTS has filed an appropriate report pursuant to 49 CFR part 573, ''Defect and Noncompliance Responsibility and Reports.'' Pursuant to 49 U.S.C. 30118(d) and 30120(h), FTS also has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety. Notice of receipt of the petition was published, with a 30-day comment period, on August 8, 2006 in the **Federal Register** (71 FR 45105). NHTSA received two comments on the petition, one from the Rubber Manufacturers Association (RMA) and another from Flexi-Van Leasing, Inc. (Flexi-Van). To view the petition and all supporting documents and comments submitted, go to: *http://dms.dot.gov/search/searchFormSimple.cfm* and enter Docket No. NHTSA–2006–25555.

Affected are a total of approximately 18,900 Danzig and Direction size 10.00–20 bias-ply container chassis tires manufactured by Wendeng Sanfeng Tyre Co., Ltd. of Wendeng City, China (Wendeng), and imported by FTS between August 2005 and April 2006. Paragraph S6.5(d) of FMVSS No. 119 requires that each tire shall be marked on each sidewall with ''[t]he maximum load rating and corresponding inflation pressure of the tire * * *.'' The subject tires are not marked with the maximum load rating and corresponding inflation values for single tire use. FTS has corrected the problem that caused these errors so that they will not be repeated in future production.

As discussed in its petition, FTS believes that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. FTS stated that there is no safety issue relating to single-use applications because the tires are clearly labeled ''DUAL USE ONLY'' and ''TRAILER SERVICE ONLY,'' and because FTS's ''customers understand that said tires are to be used on container chassis only.'' FTS supplemented its petition with additional information, which has been placed in the docket, including a September 7, 2006 letter from the tire manufacturer which states:

> Please be advised that we know of no safety issues involving our container chassis tires which are labeled for dual use only. There is no change in the construction of the tire whether the tire is labeled for dual use only or for single and dual use.

One public comment the agency received was from Flexi-Van, which is a lessor of intermodal container chassis. In carrying out its leasing business, Flexi-Van purchases tires of the type that are the subject of this petition, including tires imported by FTS. Flexi-Van stated that it has purchased over two thousand of the subject tires, which have already been installed on Flexi-Van chassis The company commented that an in-field chassis inspection of each container chassis it leases would be required to identify the noncompliant tires, which the company says is a difficult and burdensome proposition. Flexi-Van acknowledged that it would not have to bear the cost of this inspection since this is the responsibility of the vendor, but nonetheless argued that denial of this petition and the subsequent recall ''would result in a tremendous administrative and logistical burden to our customers, and inconvenience to Flexi-Van as well.'' The commenter further stated that, based on its experience in the industry, it is extremely unlikely that the subject intermodal tires would be installed in a single-use position, such as on the drive or steer axle of a truck tractor. Flexi-Van explained that, for these reasons, it supports granting FTS's petition for decision of inconsequential noncompliance.

The second public comment was from the Rubber Manufacturers Association, and it urged NHTSA to deny the subject petition, stating:

> While Petitioner may not *intend* its non-compliant tires to be used 'anywhere other than a container chassis,' there is no guarantee that the tires may not eventually be placed in a single load application. Indeed, the rationale for requiring the sidewall to be marked with maximum load ratings and inflation values for single and dual applications under FMVSS 119 is precisely that the same tire could be used in either application * * * [T]he issue that should be dispositive of this position is whether the tires otherwise meet the performance standards of FMVSS 119. There is, however, no evidence in the docket that the subject tires meet the long-term endurance and strength standards of FMVSS 119 (S6). [emphasis in original]

Agency Decision

NHTSA has carefully reviewed the petition and public comments, and the agency has determined that the noncompliance at issue is not inconsequential to motor vehicle safety, for the reasons that follow. Even though FTS may intend that its 18,900 tires with noncompliant markings be used on trailers and for dual use only, and provides instructions to that effect, stating that the ''tires set forth * * * are for DUAL USE ONLY and TRAILER SERVICE ONLY,'' NHTSA agrees with the comments of RMA that, despite manufacturer instructions to the contrary, there is no guarantee these tires may not eventually be placed on a single-load application, since the tires are capable of being mounted and used in that manner.

Use of one of the subject tires in a single-load application could lead to confusion, because the consumer would not be presented with the relevant information regarding the load-pressure relationship suitable for such application. In turn, this situation could lead to possible overloading of the tire, because the operator would be forced to attempt to independently calculate the maximum load rating for the tire in a single-load application. Specifically, without the required marking, the consumer would not know which of the seven permissible international tire industry publications or the manufacturer's own data submissions were used to calculate a single-load application and certify the tire under FMVSS No. 119, S5.1. Given that fleet operators have an economic incentive to fully load their vehicles with cargo, the agency believes that adverse safety consequences could be associated with failure to include the relevant tire markings required under Standard No. 119. That is why the standard specifically requires tire markings for both single-load and dual-load applications. The standard does not provide manufacturers the option of marking tires with a statement limiting them to only one application and providing only one maximum load rating. FTS's arguments regarding the ability of the tires to support vehicle load in a single-load application do not resolve this problem.

FTS supports its petition with information that was received by the agency under two cover letters, both available in the docket. The first letter, dated September 22, 2006, encloses information from the Chinese tire manufacturer, including an ''Endurance Test Report'' dated October 25, 2005, a ''Plunger Energy Test Report'' dated October 25, 2005, and two copies of a letter dated September 7, 2006 and stamped with the corporate seal (one in Chinese and other with an English translation). The second letter, dated September 29, 2006, encloses further information from the foreign tire manufacturer, including an ''Endurance Test Report'' dated August 10, 2006 and a ''Plunger Energy Test Report'' dated August 26, 2006. This information is apparently intended to demonstrate that the tires are generally safe, notwithstanding the labeling error.

However, these reports do not demonstrate that the tires meet the performance standards of FMVSS No. 119. Moreover, the issue here is not whether the tires meet those performance requirements. Rather, the question is whether the incorrect marking of the tires may itself have safety consequences.

In addition, we note that Flexi-Van, in its comments, describes how it mounts tires onto its trailers and explains the difficulty in locating the tires in the field should a recall be required. It also asserts its belief that for the approximately 2,000 subject tires it purchased, ''it is virtually impossible, in the ordinary course of business, that one of the subject intermodal tires would be installed on the drive or steer axle of a truck tractor.'' However, Flexi-Van's comments pertain to only a small portion of the subject tires and, in any event, do not negate the fact that these tires can be mounted and used in an unintended application. Accordingly, it is possible that some of these tires could be used in a single-load application, so the absence of correct markings pertinent to that application may have negative safety consequences.

In consideration of the foregoing, NHTSA has decided that the petitioner has not met its burden of persuasion that the noncompliance described is inconsequential to motor vehicle safety. Accordingly, FTS's petition is hereby denied.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at CFR 1.50 and 501.8)

Issued on: January 4, 2007.

Daniel C. Smith,

Associate Administrator for Enforcement.

[FR Doc. E7–114 Filed 1–9–07; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Correction to Submission for OMB Review

January 4, 2007.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of Public Debt (BPD)

OMB Number: 1535–0120.

Type of Review: Revision.

Title: Implementing Regulations: Government Securities Act of 1986, as amended.

Correction: In the **Federal Register** Notice published January 4, 2007, page 365, make the following correction: Change bureau name from ''Internal Revenue Service'', should read ''Bureau of Public Debt''

Michael A. Robinson,

Treasury PRA Clearance Officer.

[FR Doc. E7–168 Filed 1–9–07; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 6 Taxpayer Advocacy Panel (Including the States of Arizona, Colorado, Idaho, Montana, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington and Wyoming)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 6 committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel (TAP) is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service. The TAP will use citizen input to make recommendations to the Internal Revenue Service.

DATES: The meeting will be held Thursday, January 25, 2007.

FOR FURTHER INFORMATION CONTACT: Dave Coffman at 1–888–912–1227, or 206–220–6096.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 6 Taxpayer Advocacy Panel will be held Thursday, January 25, 2007 from 1 p.m. Pacific Time to 2:30 p.m. Pacific Time via a telephone conference call. The public is invited to make oral comments. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 206–220–6096, or write to Dave Coffman, TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174 or you can contact us at *http://www.improveirs.org*. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Dave Coffman. Mr. Coffman can be reached at 1–888–912–1227 or 206–220–6096.

The agenda will include the following: Various IRS issues.

Dated: December 22, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E7–124 Filed 1–9–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 1 Taxpayer Advocacy Panel (Including the States of New York, Connecticut, Massachusetts, Rhode Island, New Hampshire, Vermont and Maine)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 1 Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, January 23, 2007.

FOR FURTHER INFORMATION CONTACT: Audrey Y. Jenkins at 1–888–912–1227 (toll-free), or 718–488–2085 (non toll-free).

SUPPLEMENTARY INFORMATION: An open meeting of the Area 1 Taxpayer Advocacy Panel will be held Tuesday, January 23, 2007 from 9 a.m. ET to 10 a.m. ET via a telephone conference call. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 718–488–2085, or write Audrey Y. Jenkins, TAP Office, 10 MetroTech Center, 625 Fulton Street, Brooklyn, NY 11201. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Audrey Y. Jenkins. Ms. Jenkins can be reached at 1–888–912–1227 or 718–488–2085, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: December 22, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E7–125 Filed 1–9–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Small Business/Self Employed—Taxpayer Burden Reduction Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Small Business/Self Employed—Taxpayer Burden Reduction Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The TAP will be discussing issues pertaining to increasing compliance and lessening the burden for Small Business/Self Employed individuals.

DATES: The meeting will be held Tuesday, January 23, 2007.

FOR FURTHER INFORMATION CONTACT: Marisa Knispel at 1–888–912–1227 or 718–488–3557.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Small Business/Self Employed—Taxpayer Burden Reduction Committee of the Taxpayer Advocacy Panel will be held Tuesday, January 23, 2007 from 12:30 p.m. ET to 1:30 p.m. ET via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 718–488–3557, or write to Marisa Knispel, TAP Office, 10 Metro Tech Center, 625 Fulton Street, Brooklyn, NY 11201. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Marisa Knispel. Ms. Knispel can be reached at 1–888–912–1227 or 718–488–3557, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include the following: Various IRS issues.

Dated: December 22, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E7–126 Filed 1–9–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Homeless Veterans; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Advisory Committee on Homeless Veterans will be held on January 22–23, 2007, at the Phoenix Department of Veterans Affairs Medical Center Building 21, Room 108, 650 East Indian School Road, Phoenix, Arizona. The meeting will begin at 8 a.m. and end at 4 p.m. each day. The meeting is open to the public.

The purpose of the Committee is to provide the Secretary of Veterans Affairs with an ongoing assessment of the effectiveness of the policies, organizationl structures, and services of the Department in assisting homeless veterans. The Committee shall assemble and review information relating to the needs of homeless veterans and provide advice on the most appropriate means of offering assistance to homeless veterans. The Committee will make recommendations to the Secretary regarding such activities.

On January 22, the session will break into working groups at 10 a.m. and reconvene at 3 p.m. to hear reports from VA and other officials. On January 23, the Committee will continue to receive reports and begin preparation of its upcoming annual report and recommendations to the Secretary.

Those wishing to attend the meeting should contact Mr. Pete Dougherty, Department of Veterans Affairs, at (202) 273–5764. No time will be allocated for receiving oral presentations from the public. However, the Committee will accept written comments from interested parties on issues affecting homeless veterans. Such comments should be referred to the Committee at the following address: Advisory Committee on Homeless Veterans, Homeless Veterans Programs Office (075D), U.S. Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

Dated: January 3, 2007.

By direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 07–36 Filed 1–9–07; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 72, No. 6

Wednesday, January 10, 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.

DEPARTMENT OF AGRICULTURE

Forest Service

Newspapers Used for Publication of Legal Notice of Appealable Decisions for the Northern Region; Northern Idaho, Montana, North Dakota, and portions of South Dakota and Eastern Washington

Correction

In notice document 06–9926 appearing on page 78395 in the issue of Friday, December 29, 2006, make the following correction:

In the second column, insert the following text after the third line:

''Regional Forester decisions in North Dakota: Bismarck Tribune.

Regional Forrester decisions in South Dakota: Bismarck Tribune.''

[FR Doc. C6–9926 Filed 1–9–07; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[TRI–2005–0073; FRL–8260–4

RIN 2025–AA14

Toxics Release Inventory Burden Reduction Final Rule

Correction

In rule document E6–21958 beginning on page 76932 in the issue of Friday, December 22, 2006, make the following correction:

On page 76937, at the bottom of the second column, in footnote six, ''For the purposes of the proposed rule and the final rule, ''non–PBT chemicals '' indicates all listed TRI chemicals that are not ''which are listed in 40 CFR 372.28.'''' should read, ''The Agency cannot determine with certainty whether a facility has exceeded the one-million-pound threshold because facilities are not required to report totals for manufacture, processing, or otherwise use.''

[FR Doc. Z6–21958 Filed 1–9–07; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 3

[Docket No. 06–15]

RIN 1557–AC95

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 225

[Regulations H and Y; Docket No. R–1238]

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 325

RIN 3064–AC96

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 567

[No. 2006–49]

RIN 1550–AB98

Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Domestic Capital Modifications

Correction

In proposed rule document 06–9738 beginning on page 77446 in the issue of Tuesday, December 26, 2006, make the following correction:

On page 77452, in Table 2, in the last column, in the second entry, ''3'' should read ''35''.

[FR Doc. C6–9738 Filed 1–9–07; 8:45 am]

BILLING CODE 1505–01–D

Reader Aids

Federal Register

Vol. 72, No. 6

Wednesday, January 10, 2007

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
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Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

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FEDERAL REGISTER PAGES AND DATE, JANUARY

1–246 3
247–462 4
463–644 5
645–874 8
875–1134 9
1135–1266 10

CFR PARTS AFFECTED DURING JANUARY

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.

3 CFR

Proclamations:
6641 of 12/15/1993 (See Proc. 8097) 453
6763 of 12/23/1994 (See Proc. 8097) 453
6982 of 4/1/1997 (See Proc. 8095) 429
7351 of 10/2/2000 (See Proc. 8097) 453
7512 of 12/7/2001 (See Proc. 8097) 453
7746 of 12/30/2003 (See Proc. 8097) 453
7747 of 12/30/2003 (See Proc. 8097) 453
7857 of 12/20/2004 (See Proc. 8097) 453
7971 of 12/22/2005 (See Proc. 8097) 453
7987 of 2/28/2006 (See Proc. 8097) 453
7991 of 3/24/2006 (See Proc. 8097) 453
7996 of 3/31/2006 (See Proc. 8097) 453
8034 of 6/30/2006 (See Proc. 8097) 453
8039 of 7/27/2006 (See Proc. 8097) 453
8093 421
8094 423
8095 429
8096 451
8097 453
8098 459

Executive Orders:
11582 (See EO 13421) 425
13421 (See EO 13421) 425

Administrative Orders:
Memorandums:
Memorandum of December 29, 2006 643
Memorandum of January 5, 2007 1133

5 CFR

Proposed Rules:
537 914

7 CFR

301 1135
760 875

Proposed Rules:
4200 1190

9 CFR

77 247

Proposed Rules:
91 1192
93 1102
94 .....471, 475, 1102
95 1102
96 1102

10 CFR

Proposed Rules:
50 480
72 480
73 .....480, 481

11 CFR

104 887

12 CFR

910 645
913 645

Proposed Rules:
3 1266
208 1266
225 1266
325 1266
567 1266

14 CFR

25 .....1, 645, 1135, 1137
39 ...2, 247, 252, 256, 647, 889, 892, 895, 1139, 1141, 1143, 1146
71 .....652, 897, 898
97 899

Proposed Rules:
23 660
25 630
39 .....50, 481, 483, 485, 487, 662, 664, 666, 669, 672, 674, 676, 678, 918
47 489
61 .....55, 489
63 489
65 489
91 55
121 630
135 55

15 CFR

6 900

16 CFR

18 901

Proposed Rules:
1500 920

17 CFR

1 1148

Proposed Rules:
230 400
270 680
275 400

18 CFR

35 1152

50 198
380 198
Proposed Rules:
101 922
125 922
141 922
284 1195

19 CFR

Proposed Rules:
351 680

21 CFR

510 ....260, 1173
520 ....261, 262, 1173
522 ....260, 263, 264
524 264
558 ....653, 1173
866 1174
Proposed Rules:
101 ....497, 519, 694
170 694

22 CFR

Proposed Rules:
9 59

24 CFR

Proposed Rules:
206 870
570 62

26 CFR

1 ....5, 902

29 CFR

1915 7

32 CFR

Proposed Rules:
1900 694

33 CFR

110 ....463, 464
117 ....466, 1176, 1177
165 ....905, 907
Proposed Rules:
165 520

38 CFR

3 8

39 CFR

111 468

40 CFR

9 368
52 ....9, 11, 18, 20, 23, 200, 265, 267, 653, 656
63 26
141 368
142 368
180 1177
261 43
372 1266
Proposed Rules:
35 293
52 ....66, 67, 68, 296, 697, 698, 699, 711
60 724
62 1197
63 ....69, 726
81 711

42 CFR

Proposed Rules:
72 92

44 CFR

65 269
67 ....272, 287
Proposed Rules:
67 ....297, 926

47 CFR

73 1183
Proposed Rules:
73 1200
90 1201

49 CFR

225 1184
601 910
Proposed Rules:
172 1204
174 1204
390 849

50 CFR

17 1186
648 ....291, 470
Proposed Rules:
17 ....321, 1064
635 96
648 1206

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 JANUARY 10, 2007

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Plant-related quarantine, domestic:

Mediterranean fruit fly; published 1-10-07

DEFENSE DEPARTMENT

Navy Department

Prisoners of war during World War II; implementation of instruction back pay for members of Navy and Marine Corps selected for promotion while interned; published 1-10-05

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:

Maine; published 12-11-06

Air quality implementation plans; approval and promulgation; various States:

Nevada; published 12-11-06

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Beauveria Bassiana HF23; published 1-10-07

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Animal drugs, feeds, and related products:

Sponsor name and address changes—

ADM Alliance Nutrition, Inc.; published 1-10-07

NUCLEAR REGULATORY COMMISSION

Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:

Approved spent fuels storage casks; list; published 12-11-06

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Stemme GmbH & Co. KG; published 12-21-06

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Walnuts grown in—

California; comments due by 1-16-07; published 11-16-06 [FR 06-09251]

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Plant-related quarantine, domestic:

Gypsy moth; comments due by 1-16-07; published 11-17-06 [FR E6-19450]

Oriental fruit fly; comments due by 1-16-07; published 11-17-06 [FR E6-19451]

Plant-related quarantine, foreign:

Mangoes from India; comments due by 1-16-07; published 11-17-06 [FR E6-19452]

AGRICULTURE DEPARTMENT

Federal Crop Insurance Corporation

Crop insurance regulations:

Cabbage crop insurance provisions; comments due by 1-16-07; published 11-16-06 [FR E6-19319]

Mustard crop insurance provisions; comments due by 1-16-07; published 11-16-06 [FR E6-19320]

AGRICULTURE DEPARTMENT

Forest Service

National Forest System Lands:

Piscicide applications; comments due by 1-16-07; published 11-16-06 [FR E6-19197]

COMMERCE DEPARTMENT

Economic Analysis Bureau

International services surveys:

BE-125; transactions in selected services and intangible assets with foreign persons; quarterly survey; comments due by 1-19-07; published 11-20-06 [FR E6-19565]

BE-185; financial services transactions between U.S. providers and foreign persons; quarterly survey; comments due by 1-16-07; published 11-16-06 [FR E6-19409]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—

Groundfish; comments due by 1-16-07; published 12-15-06 [FR E6-21303]

Atlantic coastal fisheries cooperative management—

American lobster; comments due by 1-17-07; published 12-18-06 [FR E6-21448]

Bering Sea and Aleutian Islands groundfish; comments due by 1-16-07; published 12-15-06 [FR E6-21447]

DEFENSE DEPARTMENT

Civilian health and medical program of the uniformed services (CHAMPUS):

TRICARE program—

Dental Program; National Defense Authorization Act changes; comments due by 1-16-07; published 11-17-06 [FR E6-19437]

ENERGY DEPARTMENT

Energy Efficiency and Renewable Energy Office

Consumer products; energy conservation program:

Energy conservation standards—

Residential furnaces and boilers; public meeting; comments due by 1-15-07; published 10-6-06 [FR 06-08431]

ENVIRONMENTAL PROTECTION AGENCY

Air pollution control:

Indian country; new sources and modifications review; comments due by 1-19-07; published 10-24-06 [FR E6-17809]

Air programs:

Ambient air quality standards, national—

Air quality designations and classifications; 8-hour ozone; comments due by 1-18-07; published 12-19-06 [FR E6-21379]

Air quality implementation plans; approval and promulgation; various States:

California; comments due by 1-18-07; published 12-19-06 [FR E6-21497]

North Dakota; comments due by 1-17-07; published 12-18-06 [FR E6-21502]

Wisconsin; comments due by 1-17-07; published 12-18-06 [FR E6-21523]

Toxic substances:

Significant new uses—

2,3,5,6-tetrachloro-2,5-cyclohexadiene-1,4-dione; comments due by 1-17-07; published 12-18-06 [FR E6-21495]

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Human drugs:

Investigational drugs; treatment use; expanded access; comments due by 1-16-07; published 12-14-06 [FR 06-09684]

HOMELAND SECURITY DEPARTMENT

Coast Guard

Drawbridge operations:

Florida; comments due by 1-16-07; published 11-17-06 [FR E6-19457]

Illinois; comments due by 1-16-07; published 11-16-06 [FR E6-19310]

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Critical habitat designations—

Hawaiian picture-wing flies; comments due by 1-19-07; published 1-4-07 [FR E6-22538]

NUCLEAR REGULATORY COMMISSION

Rulemaking petitions:

Ritenour, E. Russell, Ph.D.; comments due by 1-15-07; published 11-1-06 [FR E6-18363]

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Privacy Act; implementation; comments due by 1-15-07; published 11-22-06 [FR 06-09346]

PENSION BENEFIT GUARANTY CORPORATION

Single-employer plans:

Mortality assumptions, interest rate structure, etc.; comments due by 1-16-07; published 12-14-06 [FR E6-21279]

PERSONNEL MANAGEMENT OFFICE

Health benefits, Federal employees:

Health insurance premiums—
Pretax allotments; comments due by 1-16-07; published 11-17-06 [FR E6-19273]

POSTAL SERVICE

International Mail Manual:
International product and pricing initiatives; comments due by 1-19-07; published 12-20-06 [FR E6-21750]

SMALL BUSINESS ADMINISTRATION

Disaster loan program:
Small business economic injury disaster loans; comments due by 1-16-07; published 12-15-06 [FR E6-21365]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
Airbus; comments due by 1-16-07; published 12-14-06 [FR E6-21262]
Bombardier; comments due by 1-17-07; published 12-28-06 [FR E6-22271]
Microturbo Saphir; comments due by 1-17-07; published 12-18-06 [FR E6-21487]
Pratt & Whitney; comments due by 1-19-07; published 11-20-06 [FR E6-19536]
Rolls-Royce plc; comments due by 1-16-07; published 11-14-06 [FR E6-18964]
Schempp-Hirth Flugzeugbau GmbH; comments due by 1-16-07; published 12-14-06 [FR E6-21212]
Turbomeca S.A.; comments due by 1-18-07; published 12-19-06 [FR E6-21586]
Class E airspace; comments due by 1-15-07; published 12-22-06 [FR 06-09827]

TRANSPORTATION DEPARTMENT

Saint Lawrence Seaway Development Corporation

Seaway regulations and rules:
Tolls tariff; comments due by 1-19-07; published 12-20-06 [FR E6-21743]

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:
Annuity contracts; property exchanges; comments due by 1-16-07; published 10-18-06 [FR E6-17301]
Correction; comments due by 1-16-07; published 12-8-06 [FR Z6-17301]
Income attributable to domestic production activities; deduction; hearing; comments due by 1-17-07; published 10-19-06 [FR E6-17409]
Payments in lieu of taxes; treatment; comments due by 1-16-07; published 10-19-06 [FR E6-17408]

TREASURY DEPARTMENT

Monetary Offices

Coin regulations; amendments relating to exportation, melting and treating of 5-cent and one-cent coins; comments due by 1-19-07; published 12-20-06 [FR 06-09777]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

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H.R. 5782/P.L. 109–468

Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 (Dec. 29, 2006; 120 Stat. 3486)

H.R. 6344/P.L. 109–469

Office of National Drug Control Policy Reauthorization Act of 2006 (Dec. 29, 2006; 120 Stat. 3502)

Last List January 3, 2007

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