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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 01–054–3]

RIN 0579–AB82

Phytophthora Ramorum; Quarantine and Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the *Phytophthora ramorum* regulations to establish restrictions on the interstate movement of nursery stock from nurseries in nonquarantined areas in California, Oregon, and Washington. We are also amending the regulations to update conditions for the movement of regulated articles of nursery stock from quarantined areas, to add restrictions on the movement of decorative trees without roots from quarantined areas, as well as to restrict the interstate movement of all other nursery stock from nurseries in quarantined areas. We are also updating the list of plants regulated because of *P. ramorum* and the list of areas that are quarantined for *P. ramorum*, and making other miscellaneous amendments to the regulations. These actions are necessary to prevent the spread of *P. ramorum* to noninfested areas of the United States.

DATES: This interim rule is effective February 27, 2007. We will consider all comments that we receive on or before April 30, 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–2005–0102 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. 01–054–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 01–054–3.

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: Mr. Jonathan Jones, National *Phytophthora ramorum* Program Manager, Pest Detection and Management Programs, PPQ, APHIS, 4700 River Road Unit 160, Riverdale, MD 20737; (301) 734–8247.

SUPPLEMENTARY INFORMATION:

Background

Under the regulations in ''Subpart-Phytophthora Ramorum'' (7 CFR 301.92 through 301.92–11, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA) restricts the interstate movement of certain regulated and restricted articles from quarantined areas in California and Oregon to prevent the artificial spread of *Phytophthora ramorum*, the pathogen that causes the plant diseases commonly known as sudden oak death, ramorum leaf blight, and ramorum dieback.

The regulations, which were established in February 2002, quarantined 10 counties in California and part of 1 county in Oregon, and restrict the interstate movement of regulated and restricted articles from those areas. Regulated articles, which may be moved interstate from quarantined areas contingent upon the application of certain phytosanitary measures, include soil and nursery stock (except acorns and seeds), unprocessed wood and wood products (including firewood, logs, and lumber), and plant products (including wreaths, garlands, and greenery) of 14 species and 1 genus of plants. Restricted articles from quarantined areas, which are prohibited from moving interstate except under departmental permit, include bark chips, forest stock, and mulch of the same 14 species and 1 genus of plants. The regulations also include provisions for the issuance of certificates and compliance agreements, as well as provisions regarding treatments for regulated articles and inspection and sampling protocols for nurseries shipping host plants interstate.

The regulatory changes codified by this rule are consistent with an order issued by APHIS on December 21, 2004, that restricted the interstate movement of nursery stock from California, Oregon, and Washington nurseries.[1] The requirements established by this rule supercede the requirements of the order.

In this interim rule, we are amending the regulations to establish restrictions on the interstate movement of nursery stock from nurseries in nonquarantined counties in California, Oregon, and Washington. We are also amending the regulations to update conditions for the movement of regulated articles of nursery stock from quarantined areas, to add restrictions on the movement of decorative trees without roots from quarantined areas, as well as to restrict the interstate movement of all other nursery stock from nurseries in quarantined areas. We are also updating the list of plants regulated because of *P. ramorum* and the list of areas that are quarantined for *P. ramorum*, and making other miscellaneous amendments to the regulations. These actions are necessary to prevent the

[1] The emergency order can be viewed on the Internet at: *http://www.aphis.usda.gov/ppq/ispm/pramorum/*.

spread of *P. ramorum* to noninfested areas of the United States.

Changes to the Regulations Made by this Rule

Since 2002, *P. ramorum* has been confirmed to be established in natural areas in four additional counties in California and a small additional area in Curry County, OR, and many additional plants have been confirmed as hosts of the pathogen. In this document, we are updating the regulations to reflect these developments.

Specifically, we are adding Contra Costa, Humboldt, Lake, and San Francisco Counties in California to the list of quarantined areas and revising the description of the portion of Curry County, OR, that is a quarantined area to reflect the fact that the previously quarantined area has been expanded, and that the area remains under an eradication program. The updated list of quarantined areas appears in § 301.92–3(a)(3) in this rule.

We are also amending the regulations in § 301.92–2 that designate regulated and restricted articles to include additional taxa of *P. ramorum* hosts. The complete list of proven host taxa can be found in § 301.92–2(d) in the rule portion of this document. The proven genera, species, or hybrids added by this rule are:

- *Acer pseudoplatanus* Planetree maple
- *Adiantum aleuticum* Western maidenhair fern
- *Adiantum jordanii* California maidenhair fern
- *Aesculus hippocastanum* horse chestnut
- *Calluna vulgaris* Scotch heather
- *Camellia* spp. Camellia—all species, hybrids, and cultivars
- *Castanea sativa* Sweet chestnut
- *Fagus sylvatica* European beech
- *Frangula purshiana* (≡*Rhamnus purshiana*) Cascara
- *Fraxinus excelsior* European ash
- *Griselinia littoralis* Griselinia
- *Hamamelis virginiana* Witch hazel
- *Kalmia* spp. Kalmia-all species, hybrids, and cultivars
- *Laurus nobilis* Bay laurel
- *Maianthemum racemosum* (≡*Smilacina racemosa*) False Solomon's seal
- *Michelia doltsopa* Michelia
- *Parrotia persica* Persian ironwood
- *Photinia fraseri* Red tip photinia
- *Pieris* spp. Pieris-all species, hybrids, and cultivars
- *Pseudotsuga menziesii* var. *menziesii* Douglas fir and all nursery-grown *P. menziesii*
- *Quercus cerris* European turkey oak
- *Quercus chrysolepis* Canyon live oak
- *Quercus falcata* Southern red oak
- *Quercus ilex* Holm oak
- *Rosa gymnocarpa* Wood rose
- *Salix caprea* Goat willow
- *Sequoia sempervirens* Coast redwood
- *Syringa vulgaris* Lilac
- *Taxus baccata* European yew
- *Trientalis latifolia* Western starflower
- *Viburnum* spp. Viburnum-all species, hybrids, and cultivars

The plant taxa listed above are proven hosts of *P. ramorum* based upon completion, documentation, review, and acceptance of traditional Koch's postulates. Note that several updates have been made to previously listed taxa:

- Black oak is now listed as California black oak;
- The scientific name for California coffeeberry has been corrected;
- Huckleberry is now listed as evergreen huckleberry;
- Arrowwood is now listed as Bodnant viburnum;
- All nursery-grown *Quercus parvula* are now regulated;
- All species, hybrids, and cultivars of *Pieris* spp. are now regulated;
- All species, hybrids, and cultivars of *Kalmia* spp. are now regulated;
- All species, hybrids, and cultivars of *Rhododendron* spp. are now regulated; and
- The listing for *Umbellularia californica* is clarified to include other recognized common names—pepperwood and Oregon myrtle.

We are also clarifying that firewood, logs, and lumber of specific proven host plant taxa are not regulated because available research shows that *P. ramorum* infections are limited to other parts (*i.e.*, twigs, leaves, and sprouts) of those hosts. These hosts are indicated with an asterisk in revised § 301.92–2(d).

In addition to amending the lists of regulated and restricted articles, we are adding a new category of article to the regulations: Associated articles. Several plant species have been associated with *P. ramorum* after symptoms were observed on the plants and culture or polymerase chain reaction (PCR) tests of the plants returned positive results for *P. ramorum*. Traditional Koch's postulates, which will confirm or exclude them as hosts, have not yet been completed for any of these plant species, but the positive results of culture or PCR tests indicate that they present a risk of transmitting *P. ramorum*. We are, therefore, imposing restrictions on their interstate movement (discussed in detail later in this document) until the results of the application of Koch's postulates are known. At that time, we will list proven hosts as regulated and restricted articles and remove from the list of associated articles those plant species that are not proven hosts of *P. ramorum* via application of Koch's postulates.

Associated plant taxa are listed in § 301.92–2(e); only nursery stock of these plant taxa are regulated under this rule (*i.e.*, interstate movement of unprocessed wood and wood products, and plant products, including bark chips, mulch, firewood, logs, lumber, wreaths, garlands, and greenery of associated plant taxa are not regulated).

- *Abies concolor* White fir
- *Abies grandis* Grand fir
- *Abies magnifica* Red fir
- *Acer circinatum* Vine maple
- *Acer davidii* Striped bark maple
- *Acer laevigatum* Evergreen maple
- *Arbutus unedo* Strawberry tree
- *Arctostaphylos columbiana* Manzanita
- *Arctostaphylos uva-ursi* Kinnikinnick, bearberry
- *Ardisia japonica* Ardisia
- *Calycanthus occidentalis* Spicebush
- *Castanopsis orthacantha* Castanopsis
- *Ceanothus thyrsiflorus* Blueblossom
- *Cinnamomum camphora* Camphor tree
- *Clintonia andrewsiana* Andrew's clintonia bead lily
- *Corylus cornuta* California hazelnut
- *Cornus kousa* x *Cornus capitata* Cornus Norman Haddon
- *Distylium myricoides* Myrtle-leafed distylium
- *Drimys winteri* Winter's bark
- *Dryopteris arguta* California wood fern
- *Eucalyptus haemastoma* Scribbly gum
- *Euonymus kiautschovicus* Spreading euonymus
- *Fraxinus latifolia* Oregon ash
- *Gaultheria shallon* Salal, Oregon wintergreen
- *Hamamelis mollis* Chinese witch-hazel
- *Hamamelis* x *intermedia* (*H. mollis* & *H. japonica*) Hybrid witchhazel
- *Ilex purpurea* Oriental holly
- *Leucothoe axillaris* Fetter-bush, dog hobble
- *Leucothoe fontanesiana* Drooping leucothoe
- *Loropetalum chinense* Loropetalum
- *Magnolia grandiflora* Southern magnolia
- *Magnolia stellata* Star magnolia
- *Magnolia x loebneri* Loebner magnolia
- *Magnolia x soulangeana* Saucer magnolia
- *Manglietia insignis* Red lotus tree
- *Michelia maudiae* Michelia
- *Michelia wilsonii* Michelia
- *Nerium oleander* Oleander

- *Nothofagus obliqua* Roble beech
- *Osmanthus decorus* (≡*Phillyrea decora*; ≡*P. vilmoriniana*) Osmanthus
- *Osmanthus delavayi* Delavay Osmanthus, Delavay tea olive
- *Osmanthus fragrans* Sweet olive
- *Osmanthus heterophyllus* Holly olive
- *Osmorhiza berteroi* Sweet Cicely
- *Parakmeria lotungensis* Eastern joy lotus tree
- *Pittosporum undulatum* Victorian box
- *Prunus laurocerasus* English laurel, cherry laurel
- *Prunus lusitanica* Portuguese laurel cherry
- *Pyracantha koidzumii* Formosa firethorn
- *Quercus acuta* Japanese evergreen oak
- *Quercus petraea* Sessile oak
- *Quercus rubra* Northern red oak
- *Rosa* (specific cultivars) hybrid roses Royal Bonica (tagged: ''MEImodac''), Pink Meidilland (tagged: ''MEIpoque''), Pink Sevillana (tagged: ''MEIgeroka'')
- *Rosa rugosa* Rugosa rose
- *Rubus spectabilis* Salmonberry
- *Schima wallichii* Chinese guger tree
- *Taxus brevifolia* Pacific yew
- *Taxus x media* Yew
- *Torreya californica* California nutmeg
- *Toxicodendron diversilobum* Poison oak
- *Vancouveria planipetala* Redwood ivy

Nurseries Located Outside Quarantined Areas

A primary purpose of this rule is to address the discovery of *P. ramorum* in nurseries in California, Oregon, and Washington that are outside quarantined areas. Nurseries outside the quarantined area were not previously covered by the regulations. While *P. ramorum* is present and in some cases widespread in the natural environment in the quarantined areas of California and Oregon, the detections of *P. ramorum* in the nonquarantined areas of California and Oregon and in the State of Washington have been limited to commercially produced nursery plants. These nurseries are a proven source of *P. ramorum* moved in the interstate trade of nursery stock, therefore, we are regulating the interstate movement of nursery stock from nurseries in nonquarantined areas in California, Oregon, and Washington (referred to elsewhere in this document and in the amended regulations as regulated areas [2]) in order to prevent the spread of *P. ramorum* to noninfested areas of the United States. As stated in the previous section, we are not regulating the interstate movement of any other restricted or regulated articles from regulated areas because positive finds in regulated areas have been limited to nursery stock.

Specifically, any nursery located in a regulated area that contains regulated articles of nursery stock or associated articles is prohibited from moving nursery stock interstate until certain conditions are met. In some cases, nurseries may also be prohibited from shipping non-host nursery stock [3] until the same or similar conditions are met. These conditions, which are contained in § 301.92–11 of the regulations, are described below.

Requirements for Moving Regulated Articles of Nursery Stock and Associated Articles Interstate From Regulated Areas

Paragraph (c) of § 301.92–11 pertains to nurseries located in regulated areas that ship regulated articles of nursery stock or associated articles interstate. Under paragraph (c), such nurseries must be inspected for symptoms of *P. ramorum* by an APHIS, State, or county inspector.[4] Inspection will focus on, but not be limited to, regulated articles of nursery stock and associated articles.

Samples must be taken from all symptomatic plants. If fewer than 40 symptomatic plants are present, each symptomatic plant must be sampled and additional samples must be taken from asymptomatic plants so that the minimum number of plants sampled totals 40. If no symptomatic plants are present, 40 asymptomatic plants must be sampled. Each sample may contain more than one leaf, and may come from more than one plant, but all plants in the sample must be from the same lot.[5] If the samples are collected from asymptomatic plants, the samples must be taken from regulated and associated articles and nearby plants. Inspectors must conduct inspections at times when the best expression of symptoms is anticipated (typically within 30–90 days of bud break) and must take nursery fungicide programs into consideration to maximize the opportunity to observe symptoms. We recommend that inspections be performed 2 to 9 weeks after any application of fungicides that are efficacious for *Phytophthora* spp. or oomycetes, (depending on the type of fungicide used and the plant treated), and prior to any subsequent applications of such fungicides. Nursery owners must also keep records of fungicide applications for 2 years and must make them available to inspectors upon request.

Annual Certification and Recordkeeping

All plant samples must be tested in accordance with § 301.92–12. If samples return negative results for *P. ramorum*, an inspector may certify that the nursery is free of evidence of *Phytophthora ramorum* infestation at the time the plants were inspected. Nurseries in a regulated area must have current and valid certification to ship regulated articles of nursery stock and associated articles interstate. If annual certification expires prior to reinspection, all plants in the nursery are prohibited interstate movement until the nursery is inspected, tested, and re-certified in accordance with the regulations.

All nurseries that are operating under compliance agreements must maintain records of all incoming shipments of plants for a minimum of 24 months and must make them available to inspectors upon request. In addition, all nurseries that are operating under compliance agreements, except retail dealers, must maintain records of outgoing shipments for a minimum of 24 months. This recordkeeping will help to facilitate tracebacks and traceforwards in the event that articles infected with *P. ramorum* are discovered upon inspection.

Requirements for Moving Non-Host Nursery Stock Interstate From Regulated Areas

Paragraph (d) of § 301.92–11 pertains to nurseries in regulated areas that contain only non-host nursery stock. If a nursery located in a regulated area moves non-host nursery stock interstate but the nursery contains regulated articles of nursery stock or associated articles, the nursery must meet the requirements of § 301.92–11(c), which are described above, even if the nursery only ships non-host nursery stock interstate. Alternately, under paragraph (d), if there are no regulated or associated articles in the nursery, a nursery in a regulated area may ship non-host nursery stock interstate if the following conditions are met:

- The nursery must be visually inspected annually and found free of symptoms of *P. ramorum* at the time

[2] Note the distinction between regulated areas and quarantined areas. Quarantined areas include the 14 counties in California and a portion of 1 county in Oregon listed in § 301.92–3(a)(3). Regulated areas include all remaining areas of California and Oregon, and the entire State of Washington.

[3] Non-host nursery stock is defined as any taxa of nursery stock not listed in § 301.92–2 as a regulated or associated article.

[4] Persons operating under compliance agreements in accordance with § 301.92–6 are eligible to issue certificates for the interstate movement of regulated and associated articles, but only APHIS, State, and county inspectors are authorized to conduct nursery inspections required by the regulations.

[5] ''Lot'' is defined as a contiguous block of plants of the same species or cultivar, of the same container size and from the same source, if known.

when the best expression of symptoms is anticipated (typically within 30–90 days of bud break).

• If symptomatic plants are found upon inspection, all such plants must be tested, and the following plants must be withheld from interstate shipment until testing is completed and the nursery is found free of evidence of *P. ramorum* by an inspector: All symptomatic plants, any plants located in the same lot as the symptomatic plant, and any plants located within 2 meters of the affected lot(s) of plants.

• If no symptomatic plants are found, an inspector may certify that the nursery is free of evidence of *P. ramorum*, and non-host nursery stock will be eligible for interstate movement. Note that no certificate is required for non-host plants moving interstate in accordance with § 301.92–11(d).

The States of California, Oregon, and Washington, and local governments cooperate with APHIS in enforcing the requirements of this rule. The States have agreed to maintain on the Internet a current list of nurseries that have been certified as free of evidence of *P. ramorum* infestation in accordance with this rule. Links to the States' lists can be found at *http://www.aphis.usda.gov/ppq/ispm/pramorum/resources.html*.

Sunset Clause

In the December 2004 Federal Order, the provisions described above pertaining to nurseries located in regulated areas and the interstate movement of nursery stock from regulated areas were scheduled to expire three years from the effective date, unless APHIS issued another rule before that time to extend or revise that aspect of the *P. ramorum* regulatory program. That expiration date only pertained to regulated areas in California, Oregon, and Washington that are outside quarantined areas. We have decided that the sunset clause included in the Federal Order is no longer necessary or appropriate, therefore we are not including it in this rule and are continuing the provisions described above pertaining to nurseries located in regulated areas and the interstate movement of nursery stock from regulated areas until further notice.

Additional Restrictions on the Movement of Associated Articles and Non-Host Nursery Stock From Quarantined Areas

This rule also restricts the interstate movement of associated articles [6] and non-host nursery stock from quarantined areas. Associated articles must meet the same conditions for interstate movement from a quarantined area that apply to regulated articles of nursery stock; those conditions can be found in revised § 301.92–11(a). Non-host nursery stock must typically meet the same conditions for interstate movement from a quarantined area that apply to regulated articles of nursery stock, but if a nursery in a quarantined area contains no regulated articles of nursery stock or associated articles, non-host nursery stock may be moved interstate from that nursery provided the nursery is inspected and found free of evidence of *P. ramorum* in accordance with revised § 301.92–11(b), which contains essentially the same inspection and sampling protocol described above under the heading ''Requirements for Moving Non-Host Nursery Stock Interstate from Regulated Areas.'' Note that to be eligible for interstate movement, non-host nursery stock that is rooted in soil or growing media requires certification that the soil or growing media meets the requirements of § 301.92–5(a)(1)(iii).

Most revisions made to the regulations by this rule pertain to inspection and sampling protocols for nursery stock moving interstate from California, Oregon, and Washington. In order to eliminate confusion over what provisions apply in a given situation, we have prepared the following table.

Type(s) of plants in the nursery	Type(s) of plants shipped interstate	Inspection and certification protocol	
		Origin: Quarantined areas	Origin: Regulated areas
Regulated articles only	None	Not regulated	Not regulated.
Regulated articles only	Regulated articles	§ 301.92–11(a)	§ 301.92–11(c).
Associated articles only	None	Not Regulated	Not Regulated.
Associated articles only	Associated articles	§ 301.92–11(a)	§ 301.92–11(c).
Regulated and associated articles only	Regulated or associated articles, or both	§ 301.92–11(a)	§ 301.92–11(c).
Regulated and associated articles and non-hosts.	None	Not regulated	Not regulated.
Regulated and associated articles and non-hosts.	Regulated or associated articles, or both	§ 301.92–11(a)	§ 301.92–11(c).
Regulated and associated articles and non-hosts.	Non-hosts only	§ 301.92–11(a)	§ 301.92–11(c).
Non-hosts only	None	Not regulated	Not regulated.
Non-hosts only	Non-hosts	§ 301.92–11(b) [1]	§ 301.92–11(d).
Decorative trees without roots (e.g., Christmas trees).	Proven host plant taxa	§ 301.92–11(a)	Not regulated.
Decorative trees without roots (e.g., Christmas trees).	Associated plant taxa	Not regulated	Not regulated.

[1] Under § 301.92–4, non-host nursery stock from a nursery in a quarantined area that contains no regulated or associated articles does not require a certificate for interstate movement, provided that the plants are moved bare-root; if soil or growing media is attached to non-host nursery stock, to be eligible for interstate movement, the soil or growing media must be certified in accordance with § 301.92–5(a)(1)(iii).

This rule also amends certain existing provisions pertaining to inspection and testing of nurseries in quarantined areas. Prior to the effective date of this interim rule, the inspection and sampling protocol contained in § 301.92–11 required nurseries that ship regulated articles of nursery stock interstate to be inspected and tested annually for *P. ramorum*, and each shipment intended for interstate movement to be inspected for symptoms of *P. ramorum*, and if

[6] As described earlier in this document, associated articles include only nursery stock of plant taxa listed in § 301.92–2(e).

necessary, tested. This rule amends the text of those provisions in order to clarify them and improve their effectiveness. Specifically, in this rule:

- The provisions for inspecting nurseries are revised. We are requiring the inspections to be focused on the detection and identification of symptomatic regulated articles of nursery stock and associated articles, and are requiring that all symptomatic plants be sampled and tested. We believe inspecting the entire nursery and focusing on all proven host nursery stock and associated plant taxa will best enable us to determine if *P. ramorum* is present in the nursery being inspected.
- The testing protocol is specified. The regulations in effect prior to this rule simply required samples to be sent to an APHIS-approved laboratory for testing. This rule requires samples to be tested and evaluated using an APHIS-approved method at an APHIS-approved laboratory in order to ensure that the tests produce accurate and consistent results. This rule also describes the only currently approved test protocol. The protocol is described in detail later in this document under the heading ''Testing.''
- We are clarifying that nurseries in quarantined areas must have a current and valid annual certification of freedom from evidence of *P. ramorum* in order to submit individual shipments of nursery stock for inspection.
- We are specifying conditions under which nurseries in quarantined and regulated areas may continue to move articles interstate if the nursery receives articles from an uncertified nursery in a quarantined or regulated area. These conditions are located in § 301.92–5, paragraphs (a)(1)(iv)(D) and (b)(1)(ii), respectively.

New Proven Hosts or Associated Plants and Effects on Regulated Nurseries

New hosts of *P. ramorum* are being identified on a monthly, sometimes weekly, basis. As such, the regulations may not always reflect all known proven hosts and associated plant taxa. Under the regulations in § 301.92–2, an inspector may notify a person that a given product or article is subject to the regulations, even if the product or article is not specifically listed in the regulations. This might occur if the product or article (i.e. non-host nursery stock, pots, or potting tools) was associated with other products or articles that are likely infected with *P. ramorum.* In those instances, the product or article would be held until determined free from *P. ramorum* using official, APHIS-approved testing. APHIS inspectors provide notice to affected States and stakeholders when new hosts are confirmed and associated plants are identified. Such plants and their products then become subject to the regulations. Hosts are added when official samples (samples taken by Federal, State, or county inspectors and submitted to APHIS) are confirmed to be infected with *P. ramorum.* National plant protection organizations (NPPO) of foreign countries are also recognized as credible sources for the identification of new hosts, as well as known *P. ramorum* researchers who publish their new host findings in peer reviewed journals or report their findings. When researchers report new host finds, these finds are verified either by the NPPO of the country in which the researcher resides or by APHIS.

In this rule, we clarify that the following provisions apply when APHIS informs a nursery owner that additional proven hosts or associated plants have been confirmed:

- Nurseries operating under a compliance agreement in accordance with § 301.92–6 may continue to ship plants interstate in accordance with the regulations.
- Nurseries that had not previously contained any regulated or associated articles, and that had been inspected in accordance with § 301.92–11(b)(3) and allowed to ship plants interstate without a certificate, but that contain a newly identified proven host or associated plant must cease interstate shipments of regulated and associated articles until the nursery is reinspected and found free of evidence of *P. ramorum* in accordance with § 301.92–11. Nurseries that come under regulation during winter dormancy periods and that are not able to be inspected in accordance with § 301.92–11 prior to desired shipments of non-host nursery stock may be allowed to ship non-host nursery stock interstate at the discretion of an inspector.

These provisions provide clear guidance to affected persons as to how they will be affected by additions to the lists of proven hosts and associated plant taxa.

Testing

We are also amending the regulations to clearly describe the testing protocols that must be used to determine whether plant samples taken in accordance with the regulations are infected with *P. ramorum.* These testing requirements are located in a new § 301.92–12. Under this section, samples must be analyzed using a methodology approved by APHIS at a laboratory approved by APHIS. The process for testing and analyzing samples is described below.[7]

Any samples collected in accordance with the regulations may be prescreened using an APHIS-approved enzyme-linked immunosorbent assay (ELISA) to determine the presence of *Phytophthora* spp. ELISA tests are optional; however, if all samples collected from a single nursery or a single shipment are found to be negative through ELISA prescreening, no further testing of the plants sampled is required. A nursery or shipment of plants may be considered free of evidence of *P. ramorum* based on negative results of ELISA tests, and provided all other applicable requirements are met, the plants are eligible for interstate movement.[8]

If ELISA prescreening is not performed, or if results of ELISA prescreening are positive for *Phytophthora* spp. in any sample, the sample must be analyzed using an APHIS-approved [9] test. Samples will be considered positive for *P. ramorum* based on positive results of any approved test. Positive PCR or other molecular tests do not require confirmatory culture tests, nor do positive culture tests require confirmatory PCR or other molecular tests; however, if culture tests return other than positive results, an APHIS-approved PCR or other molecular test must be conducted, as described below. No culture test is required if an APHIS-approved PCR or other molecular test returns negative results. Plants in the nursery must be withheld from interstate movement pending negative test results in accordance with applicable provisions of § 301.92–11.

PCR and Other Molecular Tests

If the results of PCR or other molecular tests are negative for all samples from a nursery or single shipment, no further testing is required. The nursery or shipment sampled may be considered free of evidence of *P. ramorum.*

If any samples tested using the PCR protocol or another approved protocol return positive results for *P. ramorum*, the nursery from which they originate is prohibited from moving plants interstate until an inspector determines that plants intended for interstate movement are free of evidence of *P. ramorum*

[7] Detailed descriptions of testing and sample analysis procedures can be viewed on the Internet at *http://www.aphis.usda.gov/ppq/ispm/pramorum/.*

[8] Nurseries in quarantined areas require both current annual certification and certification of individual interstate shipments of regulated articles of nursery stock and associated articles.

[9] See footnote 7.

infection. When an inspector determines that a nursery in a regulated area is free of evidence of *P. ramorum* infestation, the nursery will be eligible to move plants interstate under certificate. Nurseries in quarantined and regulated areas that contain only non-host nursery stock are eligible to move plants interstate in accordance with § 301.92–11(b) and (d).

Similarly, when an inspector determines that a shipment of nursery stock intended for interstate movement from a nursery in a quarantined area is free of evidence of *P. ramorum* infection, and provided the nursery has current and valid annual certification in accordance with the regulations, the shipment of nursery stock is eligible for interstate movement under certificate.

Culture Test

If the results of culture tests are other than positive for any samples taken from a nursery or a single shipment, each plant sample that returns other than positive culture results must be tested again using an approved PCR or other molecular test, and plants from the nursery or shipment are only eligible for interstate movement if results of such tests are negative for all samples taken.

If any culture tests return positive results for *P. ramorum*, the movement of nursery stock is restricted under the same conditions described above for positive PCR and other molecular tests.

Restrictions on the Interstate Movement of Decorative Trees Without Roots From Quarantined Areas

We are restricting the interstate movement of decorative trees without roots (e.g., Christmas trees) of proven *P. ramorum* host taxa. Under the regulations, locations where trees are grown for sale as decorative trees without roots, and locations where decorative trees without roots are stored or distributed are considered nurseries. As such, any such location that ships trees interstate and that grows decorative trees without roots of proven *P. ramorum* host taxa is subject to the same inspection, testing, and certification requirements as any other nursery. Thus, decorative trees without roots that are shipped interstate from quarantined areas must originate from a nursery that has current, valid annual certification of freedom from evidence of infestation by *P. ramorum* in accordance with § 301.92–11(a)(1) and individual shipments must also be inspected and certified in accordance with § 301.92–11(a)(2).

Note that locations that grow, store, or distribute decorative trees without roots that are not proven hosts of *P. ramorum* are not regulated under this rule unless the location contains proven hosts. If the nursery ships interstate and contains any proven hosts, the nursery is subject to the regulations.

The interstate movement of decorative trees without roots from regulated areas is not regulated under this rule.

Additional Provisions for the Interstate Movement of Wreaths, Garlands, and Greenery of Proven Host Taxa From Quarantined Areas

Prior to this rule, the regulations only allowed the movement of regulated articles of wreaths, garlands, and greenery from a quarantined area if the articles were treated in accordance with a treatment listed in 7 CFR part 305 or a treatment listed in § 301.92–10. In this rule, we are amending the regulations to allow wreaths, garlands, and greenery of proven *P. ramorum* host taxa to be moved interstate from a quarantined area if the articles originate from a nursery that has current, valid annual certification of freedom from evidence of infestation by *P. ramorum*, in accordance with § 301.92–11(a)(1), and provided that individual shipments of such articles are inspected and certified in accordance with § 301.92–11(a)(2).

Permits

The regulations in § 301.92–4 have provided for the interstate movement of restricted articles via departmental permit.[10] APHIS does issue permits for the movement of restricted articles for research purposes, but technically not via a departmental permit. Therefore, we are amending the regulations in § 301.92–4 to provide that we will issue permits for such movements in accordance with the requirements of 7 CFR part 330, which provides for the movement of plant pests and material that may be infected or infested with plants pests.

Miscellaneous

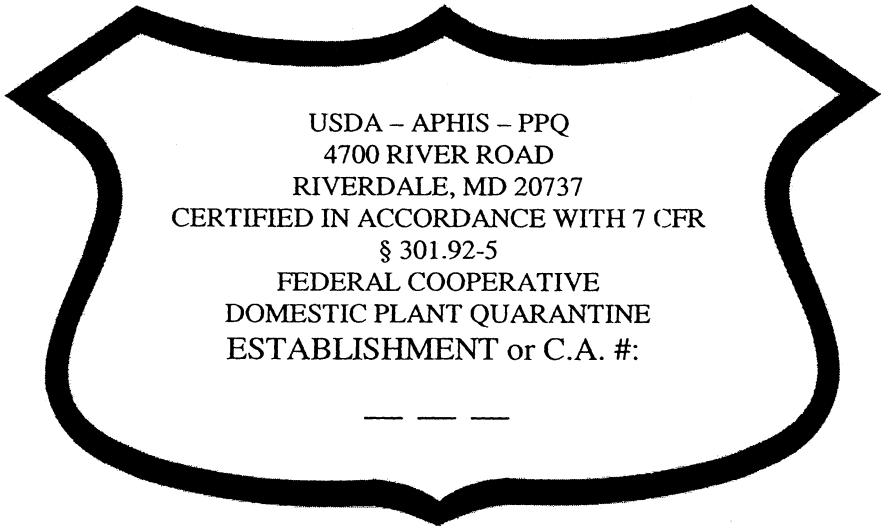
We are clarifying in revised § 301.92 that the interstate movement of regulated, restricted, or associated articles, or nursery stock that has been tested with a test approved by APHIS and found infected with *P. ramorum*, or that is part of a plant that was found infected with *P. ramorum*, is prohibited, unless such movement is in accordance with the plant pest regulations in 7 CFR part 330.

In conjunction with the changes described in this document, we are adding definitions for the terms *associated article, from, lot, non-host nursery stock, nursery*, and *regulated area* to § 301.92–1. The definitions for *associated article, lot, non-host nursery stock* and *regulated area* are described earlier in this document. The term *from* is defined in order to clarify when a particular nursery requires inspection. An article is considered to be ''from'' a specific site or location if it was grown or propagated in, stored or sold, or distributed from the site or location.

The term *nursery* is defined in order to clarify what types of businesses are subject to the regulations pertaining to the interstate movement of nursery stock. *Nursery* is defined as any location where nursery stock is grown, propagated, stored, or sold; or any location from which nursery stock is distributed. Also, as described earlier in this document, locations that grow trees for sale without roots (e.g., as Christmas trees) are considered to be nurseries for the purpose of the regulations.

In addition, we are revising the definitions of *certificate, forest stock, mulch, nursery stock,* and *soil* in § 301.92–1. The definition of *certificate* is revised to reflect the fact that certificates issued in accordance with the regulations may be in the form of a stamp or imprint that looks like this:

[10] Permits are not required for the interstate movement of regulated or associated articles, or non-host nursery stock. A certificate issued in accordance with § 301.92–5 is required for those articles.



The definition for *mulch* is revised to clarify that plant material meeting the definition of mulch (bark chips, wood chips, wood shavings, or sawdust, or a mixture thereof) is regulated as mulch if used as part of a growing media mixture.

The definition of *nursery stock* is revised to (1) ensure that it applies to all potential *P. ramorum* host materials, bedding plants, and other herbaceous plants, bulbs, and roots, (2) clarify that it applies to tree seedlings being used for reforestation, and (3) remove references to seeds and fruit pits, as those articles are not subject to regulation under the quarantine. In conjunction with this change, and with the addition of a definition for *nursery*, we are also revising the definition for *forest stock* to reflect that forest stock includes all flowers, trees, shrubs, vines, scions, buds, or other plants that are wild-grown, backyard-grown, or naturally occurring.

The definition for *soil* is revised to reflect the definition used by the International Plant Protection Convention glossary of phytosanitary terms: [11] The loose surface material of the earth in which plants grow, in most cases consisting of disintegrated rock with an admixture of organic material. As a result of revising the definition of *soil*, we also need to add provisions to the regulations to ensure the regulations continue to cover growing media mixtures that were clearly regulated under the prior regulations as *soil*. As such, we are adding a definition of *growing media* to the regulations, as well as updating the regulations so that growing media is regulated in the same fashion as soil. *Growing media* is defined as any material in which plant roots are growing or intended for that purpose.

We are revising the provisions pertaining to quarantined areas in § 301.92–3 to make it clear that APHIS will quarantine an area based on confirmed detections of *P. ramorum* in the natural environment, not based on detections in artificial environments such as nurseries.

We are also clarifying provisions throughout the regulations regarding certifications of freedom from *P. ramorum*. The regulations in effect prior to this interim rule restricted the interstate movement of regulated articles from nurseries until such a time as an inspector could determine that the nurseries are free of evidence of *P. ramorum*. This rule provides that nurseries must be free of evidence of *P. ramorum* infestation; certification of ''pest freedom'' can only be made if each individual plant is tested for the pathogen.

We are also updating § 301.92–7 regarding advance notice for the services of an inspector to require that a person wishing to move plants that require a certificate for interstate movement must notify the inspector as far in advance of the desired interstate movement as possible, but no less than 48 hours before the desired time of inspection. This section had previously stated that we require 14 days' advance notice, but we are able to respond with 48 hours' notice.

We are updating § 301.92–10 pertaining to treatments to make it clear that soil treated for *P. ramorum* must be heated such that the temperature at the center of the load reaches at least 180 °F for 30 minutes. We are also clarifying that the hot water dip for wreaths, garlands, and greenery is applicable to all regulated articles, including newly listed ones, as well as referencing the approved treatment for bay leaves listed in 7 CFR part 305.

Need for Additional Revisions to the Regulations

The study of *P. ramorum* is constantly producing new information that allows us to better regulate the interstate movement of plant material to prevent the spread of the diseases caused by the pathogen. APHIS and the Forest Service, USDA, have been conducting annual national surveys to determine whether and where *P. ramorum* exists in other areas of the United States. If additional hosts of *P. ramorum* are identified during the course of the national survey or by other scientific research, we will add those hosts to the list of regulated and restricted articles as appropriate. Detection of *P. ramorum* on other species through PCR or culture tests could result in those species being added to the list of associated articles. Completion of Koch's postulates would prove them as hosts.

This rule is being promulgated on an emergency basis to address specific imminent risks. We recognize that several facets of the regulations require additional revision to bring them up to date with current operational practices and the state of scientific knowledge regarding *P. ramorum.* We intend to publish another document for public comment in the future that will focus on treatments. We also intend to update the conditions for interstate movement for certain articles other than nursery stock, including wreaths and garlands, leaves, stems and branches, green waste, and other articles.

[11] Available at http://www.ippc.int/.

We will continue to review our *P. ramorum* regulatory program and evaluate the new restrictions on nurseries in regulated areas upon receipt of comments on this rule, and upon evaluation of data derived from the program so far. We will provide public notification of any changes to the regulations via a document published in the **Federal Register**.

Emergency Action

This rulemaking is necessary on an emergency basis to prevent the spread of *P. ramorum* outside quarantined areas in California and Oregon and infected nursery sites in California, Oregon, and Washington. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (see DATES above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

We have prepared an economic analysis for this interim rule. It provides a cost-benefit analysis as required by Executive Order 12866, as well as an initial regulatory flexibility analysis, which considers the potential economic effects of this interim rule on small entities, as required by the Regulatory Flexibility Act. The economic analysis is summarized below. The full economic analysis may be viewed on the Regulations.gov Web site (see **ADDRESSES** at the beginning of this document for instructions for accessing Regulations.gov). You may request paper copies of the economic analysis by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to Docket No. 01–054–3 when requesting copies. The economic analysis is also available for review in our reading room (information on the location and hours of the reading room is listed under the heading **ADDRESSES** at the beginning of this document).

We do not currently have all of the data necessary for a comprehensive analysis of the effects of this interim rule on small entities. Therefore, APHIS welcomes public comment that would enable us to more fully consider impacts of the rule, specifically information on costs that may be incurred due to complying with the interstate movement restrictions.

Expected Costs of the Interim Rule

This interim rule places restrictions on the interstate movement of nursery stock from California, Oregon, and Washington. This economic analysis will focus primarily on the effects of restricting nursery stock from the regulated and quarantined areas. While there are other articles regulated besides nursery stock, such as trees without roots (i.e., Christmas trees), the economic impacts of restricting the movement of these other articles are expected to be relatively smaller, and therefore are not a primary focus of the analysis.[12]

Those nurseries wishing to engage in interstate movement of nursery stock of proven and associated hosts of *P. ramorum* may only do so if it is accompanied by a certificate issued under an APHIS *Phytophthora ramorum* compliance agreement. Nurseries located in the quarantined area that are planning to ship host articles must undergo annual inspection, as well as inspection of individual shipments, prior to being certified to ship interstate. In order to ship non-host articles interstate, nurseries in the quarantined area must follow these same protocols, with the exception that nurseries containing no proven or associated host stock may receive certification to ship after undergoing annual inspection and will not be required to inspect individual shipments. On the other hand, nurseries in the regulated area that intend to ship nursery stock of proven or associated host taxa must undergo annual inspection to be certified to ship interstate. Only those nurseries that contain only non-host nursery stock can ship without certification, provided that they have undergone annual inspection. In order to enter into a compliance agreement and obtain certification to ship regulated articles, the nursery must take certain steps, such as undergoing annual inspection and sampling of nursery stock, and testing plant samples at a USDA approved laboratory using federally approved laboratory protocols. Thus, there are two major components to certification: Inspection and testing. It is important to note that the costs associated with entering into and maintaining a compliance agreement were covered by regulating agencies, specifically USDA and State departments of agriculture in 2005 and 2006. Funding for entering into and maintaining a compliance agreement in 2007 will transition and have to be borne by the entity under the compliance agreement for any amount not covered by available Federal or State funding. APHIS will provide affected entities with advance notice and guidance before we change the way we fund—including the possibility of requiring additional funding support from program participants and other cooperators—the specific activities associated with entering into and maintaining compliance agreements.

Inspection

Nurseries will be required to undergo annual inspection and be certified free of *P. ramorum.* This inspection and sampling will be provided by Federal and State inspectors, the cost of which was covered by USDA in 2005 and 2006, when conducted during normal business hours. Individual nursery operators are responsible for all costs and charges arising from inspection and other services provided outside normal business hours. In addition, for those nurseries that must undergo inspection and sampling of individual shipments, the costs of those services were also covered by USDA in 2005 and 2006. Likewise, Federal funds are expected to cover the costs for these inspection and sampling activities in 2007, to the extent that funds are available. APHIS will provide affected entities with advance notice and guidance before we change the way we fund those inspection and sampling activities.

Testing

The interim rule will further amend the regulations by specifically describing the testing protocols that must be used to determine whether plant samples are infected with *P. ramorum.* While samples are being tested, nurseries must withhold shipments from movement until negative results are returned. The actual cost impact on nurseries will vary, depending on the classification of article shipped and/or the type of testing performed. Nurseries may choose to prescreen samples by using

[12] The only species of Christmas tree that is affected by the rule is the Douglas fir, which reportedly is not a high volume product in the quarantined area. As such, we do not believe this particular aspect of the interim rule will cause significant impact on affected nurseries.

the optional APHIS-approved ELISA test to determine the presence of *Phytophthora* spp. If all samples collected from a single nursery or a single shipment are found to be negative through ELISA prescreening, no further testing of the plants sampled is required. If ELISA prescreening is not performed, or if results of the prescreening are positive for *Phytophthora* spp. in any sample, the sample must be analyzed using APHIS-approved testing such as PCR or other molecular tests, or a culture test. Samples will be considered positive for *P. ramorum* based on positive results of any approved test. If the results of PCR assay or other molecular tests are negative for all samples in a nursery, no further testing is required, and the nursery may be considered free of *P. ramorum.* In the case of any of the samples tested using PCR or other molecular tests, or a culture test, returning a positive result for *P. ramorum,* the nursery from which they originated is prohibited from moving plants interstate until an inspector determines that those plants are free of evidence of *P. ramorum.* In the event a nursery opts to test samples using a culture test, and the results are negative for *P. ramorum,* it is important to note that these samples must continue to be withheld from shipment until they return a negative result to a PCR or other molecular test. General estimates approximate the cost of ELISA, PCR and other molecular tests to be $15 per test, whereas the approximate cost of a culture test is about $10 per test.[13] This testing has been provided by Federal and State inspectors, the cost of which was covered by USDA or States in 2005 and 2006. Funding for testing activities in 2007 and beyond will transition to the nursery for costs not covered by any available Federal or State funding. APHIS will provide affected entities with advance notice and guidance before we change the way we fund those testing activities.

The *P. ramorum* program was fully funded for the fiscal year (FY) 2006, with the total available funds being $8.353 million.[14] In FY 2006, we estimated spending approximately $6.35 million in *P. ramorum* activities in California, Washington, and Oregon, of which approximately $4.15 million was allocated to inspection, sampling, testing, and certification activities. The remainder of the spending was allocated to national survey, trace forwards and trace backs, eradication, and enforcement activities of the regulation.

In addition to the monetary costs of compliance agreements and nursery and shipment certifications borne by the public sector, there are also indirect costs to the nurseries as a result of regulation. For example, there could be potential costs associated with lost sales while withholding plants for shipment during inspection and testing. Further, the presence of *P. ramorum*, and the accompanying movement restrictions where there were none previously could result in a potential loss in consumer confidence for nursery stock from the regulated area. These potential indirect losses are not quantifiable; however, we examine them to the extent possible in the sections that follow. In researching the possible impacts of the rule on nurseries, we solicited comments from State departments of agriculture, as well as industry associations. In some cases, no information was provided, either because it was unavailable and/or unidentifiable, or because it was considered to be confidential business information. We welcome public comment on the impacts of the interim rule.

California

As of July 2005, there were 861 nurseries in California that have been inspected and determined to be free of *P. ramorum*, and were authorized to ship non-host nursery stock interstate without a certificate. In addition, there were 81 locations in the quarantined area authorized to ship host material under *P. ramorum* compliance agreements, and 323 locations in the regulated area operating under *P. ramorum* compliance agreements.[15] As mentioned earlier, the majority of direct enforcement costs of the regulation associated with entering into compliance agreements, such as inspection, sampling, and testing, have been paid for by regulatory agencies. In 2005, $4.2 million in regulatory funds were allocated to *P. ramorum* quarantine and survey activities in California. In 2006, this amount increased to $5.4 million. It is important to note that these allocated funds do not include costs associated with trace back, trace forward, or eradication activities in the event of an infestation of nurseries as a result of interstate trade.[16]

In addition, there are other costs of the regulation, many of which are indirect and more difficult to quantify. For example, in the case of a nursery in Azusa County found to be infected with *P. ramorum*, there were both direct and indirect losses. Direct losses due to plants being destroyed at cost, not at the wholesale value, as well as customer credits and other expenses totaled over $4.5 million for the 2004/2005 year. Other costs, such as lost sales while plants were on hold and possible loss of customer base due to loss in confidence, could not be quantified.[17]

Other potential indirect costs were examined by a report on the economic impact of *P. ramorum* on the Californian nursery sector, prepared by researchers at the University of California, Berkeley.[18] In their study they found that many nurseries are investing in preventative pest management actions to reduce the risk of *P. ramorum* infection, which in turn increased their production expenses. These nurseries invested in preventative pest management by changing their inventory and labor practices and by applying fungicide to limit potential exposure to *P. ramorum*. The additional investments were estimated to account for less than 3 percent of all production expenses for the average nursery, suggesting that the average nursery has not been significantly impacted as a result of *P. ramorum*. However, there was evidence presented to suggest that the implications of the presence of *P. ramorum* are not borne equally among large and small entities. Small nurseries with a high percentage of host products face cost constraints which make it difficult to make the optimal investment in inventory management, thereby placing the smaller nurseries at greater risk of *P. ramorum* infestation. It is important to note that this impact is not a direct result of the regulation, but rather is a voluntary investment in preventative management to lessen the risk of *P. ramorum* infestation. Though this study was prepared with respect to nurseries in California, we can assume nurseries in Oregon and Washington are operating in much the same way, and

[13] *Source:* Phillip Berger, National Science Program Leader—Molecular Diagnostics & Biotechnology, USDA APHIS PPQ (Raleigh, NC). *NOTE:* These estimates would cover the cost of materials and supplies, and some but possibly not all labor. These estimates do not consider the cost of instrumentation, service contracts, maintenance, etc.

[14] *Source:* Jonathan Jones, APHIS/PPQ, and Rick Lewis, APHIS/PPD.

[15] *Source:* California Department of Food & Agriculture, Quarantine and Survey Information (*http://www.cdfa.ca.gov/phpps/pe/sod_survey/*).

[16] *Source:* Jonathan Jones, APHIS/PPQ.

[17] *Source:* John Keller, Research Director for Monrovia Growers, as reported by Carolyn Pizzo, Operations Support Officer, California Plant Health Director's Office.

[18] ''The Economic Impact of Sudden Oak Death on the California Nursery Sector'' by Alix Peterson Zwane and J. Keith Gilless March 2005. Unpublished report prepared for the USDA-Forest Service, Pacific Southwest Research Station. *NOTE:* All information in this paragraph is adapted from this study.

face similar costs of *P. ramorum* regulation.

Officials at the California Department of Food and Agriculture (CDFA) confirmed that while no concrete figures are available, they have received reports from several nurseries of having lost revenue while holding plants during inspection, sampling, and testing. In addition, some in the industry feel the emergency Federal order did not adequately protect against further sanctions of nursery products from California by other nations.

Oregon [19]

The quarantined area of Oregon, an 11.5 square mile area as described in the regulations, contains no nurseries, and thus there are no entities subject to the movement restrictions on plants within the quarantined area. In the regulated area, there are 778 nurseries that contain host or associated plant material under compliance agreement to ship interstate. Additionally, there are 1,039 nurseries only growing, distributing, and storing non-host plant material under compliance agreement to ship non-host nursery stock interstate. The Oregon Department of Agriculture (ODA) estimates the total cost of certifying nurseries within the regulated area with proven and associated host nursery stock to be $307,820 per year. For nurseries containing only non-host nursery stock located within the regulated area, the total cost of annual inspection is estimated at $122,936. Neither of these estimates includes any potential indirect costs. In 2005, over $200,000 in regulatory funds was allocated to *P. ramorum* survey and quarantine activities in Oregon. In 2006, this amount increased to over $549,000. It is important to note that these allocated funds do not include costs associated with trace back, trace forward, or eradication activities in the event of an infestation of nurseries as a result of interstate trade.[20]

Further, there may be indirect costs of the regulation incurred by nurseries. For example, ODA has received reports that some out-of-State customers are purchasing nursery stock from other States rather than Oregon because of the negative publicity related to finding a limited number of infested nurseries through inspection. While this regulation only concerns restricting interstate movement of nursery stock, it is interesting to note the anecdotal evidence of potential impacts of quarantining portions of Curry County for *P. ramorum*. For instance, Canada has quarantined the entire county, effectively prohibiting host plant genera and soil. ODA reports that Easter lily bulb growers have been particularly impacted, as it is impossible to remove all the soil from their bulbs. As a result, shipments of this high-value commodity to Canada have essentially been shut down. As a point of interest, 99 percent of Easter lily bulbs produced in the United States are grown in Curry County, OR, and Del Norte County, CA. Again, it is important to note that Canada's decision to quarantine all of Curry County is not an impact or result of this interim rule.

Washington [21]

As of August 11, 2005, there were 131 nurseries in Washington growing or selling *P. ramorum* proven or associated host plants that had been inspected, are under a compliance agreement and are authorized to ship host material interstate. In addition, there are 138 nurseries under a compliance agreement and certified to ship non-host plants interstate. Again, it is important to note that cost of nursery inspections were covered by funds allotted to the Washington State Department of Agriculture (WSDA) by USDA–APHIS in 2006, and will be in 2007, to the extent that Federal funding is available. APHIS will provide affected entities with advance notice and guidance before we change the way we fund those inspection and testing activities. Therefore, the non-Federal direct cost of implementing the regulation will be minimal. As a point of interest, WSDA provided cost information of inspecting nurseries and performing laboratory tests on plant samples. In 2004, WSDA incurred a cost of $500 per host nursery for collecting samples and laboratory testing, in addition to an inspection fee of $31.10 per hour, bringing the average cost to approximately $600 per nursery. In 2005, over $104,000 in regulatory funds was allocated to *P. ramorum* survey and regulatory activities in Washington. In 2006, this amount increased to over $323,000. It is important to note that these allocated funds do not include costs associated with trace back, trace forward, or eradication activities in the event of an infestation of nurseries as a result of interstate trade.[22] Nurseries under the compliance agreement are permitted to bring in proven and associated host stock from non-certified nurseries in Oregon or California, provided that these shipments are held separately until they have been inspected, tested, and found free of *P. ramorum*. WSDA estimates that the cost of holding the plants for inspection and testing is probably negligible, since these activities are usually done as soon as requested. WSDA officials believe the Federal response has assisted in alleviating any misconceptions regarding *P. ramorum* infestations of West Coast nursery stock. Rather than create any negative stigma, the regulations and emergency Federal order have actually worked to boost sales which had been lagging in recent years.

In summary, because USDA has been covering the cost of inspection, testing, and certification, the direct costs of the interim rule for nurseries are expected to be minimal. USDA–APHIS currently covers some of the inspection and testing charges for all nurseries under the Federal Order. There are approximately 4,000 nurseries subject to the inspection requirements under the interim rule.[23] Approximately $4 million was expected to be spent in FY 2006 on inspection and testing activities in the regulated area, which translates to an average cost of $1,000 per nursery. This cost estimate is expected to hold for FY 2007 and FY 2008, to the extent that Federal funding is available. Of course there is a possibility that the number of nurseries required to be inspected subject to the rule may increase in the event that the number of host plants increases, thereby making more nurseries subject to this part of the regulations. In any case, to the extent that Federal funding is not available, the unfunded portion of the inspection and testing activities would have to be borne by the affected entity. APHIS plans to issue guidance on the implementation of transferring the costs of inspection and testing to nurseries in the event funding becomes unavailable.

Moreover, in the event that a nursery is found infected with *P. ramorum*, there will be additional costs of labor and revenue loss associated with plant destruction, but this cost would be limited by the extent of infestation. For example, the additional labor costs to destroy one infected plant would be less than that of a nursery full of infected plants. In addition, this interim rule requires nurseries to maintain fungicide reports for at least 2 years; however, regulated entities are already required to maintain fungicide reports, and because

[19] Source: Gary McAninch, Program Manager of Nursery and Christmas Tree Program (Oregon Department of Agriculture).

[20] *Source:* Jonathan Jones, APHIS/PPQ.

[21] *Source:* Tom Wessels, Nursery Program Manager (Washington State Department of Agriculture), as reported by Linda Stark, State Operations Support Officer, WA (APHIS), and Jeanne McNeil, Executive Director (WSNLA).

[22] *Source:* Jonathan Jones, APHIS/PPQ.

[23] *Source:* Jonathan Jones, APHIS/PPQ.

of that fact there are minimal recordkeeping costs associated with this interim rule. All nurseries that are operating under compliance agreements must also maintain records of all incoming shipments of plants for a minimum of 24 months and must make them available to inspectors upon request. In addition, all nurseries that are operating under compliance agreements, except retail dealers, must maintain records of outgoing shipments for a minimum of 24 months and make them available to inspectors upon request. Again, labor costs and recordkeeping costs are difficult to quantify as the magnitude varies by each nursery and by the level of infestation. As such, we welcome public comment regarding estimates of these costs as a result of the interim rule.

As is evident in each State's analysis, likely effects of the rule on consumer confidence in nursery stock from the West Coast are difficult to capture as it is largely dependent on buyers' perceptions. However, in light of the public's growing awareness of *P. ramorum*'s threat to the natural environment and nurseries, we believe that failure to promulgate this interim rule and place Federal restrictions on the interstate movement of nursery stock would further lessen consumer confidence in West Coast nursery stock. Hence, we believe the interim rule will boost confidence in West Coast nursery stock rather than lessen it. We welcome public comment on this indirect cost of the rule. In our research we have discovered other impacts of the regulation. For instance, the study conducted in California suggests that, in response to *P. ramorum* regulations, some nurseries are engaging in increased pest management activities so as to avoid infestation. These additional production expenses are not a result of the interim rule. Rather, such precautionary or risk-reducing activities are a rational response to the potential regulatory costs and production value loss of infestation.

Expected Benefits of the Interim Rule

This interim rule will amend the *P. ramorum* regulations to protect against the artificial spread of *P. ramorum*. This rule will provide two chief benefits: (1) Protect the environment outside of the quarantined area from the pathogen; and (2) protect nurseries outside the regulated area from becoming infected with the pathogen, while facilitating interstate sales of regulated articles from West Coast nurseries. Benefits of the rule will accrue both to entities in the immediate regulated area as well as to the general public and private enterprises across the nation, as this rule expands the quarantined boundary in order to contain the pathogen's spread in the natural environment and addresses the artificial spread via interstate movement restrictions.

The extensive environmental damage caused by *P. ramorum* makes its control a matter of public interest, all the more so given our incomplete understanding of the range of susceptible species. By expanding the quarantined area, we hope to confine the spread of the pathogen in the natural environment, with the goal of protecting forests and ecological areas in the regulated area and beyond. Ecological threats include a change in species composition in infested forests and therefore, in ecosystem functioning; loss of food sources for wildlife; a change in fire frequency or intensity; and decreased water quality due to an increase in exposed soil surfaces.[24]

We do not have an estimate of the environmental costs that would be incurred if *P. ramorum* were to become widespread regionally or nationally. Given the tens of thousands of oak trees that have died in California, it is reasonable to assume that movement of the pathogen outside of the current area of quarantine would be potentially devastating.

With respect to benefits of the rule to the nursery industry, we queried State agricultural departments in the regulated area on the benefits of the emergency Federal order which went into effect January 10, 2005. However, that data was not available at the time this analysis was completed. We welcome public comment from the greenhouse/nursery industry and others on these benefits.

In the absence of data needed to analyze commercial benefits of this interim rule, we relate expected benefits to the sales value of the West Coast nursery industry. We present a description of that industry.

The nursery stock industry ranks second in value of agricultural production in California, with cash receipts totaling $2.44 billion in 2003.[25] Nursery and greenhouse production in California accounts for 11.9 percent of the State's total farm receipt value, and contributes 21.8 percent of the Nation's nursery and greenhouse products inventory.[26] The top five counties in production are San Diego, Orange, Riverside, Monterey, and Los Angeles. Of these only one, Monterey, is located in the area quarantined for *P. ramorum.* In Oregon, the nursery and greenhouse industry is the top agricultural industry, with sales of $844 million in 2004.[27] This equates to approximately 21 percent of the total value of agricultural production in Oregon. The Oregon Nursery and Greenhouse survey estimates there were 2,073 operations in 2004, with over half of those operations making less than $20,000 per year in sales. As was mentioned previously, there are no nursery operations in the quarantined portion of Curry County. In Washington, the value of production of specialty products was approximately $508 million in 2003. They include forest products, Christmas trees, floriculture, nursery and other horticultural products, and mushrooms. By itself, nursery and greenhouse products (including floriculture) had a total value of $313 million in 2003.[28] As a whole, the greenhouse/nursery industry represents the sixth most valuable category of agricultural commodities in the United States, with over $15 billion in cash receipts in 2003, and accounting for 7.2 percent of U.S. total agricultural value.[29]

The interim rule will protect against the artificial spread of *P. ramorum* in commercial nurseries both in the regulated areas as well as nationwide. We do not have estimates of how the rule will reduce the probability of such spread. However, when the emergency Federal order was issued in December 2004, the total number of confirmed positive sites from the trace forward, national, and other survey was 176 in 22 States. Since the Order went into effect, the rate of new detections in nurseries outside the regulated area has declined sharply. Based on this experience, we believe that this interim rule will continue to protect commercial nurseries outside of the regulated area from artificial spread of the pathogen, and will also support sales of regulated articles from entities in the regulated area.

In sum, there are far-reaching benefits of the rule that we are unable to assess and quantify at this time. In light of the wide-ranging environmental resources

[24] *Source: http://nature.berkeley.edu/comtf/html/history_background.html.*

[25] NASS–CA, California Agricultural Overview. Sacramento, CA: California Agricultural Statistics Service, 2003.

[26] California: Leading Commodities for Cash Receipt, 2003. Washington, DC: Economic Research Service, 2005.

[27] NASS–OR, 2004 Oregon Nursery and Greenhouse Survey. Portland, OR: National Agricultural Statistics Service—Oregon Field Office, 2004.

[28] NASS–WA, Washington 2004 Annual Bulletin. Olympia, WA: NASS, Washington Agricultural Statistics, 2004.

[29] *United States:* Leading Commodities for Cash Receipts, 2003. Washington, DC: Economic Research Service, 2005.

that will be protected by this rule as well as the importance of the nursery industry, nationally and in the regulated area, the benefits of preventing the artificial spread of *P. ramorum* via interstate movement restrictions far outweigh the costs of implementing and complying with the interim rule.

Small Entities Potentially Affected

The interim rule will affect all nurseries located in California, Oregon, and Washington. The Oregon Nursery and Greenhouse Survey estimates there were 2,073 operations in 2004, with over half having sales of less than $20,000 per year. According to the 2002 Census of Agriculture, there were 4,388 operations in California, 4,291 in Oregon, and 2,211 operations in Washington engaged in greenhouse, nursery, and floriculture production.[30] Of the 4,388 operations in California, there are 1,228 located within the quarantined area. Again, according to the ODA, there are no nurseries located within the quarantined area of Curry County, Oregon. We believe that the majority of operations would be considered small by SBA standards. SBA size standards for operations in nursery and tree production (North American Industry Classification System (NAICS) code 111421), or floriculture production (NAICS code 111422) are $750,000 or less in annual receipts. The SBA size standard for retail nursery and garden center operations (NAICS code 444220) is $6 million or less in annual receipts.

Alternatives

As described in section I, subsection C, of the full economic analysis, APHIS does not believe that there are alternatives to the interim rule that would satisfactorily accomplish the goals of the regulation. Our preferred action balances the need to protect forests and nurseries outside the regulated area while facilitating the interstate movement of proven and associated host articles and non-host articles.

This proposed rule contains certain reporting and recordkeeping requirements (see ''Paperwork Reduction Act'' below).

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 elected officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Environmental Considerations

The regulation of potential host plants and plant parts susceptible to *P. ramorum* has developed as the knowledge of the plant disease and the understanding of the epidemiology of the potential for spread of the causal agent increase. This interim rule is based on the best available science, and applies to plants that are both proven hosts or shown to be associated with this plant pathogen based upon positive test results. In addition, diagnostics to be used in support of these regulations have undergone a formal validation process by APHIS to ensure that regulatory actions are based upon results obtained from the most sensitive and accurate diagnostic tools available.

The purpose of this rule is to prevent the spread of the plant diseases to other parts of the United States; it is specifically designed to avoid or minimize adverse environmental impacts. The rule's expanded quarantine and movement restrictions do not pose any new environmental hazards nor any new methods not analyzed for potential risks. The expanded inspection, sampling, and testing are all requirements designed to enhance the protection of the environment.

Based upon the increased protection of the environment afforded by this interim rule and the recognition that this rule will be subject to revision as our knowledge of the disease and plant pathogen increase, there is no need for further environmental documentation at this time. As additional information becomes available, further decisions are likely and public input will be requested.

Paperwork Reduction Act

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements included in this interim rule have been submitted for emergency approval to the Office of Management and Budget (OMB). OMB has assigned control number 0579–0310 to the information collection and recordkeeping requirements.

We plan to request continuation of that approval for 3 years. Please send written comments on the 3-year approval request to the following addresses: (1) Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503; and (2) Docket No. 01–054–3, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 01–054–3 and send your comments within 60 days of publication of this rule.

This interim rule restricts the interstate movement of nursery stock from nurseries in nonquarantined areas in California, Oregon, and Washington, updates conditions for the movement of regulated articles of nursery stock from quarantined areas, adds restrictions on the movement of decorative trees without roots from quarantined areas, and restricts the interstate movement of all other nursery stock from nurseries in quarantined areas. This rule also updates the list of plants regulated because of *P. ramorum* and the list of areas that are quarantined for *P. ramorum.*

Its implementation will require us to engage in certain information collection activities, in that, in certain cases, nursery stock may not be moved interstate from nurseries in quarantined or regulated areas unless they are accompanied by a certificate. A certificate may be issued by an inspector (i.e., an APHIS employee, State, or County inspector, or other person authorized by the APHIS Administrator to enforce the regulations) or by a person who has entered into a written compliance agreement with APHIS. Nursery owners must also keep records of fungicide applications for 2 years and must make them available to inspectors upon request. All nurseries that are operating under compliance agreements must also maintain records of all incoming shipments of plants for a minimum of 24 months and must make them available to inspectors upon request. In addition, all nurseries that are operating under compliance agreements, except retail dealers, must maintain records of outgoing shipments for a minimum of 24 months and must make them available to inspectors upon request. We are soliciting comments from the public concerning our information collection and recordkeeping requirements. These comments will help us:

[30] USDA, 2002 Census of Agriculture, Table 51. NAICS code: 1114 (Includes farms engaged in greenhouse, nursery, and floriculture production). Washington, DC: National Agricultural Statistics Service.

(1) Evaluate whether the information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as 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).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 0.31313 hours per response.

Respondents: Nurseries in the States of California, Oregon, and Washington.

Estimated annual number of respondents: 1,425.

Estimated annual number of responses per respondent: 5.0715789.

Estimated annual number of responses: 7,227.

Estimated total annual burden on respondents: 2,263 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this interim rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

List of Subjects in 7 CFR Part 301

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

■ Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

■ 1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 also issued under Sec. 204, Title II, Pub. L. 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 also issued under Sec. 203, Title II, Pub. L. 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

■ 2. Part 301 is amended by revising ''Subpart-Phytophthora Ramorum,'' §§ 301.92 through 301.92–11, to read as follows:

Subpart—Phytophthora Ramorum

Sec.

301.92 Restrictions on interstate movement.
301.92–1 Definitions.
301.92–2 Restricted, regulated, and associated articles; lists of proven hosts and associated plant taxa.
301.92–3 Quarantined and regulated areas.
301.92–4 Conditions governing the interstate movement of regulated, restricted, and associated articles, and non-host nursery stock from quarantined and regulated areas.
301.92–5 Issuance and cancellation of certificates.
301.92–6 Compliance agreements and cancellation.
301.92–7 Availability of inspectors; assembly for inspection.
301.92–8 Attachment and disposition of certificates and recordkeeping.
301.92–9 Costs and charges.
301.92–10 Treatments.
301.92–11 Inspection and sampling protocols.
301.92–12 Testing protocols.

§ 301.92 Restrictions on interstate movement.

(a) No person may move interstate from any quarantined area any regulated, restricted, or associated article or any other nursery stock except in accordance with this subpart.[1]

(b) No person may move interstate from any nursery in any regulated area any nursery stock except in accordance with this subpart.

(c) No person may move interstate from any quarantined or regulated area any regulated restricted, or associated article or nursery stock that has been tested with a test approved by APHIS and found infected with *Phytophthora ramorum*, or that is part of a plant that was found infected with *Phytophthora ramorum*, unless such movement is in accordance with part 330 of this chapter.

[1] Any properly identified inspector is authorized to stop and inspect persons and means of conveyance and to seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of regulated or restricted articles as provided in sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

§ 301.92–1 Definitions.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture.

Associated article. Any article listed in § 301.92–2(c).

Bark chips. Bark fragments broken or shredded from a log or tree.

Certificate. A document, stamp, or imprint by which an inspector or person operating under a compliance agreement affirms that a specified regulated or associated article meets applicable requirements of this subpart and may be moved interstate to any destination.

Compliance agreement. A written agreement between APHIS and a person engaged in growing, processing, handling, or moving regulated or associated articles, wherein the person agrees to comply with this subpart.

Duff. Decaying plant matter that includes leaf litter, green waste, stem material, bark, and any other plant material that, upon visual inspection, does not appear to have completely decomposed.

Firewood. Wood that has been cut, sawn, or chopped into a shape and size commonly used for fuel, or other wood intended for fuel.

Forest stock. All flowers, trees, shrubs, vines, scions, buds, or other plants that are wild-grown, backyard-grown, or naturally occurring.

From. An article is considered to be ''from'' a specific site or location for the purposes of this subpart if it was grown or propagated in, stored or sold, or distributed from the site or location.

Growing media. Any material in which plant roots are growing or intended for that purpose.

Inspector. Any employee of APHIS, the U.S. Department of Agriculture, or other person authorized by the Administrator to perform the duties required under this subpart.

Interstate. From any State into or through any other State.

Log. The bole of a tree; trimmed timber that has not been sawn further than to form cants.

Lot. A contiguous block of plants of the same species or cultivar, of the same container size and from the same source, if known.

Lumber. Logs that have been sawn into boards, planks, or structural members such as beams.

Moved (move, movement). Shipped, offered for shipment, received for transportation, transported, carried, or allowed to be moved, shipped, transported, or carried.

Mulch. Bark chips, wood chips, wood shavings, or sawdust, or a mixture thereof, that could be used as a protective or decorative ground cover or as part of a growing media mixture.

Non-host nursery stock. Any taxa of nursery stock not listed in § 301.92–2 as a regulated or associated article.

Nursery. Any location where nursery stock is grown, propagated, stored, or sold, or any location from which nursery stock is distributed. Locations that grow trees for sale without roots (*e.g.*, as Christmas trees) are considered to be nurseries for the purposes of this subpart.

Nursery stock. All plants for planting, including houseplants, propagative material that is grown in a nursery, and tree seedlings for reforestation, except the following: Seeds; turf or sod; bulbs, tubers, corms, or rhizomes; [2] greenhouse grown cactus, succulents, and orchids; aquarium grown aquatic plants; greenhouse, container, or field grown palms; greenhouse, container, or field grown cycads, and tissue culture plants grown in vitro; and plants meeting the definition of forest stock.

Permit. A written authorization issued by APHIS to allow the interstate movement of restricted articles in accordance with part 330 of this chapter.

Person. Any association, company, corporation, firm, individual, joint stock company, partnership, society, or other entity.

Plant Protection and Quarantine. The Plant Protection and Quarantine program of the Animal and Plant Health Inspection Service, United States Department of Agriculture.

Quarantined area. Any State, or any portion of a State, listed in § 301.92–3(a)(3) of this subpart or otherwise designated as a quarantined area in accordance with § 301.92–3(a)(2) of this subpart.

Regulated area. Any area listed in § 301.92–3(b) of this subpart.

Regulated article. Any article listed in § 301.92–2(b) of this subpart.

Restricted article. Any article listed in § 301.92–2(a) of this subpart.

Soil. The loose surface material of the earth in which plants grow, in most cases consisting of disintegrated rock with an admixture of organic material.

State. The District of Columbia, Puerto Rico, the Northern Mariana Islands, or any State, territory, or possession of the United States.

§ 301.92–2 Restricted, regulated, and associated articles; lists of proven hosts and associated plant taxa.

(a) *Restricted articles.* The following are restricted articles:

(1) Bark chips or mulch [3] located in a quarantined area and that are proven host plant taxa listed in paragraph (d) of this section.

(2) Forest stock located or grown in a quarantined area and that are proven host plant taxa or associated plant taxa listed in paragraph (d) or (e) of this section.

(3) Any other product or article that an inspector determines to present a risk of spreading *Phytophthora ramorum*, if an inspector notifies the person in possession of the product or article that it is a restricted article.

(b) *Regulated articles.* The following are regulated articles:

(1) Nursery stock, decorative trees without roots, unprocessed wood and wood products, and plant products, including firewood, logs, lumber,[4] wreaths, garlands, and greenery of proven host plant taxa listed in paragraph (d) of this section.

(2) Soil and growing media.

(3) Any other product or article that an inspector determines to present a risk of spreading *Phytophthora ramorum* if an inspector notifies the person in possession of the product or article that it is subject to the restrictions in the regulations.

(c) *Associated articles.* The following are associated articles: Nursery stock of associated plant taxa listed in paragraph (e) of this section.

(d) *Proven host plant taxa.* The following are proven hosts of *Phytophthora ramorum:*

**Acer macrophyllum* Bigleaf maple
Acer pseudoplatanus Planetree maple
**Adiantum aleuticum* Western maidenhair fern
**Adiantum jordanii* California maidenhair fern
**Aesculus californica* California buckeye
Aesculus hippocastanum horse chestnut
**Arbutus menziesii* Madrone
**Arctostaphylos manzanita* Manzanita
**Calluna vulgaris* Scotch heather
**Camellia* spp. Camellia—all species, hybrids and cultivars
**Castanea sativa* Sweet chestnut
Fagus sylvatica European beech
**Frangula californica* (≡*Rhamnus californica*) California coffeeberry
**Frangula purshiana* (≡*Rhamnus purshiana*) Cascara
Fraxinus excelsior European ash
**Griselinia littoralis* Griselinia
**Hamamelis virginiana* Witch hazel
**Heteromeles arbutifolia* Toyon
**Kalmia* spp. Kalmia—includes all species, hybrids, and cultivars
**Laurus nobilis* Bay laurel
Lithocarpus densiflorus Tanoak
**Lonicera hispidula* California honeysuckle
**Maianthemum racemosum* (=*Smilacina racemosa*) False Solomon's seal
**Michelia doltsopa* Michelia
**Parrotia persica* Persian ironwood
**Photinia fraseri* Red tip photinia
**Pieris* spp. Pieris—includes all species, hybrids, and cultivars
**Pseudotsuga menziesii* var. *menziesii* and all nursery-grown *P. menziesii* Douglas fir
Quercus agrifolia Coast live oak
Quercus cerris European turkey oak
Quercus chrysolepis Canyon live oak
Quercus falcata Southern red oak
**Quercus ilex* Holm oak
Quercus kelloggii California black oak
Quercus parvula var. *shrevei* and all nursery grown *Q. parvula* Shreve's oak
**Rhododendron* spp. Rhododendron (including azalea)—includes all species, hybrids, and cultivars
**Rosa gymnocarpa* Wood rose
**Salix caprea* Goat willow
**Sequoia sempervirens* Coast redwood
**Syringa vulgaris* Lilac
**Taxus baccata* European yew
**Trientalis latifolia* Western starflower
**Umbellularia californica* California bay laurel, pepperwood, Oregon myrtle
**Vaccinium ovatum* Evergreen huckleberry
**Viburnum* spp. Viburnum-all species, hybrids, and cultivars

(e) *Associated plant taxa.* The following plant taxa are considered to be associated with *Phytophthora ramorum:*

Abies concolor White fir
Abies grandis Grand fir
Abies magnifica Red fir
Acer circinatum Vine maple
Acer davidii Striped bark maple
Acer laevigatum Evergreen maple
Arbutus unedo Strawberry tree
Arctostaphylos columbiana Manzanita
Arctostaphylos uva-ursi Kinnikinnick, bearberry
Ardisia japonica Ardisia
Calycanthus occidentalis Spicebush
Castanopsis orthacantha Castanopsis
Ceanothus thyrsiflorus Blueblossom
Cinnamomum camphora Camphor tree
Clintonia andrewsiana Andrew's clintonia bead lily
Cornus kousa x *Cornus capitata* Cornus Norman Haddon
Corylus cornuta California hazelnut
Distylium myricoides Myrtle-leafed distylium
Drimys winteri Winter's bark
Dryopteris arguta California wood fern

[2] Bulbs, tubers, corms, or rhizomes are only considered nursery stock (and therefore, regulated under this subpart) if they are of plant taxa listed in § 301.92–2 as regulated articles or associated articles.

[3] Bark chips or mulch of species listed in paragraph (d) of this section and that are marked with an asterisk (*) are not restricted articles.

[4] Firewood, logs, and lumber of species listed in paragraph (d) of this section and that are marked with an asterisk (*) are not regulated articles.

Eucalyptus haemastoma Scribbly gum
Euonymus kiautschovicus Spreading euonymus
Fraxinus latifolia Oregon ash
Gaultheria shallon Salal, Oregon wintergreen
Hamamelis mollis Chinese witch-hazel
Hamamelis x *intermedia* (*H. mollis* & *H. japonica*) Hybrid witchhazel
Ilex purpurea Oriental holly
Leucothoe axillaris Fetter-bush, dog hobble
Leucothoe fontanesiana Drooping leucothoe
Loropetalum chinense Lorapetalum
Magnolia grandiflora Southern magnolia
Magnolia stellata Star magnolia
Magnolia x *loebneri* Loebner magnolia
Magnolia x *soulangeana* Saucer magnolia
Manglietia insignis Red lotus tree
Michelia maudiae Michelia
Michelia wilsonii Michelia
Nerium oleander Oleander
Nothofagus obliqua Roble beech
Osmanthus decorus (≡*Phillyrea decora;* ≡*P. vilmoriniana*) Osmanthus
Osmanthus delavayi Delavay Osmanthus, Delavay tea olive
Osmanthus fragrans Sweet olive
Osmanthus heterophyllus Holly olive
Osmorhiza berteroi Sweet Cicely
Parakmeria lotungensis Eastern joy lotus tree
Pittosporum undulatum Victorian box
Prunus laurocerasus English laurel, cherry laurel
Prunus lusitanica Portuguese laurel cherry
Pyracantha koidzumii Formosa firethorn
Quercus acuta Japanese evergreen oak
Quercus petraea Sessile oak
Quercus rubra Northern red oak
Rosa (specific cultivars)
Royal Bonica (tagged: ''MEImodac'')
Pink Meidiland (tagged: ''MEIpoque'')
Pink Sevillana (tagged: ''MEIgeroka'')
Rosa rugosa Rugosa rose
Rubus spectabilis Salmonberry
Schima wallichii Chinese guger tree
Taxus brevifolia Pacific yew
Taxus x *media* Yew
Torreya californica California nutmeg
Toxicodendron diversilobum Poison oak
Vancouveria planipetala Redwood ivy

§ 301.92–3 Quarantined and regulated areas.

(a) *Quarantined areas.* (1) Except as otherwise provided in paragraph (a)(2) of this section, the Administrator will list as a quarantined area in paragraph (a)(3) of this section each State, or each portion of a State, in which *Phytophthora ramorum* has been confirmed by an inspector to be established in the natural environment, in which the Administrator has reason to believe that *Phytophthora ramorum* is present in the natural environment, or that the Administrator considers necessary to quarantine because of its inseparability for quarantine enforcement purposes from localities in which *Phytophthora ramorum* has been found in the natural environment. Less than an entire State will be designated as a quarantined area only if the Administrator determines that:

(i) The State has adopted and is enforcing restrictions on the intrastate movement of the regulated, restricted, and associated articles that are substantially the same as those imposed by this subpart on the interstate movement of regulated, restricted, and associated articles; and

(ii) The designation of less than the entire State as a quarantined area will prevent the interstate spread of *Phytophthora ramorum.*

(2) The Administrator or an inspector may temporarily designate any nonquarantined area in a State as a quarantined area in accordance with paragraph (a)(1) of this section. The Administrator will give a copy of this regulation along with a written notice for the temporary designation to the owner or person in possession of the nonquarantined area. Thereafter, the interstate movement of any regulated, restricted, or associated article from an area temporarily designated as a quarantined area will be subject to this subpart. As soon as practicable, this area will be added to the list in paragraph (a)(3) of this section or the designation will be terminated by the Administrator or an inspector. The owner or person in possession of an area for which designation is terminated will be given notice of the termination as soon as practicable.

(3) The following areas are designated as quarantined areas:

California

Alameda County. The entire county.
Contra Costa County. The entire county.
Humboldt County. The entire county.
Lake County. The entire county.
Marin County. The entire county.
Mendocino County. The entire county.
Monterey County. The entire county.
Napa County. The entire county.
San Francisco County. The entire county.
San Mateo County. The entire county.
Santa Clara County. The entire county.
Santa Cruz County. The entire county.
Solano County. The entire county.
Sonoma County. The entire county.

Oregon

Curry County. That portion of the county as follows: In T. 39 S., R. 13 W., secs. 32, 33, and 34; T. 40 S., R. 13 W., secs. 3, 4, 5, 8, 9, 10, southeast quarter of sec. 11, southwest quarter of sec. 12, northwest quarter of sec. 13, northeast quarter of secs. 14, 15, 16, and 17, east half of sec. 18, east half of secs. 19, 20, 21, 22, 28, and 29, northeast quarter of secs. 30, 32, 33, and 34; T. 40 S., R. 14 W., southeast quarter of sec. 23, southwest quarter of sec. 24, northwest quarter of sec. 25, and the northeast quarter of sec. 26.

(b) *Regulated areas.* The following areas are designated as regulated areas:

California

All counties in the State not listed in paragraph (a) of this section as quarantined areas.

Oregon

All areas in the State not listed in paragraph (a) of this section as quarantined areas.

Washington

The entire State.

§ 301.92–4 Conditions governing the interstate movement of regulated, restricted, and associated articles, and nonhost nursery stock from quarantined and regulated areas.

(a) *Interstate movement of regulated and associated articles from quarantined areas.* Regulated and associated articles may be moved interstate from a quarantined area [5] only in accordance with this subpart.

(1) *With a certificate.* Any regulated or associated article may be moved interstate from a quarantined area if accompanied by a certificate issued and attached in accordance with §§ 301.92–5 and 301.92–8, and provided that the regulated or associated article is moved through the quarantined area without stopping except for refueling, rest stops, emergency repairs, and for traffic conditions, such as traffic lights or stop signs.

(2) *Without a certificate.*

(i) The regulated or associated article originated outside the quarantined area and the point of origin of the article is indicated on the waybill of the vehicle transporting the article; and

(ii) The regulated or associated article is moved from outside the quarantined area through the quarantined area without stopping except for refueling or for traffic conditions, such as traffic lights or stop signs, and the article is not unpacked or unloaded in the quarantined area.

(b) *Interstate movement of restricted articles from quarantined areas.* Restricted articles may be moved interstate from a quarantined area [6] only in accordance with this section.

(1) *With a permit.* Any restricted article may be moved interstate from a quarantined area only if the article is moved pursuant to a permit issued by the Administrator in accordance with part 330 of this chapter.

(2) *Without a permit.*

(i) The restricted article originated outside the quarantined area and the point of origin of the article is indicated

[5] Requirements under all other applicable Federal domestic plant quarantines and regulations must also be met.

[6] See footnote 4 of this subpart.

on the waybill of the vehicle transporting the article; and

(ii) The restricted article is moved from outside the quarantined area through the quarantined area without stopping except for refueling or for traffic conditions, such as traffic lights or stop signs, and the article is not unpacked or unloaded in the quarantined area.

(c) *Interstate movement of nursery stock from nurseries in quarantined areas*—(1) *Regulated articles of nursery stock and associated articles.* Regulated articles of nursery stock and associated articles may only be moved interstate from nurseries in quarantined areas in accordance with paragraph (a) of this section.

(2) *Non-host nursery stock.* Any nursery stock of a taxon not listed in § 301.92–2 as a regulated or associated article may only be moved interstate from nurseries in quarantined areas as follows:

(i) *With a certificate.* If the non-host nursery stock originates from a nursery in a quarantined area that contains regulated or associated articles, the nursery stock must be accompanied by a certificate issued and attached in accordance with §§ 301.92–5 and 301.92–8, and be moved through the quarantined area without stopping except for refueling, rest stops, emergency repairs, and for traffic conditions, such as traffic lights or stop signs.

(ii) *Without a certificate.* If the non-host nursery stock originates from a nursery in a quarantined area that does not contain regulated or associated articles, the nursery stock may be moved interstate without a certificate, provided that:

(A) The nursery from which plants originate has been inspected and found free of evidence of *Phytophthora ramorum* in accordance with § 301.92–11(b)(3), and

(B) The nursery stock is not rooted in soil or growing media.[7]

(d) *Interstate movement of nursery stock from nurseries in regulated areas*—(1) *Regulated and associated articles of nursery stock.* Regulated articles of nursery stock and associated articles may only be moved interstate from nurseries in regulated areas if accompanied by a certificate issued and attached in accordance with §§ 301.92–5 and 301.92–8, and provided that, if moved through a quarantined area en route to another State, the regulated articles of nursery stock or associated articles are moved through the quarantined area without stopping except for refueling, rest stops, emergency repairs, and for traffic conditions, such as traffic lights or stop signs.

(2) *Non-host nursery stock.* Any nursery stock of a taxon not listed in § 301.92–2 as a regulated or associated article may only be moved interstate from nurseries in regulated areas as follows:

(i) *With a certificate.* If non-host nursery stock originates from a nursery in a regulated area that contains regulated or associated articles, the nursery stock must be accompanied by a certificate issued and attached in accordance with §§ 301.92–5 and 301.92–8, and provided that, if moved through a quarantined area en route to another State, the nursery stock is moved through the quarantined area without stopping except for refueling, rest stops, emergency repairs, and for traffic conditions, such as traffic lights or stop signs.

(ii) *Without a certificate.* If non-host nursery stock originates from a nursery in a regulated area that does not contain regulated or associated articles, the nursery stock may be moved interstate without a certificate, provided that the nursery from which plants originate has been inspected and found free of evidence of *Phytophthora ramorum* in accordance with § 301.92–11(d)(3).

§ 301.92–5 Issuance and cancellation of certificates.

(a) *Movements from quarantined areas.* (1) An inspector[8] may issue a certificate for the interstate movement of regulated articles, associated articles, or non-host nursery stock[9] from a quarantined area if the inspector determines that:

(i) The regulated articles have been treated under the direction of an inspector in accordance with § 301.92–10 or part 305 of this chapter; or

(ii) The regulated articles are wood products such as firewood, logs, or lumber that are free of bark; [10] or

(iii) The regulated article is soil or growing media that has not been in direct physical contact with any article infected with *Phytophthora ramorum*, and from which all duff has been removed; or

(iv) The articles are nursery stock or regulated articles of decorative trees without roots, wreaths, garlands, or greenery that:

(A) Are shipped from a nursery in a quarantined area that has been inspected in accordance with the inspection and sampling protocol described in § 301.92–11(a)(1), and the nursery is free of evidence of *Phytophthora ramorum* infestation; and

(B) Are part of a shipment of nursery stock, decorative trees without roots, wreaths, garlands, or greenery that has been inspected prior to interstate movement in accordance with § 301.92–11(a)(2), and the regulated articles in the shipment are free of evidence of *Phytophthora ramorum* infection; and

(C) Have been kept separate from regulated and associated articles and non-host nursery stock not inspected between the time of the inspection and the time of interstate movement; and

(D) Have not been grown in, or moved from, other areas within a quarantined area except nurseries that are annually inspected for *Phytophthora ramorum* in accordance with § 301.92–11 and that have been found free of evidence of *Phytophthora ramorum* infestation, *except that* certified nurseries which receive articles from a non-certified nursery in a quarantined or regulated area may continue to ship other plants interstate, provided that the uncertified plants are safeguarded, segregated, and withheld from interstate movement until the plants are inspected and tested and found free of evidence of *Phytophthora ramorum*.

(v) The regulated or associated article or non-host nursery stock is to be moved in compliance with any additional emergency conditions the Administrator may impose under section 414 of the Plant Protection Act (7 U.S.C. 7714) [11] to prevent the spread of *Phytophthora ramorum*; and

(vi) The regulated or associated article or non-host nursery stock is eligible for unrestricted movement under all other Federal domestic plant quarantines and

[7] To be eligible for interstate movement, non-host nursery stock that is rooted in soil or growing media requires certification that the soil or growing media meets the requirements of § 301.92–5(a)(1)(iii).

[8] Services of an inspector may be requested by contacting local offices of Plant Protection and Quarantine, which are listed in telephone directories. The addresses and telephone numbers of local offices may also be obtained from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Invasive Species and Pest Management, 4700 River Road Unit 160, Riverdale, MD 20737, or the APHIS Web site at *http://www.aphis.usda.gov/ppq/sphd/*.

[9] Paragraph (d)(2)(ii) of § 301.92–4 allows the interstate movement of non-host nursery stock without a certificate under certain conditions.

[10] Firewood, logs, lumber of species listed in 301.92–2(d) and marked with an asterisk are not regulated articles, as noted in § 301.92–2(b)(1).

[11] Sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754) provide that the Secretary of Agriculture may, under certain conditions, hold, seize, quarantine, treat, apply other remedial measures to destroy or otherwise dispose of any plant, plant pest, plant product, article, or means of conveyance that is moving, or has moved into or through the United States or interstate if the Secretary has reason to believe the article is a plant pest or is infested with a plant pest at the time of movement.

regulations applicable to the regulated or associated article.

(2) *Reserved.*

(b) *Movements from regulated areas.* (1) An inspector [12] may issue a certificate for the interstate movement of regulated articles of nursery stock, associated articles, or non-host nursery stock [13] from a nursery in a regulated area if an inspector determines that:

(i) The nursery from which the nursery stock originates has been inspected in accordance with § 301.92–11(c) and found free of evidence of *Phytophthora ramorum* infestation; and

(ii) All nursery stock in the nursery have not been grown in, or moved from, nurseries except those that have been inspected for *Phytophthora ramorum* in accordance with § 301.92–11(c) and that have been found free of evidence of *Phytophthora ramorum* infestation, *except that* certified nurseries which receive articles from a non-certified nursery in a quarantined or regulated area may continue to ship other plants interstate, provided that the uncertified plants are safeguarded, segregated, and withheld from interstate movement until the plants are inspected and tested and found free of evidence of *Phytophthora ramorum*; and

(iii) The nursery stock is to be moved in compliance with any additional emergency conditions the Administrator may impose under section 414 of the Plant Protection Act (7 U.S.C. 7714) [14] to prevent the spread of *Phytophthora ramorum*; and

(iv) The nursery stock is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to the nursery stock.

(2) *Reserved.*

(c) Certificates issued under paragraphs (a) and (b) of this section may be issued by any person engaged in the business of growing, processing, handling, or moving regulated or associated articles or nursery stock provided such person has entered into and is operating under a compliance agreement in accordance with § 301.92–6. Any such person may execute and issue a certificate for the interstate movement of regulated or associated articles or nursery stock if an inspector has previously made the determination that the article is eligible for a certificate in accordance with any applicable section of this subpart.

(d) Any certificate that has been issued may be withdrawn, either orally or in writing, by an inspector if he or she determines that the holder of the certificate has not complied with all conditions in this subpart for the use of the certificate. If the withdrawal is oral, the withdrawal and the reasons for the withdrawal will be confirmed in writing as promptly as circumstances allow. Any person whose certificate has been withdrawn may appeal the decision in writing to the Administrator within 10 days after receiving the written notification of the withdrawal. The appeal must state all of the facts and reasons upon which the person relies to show that the certificate was wrongfully withdrawn. As promptly as circumstances allow, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision. A hearing will be held to resolve any conflict as to any material fact. Rules of practice concerning a hearing will be adopted by the Administrator.

(Approved by the Office of Management and Budget under control numbers 0579–0310 and 0579–0088)

§ 301.92–6 Compliance agreements and cancellation.

(a) Any person engaged in growing, processing, handling, or moving regulated articles, associated articles, or non-host nursery stock may enter into a compliance agreement when an inspector determines that the person understands this subpart, agrees to comply with its provisions, and agrees to comply with all the provisions contained in the compliance agreement.[15]

(b) Any compliance agreement may be canceled, either orally or in writing, by an inspector whenever the inspector finds that the person who has entered into the compliance agreement has failed to comply with this subpart. If the cancellation is oral, the cancellation and the reasons for the cancellation will be confirmed in writing as promptly as circumstances allow. Any person whose compliance agreement has been canceled may appeal the decision, in writing, within 10 days after receiving written notification of the cancellation. The appeal must state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully canceled. As promptly as circumstances allow, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision. A hearing will be held to resolve any conflict as to any material fact. Rules of practice concerning a hearing will be adopted by the Administrator.

(Approved by the Office of Management and Budget under control numbers 0579–0310)

§ 301.92–7 Availability of inspectors; assembly for inspection.

(a) Any person (other than a person authorized to issue certificates under § 301.92–5(c)) who desires to move a regulated or associated article or non-host nursery stock interstate accompanied by a certificate must notify an inspector [16] as far in advance of the desired interstate movement as possible, but no less than 48 hours before the desired time of inspection.

(b) The regulated or associated article or non-host nursery stock must be assembled at the place and in the manner the inspector designates as necessary to comply with this subpart.

§ 301.92–8 Attachment and disposition of certificates and recordkeeping.

(a) A certificate required for the interstate movement of a regulated article, associated article, or non-host nursery stock must, at all times during the interstate movement, be:

(1) Attached to the outside of the container containing the regulated article, associated article, or non-host nursery stock; or

(2) Attached to the regulated article, associated article, or non-host nursery stock itself if not in a container; or

(3) Attached to the consignee's copy of the accompanying waybill. If the certificate is attached to the consignee's copy of the waybill, the regulated article, associated article, or non-host nursery stock must be sufficiently described on the certificate and on the waybill to identify the regulated article, associated article, or non-host nursery stock.

(b) The certificate for the interstate movement of a regulated article, associated article, or non-host nursery stock must be furnished by the carrier to the consignee listed on the certificate upon arrival at the location provided on the certificate.

(c) All nurseries that are operating under compliance agreements must maintain records of all incoming shipments of plants for a minimum of 24 months and must make them available to inspectors upon request. In addition, all nurseries that are operating under compliance agreements, except

[12] See footnote 7 of this subpart.

[13] Paragraph (d)(2)(ii) of § 301.92–4 allows the interstate movement of non-host nursery stock without a certificate under certain conditions.

[14] See footnote 7 of this subpart.

[15] Compliance agreement forms are available without charge from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Invasive Species and Pest Management, 4700 River Road Unit 160, Riverdale, MD 20737–1236, and from local offices of the Plant Protection and Quarantine, which are listed in telephone directories. Forms are also available on the Internet at *http://www.aphis.usda.gov/ppq/ispm/pramorum/resources.html.*

[16] See footnote 7 of this subpart.

retail dealers, must maintain records of outgoing shipments for a minimum of 24 months and must make them available to inspectors upon request.

(Approved by the Office of Management and Budget under control numbers 0579–0088 and 0579–0310)

§ 301.92–9 Costs and charges.

The services of the inspector during normal business hours (8 a.m. to 4:30 p.m., Monday through Friday, except holidays) will be furnished without cost. The user will be responsible for all costs and charges arising from inspection and other services provided outside normal business hours.

§ 301.92–10 Treatments.

Treatment schedules listed in part 305 of this chapter are authorized for use on certain regulated articles to prevent the spread of *Phytophthora ramorum*. The following treatments also may be used for the regulated articles indicated:

(a) *Soil*—Heat to a temperature of at least 180 °F at the center of the load for 30 minutes in the presence of an inspector.

(b) *Wreaths, garlands, and greenery of host material*—Dip for 1 hour in water that is held at a temperature of at least 160 °F.

(c) *Bay leaves*—Treat with vacuum heat in accordance with part 305 of this chapter.

§ 301.92–11 Inspection and sampling protocols.

Type(s) of plants in the nursery	Type(s) of plants shipped interstate	Inspection and certification protocol	
		Origin: Quarantined areas	Origin: Regulated areas
Regulated articles only	None	Not regulated	Not regulated.
Regulated articles only	Regulated articles	§ 301.92–11(a)	§ 301.92–11(c).
Associated articles only	None	Not regulated	Not regulated.
Associated articles only	Associated articles	§ 301.92–11(a)	§ 301.92–11(c).
Regulated and associated articles only	Regulated or associated articles, or both	§ 301.92–11(a)	§ 301.92–11(c).
Regulated and associated articles and non-hosts.	None	Not regulated	Not regulated.
Regulated and associated articles and non-hosts.	Regulated or associated articles, or both	§ 301.92–11(a)	§ 301.92–11(c).
Regulated and associated articles and non-hosts.	Non-hosts only	§ 301.92–11(a)	§ 301.92–11(c).
Non-hosts only	None	Not regulated	Not regulated.
Non-hosts only	Non-hosts	§ 301.92–11(b)	§ 301.92–11(d).
Decorative trees without roots (e.g., Christmas trees).	Proven host plant taxa	§301.92–11(a)	Not regulated.
Decorative trees without roots (e.g., Christmas trees).	Associated plant taxa	Not regulated	Not regulated.

(a) *Nurseries in quarantined areas shipping regulated articles of nursery stock and associated articles interstate.* To meet the requirements of § 301.92–5(a)(1)(iv), nurseries located in quarantined areas and that move regulated articles of nursery stock, decorative trees without roots, wreaths, garlands, or greenery, associated articles, or non-host nursery stock interstate must meet the requirements in this section. Nurseries in quarantined areas that do not meet the requirements of this section are prohibited from moving regulated articles and associated articles interstate. Nurseries in quarantined areas that do not meet the requirements of this section or paragraph (b) of this section are prohibited from moving non-host nursery stock interstate.

(1) *Annual inspection, sampling, and testing.*

(i) *Inspection.* The nursery must be inspected annually for symptoms of *Phytophthora ramorum* by an inspector.[17] Inspectors will visually inspect for symptomatic plants throughout the nursery, and inspection will focus on, but not be limited to, regulated articles and associated articles.

(ii) *Sampling.* A minimum of 40 plant samples must be tested per nursery location. Samples must be taken from all symptomatic plants if symptomatic plants are present. If fewer than 40 symptomatic plants are present, each symptomatic plant must be sampled and the remainder of the 40 sample minimum must be taken from asymptomatic plants. If no symptomatic plants are present, 40 asymptomatic plants must be sampled; biased toward proven hosts. Each sample may contain more than one leaf, and may come from more than one plant, but all plants in the sample must be from the same lot. Asymptomatic samples, if collected, must be taken from regulated and associated articles and nearby plants. Inspectors must conduct inspections at times when the best expression of symptoms is anticipated and must take nursery fungicide programs into consideration. Nursery owners must keep records of fungicide applications for 2 years and must make them available to inspectors upon request.

(iii) *Testing.* Samples must be labeled and sent for testing to a laboratory approved by APHIS and must be tested using a test method approved by APHIS, in accordance with § 301.92–12.

(iv) *Annual certification.* If all plant samples tested in accordance with this section and § 301.92–12 return negative results for *Phytophthora ramorum,* an inspector may certify that the nursery is free of evidence of *Phytophthora ramorum* infestation at the time of inspection, and the nursery will be eligible to enter into a compliance agreement in accordance with § 301.92–6.[18]

(2) *Pre-shipment inspection, sampling, and testing.*

(i) *Inspection.* During the 30 days prior to interstate movement from a nursery in a quarantined area, regulated articles or associated articles intended for interstate movement must be inspected for symptoms of *Phytophthora ramorum* by an inspector.[19] Inspection will focus on,

[17] Persons operating under compliance agreements are eligible to issue certificates for the interstate movement of regulated and associated articles, but only inspectors are authorized to conduct nursery inspections required under the regulations.

[18] See footnote 14 of this subpart.

[19] See footnote 7 of this subpart.

but not be limited to, regulated articles and associated articles. No inspections of shipments will be conducted unless the nursery from which the shipment originates has a current and valid annual certification in accordance with paragraph (a)(1)(iv) of this section.

(A) If no symptomatic plants are found upon inspection, the shipment may be considered free of evidence of *Phytophthora ramorum* infection and is eligible for interstate movement, provided that the nursery is operating under a compliance agreement with APHIS in accordance with § 301.92–6.

(B) If symptomatic plants are found upon inspection, the inspector will collect at least one sample per symptomatic plant, and one sample per regulated article or associated article that is in close proximity to, or that has had physical contact with, a symptomatic plant.

(ii) *Testing and withholding from interstate movement.* Samples taken in accordance with paragraph (a)(2)(i)(B) of this section must be labeled and sent for testing to a laboratory approved by APHIS and must be tested using a test method approved by APHIS, in accordance with § 301.92–12. The interstate movement of plants in the shipment is prohibited until the plants in the shipment are determined to be free of evidence of *Phytophthora ramorum* infection in accordance with § 301.92–12.

(b) *Nurseries in quarantined areas shipping non-host nursery stock interstate.* Nurseries located in quarantined areas and that move non-host nursery stock interstate must meet the requirements of this paragraph or the requirements of paragraph (a) of this section.[20] If such nurseries contain any regulated or associated articles, the nursery must meet the requirements of paragraph (a). This paragraph (b) only applies if there are no regulated or associated articles of nursery stock in the nursery. Nurseries that do not meet the requirements of paragraphs (a) or (b) of this section are prohibited from moving non-host nursery stock interstate.

(1) *Annual visual inspection.* The nursery must be visually inspected annually for symptoms of *Phytophthora ramorum.* Inspections and determinations of freedom from evidence of *Phytophthora ramorum* infestation must occur at the time when the best expression of symptoms is anticipated.

(2) *Sampling.* All plants showing symptoms of infection with *Phytophthora ramorum* upon inspection will be sampled and tested in accordance with § 301.92–12. If symptomatic plants are found upon inspection, the following plants must be withheld from interstate shipment until testing is completed and the nursery is found free of evidence of *Phytophthora ramorum* in accordance with this paragraph (b)(3) of this section and § 301.92–12: All symptomatic plants, any plants located in the same lot as the suspect plant, and any plants located within 2 meters of this lot of plants.

(3) *Certification.* If all plant samples tested in accordance with this section and § 301.92–12 return negative results for *Phytophthora ramorum,* or if an inspector determines that plants in a nursery exhibit no signs of infection with *Phytophthora ramorum,* the inspector may certify that the nursery is free of evidence of *Phytophthora ramorum* infestation at the time of inspection. Certification is valid for 1 year and must be renewed each year to continue shipping plants interstate.

(c) *Nurseries in regulated areas shipping regulated articles of nursery stock or associated articles interstate.* To meet the conditions of § 301.92–5(b), any nursery that is located in a regulated area and contains regulated articles of nursery stock or associated articles, and ships any nursery stock interstate must meet the following requirements:

(1) *Annual inspection.* The nursery must be inspected annually for symptoms of *Phytophthora ramorum* by an inspector.[21] Inspection will focus on, but not be limited to, regulated articles of nursery stock and associated articles.

(2) *Sampling.* Samples must be taken from all symptomatic plants. If fewer than 40 symptomatic plants are present, each symptomatic plant must be sampled and additional samples must be taken from asymptomatic plants so that the minimum number of plants sampled is 40. If no symptomatic plants are present, 40 asymptomatic plants must be sampled. Each sample may contain more than one leaf, and may come from more than one plant, but all plants in the sample must be from the same lot. If samples are collected from asymptomatic plants, the samples must be taken from regulated and associated articles and nearby plants. Inspectors must conduct inspections at times when the best expression of symptoms is anticipated and must take nursery fungicide programs into consideration. Nursery owners must keep records of fungicide applications for 2 years and must make them available to inspectors upon request.

(3) *Annual certification.* If all plant samples tested in accordance with this section and § 301.92–12 return negative results for *Phytophthora ramorum,* the inspector may certify that the nursery is free of evidence of *Phytophthora ramorum* infestation at the time of inspection. Nurseries in a regulated area must have current and valid certification to ship regulated articles of nursery stock and associated articles interstate. If annual certification expires prior to reinspection, all plants in the nursery are prohibited interstate movement until the nursery is inspected, tested, and re-certified in accordance with this section and § 301.92–12.

(d) *Nurseries in regulated areas shipping non-host nursery stock interstate.* Nurseries located in regulated areas and that move non-host nursery stock interstate must meet the requirements in this paragraph or the requirements of paragraph (c) of this section. If such nurseries contain any regulated or associated articles, the nursery must meet the requirements of paragraph (c). This paragraph (d) only applies if there are no regulated or associated articles in the nursery. Nurseries that do not meet the requirements of paragraphs (c) or (d) of this section are prohibited from moving non-host nursery stock interstate.

(1) *Annual visual inspection.* The nursery must be visually inspected annually for symptoms of *Phytophthora ramorum.* Inspections and determinations of apparent pest freedom for such nurseries must occur at the time when the best expression of symptoms is anticipated.

(2) *Sampling.* All plants showing symptoms infection with *Phytophthora ramorum* upon inspection will be sampled and tested in accordance with § 301.92–12. If symptomatic plants are found upon inspection, the following plants must be withheld from interstate shipment until testing is completed and the nursery is found free of evidence of *Phytophthora ramorum* in accordance with § 301.92–12: All symptomatic plants, any plants located in the same lot as the symptomatic plant, and any plants located within 2 meters of that lot of plants.

(3) *Certification.* If all plant samples tested in accordance with this section and § 301.92–12 return negative results for *Phytophthora ramorum,* or if an inspector determines that plants in the nursery exhibit no signs of infection with *Phytophthora ramorum,* the inspector may certify that the nursery is

[20] In addition, to be eligible for interstate movement, non-host nursery stock that is rooted in soil or growing media requires certification that the soil or growing media meets the requirements of § 301.92–5(a)(1)(iii).

[21] See footnote 7 of this subpart.

free of evidence of *Phytophthora ramorum* infestation at the time of inspection. Certification is valid for 1 year and must be renewed each year to continue shipping plants interstate.

(e) *Additions to the lists of proven hosts and associated plants.* In the event that APHIS informs a nursery owner that additional proven hosts or associated plants exist, but those taxa are not yet listed in this subpart, the following provisions apply:

(1) Nurseries operating under a compliance agreement in accordance with § 301.92–6 may continue to ship plants interstate in accordance with this subpart.

(2) Nurseries that had not previously contained any regulated or associated articles, and that had been inspected in accordance with § 301.92–11(b)(3) and allowed to ship plants interstate without certificate, but that contain a newly identified proven host or associated plant must cease interstate shipments of regulated articles and associated hosts until the nursery is reinspected and found free of evidence of *Phytophthora ramorum* in accordance with § 301.92–11. Nurseries that come under regulation during winter dormancy periods and that are not able to be inspected in accordance with § 301.92–11 prior to desired shipments of non-host nursery stock may be allowed to ship non-host nursery stock interstate at the discretion of an inspector.

(Approved by the Office of Management and Budget under control number 0579–0310)

§ 301.92–12 Testing protocols.

Samples must be analyzed using a methodology approved by APHIS at a laboratory approved by APHIS. The following methodology is approved by APHIS.

(a) *Optional ELISA Prescreening.* An APHIS-approved ELISA may be used to prescreen plant samples to determine the presence of *Phytophthora* spp.

(1) *Negative prescreening results.* If all samples from a single nursery are found to be negative through APHIS-approved ELISA prescreening, no further testing is required. The nursery may be considered free of evidence of *Phytophthora ramorum*, and plants in the nursery are eligible for interstate movement under certificate in accordance with § 301.92–5.

(2) *Positive prescreening results.* If ELISA prescreening reveals the presence of *Phytophthora* spp. in any plants, each sample that returns positive ELISA results must be tested as provided in paragraph (b) of this section.

(b) *Mandatory testing procedures.* If ELISA prescreening is not performed, or if results of ELISA prescreening are positive for *Phytophthora* spp. in any sample, the sample must be analyzed using an APHIS-approved test. Samples will be considered positive for *Phytophthora ramorum* based on positive results of any approved test. Positive PCR or other molecular tests do not require confirmatory culture tests, nor do positive culture tests require confirmatory PCR or other molecular tests; however, if culture tests return other than positive results, an APHIS-approved PCR or other molecular test must be conducted, as provided in paragraph (b)(1) of this section.

(1) *PCR or other molecular tests.*

(i) *Negative results.* If the results of PCR or other molecular tests are negative for all samples in a nursery, no further testing is required. The nursery may be considered free of evidence of *Phytophthora ramorum* and plants in the nursery are eligible for interstate movement under certificate in accordance with § 301.92–5.

(ii) *Positive results.* If any samples tested using PCR or other molecular tests return positive results for *Phytophthora ramorum,* the nursery from which they originate is prohibited from moving plants interstate. The nursery will be eligible to ship certain plants interstate when an inspector determines that those plants are free of evidence of *Phytophthora ramorum.*

(2) *Culture Test.*

(i) *Negative results.* If the results of culture tests are other than positive for any samples taken from a single nursery, plants in the nursery must continue to be withheld from shipment in accordance with § 301.92–11 and each plant sample must be tested again using a PCR or other molecular test, as described in this section.

(ii) *Positive results.* If any culture tests return positive results for *Phytophthora ramorum,* the nursery from which they originate is prohibited from moving plants interstate as directed by an inspector. The nursery will be eligible to ship certain plants interstate when an inspector determines that those plants are free of evidence of *Phytophthora ramorum.*

(c) *Other test methods.* Other test methods may be acceptable if approved by APHIS.

Done in Washington, DC, this 16th day of February 2007.

Bruce Knight,

Under Secretary for Marketing and Regulatory Programs.

[FR Doc. 07–892 Filed 2–26–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25890; Directorate Identifier 2006–NM–115–AD; Amendment 39–14943; AD 2007–04–11]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B2 and B4 Series 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 all Airbus Model A300 B2, B4–100, and B4–200 series airplanes. That AD currently requires supplemental structural inspections to detect fatigue cracking, and repair of cracked structure. This new AD requires revising the maintenance program by incorporating new and revised supplemental structural inspections, inspection intervals, and repairs; and repair of any damaged, cracked, or corroded structure; which would end the existing supplement structural inspections. This AD results from a review of service history and reports received from the current supplemental structural inspection document program. We are issuing this AD to prevent reduced structural integrity of these airplanes due to fatigue cracking.

DATES: This AD becomes effective April 3, 2007.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of April 3, 2007.

On August 9, 1996 (61 FR 35122, July 5, 1996), the Director of the Federal Register approved the incorporation by reference of Airbus Industrie Supplemental Structural Inspection Document, dated September 1989; and Airbus Industrie A300 Supplemental Structural Inspection Document, Revision 2, dated June 1994.

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 Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Tom Stafford, Aerospace Engineer,

International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1622; fax (425) 227–1149.

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 96–13–11, amendment 39–9679 (61 FR 35122, July 5, 1996). The existing AD applies to all Airbus Model A300 B2, B4–100, and B4–200 series airplanes. That NPRM was published in the **Federal Register** on September 26, 2006 (71 FR 56058). That NPRM proposed to continue to require supplemental structural inspections to detect fatigue cracking, and repair of cracked structure. That NPRM also proposed to require revising the maintenance program by incorporating new and revised supplemental structural inspections, inspection intervals, and repairs; and repair of any damaged, cracked, or corroded structure; which would end the existing supplement structural inspections.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comment received.

Request for Change to the Applicability

Airbus, the manufacturer, requests that we exclude the A300–600 series airplanes from the AD applicability. The commenter refers us to page 1–A of Airbus A300 Airworthiness Limitation Items Document SEM2/95A.1090/05, Issue 3, dated September 2005, as revised by Airbus Temporary Revision 3.1, dated April 2006, which does not include A300–600 series airplanes.

We agree with the commenter's request. We do not want any reader of this AD to infer that A300–600 series airplanes are included, and have changed the applicability to exclude those airplanes in paragraph (c) of this AD.

Conclusion

We have carefully reviewed the available data, including the comment received, and determined that air safety and the public interest require adopting the AD with the change described previously. We have determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

The following table provides the estimated costs for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Implementation of supplemental structural inspection program (required by AD 96–13–11).	597	$80	None	$47,760	29	$1,385,040
Revision of the FAA-approved maintenance program (new action).	10	80	None	800	29	23,200

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 39–9679 (61 FR 35122, July 5, 1996) and by adding the following new airworthiness directive (AD):

2007–04–11 Airbus: Amendment 39–14943. Docket No. FAA–2006–25890; Directorate Identifier 2006–NM–115–AD.

Effective Date

(a) This AD becomes effective April 3, 2007.

Affected ADs

(b) This AD supersedes AD 96–13–11.

Applicability

(c) This AD applies to all Airbus Model A300 B2 and B4 series airplanes, certificated in any category, excluding A300–600 series airplanes.

Note 1: This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (x) of this AD. The request should include a description of changes to the required inspections that will ensure the continued damage tolerance of the affected structure. The FAA has provided guidance for this determination in Advisory Circular (AC) 25–1529.

Unsafe Condition

(d) This AD results from a review of service history and reports received from the current supplemental structural inspection document program. We are issuing this AD to prevent reduced structural integrity of these airplanes due to fatigue cracking.

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.

Requirements of AD 96–13–11

(f) Within one year after March 9, 1993 (the effective date of AD 93–01–24, amendment 39–8478), incorporate a revision into the FAA-approved maintenance inspection program that provides for supplemental maintenance inspections, modifications, repair, or replacement of the significant structural details (SSD) and significant structural items (SSI) specified in ''Airbus Industrie A300 Supplemental Structural Inspection Document'' (SSID), dated September 1989 (hereafter referred to as ''the SSID'').

(g) Within one year after August 9, 1996 (the effective date of AD 96–13–11), replace the revision of the FAA-approved maintenance program required by paragraph (f) of this AD with the inspections, inspection intervals, repairs, and replacements defined in ''Airbus Industrie A300 Supplemental Structural Inspection Document'' (SSID), Revision 2, dated June 1994 (hereafter referred to as ''Revision 2 of the SSID''). Accomplish the actions specified in the service bulletins identified in Section 6, ''SB Reference List,'' Revision 2 of the SSID, at the times specified in those service bulletins. The actions are to be accomplished in accordance with those service bulletins.

(1) For airplanes that have exceeded the threshold specified in any of the service bulletins identified in Section 6, ''SB Reference List,'' Revision 2 of the SSID: Accomplish the actions specified in those service bulletins within the grace period specified in that service bulletin. The grace period is to be measured from August 9, 1996.

(2) For airplanes that have exceeded the threshold specified in any of the service bulletins identified in Section 6, ''SB Reference List,'' Revision 2 of the SSID, and a grace period is not specified in that service bulletin: Accomplish the actions specified in that service bulletin within 1,500 flight cycles after August 9, 1996.

(h) If any cracked structure is detected during the inspections required by either paragraph (f) or (g) of this AD, prior to further flight, permanently repair the cracked structure in accordance with either paragraph (h)(1), (h)(2), or (h)(3) of this AD.

Note 2: A permanent repair is defined as a repair that meets the certification basis of the airplane, and does not require additional modification at a later date.

(1) The service bulletins listed in Section 6, ''SB Reference List,'' of the SSID (for airplanes that are currently being inspected in accordance with paragraph (f) of this AD); or in accordance with a method approved by the Manager, International Branch, ANM–116 (formerly the Standardization Branch, ANM–113), FAA, Transport Airplane Directorate, if a permanent repair is not specified in any of these service bulletins. Or

(2) The service bulletins listed in Section 6, ''SB Reference List,'' of Revision 2 of the SSID (for airplanes that are currently being inspected in accordance with paragraph (g) of this AD); or in accordance with a method approved by the Manager, International Branch, ANM–116 (formerly the Standardization Branch, ANM–113), if a permanent repair is not specified in any of these service bulletins. Or,

(3) Other permanent repair data meeting the certification basis of the airplane which is approved by the Manager, International Branch, ANM–116 (formerly the Standardization Branch, ANM–113); or by the Direction Générale de l'Aviation Civile (DGAC) of France.

(i) For airplanes identified as Fleet Leader Program (FLP) in Section 5, ''Fleet Leader Program,'' of the SSID or Revision 2 of the SSID: Inspect according to the instructions and intervals specified in paragraph 4.4, ''Adjustment of Inspection Requirements and DSG,'' of Section 4, or Section 9, as applicable, of the SSID (for airplanes inspected in accordance with paragraph (f) of this AD), or Revision 2 of the SSID (for airplanes inspected in accordance with paragraph (g) of this AD), for each SSD.

(j) For the purpose of accomplishing paragraphs (i), (k), (l), and (n) of this AD, operators shall not use paragraph 6.2, ''Complete RR Method,'' of Section 9 of the SSID to calculate inspection thresholds and intervals.

(k) For Model A300–B2 and B2K–3C series airplanes: For any SSD that has exceeded the values of the threshold specified in paragraph 6, ''Inspection Threshold and Intervals,'' Section 9 of the SSID, inspect at the time specified in either paragraph (k)(1) or (k)(2) of this AD, as applicable.

(1) For airplanes inspected in accordance with paragraph (f) of this AD: Inspect within 2,000 landings after March 9, 1993, in accordance with the SSID. Or,

(2) For airplanes inspected in accordance with paragraph (g) of this AD: Inspect within 2,000 landings after August 9, 1996, in accordance with Revision 2 of the SSID.

(l) For Model A300–B4 series airplanes: For any SSD that has exceeded the values of the threshold specified in paragraph 6, ''Inspection Threshold and Intervals,'' Section 9 of the SSID, inspect at the time specified in either paragraph (l)(1) or (l)(2) of this AD, as applicable.

(1) For airplanes inspected in accordance with paragraph (f) of this AD: Inspect within 1,500 landings after March 9, 1993 [the effective date of AD 93–01–24, amendment 39–8478]. Or,

(2) For airplanes inspected in accordance with paragraph (g) of this AD: Inspect within 1,500 landings after August 9, 1996.

(m) For airplanes identified as FLP in Section 5, ''Fleet Leader Program,'' of the SSID or Revision 2 of the SSID: Within one year after August 9, 1996, apply the basic requirements given in Revision 2 of the SSID.

(n) For airplanes that are subject to the requirements of paragraph (g) of this AD, and have exceeded the initial inspection threshold specified in paragraph 4.4, ''Adjustment of Inspection Requirements and DSG,'' of Section 4, or paragraph 6, ''Inspection Threshold and Intervals,'' of Section 9, for each SSD: Perform the initial inspection prior to the accumulation of the number of flight cycles specified in paragraph 7, ''Additional Information,'' Section 9, of Revision 2 of the SSID.

Note 3: Fatigue ratings are not applicable to these allowances; therefore, no adjustment is required.

Note 4: Paragraph (n) of this AD provides the ''grace'' periods for those airplanes that are new to the FLP or that have newly added or revised SSID requirements in accordance with paragraph (g) of this AD.

(o) The grace period provided by paragraph (n) of this AD is also applicable to the thresholds and/or repeat intervals for each SSD for which the inspection interval or threshold was reduced in accordance with the requirements of paragraph (g) of this AD.

(p) For FLP airplanes identified in Section 5, ''Fleet Leader Program,'' of the SSID or Revision 2 of the SSID that are listed in Section 7, ''SSI Limitation List,'' of the SSID (for airplanes that are currently being inspected in accordance with paragraph (f) of this AD), or Revision 2 of the SSID (for airplanes that are currently being inspected in accordance with paragraph (g) of this AD): Inspect at intervals not to exceed the interval specified for each SSI, in accordance with the values given in Section 7, ''SSI Limitation List,'' of the SSID or Revision 2 of the SSID, as applicable.

(q) For all airplanes: All inspection results, positive or negative, must be reported to Airbus in accordance with either paragraph (q)(1) or (q)(2) of this AD, as applicable. Information collection requirements contained in this regulation 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.

(1) For FLP airplanes, identified in Section 5, ''Fleet Leader Program,'' of the SSID or Revision 2 of the SSID: Submit reports in accordance with the instructions in paragraph 5.2, ''SSIP Inspection Reporting,'' of Section 5, and paragraph 7.1, ''General,'' of Section 7 of the SSID (for airplanes that are currently being inspected in accordance with paragraph (f) of this AD); or Revision 2 of the SSID (for airplanes inspected in accordance with paragraph (g) of this AD).

(2) For all airplanes that are subject to Section 6, ''SB Reference List,'' of the SSID: Submit reports in accordance with the instructions in the applicable service bulletins identified in Section 6 of the SSID (for airplanes that are currently being inspected in accordance with paragraph (f) of this AD); or Revision 2 of the SSID (for airplanes that are currently being inspected in accordance with paragraph (g) of this AD).

New Requirements of This AD

Revision of the FAA-Approved Maintenance Inspection Program

(r) Within 12 months after the effective date of this AD, replace the revision of the FAA-approved maintenance program required by paragraph (g) of this AD with the supplemental structural inspections, inspection intervals, and repairs defined in Airbus A300 Airworthiness Limitation Items (ALI) Document SEM2/95A.1090/05, Issue 3, dated September 2005, as revised by Airbus Temporary Revision (TR) 3.1, dated April 2006 (hereafter referred to as ''Issue 3 of the ALI''). Accomplish the actions specified in Issue 3 of the ALI at the times specified in that ALI, except as provided by paragraph (s) of this AD. The actions must be accomplished in accordance with Issue 3 of the ALI. Accomplishing the applicable initial ALI tasks constitutes terminating action for the requirements of paragraphs (f) through (q) of this AD.

(s) For airplanes that have exceeded the threshold or intervals specified in Issue 3 of the ALI for the application tolerance on the first interval for new and revised requirements and have exceeded 50 percent of the intervals specified in sections D and E of Issue 3 of the ALI: Do the actions within 6 months after the effective date of this AD.

Corrective Actions

(t) Damaged, cracked, or corroded structure detected during any inspection done in accordance with Issue 3 of the ALI must be repaired, before further flight, in accordance with Issue 3 of the ALI, except as provided by paragraph (u) of this AD; or other data meeting the certification basis of the airplane which is approved by the Manager, International Branch, ANM–116; or by the European Aviation Safety Agency (EASA) (or its delegated agent).

(u) Where Issue 3 of the ALI specifies contacting Airbus for appropriate action: Before further flight, repair the damaged, cracked, or corroded structure using a method approved by either the Manager, International Branch, ANM–116; or the EASA (or its delegated agent).

No Fleet Sampling

(v) Although Issue 3 of the ALI specifies to do a ''Sampling Concept'' in section B, this AD prohibits the use of such a sampling program and requires all affected airplanes of the fleet to be inspected.

No Reporting

(w) Although Issue 3 of the ALI specifies to submit certain information to the manufacturer, this AD does not include that requirement.

Alternative Methods of Compliance (AMOCs)

(x)(1) The Manager, International Branch, ANM–116, 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 96–13–11 are approved as AMOCs for the corresponding provisions of paragraphs (f) through (q) of this AD.

Related Information

(y) EASA airworthiness directive 2006–0071, dated March 30, 2006, also addresses the subject of this AD.

Material Incorporated by Reference

(z) You must use Airbus A300 Airworthiness Limitation Items Document SEM2/95A.1090/05, Issue 3, dated September 2005, as revised by Airbus A300 Airworthiness Limitation Items Document SEM2/95A.1090/05, Temporary Revision 3.1, including attachment, dated April 2006, and including attachments dated September 2005; Airbus Industrie Supplemental Structural Inspection Document, dated September 1989; and Airbus Industrie A300 Supplemental Structural Inspection Document, Revision 2, dated June 1994; as applicable, to perform the actions that are required by this AD, unless the AD specifies otherwise. Airbus A300 Airworthiness Limitation Items Document SEM2/95A.1090/05, Issue 3, dated September 2005, contains the following effective pages:

Page number	Issue number shown on page	Date shown on page
1–SOC—10–SOC.	Section SOC, 3.	September 2005.
1–TOC	Section TOC, 3.	September 2005.
1–A	Section A, 3	September 2005.
1–B—6–B	Section B, 3	September 2005.
1–C, 2	Section C, 3	September 2005.
1–D, 2–D, 3–101.	Section D, 3	September 2005.
1–E, 1–24	Section E, 3	September 2005.
1–F, 2–39	Section F, 3	September 2005.
1–G, 20–G, 30–G, 101–G.	Section G, 3	September 2005.
2–G—19–G, 21–G—29–G, 31–G—100G, 102–G—328–G.	1	January 2004.
1–App—3–App.	Section App, 3.	September 2005.

(Airbus A300 Airworthiness Limitation Items Document SEM2/95A.1090/05, Issue 3, dated September 2005, contains two page 1–SOC and two page 190–G. The first page identified as 1–SOC is the Record of Changes and the second page 1–SOC is the first page of the Summary of Changes. The first page identified as page 190–G refers to Airworthiness Limitation Item 546014, and the second page 190–G refers to Airworthiness Limitation Item 556001.) Airbus A300 Airworthiness Limitations Items Document SEM2/95A.1090/05, Temporary Revision 3.1, dated April 2006, contains the following effective pages:

Page number	Issue number shown on page	Date shown on page
1–T.R. 3.1–4–T.R.3.1.	Original	April 2006.
Section D, 3–27.	T.R.3.1	April 2006.
Section E, 1–4.	3	September 2005.
Section F, 2–6.	3	September 2005.

(1) The Director of the Federal Register approved the incorporation by reference of Airbus A300 Airworthiness Limitation Items Document SEM2/95A.1090/05, Issue 3, dated September 2005; as revised by Airbus A300 Airworthiness Limitation Items Document SEM2/95A.1090/05, Temporary Revision 3.1, including attachment, dated April 2006, and including attachments, dated September 2005; in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) On August 9, 1996 (61 FR 35122, July 5, 1996), the Director of the Federal Register approved the incorporation by reference of Airbus Industrie Supplemental Structural Inspection Document, dated September 1989; and Airbus Industrie Supplemental Structural Inspection Document, Revision 2, dated June 1994.

(3) Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, 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 February 6, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–2512 Filed 2–26–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26044; Directorate Identifier 2006–NM–098–AD; Amendment 39–14960; AD 2007–04–27]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 airplanes. This AD requires a one-time inspection of the left- and right-hand main landing gear (MLG) downlock actuators or a review of the airplane maintenance records to determine the part number of each downlock actuator installed, and replacement of identified MLG downlock actuators with modified MLG downlock actuators. This AD results from a report of a failed downlock actuator, which resulted in the left MLG collapsing during taxi after landing. We are issuing this AD to prevent failure of the downlock actuator, which could prevent the MLG side stay from locking properly, resulting in collapse of the MLG during ground maneuvers or upon landing.

DATES: This AD becomes effective April 3, 2007.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of April 3, 2007.

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 Fokker Services B.V., Technical Services Dept., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands, for service information identified in this AD.

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

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 would apply to all Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 airplanes. That NPRM was published in the **Federal Register** on October 12, 2006 (71 FR 60085). That NPRM proposed to require a one-time inspection of the left- and right-hand main landing gear (MLG) downlock actuators or a review of the airplane maintenance records to determine the part number of each downlock actuator installed, and replacement of identified MLG downlock actuators with modified MLG downlock actuators.

Comments

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

Request To State Intent To Incorporate Service Information

The Modification and Replacement Parts Association (MARPA) requests that, during the NPRM stage of AD rulemaking, the FAA state its intent to incorporate by reference (IBR) any relevant service information. MARPA states that without such a statement in the NPRM, it is unclear whether the relevant service information will be incorporated by reference in the final rule.

We do not agree with the commenter's request. When we reference certain service information in a proposed AD, the public can assume we intend to IBR that service information, as required by the Office of the Federal Register. No change to this final rule is necessary in regard to the commenter's request.

Request To Incorporate Essential Service Information

MARPA states that airworthiness directives are frequently derived from service information originating with the type certificate holder or its suppliers. MARPA further states that these manufacturer service documents are privately authored instruments generally enjoying copyright protection against duplication and publication. MARPA asserts that when a service document is incorporated by reference into a public document, such as an AD, it loses its private, protected status and becomes a public document. MARPA also states that if a service document is used as a mandatory element of compliance, it should not simply be mentioned, but should be incorporated into the regulatory document. Therefore, MARPA states that it is concerned that failure to incorporate the necessary service information could result in a court decision invalidating the AD. For these reasons, MARPA requests that the essential service documents be incorporated by reference into the regulatory instrument.

We understand MARPA's comment concerning IBR. 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 actions required 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 on the Docket Management System (DMS)

MARPA also requests that we make service information available to the public by publication in DMS, keyed to the action that incorporates that information. MARPA states that the purpose of the IBR method is brevity, to keep from expanding the **Federal Register** needlessly by publishing documents already available to the affected individuals. MARPA asserts that, traditionally, ''affected individuals'' has meant aircraft owners and operators who are generally provided service information by the manufacturer. MARPA further asserts

that a new class of affected individuals has emerged, since the majority of aircraft maintenance is now performed by specialty shops instead of owners and operators. MARPA states that this new class of individuals includes maintenance and repair organizations, component servicing and repair shops, parts purveyors and distributors, and organizations manufacturing or servicing alternatively certified parts under sections 21.303 (''Replacement and modification parts'') of the Federal Aviation Regulations (14 CFR 21.303).

In regard 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.

Request To Address Parts Manufacturer Approval (PMA) Parts

MARPA also requests that the NPRM be revised to cover possible defective PMA alternative parts, rather than just a single part number, and to permit the use of new and improved PMA parts. MARPA states that type certificate holders typically ignore the existence of PMA parts in their service information, especially manufacturers in other countries of origin where the concept may not exist or be implemented. MARPA goes on to state that installation of a certain part-numbered part to the exclusion of all other parts, in some cases, effectively prohibits the installation of perfectly good parts and prohibits the development of PMA parts. MARPA asserts that such a prohibition runs the risk of removing the AD from the realm of safety and moving it into the realm of economics.

We acknowledge the need to ensure that unsafe PMA parts are identified and addressed in ADs. We are currently examining all aspects of this issue, including input from industry. Once we have made a final determination, we will consider how our policy regarding PMA parts in ADs needs to be revised. We consider that to delay this AD action would be inappropriate, since we have determined that an unsafe condition exists and that replacement of certain parts must be accomplished to ensure continued safety. Therefore, no change has been made to the final rule in this regard.

Request To Add Certain Language

MARPA also asserts that the NPRM does not comply with draft FAA Order 8040.2, which allows use of PMA parts based on a finding of identicality. MARPA suggests that adding language similar to that in draft Order 8040.2 would resolve the issue of possible defective PMA parts. MARPA points out that another AD issued from a Directorate other than the Transport Airplane Directorate does contain the wording that it has requested. MARPA therefore requests that the FAA agree, in a timely manner, on how the matter is to be treated.

The NPRM did not address PMA parts, as provided in draft FAA Order 8040.2, because the Order was only a draft that was out for comment at the time. After issuance of the NPRM, the Order was revised and issued as FAA Order 8040.5 with an effective date of September 29, 2006. FAA Order 8040.5 does not address PMA parts in ADs.

The FAA recognizes the need for standardization of this issue and is currently in the process of reviewing issues that address the use of PMAs in ADs at the national level. However, the Transport Airplane Directorate considers that to delay this particular AD action would be inappropriate, since we have determined that an unsafe condition exists and that replacement of certain parts must be accomplished to ensure continued safety. Therefore, no change has been made to the final rule in this regard.

Conclusion

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

Costs of Compliance

The following table provides the estimated costs for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection of both MLG downlock actuators (2 per airplane).	1	$80	$0	$80	6	Up to $480.
Review of the airplane maintenance records in lieu of the inspection to determine P/N.	1	80	0	80	6	Up to $480.
Replacement of the MLG downlock actuators (2 per airplane).	4, per actuator.	80	16,511, per actuator	33,662	6	Up to $201,972.

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 adding the following new airworthiness directive (AD):

2007–04–27 Fokker Services B.V.: Amendment 39–14960. Docket No. FAA–2006–26044; Directorate Identifier 2006–NM–098–AD.

Effective Date

(a) This AD becomes effective April 3, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from a report of a failed downlock actuator, which resulted in the left main landing gear (MLG) collapsing during taxi after landing. We are issuing this AD to prevent failure of the downlock actuator, which could prevent the MLG side stay from locking properly, resulting in collapse of the MLG during ground maneuvers or upon landing.

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.

Determination of the Part Number (P/N) of the MLG Downlock Actuators

(f) Within 66 months after the effective date of this AD: Inspect the left- and right-hand MLG downlock actuators to determine if P/N 200497005 or 200498005 is installed. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number of the MLG downlock actuator can be conclusively determined from that review. If an MLG downlock actuator does not have a subject part number, no further action is required by this AD for that MLG only, except as provided by paragraph (h) of this AD.

Replacement of Subject MLG Downlock Actuators

(g) For any MLG downlock actuator identified during the inspection or maintenance records review required by paragraph (f) of this AD, or for which the part number cannot be determined: Within 66 months after the effective date of this AD, replace the MLG downlock actuator with a modified MLG downlock actuator in accordance with the Accomplishment Instructions of Fokker Service Bulletin F28/32–163, dated March 8, 2004.

Note 1: Fokker Service Bulletin F28/32–163 refers to Dowty Aerospace Hydraulics—Cheltenham Service Bulletin 32–501R, Revision 1, dated September 3, 1998, as an additional source of service information for modifying the MLG downlock actuator.

Parts Installation

(h) As of the effective date of this AD, no person may install an MLG downlock actuator, P/N 200497005 or 200498005, on any airplane.

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 Sec. 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Related Information

(j) Dutch airworthiness directive 2004–047, dated April 20, 2004, also addresses the subject of this AD.

Material Incorporated by Reference

(k) You must use Fokker Service Bulletin F28/32–163, dated March 8, 2004, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Fokker Services B.V., Technical Services Dept., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands, for a copy of this service information. You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or 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 Renton, Washington, on February 15, 2007.

Stephen Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–3168 Filed 2–26–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–27335; Directorate Identifier 2006–NM–291–AD; Amendment 39–14962; AD 2007–05–01]

RIN 2120–AA64

Airworthiness Directives; Construcciones Aeronauticas, S.A., (CASA) Model C–212 Airplanes

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) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as follows:

On 23 November 2006, Emergency Airworthiness Directive 2006–0351–E was published requiring an inspection to be performed on C–212 aeroplanes having been used for Maritime Patrol or other similar low altitude operations, due to the fact that, after initial examination of the evidences of a recent C–212 Maritime Patrol aircraft accident, cracks had been found in the centre wing lower skin at STA Y=1030. At the time of the accident, the aircraft had accumulated 17,000 flight hours and 7,300 flight cycles. The cracks were suspected to be caused by fatigue.

After a more detailed examination in the laboratory, it has been determined that the initiation of the cracks was produced by fretting.

* * * * *

The above mentioned cracks, if not timely detected, could lead to reduced structural integrity of the aircraft. * * *

* * * * *

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

DATES: This AD becomes effective March 14, 2007.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 14, 2007.

We must receive comments on this AD by March 29, 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 Rulemaking 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: Shahram Daneshmandi, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1112; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Streamlined Issuance of AD

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

This 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 Technical Agent for the Member States of the European Community, has issued EASA Emergency Airworthiness Directive 2006–0365–E, dated December 4, 2006 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

On 23 November 2006, Emergency Airworthiness Directive 2006–0351–E was published requiring an inspection to be performed on C–212 aeroplanes having been used for Maritime Patrol or other similar low altitude operations, due to the fact that, after initial examination of the evidences of a recent C–212 Maritime Patrol aircraft accident, cracks had been found in the centre wing lower skin at STA Y=1030. At the time of the accident, the aircraft had accumulated 17,000 flight hours and 7,300 flight cycles. The cracks were suspected to be caused by fatigue.

After a more detailed examination in the laboratory, it has been determined that the initiation of the cracks was produced by fretting.

The subject element is identified in Ref. 1 (C–212 Supplemental Inspection Document (SID) C–212–PV–02–SID) as a Principal Structural Element (PSE) with No. 57.212.06 and requested to be inspected at a threshold of 20,000 landings (subject to some operational constraints defined in Ref. 1) in accordance with the inspection method and sequence described in Ref. 2 (C–212 Supplemental Inspection Procedures (SIP) C–212–PV–02–SIP), Section 57–10–03.

Ref. 1 document was made mandatory by DGAC-Spain Airworthiness directive Nr. 02/88 (current status of that AD is revision 3, dated 4 February 2004).

Inspection threshold as per AD 02/88 Rev. 3 remains valid and relevant inspections have to be performed in addition to the requirements of this Emergency Airworthiness Directive (EAD).

The above mentioned cracks, if not timely detected, could lead to reduced structural integrity of the aircraft. This EAD, which supersedes EASA EAD 2006–0351–E, is intended to ensure that no other C–212 aircraft could be affected by this problem, by mandating a one time inspection of the subject area, in accordance with the requirements under the paragraph ''Compliance'' of this EAD (EASA EAD 2006–0365–E).

Furthermore, it has been determined that a Non Destructive Inspection (NDI) performed in accordance with Ref. 2, Section 57–10–03 could not be sufficient to detect cracks initiated by fretting. A complementary inspection procedure has been defined, and is also required under the paragraph ''Compliance'' of this EAD (EASA EAD 2006–0365–E).

The corrective action includes a one-time inspection for cracks, and repair if necessary. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

EADS–CASA has issued All Operator Letter 212–018, Revision 1, dated December 1, 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 the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all pertinent information 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 highlighted in a Note within the AD.

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 after a recent C–212 Maritime Patrol aircraft accident, fatigue

cracks were found in the center wing lower skin at STA Y=1030. This cracking could lead to reduced structural integrity of the airplane. 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–2007–27335; Directorate Identifier 2006–NM–291–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:

2007–05–01 Construcciones Aeronauticas, S.A. (CASA): Amendment 39–14962. Docket No. FAA–2007–27335; Directorate Identifier 2006–NM–291–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective March 14, 2007.

Affected ADs

(b) AD 96–07–14, amendment 39–9564, is related to this AD.

Applicability

(c) This AD applies to Construcciones Aeronauticas, S.A., (CASA) Model C–212 airplanes; all series, all serial numbers; certificated in any category.

Subject

(d) Wings.

Reason

(e) The mandatory continued airworthiness information (MCAI) states:

On 23 November 2006, Emergency Airworthiness Directive 2006–0351–E was published requiring an inspection to be performed on C–212 aeroplanes having been used for Maritime Patrol or other similar low altitude operations, due to the fact that, after initial examination of the evidences of a recent C–212 Maritime Patrol aircraft accident, cracks had been found in the centre wing lower skin at STA Y=1030. At the time of the accident, the aircraft had accumulated 17,000 flight hours and 7,300 flight cycles. The cracks were suspected to be caused by fatigue.

After a more detailed examination in the laboratory, it has been determined that the initiation of the cracks was produced by fretting.

The subject element is identified in Ref. 1 (C–212 Supplemental Inspection Document (SID) C–212–PV–02–SID) as a Principal Structural Element (PSE) with No. 57.212.06 and requested to be inspected at a threshold of 20,000 landings (subject to some operational constraints defined in Ref. 1) in accordance with the inspection method and sequence described in Ref. 2 (C–212 Supplemental Inspection Procedures (SIP) C–212–PV–02–SIP), Section 57–10–03.

Ref. 1 document was made mandatory by DGAC-Spain Airworthiness directive Nr. 02/88 (current status of that AD is revision 3, dated 4 February 2004).

Inspection threshold as per AD 02/88 Rev. 3 remains valid and relevant inspections have to be performed in addition to the requirements of this Emergency Airworthiness Directive (EAD).

The above mentioned cracks, if not timely detected, could lead to reduced structural integrity of the aircraft. This EAD, which supersedes EASA EAD 2006–0351–E, is intended to ensure that no other C–212 aircraft could be affected by this problem, by mandating a one-time inspection of the subject area, in accordance with the requirements under the paragraph ''Compliance'' of this EAD (EASA EAD 2006–0365–E).

Furthermore, it has been determined that a Non Destructive Inspection (NDI) performed in accordance with Ref. 2, Section 57–10–03 could not be sufficient to detect cracks initiated by fretting. A complementary inspection procedure has been defined, and is also required under the paragraph ''Compliance'' of this EAD (EASA EAD 2006–0365–E).

The corrective action includes a one-time inspection for cracks, and repair if necessary.

Actions and Compliance

(f) Unless already done, do the following actions.

(1) For airplanes used for maritime operations and all other airplanes on which the operator cannot positively determine that the airplanes have not been flown more than ten percent of flights at altitudes below 3,000 feet as of the effective date of this AD: Perform a Non-Destructive Inspection (NDI) and a complementary NDI for cracks at the applicable time specified in paragraph (f)(1)(i), (f)(1)(ii), or (f)(1)(iii) of this AD. Do the inspections as defined in EADS–CASA All Operator Letter 212–018, Revision 1, dated December 1, 2006.

Note: For the purposes of this AD, the term ''maritime operations'' is defined as airplanes which are used for monitoring certain areas of water.

(i) For airplanes having accumulated 5,600 flight hours or less, and 2,400 landings or

less, as of the effective date of this AD: Perform the inspections before the accumulation of 5,600 total flight hours or 2,400 total landings after the effective date of this AD, or within 6 months after the effective date of this AD, whichever occurs latest.

(ii) For airplanes having accumulated more than 5,600 flight hours but less than or equal to 8,000 flight hours, or more than 2,400 landings but less than or equal to 3,600 landings, as of the effective date of this AD: Perform the inspections before the accumulation of 200 flight hours or 100 landings after the effective date of this AD, whichever occurs first.

(iii) For airplanes having accumulated more than 8,000 flight hours or more than 3,600 landings as of the effective date of this AD: Perform the inspections within 14 days after the effective date of this AD.

(2) For airplanes other than those identified in paragraph (f)(1) of this AD: Perform the NDIs at the applicable time specified in paragraph (f)(2)(i), (f)(2)(ii), or (f)(2)(iii) of this AD. Do the inspections as defined in EADS–CASA All Operator Letter 212–018, Revision 1, dated December 1, 2006.

(i) For airplanes having accumulated 10,000 flight hours or less, and 10,000 landings or less as of the effective date of this AD: Perform the inspections before the accumulation of 10,000 total flight hours or 10,000 total landings after the effective date of this AD, or within 6 months after the effective date of this AD, whichever occurs latest.

(ii) For airplanes having accumulated more than 10,000 flight hours but less than or equal to 15,000 flight hours, or more than 10,000 landings but less than or equal to 15,000 landings, as of the effective date of this AD: Perform the inspections before the accumulation of 200 flight hours or 100 landings after the effective date of this AD, whichever occurs first.

(iii) For airplanes having accumulated more than 15,000 flight hours or more than 15,000 landings as of the effective date of this AD: Perform the inspections within 14 days after the effective date of this AD.

(3) No further flight is allowed if any cracks are detected when performing the actions specified in paragraphs (f)(1) and (f)(2) of this AD. Before further flight, repair any cracking found during any inspection required by this AD using a method approved by either the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA) (or its delegated agent). Within 30 days after cracks are detected, or within 30 days after the effective date of this AD, whichever occurs later, send a detailed report of the findings (both positive and negative) of the inspections required by paragraph (f) of this AD to EADS–CASA for evaluation at the following address: EADS–CASA, Military Transport Aircraft Division, Integrated Customer Services, Technical Services, Avenida de Aragon 404, 28022-Madrid, Spain; telephone 34–91–624–6306; fax 34–91–585–5505. E-mail: MTA, *TechnicalService@casa.eads.net.* In any case, a confirmation of the accomplishment of this inspection is required to be sent to EADS–CASA.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows:

(1) *Compliance Time:* For certain airplanes, the compliance time required by the MCAI or service information for performing the non-destructive inspections is before further flight; however, to avoid inadvertently grounding airplanes, this AD requires performing those inspections within 14 days after the effective date of this AD.

(2) *Repair:* Although the MCAI or service information does not include a repair procedure for cracking, this AD requires the repair of any cracking per the FAA, EASA, or its delegated agent.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Shahram Daneshmandi, Aerospace Engineer; 1601 Lind Avenue, SW., Renton, WA 98057–3356; telephone (425) 227–1112; fax (425) 227–1149. 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. Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

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

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to MCAI EASA Emergency Airworthiness Directive 2006–0365–E, dated December 4, 2006; and EADS–CASA All Operator Letter 212–018, Revision 1, dated December 1, 2006, for related information.

Material Incorporated by Reference

(i) You must use EADS–CASA All Operator Letter 212–018, Revision 1, dated December 1, 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 Construcciones Aeronauticas, S.A., Getafe, Madrid, Spain.

(3) You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; or 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 Renton, Washington, on February 16, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–3164 Filed 2–26–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26496 Directorate Identifier 2006–CE–81–AD; Amendment 39–14958; AD 2007–04–25]

RIN 2120–AA64

Airworthiness Directives; Alpha Aviation Design Limited R2160 Airplanes

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

ACTION: Final rule.

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 a deficiency in compliance with 14 CFR 23.967(d). There have been instances indicating that production aircraft may not have a metal barrier between the cabin and the fuel tank bay. Lack of a barrier could allow flammable fuel vapors to enter the cabin. We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective April 3, 2007.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of April 3, 2007.

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.

FOR FURTHER INFORMATION CONTACT: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Streamlined Issuance of AD

The FAA is implementing a new process for streamlining the issuance of ADs related to MCAI. The 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

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on January 5, 2007 (72 FR 481). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states that there have been instances indicating that production aircraft may not have a metal barrier between the cabin and the fuel tank bay. Lack of a barrier could allow flammable fuel vapors to enter the cabin. The MCAI requires that you, to ensure that the aircraft is in compliance with 14 CFR 23.967(d), inspect the aircraft to determine if a metal barrier is installed behind the seats and, if not installed, to manufacture and install a barrier.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Differences Between this AD and the MCAI or Service Information

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

We might also have 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, and take precedence over the actions copied from the MCAI.

Costs of Compliance

We estimate that this AD will affect 10 products of U.S. registry. We also estimate that it will take about 3 work-hours per product to comply with this AD. The average labor rate is $80 per work-hour. Required parts will cost about $300 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $5,400 or $540 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

We determined that this 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 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.

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 the NPRM, 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.

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:

2007–04–25 Alpha Aviation Design Limited: Amendment 39–14958; Docket No. FAA–2006–26496; Directorate Identifier 2006–CE–81–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective April 3, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Model R2160 airplanes, serial numbers 001 through 378, certificated in any category.

Reason

(d) The mandatory continuing airworthiness information (MCAI) states that there have been instances indicating that production aircraft may not have a metal barrier between the cabin and the fuel tank bay. Lack of a barrier could allow flammable fuel vapors to enter the cabin. The MCAI requires that, to ensure that the aircraft is in compliance with 14 CFR 23.967(d), inspect the aircraft to determine if a metal barrier is installed behind the seats and, if not installed, to manufacture and install a barrier.

Actions and Compliance

(e) Unless already done, do the following actions within the next 100 hours time-in-service or within 6 months after April 3, 2007 (the effective date of this AD), whichever occurs first.

(1) Inspect the aircraft to determine if a metal barrier is installed behind the seats per Alpha Aviation Service Bulletin AA–SB–28–001, dated July 10, 2006.

(2) If a metal barrier is installed per Alpha Aviation Service Bulletin AA–SB–28–001, dated July 10, 2006, and (e)(1) of this AD, then no further action is required.

(3) If a metal barrier is not installed, manufacture and install a barrier per Alpha Aviation Service Bulletin AA–SB–28–001, dated July 10, 2006, and Alpha Aviation Drawing No. 60–53–119 (page 3 of 3 of the Service Bulletin).

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Staff, FAA, ATTN: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; fax: (816) 329–4090, 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 (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(g) Refer to MCAI Civil Aviation Authority of New Zealand AD DCA/R2000/38, dated June 29, 2006, for related information.

Material Incorporated by Reference

(h) You must use Alpha Aviation Service Bulletin AA–SB–28–001, dated July 10, 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 Alpha Aviation Ltd, Ingram Road, Hamilton Airport RD 2, Hamilton 2021, New Zealand; telephone: 011 64 7 843 7070; fax: 011 64 7 843 8040; Internet: *http://www.alphaaviation.co.nz.*

(3) You may review copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106; or 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 Kansas City, Missouri, on February 15, 2007.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–3163 Filed 2–26–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25391; Directorate Identifier 2006–NM–097–AD; Amendment 39–14956; AD 2007–04–23]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F.28 Mark 0070 and 0100 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 Fokker Model F.28 Mark 0070 and 0100 airplanes. That AD currently requires a one-time inspection of the sliding members in the main landing gear (MLG) for cracking and replacement of the sliding members with serviceable parts if necessary. This new AD adds repetitive magnetic particle inspections of the sliding members of the MLG for cracking and corrective actions as necessary. This AD results from inspection findings that have shown repetitive inspections are needed to establish fleet safety. We are issuing this AD to detect and correct fatigue cracking of the sliding member, which could result in possible separation of the MLG from the airplane and consequent reduced controllability of the airplane upon landing and possible injury to passengers.

DATES: This AD becomes effective April 3, 2007.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of April 3, 2007.

On May 19, 2004 (69 FR 19759, April 14, 2004), the Director of the Federal Register approved the incorporation by reference of Fokker Service Bulletin SBF100–32–133, dated April 1, 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 Fokker Services B.V., Technical Services Dept., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands, for service information identified in this AD.

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

SUPPLEMENTARY INFORMATION:

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 supplemental notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that supersedes AD 2004–08–01, amendment 39–13570 (69 FR 19759, April 14, 2004). The existing AD applies to certain Fokker Model F.28 Mark 0070 and 0100 airplanes. That supplemental NPRM was published in the **Federal Register** on December 28, 2006 (71 FR 78107). That supplemental NPRM

proposed to continue to require a one-time inspection of the sliding members in the main landing gear (MLG) for cracking, and replacement of the sliding members with serviceable parts if necessary. That supplemental NPRM also proposed to require repetitive magnetic particle inspections of the sliding members of the MLG for cracking and corrective actions as necessary. That supplemental NPRM also revised the original NPRM by correcting a certain part number in the applicability.

Comments

We provided the public the opportunity to participate in the development of this AD. No comments have been received on the supplemental NPRM or on the determination of the cost to the public.

Conclusion

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed by the supplemental NPRM.

Costs of Compliance

This AD affects about 37 airplanes of U.S. registry.

The inspection that is required by AD 2004–08–01 and retained in this AD takes either about 4 or 12 work hours per airplane, depending on airplane configuration, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the currently required actions for U.S. operators is $11,840 or $35,520, or $320 or $960 per airplane, depending on airplane configuration.

The new required inspections take about 2 work hours per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the new inspections specified in this AD for U.S. operators is $5,920, or $160 per airplane, per inspection cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

We have determined that this 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 39–13570 (69 FR 19759, April 14, 2004) and by adding the following new airworthiness directive (AD):

2007–04–23 Fokker Services B.V.: Amendment 39–14956. Docket No. FAA–2006–25391; Directorate Identifier 2006–NM–097–AD.

Effective Date

(a) This AD becomes effective April 3, 2007.

Affected ADs

(b) This AD supersedes AD 2004–08–01.

Applicability

(c) This AD applies to Fokker Model F.28 Mark 0070 and 0100 airplanes, certificated in any category; equipped with any Dowty or Messier-Dowty main landing gear (MLG) listed in Table 1 of this AD.

TABLE 1.—AFFECTED PARTS

MLG part number (P/N)—	Equipped with sliding member P/N—
201072011	201072301 or 201072305
201072012	201072301 or 201072305
201072013	201072301 or 201072305
201072014	201072301 or 201072305
201072015	201072301 or 201072305
201072016	201072301 or 201072305

Unsafe Condition

(d) This AD results from inspection findings that have shown repetitive inspections are needed to establish fleet safety. We are issuing this AD to detect and correct fatigue cracking of the sliding member, which could result in possible separation of the MLG from the airplane and consequent reduced controllability of the airplane upon landing and possible injury to passengers.

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.

Requirements of AD 2004–08–01

Inspection and Replacement if Necessary

(f) Within 1,000 flight cycles or 6 months after May 19, 2004 (the effective date of AD 2004–08–01), whichever occurs first, perform a magnetic inspection of the sliding members of the MLG for cracking, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–32–133, dated April 1, 2002. If any crack is found during the inspection, before further flight, replace the sliding members with serviceable parts in accordance with the Accomplishment Instructions of the service bulletin.

Note 1: Fokker Service Bulletin SBF100–32–133, dated April 1, 2002, refers to Messier-Dowty Service Bulletin F100–32–103, dated March 11, 2002, as an additional source of service information.

Parts Installation With Accomplishment of New Service Bulletins

(g) As of May 19, 2004, no person may install a sliding member of the MLG, P/N 201072301 or P/N 201072305, on any airplane, unless it has been inspected in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–32–133, dated April 1, 2002; Fokker

Service Bulletin SBF100–32–139, dated March 5, 2004; or Fokker Service Bulletin SBF100–32–144, dated September 19, 2005; and found to be serviceable.

Note 2: Fokker Service Bulletin SBF100–32–139, dated March 5, 2004, refers to Messier-Dowty Service Bulletin F100–32–105, dated March 2, 2004, as an additional source of service information for accomplishing a magnetic inspection.

Note 3: Fokker Service Bulletin SBF100–32–144, dated September 19, 2005, refers to Messier-Dowty Service Bulletin F100–32–110, dated August 25, 2005, as an additional source of service information for accomplishing a magnetic inspection.

Reporting Requirement Difference

(h) Although Fokker Service Bulletin SBF100–32–133, dated April 1, 2002, specifies to submit certain information to the manufacturer, this AD does not include such a requirement.

New Requirements of this AD

Repetitive Inspections

(i) At the later of the compliance times specified in paragraphs (i)(1) and (i)(2) of this AD: Do a magnetic inspection of the sliding members of the left and right MLG for cracking, and do all corrective actions before further flight after the inspection, by accomplishing all of the applicable actions specified in the Accomplishment Instructions of Fokker Service Bulletin SBF100–32–144, dated September 19, 2005. Repeat the inspection thereafter at intervals not to exceed 2,000 flight cycles.

(1) Within 2,000 flight cycles after accomplishing paragraph (f) of this AD.

(2) Within 4 months after the effective date of this AD.

Credit for Fokker Service Bulletin SBF100–32–139

(j) Actions done before the effective date of this AD in accordance with Fokker Service Bulletin SBF100–32–139, dated March 5, 2004, are acceptable for compliance with the corresponding requirements of paragraph (f) of this AD.

Alternative Methods of Compliance (AMOCs)

(k)(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.

Related Information

(l) Dutch airworthiness directive NL–2005–012, dated October 17, 2005, also addresses the subject of this AD.

Material Incorporated by Reference

(m) You must use the service information identified in Table 2 of this AD, as applicable, to perform the actions that are required by this AD, unless the AD specifies otherwise.

TABLE 2.—MATERIAL INCORPORATED BY REFERENCE

Fokker service bulletin	Date
SBF100–32–133	April 1, 2002.
SBF100–32–139	March 5, 2004.
SBF100–32–144	September 19, 2005.

(1) The Director of the Federal Register approved the incorporation by reference of Fokker Service Bulletin SBF100–32–139, dated March 5, 2004; and Fokker Service Bulletin SBF100–32–144, dated September 19, 2005; in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) On May 19, 2004 (69 FR 19759, April 14, 2004), the Director of the Federal Register approved the incorporation by reference of Fokker Service Bulletin SBF100–32–133, dated April 1, 2002.

(3) Contact Fokker Services B.V., Technical Services Dept., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands, for a copy of this service information. You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or 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 Renton, Washington, on February 13, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–2974 Filed 2–26–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26355; Directorate Identifier 2006–NM–198–AD; Amendment 39–14953; AD 2007–04–21]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F.28 Mark 0070 and 0100 Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Fokker Model F.28 Mark 0070 and 0100 airplanes. This AD requires a one-time inspection of the fuel lines located in the left and right main landing gear (MLG) bays to determine the clearance between the fuel and hydraulic lines. If necessary, this AD also requires an inspection of fuel lines for chafing, the replacement of a chafed fuel line with a new fuel line, and the repositioning of existing clamps and installation of additional clamps between the fuel and hydraulic lines. This AD results from a fuel leak found in the left MLG bay. We are issuing this AD to detect and correct inadequate clearance between fuel and hydraulic lines in the MLG bay, which could lead to chafing of a fuel line and fuel leakage. A fuel leak near hot brakes could result in a fire in the MLG bay.

DATES: This AD becomes effective April 3, 2007.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of April 3, 2007.

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 Fokker Services B.V., Technical Services Dept., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands, for service information identified in this AD.

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

SUPPLEMENTARY INFORMATION:

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 would apply to all Fokker Model F.28 Mark 0070 and 0100 airplanes. That NPRM was published in the **Federal Register** on November 20, 2006 (71 FR 67077). That NPRM proposed to require a one-time inspection of the fuel lines located in the left and right main landing gear bays to determine the clearance between the fuel and hydraulic lines. If necessary, that NPRM proposed to require an inspection of fuel lines for

chafing, the replacement of a chafed fuel line with a new fuel line, and the repositioning of existing clamps and installation of additional clamps between the fuel and hydraulic lines.

Comments

We provided the public the opportunity to participate in the development of this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

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

Costs of Compliance

This AD affects about 9 airplanes of U.S. registry. The required inspection takes about 1 work hour per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of this AD for U.S. operators is $720, or $80 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 adding the following new airworthiness directive (AD):

2007–04–21 Fokker Services B.V.: Amendment 39–14953. Docket No. FAA–2006–26355; Directorate Identifier 2006–NM–198–AD.

Effective Date

(a) This AD becomes effective April 3, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Fokker Model F.28 Mark 0070 and 0100 airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from a fuel leak found in the left main landing gear (MLG) bay. We are issuing this AD to detect and correct inadequate clearance between fuel and hydraulic lines in the MLG bay, which could lead to chafing of a fuel line and fuel leakage. A fuel leak near hot brakes could result in a fire in the MLG bay.

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.

Inspections for Clearance and Chafing

(f) Within 6 months after the effective date of this AD, do a general visual inspection of the fuel lines located in the left and right MLG bays to determine the clearance between the fuel and hydraulic lines, in accordance with Part 1 of the Accomplishment Instructions of Fokker Service Bulletin SBF100–28–041, dated July 20, 2005. If the clearance of a fuel line is 3 mm (millimeters) or more, no further action is required by this AD for that fuel line only. If the clearance of a fuel line is less than 3 mm, before further flight, do a general visual inspection of the fuel line for chafing in accordance with Part 1 of the Accomplishment Instructions of the service bulletin.

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

Corrective Actions

(g) If the fuel line is found chafed during the inspection for chafing specified in paragraph (f) of this AD, before further flight after that inspection, do the actions in paragraphs (g)(1) and (g)(2) of this AD. If the fuel line is not found chafed, within 6 months after the inspection for chafing, do the actions in paragraph (g)(2) of this AD.

(1) Replace the chafed fuel line with a new fuel line in accordance with Part 1 of the Accomplishment Instructions of Fokker Service Bulletin SBF100–28–041, dated July 20, 2005.

(2) Reposition the existing clamps and install additional clamps to obtain a minimum clearance of 3 mm between the fuel and hydraulic lines, as applicable, in accordance with Part 2 of the Accomplishment Instructions of Fokker Service Bulletin SBF100–28–041, dated July 20, 2005.

Alternative Methods of Compliance (AMOCs)

(h)(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.

Related Information

(i) Dutch airworthiness directive NL–2005–010 R1, dated September 7, 2005, also addresses the subject of this AD.

Material Incorporated by Reference

(j) You must use Fokker Service Bulletin SBF100–28–041, dated July 20, 2005, to perform the actions that are required by this AD, unless the AD specifies otherwise. The

Director of the Federal Register approved the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Fokker Services B.V., Technical Services Dept., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands, for a copy of this service information. You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or 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 Renton, Washington, on February 12, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–2978 Filed 2–26–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26558; Directorate Identifier 2006–NM–206–AD; Amendment 39–14954; AD 2007–04–22]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–102, –103, and –106 Airplanes; and Model DHC–8–200 and DHC–8–300 Series Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Bombardier Model DHC–8–100 (as described above), DHC–8–200, and DHC–8–300 series airplanes. This AD requires doing a one-time inspection for damage of the electrical cable harness assembly located on the left and right wing root-to-fuselage aft seal, and repair if necessary; and reworking the fuselage aft seal assembly (left and right) to create a clearance between the electrical cable assemblies and the edge of the fairing panel. This AD results from a report that an airplane encountered an uncommanded propeller feathering during climb, which resulted in an emergency landing. We are issuing this AD to prevent chafing or grounding of the wiring against the aft seal assemblies, which, if not corrected, could interrupt the operation of various systems, including the propeller feather control, alternating current (AC) electrical power, and standby hydraulic power, and result in reduced controllability of the airplane.

DATES: This AD becomes effective April 3, 2007.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of April 3, 2007.

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 Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Douglas Wagner, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, suite 410, Westbury, New York 11590; telephone (516) 228–7306; fax (516) 794–5531.

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 would apply to certain Bombardier Model DHC–8–102, –103, and –106 airplanes, and Model DHC–8–200 and DHC–8–300 series airplanes. That NPRM was published in the **Federal Register** on December 11, 2006 (71 FR 71492). That NPRM proposed to require doing a one-time inspection for damage of the electrical cable harness assembly located on the left and right wing root-to-fuselage aft seal, and repair if necessary; and reworking the fuselage aft seal assembly (left and right) to create a clearance between the electrical cable assemblies and the edge of the fairing panel.

Comments

We provided the public the opportunity to participate in the development of this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

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

Costs of Compliance

This AD affects about 136 airplanes of U.S. registry. The required actions take about 4 work hours per airplane, at an average labor rate of $80 per work hour. Required parts cost about $75 per airplane. Based on these figures, the estimated cost of this AD for U.S. operators is $53,720, or $395 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 adding the following new airworthiness directive (AD):

2007–04–22 Bombardier, Inc. (Formerly de Havilland, Inc.): Amendment 39–14954. Docket No. FAA–2006–26558; Directorate Identifier 2006–NM–206–AD.

Effective Date

(a) This AD becomes effective April 3, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bombardier Model DHC–8–102, –103, and –106 airplanes, and Model DHC–8–200 and DHC–8–300 series airplanes, certificated in any category; serial numbers 003 through 606 inclusive.

Unsafe Condition

(d) This AD results from a report that an airplane encountered an uncommanded propeller feathering during climb, which resulted in an emergency landing. We are issuing this AD to prevent chafing or grounding of the wiring against the aft seal assemblies, which, if not corrected, could interrupt the operation of various systems, including the propeller feather control, alternating current (AC) electrical power, and standby hydraulic power, and result in reduced controllability of the airplane.

Compliance

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

Inspection and Rework

(f) Within 6,000 flight hours after the effective date of this AD, do the actions specified in paragraphs (f)(1) and (f)(2) of this AD. Do all actions in accordance with Bombardier Service Bulletin 8–24–83, Revision A, dated August 2, 2005. The actions in paragraph (f)(1) of this AD must be done before the rework in paragraph (f)(2) of this AD.

Note 1: Bombardier Service Bulletin 8–24–83, Revision A, contains the instructions for incorporating Bombardier Modification Summary Package 8Y122031, Revision B, dated December 2, 2004. (The technical content of Bombardier Modification Summary Package IS8Q2400005, Revision C, dated January 7, 2005, is equivalent to Bombardier Modification Summary Package 8Y122031, Revision B.)

(1) Do a general visual inspection for damage of the electrical cable harness assembly located on the left and right wing root-to-fuselage aft seal. If any damage is found, repair the damage before further flight.

(2) Rework the fuselage aft seal assembly (left and right) to create a clearance between the electrical cable assemblies and the edge of the fairing panel.

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

Actions Accomplished in Accordance With Previous Revision of Service Bulletin

(g) Actions done before the effective date of this AD in accordance with Bombardier Service Bulletin 8–24–83, dated December 23, 2004, are acceptable for compliance with the corresponding requirements in paragraph (f) of this AD.

Alternative Methods of Compliance (AMOCs)

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

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

Related Information

(i) Canadian airworthiness directive CF–2006–15, dated June 14, 2006, also addresses the subject of this AD.

Material Incorporated by Reference

(j) You must use Bombardier Service Bulletin 8–24–83, Revision A, dated August 2, 2005, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada, for a copy of this service information. You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and RecordsAdministration (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 Renton, Washington, on February 12, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–2972 Filed 2–26–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26647; Directorate Identifier 2006–NM–194–AD; Amendment 39–14957; AD 2007–04–24]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. This AD requires repetitive inspections of the bolts that attach the exhaust nozzle to the aft engine flange to determine if any bolts are missing or fractured, and replacement of the existing bolts with new, improved bolts. This AD results from reports of the engine exhaust nozzle and fairing departing from the airplane in flight due to missing attachment bolts. We are issuing this AD to detect and correct missing or fractured attachment bolts, which could lead to the loss of an engine exhaust nozzle during flight and consequent structural damage to the airplane and hazard to people or property on the ground. Damage to the airplane could cause the airplane to yaw and result in reduced controllability of the airplane.

DATES: This AD becomes effective April 3, 2007.

The Director of the Federal Register approved the incorporation by reference

of a certain publication listed in the AD as of April 3, 2007.

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 Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Rocco Viselli, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, suite 410, Westbury, New York 11590; telephone (516) 228–7331; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

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 would apply to certain Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. That NPRM was published in the **Federal Register** on December 26, 2006 (71 FR 77312). That NPRM proposed to require repetitive inspections of the bolts that attach the exhaust nozzle to the aft engine flange to determine if any bolts are missing or fractured, and replacement of the existing bolts with new, improved bolts.

Comments

We provided the public the opportunity to participate in the development of this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

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

Costs of Compliance

The following table provides the estimated costs for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection, per inspection cycle.	2	$80	None	$160, per inspection cycle.	686	$109,760, per inspection cycle.
Replacement	4	$80	$513	$833	686	$571,438.

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 adding the following new airworthiness directive (AD):

2007–04–24 Bombardier, Inc. (Formerly Canadair): Amendment 39–14957. Docket No. FAA–2006–26647; Directorate Identifier 2006–NM–194–AD.

Effective Date

(a) This AD becomes effective April 3, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, certificated in any category; serial numbers (S/Ns) 7003 through 7067 inclusive and S/Ns 7069 through 7947 inclusive.

Unsafe Condition

(d) This AD results from reports of the engine exhaust nozzle and fairing departing from the airplane in flight due to missing

attachment bolts. We are issuing this AD to detect and correct missing or fractured attachment bolts, which could lead to the loss of an engine exhaust nozzle during flight and consequent structural damage to the airplane and hazard to people or property on the ground. Damage to the airplane could cause the airplane to yaw and result in reduced controllability of the airplane.

Compliance

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

Repetitive Inspections

(f) Within 1,500 flight hours after the effective date of this AD: For the left and right engine exhaust nozzles, do a detailed inspection of the bolts that attach the exhaust nozzle to the aft engine flange to determine if any bolts are missing or fractured, in accordance with Part A of the Accomplishment Instructions of Bombardier Service Bulletin 601R–78–021, dated June 2, 2006. If no bolt of an engine exhaust nozzle is missing or fractured, repeat the detailed inspection for that engine exhaust nozzle thereafter at intervals not to exceed 1,500 flight hours, until the replacement specified in paragraph (g) or (h) of this AD is accomplished.

Note 1: For the purposes of this AD, a detailed inspection is: ''An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required.''

Corrective Action, if Necessary

(g) If any bolt of an engine exhaust nozzle is found missing or fractured during any inspection required by paragraph (f) of this AD, before further flight, replace the existing bolts that attach the exhaust nozzle to the aft engine flange with new, improved bolts, in accordance with Part B of the Accomplishment Instructions of Bombardier Service Bulletin 601R–78–021, dated June 2, 2006. Accomplishing the bolt replacement for an engine exhaust nozzle terminates the repetitive inspections required by paragraph (f) of this AD for that engine exhaust nozzle only.

Note 2: Bombardier Service Bulletin 601R–78–021, dated June 2, 2006, refers to Bombardier Service Bulletin CF34-NAC–78–024, Revision 4, dated November 10, 2005, as an additional source of service information for accomplishment of the replacement.

Terminating Action

(h) Within 4,000 flight hours after the effective date of this AD: For the left and right engine exhaust nozzles, replace the existing bolts that attach the exhaust nozzle to the aft engine flange with new, improved bolts, in accordance with Part B of the Accomplishment Instructions of Bombardier Service Bulletin 601R–78–021, dated June 2, 2006. Accomplishing the replacement for the left and right engine exhaust nozzles terminates all of the inspections required by paragraph (f) of this AD.

Alternative Methods of Compliance (AMOCs)

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

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

Related Information

(j) Canadian airworthiness directive CF–2006–19, dated July 28, 2006, also addresses the subject of this AD.

Material Incorporated by Reference

(k) You must use Bombardier Service Bulletin 601R–78–021, dated June 2, 2006, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada, for a copy of this service information. You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, S.W., Renton, Washington; or 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 Renton, Washington, on February 13, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–2973 Filed 2–26–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26462; Directorate Identifier 2006–NM–221–AD; Amendment 39–14952; AD 2007–04–20]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170–100 LR, –100 STD, –100 SE, –100 SU, –200 LR, –200 STD, and –200 SU Airplanes and Model ERJ 190 Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain EMBRAER Model ERJ 170–100 LR, –100 STD, –100 SE, –100 SU, –200 LR, –200 STD, and –200 SU airplanes and Model ERJ 190 airplanes. This AD requires inspecting to determine the part number and serial number of the deployment actuator of the ram air turbine (RAT) and related investigative and corrective actions if necessary. This AD results from reports that the RAT may not fully deploy due to galling between the piston rod and gland housing of the RAT deployment actuator. We are issuing this AD to prevent the RAT from failing to deploy, which could result in loss of control of the airplane during in-flight emergencies.

DATES: This AD becomes effective April 3, 2007.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of April 3, 2007.

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

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1175; fax (425) 227–1149.

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 would apply to certain EMBRAER Model ERJ 170–100 LR, –100 STD, –100 SE, –100 SU, –200 LR, –200 STD, and –200 SU airplanes and Model ERJ 190 airplanes. That NPRM was published in the **Federal Register** on December 8, 2006 (71 FR 71096). That NPRM proposed to require inspecting to determine the part number and serial number of the deployment actuator of the ram air turbine (RAT) and related investigative and corrective actions if necessary.

Comments

We provided the public the opportunity to participate in the development of this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Clarification of Service Bulletin Reference Paragraph

We have added to paragraph (f)(1) of this AD three airplane models that were unintentionally left out of that paragraph.

Conclusion

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD with the change described previously. We have determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

The following table provides the estimated costs for U.S. operators to comply with this AD, at an average labor rate of $80 per hour.

ESTIMATED COSTS

Action	Work hours	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection to determine part and serial numbers	1	$80	76	$6,080.
Inspection of piston rod	1	$80, per inspection cycle.	Up to 76	Up to $6,080, per inspection cycle.
Replacement of RAT deployment actuator	4	$320	Up to 76	Up to $24,320.

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 adding the following new airworthiness directive (AD):

2007–04–20 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39–14952. Docket No. FAA–2006–26462; Directorate Identifier 2006–NM–221–AD.

Effective Date

(a) This AD becomes effective April 3, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to EMBRAER Model ERJ 170–100 LR, –100 STD, –100 SE, –100 SU, –200 LR, –200 STD, and –200 SU airplanes, as identified in EMBRAER Service Bulletin 170–24–0026, dated December 22, 2005; and Model ERJ 190–100 STD, –100 LR, and –100 IGW airplanes, as identified in EMBRAER Service Bulletin 190–24–0003, dated December 22, 2005; certificated in any category.

Unsafe Condition

(d) This AD results from reports that the ram air turbine (RAT) may not fully deploy due to galling between the piston rod and gland housing of the RAT deployment actuator. We are issuing this AD to prevent the RAT from failing to deploy, which could result in loss of control of the airplane during in-flight emergencies.

Compliance

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

Service Bulletin Reference

(f) The term ''service bulletin,'' as used in this AD, means the Accomplishment Instructions of the service bulletins identified in paragraphs (f)(1) and (f)(2) of this AD. Where these service bulletins specify returning affected parts to Hamilton Sundstrand, this AD does not require that action.

(1) For Model ERJ 170–100 LR, –100 STD, –100 SE, –100 SU, –200 LR, –200 STD, and –200 SU airplanes: EMBRAER Service Bulletin 170–24–0026, dated December 22, 2005.

(2) For Model ERJ 190–100 STD, –100 LR, and –100 IGW airplanes: EMBRAER Service Bulletin 190–24–0003, dated December 22, 2005.

Note 1: The EMBRAER service bulletins refer to Hamilton Sundstrand Service Bulletin ERPS37A–24–1, dated December 6, 2005, as an additional source of service information for inspecting for galling of the piston rod of the RAT deployment actuator and re-identifying the actuator. The Hamilton Sundstrand service bulletin is included as Appendix 1 of the EMBRAER service bulletins.

Inspection To Determine Part Number (P/N) and Serial Number (S/N)

(g) Within 600 flight hours or 3 months after the effective date of this AD, whichever occurs first: Inspect to determine the part number and serial number of the RAT deployment actuator, in accordance with the applicable service bulletin. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number and serial number of the RAT deployment actuator can be conclusively determined from that review.

(1) If the part number of the actuator is not P/N 1703785: No further action is required by this AD, except as provided by paragraph (i) of this AD.

(2) If the part number of the actuator is P/N 1703785 and the serial number is S/N 0004, 0005, or 0101 through 0190 inclusive, or the part number or serial number cannot be conclusively determined: Within 600 flight hours or 3 months after the effective date of this AD, whichever occurs first, deploy the RAT, and do the actions specified in paragraph (g)(2)(i) or (g)(2)(ii) of this AD, as applicable, in accordance with the applicable service bulletin.

(i) If the RAT does not fully deploy or if it deploys with hesitation: Before further flight, replace the RAT deployment actuator with a modified and reidentified or new, improved actuator, having P/N 1703785A.

(ii) If the RAT fully deploys without hesitation: Before further flight, perform a general visual inspection for galling of the piston rod of the RAT deployment actuator. If no evidence of galling is detected, repeat the inspection for galling at intervals not to exceed 1,200 flight hours or 5 months, whichever occurs first, and before further flight after each deployment of the RAT. If any evidence of galling is found, before further flight, replace the RAT deployment actuator with a modified and reidentified or new, improved RAT deployment actuator having P/N 1703785A. Replacing the RAT deployment actuator terminates the repetitive inspections required by this paragraph for that RAT deployment actuator only.

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

(3) If the part number of the RAT deployment actuator is P/N 1703785, and the serial number is S/N 0191 through 0242 inclusive: Within 3,000 flight hours or 12 months after the effective date of this AD, whichever occurs first, reidentify the RAT deployment actuator with new P/N 1703785A in accordance with the applicable service bulletin.

Terminating Action for Repetitive Inspections

(h) Within 3,000 flight hours or 12 months after the effective date of this AD, whichever occurs first: Replace all RAT deployment actuators having P/N 1703785 and having S/N 0004, 0005, or 0101 through 0190 inclusive, with modified and reidentified or new, improved actuators having P/N 1703785A, in accordance with the applicable service bulletin. Replacing all of the RAT deployment actuators terminates the repetitive inspections required by paragraph (g)(2)(ii) of this AD.

Parts Installation

(i) As of the effective date of this AD, no person may install a RAT deployment actuator having P/N 1703785 on any airplane.

Alternative Methods of Compliance (AMOCs)

(j)(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.

Related Information

(k) Brazilian airworthiness directives 2006–05–06, effective June 14, 2006, and 2006–05–09, effective June 19, 2006, also address the subject of this AD.

Material Incorporated by Reference

(l) You must use EMBRAER Service Bulletin 170–24–0026, dated December 22, 2005; or EMBRAER Service Bulletin 190–24–0003, dated December 22, 2005; as applicable, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil, for a copy of this service information. You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or 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 Renton, Washington, on February 12, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–2976 Filed 2–26–07; 8:45 am]

BILLING CODE 4910–13–P

INTERNATIONAL TRADE COMMISSION

19 CFR Part 208

Investigations Relating to Commercial Availability Under the African Growth and Opportunity Act

AGENCY: United States International Trade Commission.

ACTION: Interim rule with request for comments.

SUMMARY: The Commission is amending its rules of practice and procedure to add a new part 208 in order to implement section 112(c) of the African Growth and Opportunity Act (AGOA), as amended (19 U.S.C. 3721(c)). The provisions addressing the Commission's role are contained in amendments to AGOA which the President signed into law on December 20, 2006. The interim rules provide for Commission investigations, determinations, and reports under section 112(c) of AGOA, and also specify the information that must be included in a properly filed petition. Interim rules are necessary because the new provisions became effective on the day of enactment; in the absence of interim rules, the Commission will have no procedures in place with respect to these proceedings.

DATES: This interim rule is effective February 27, 2007. Comments concerning these interim rules should

be submitted not later than April 30, 2007.

ADDRESSES: You may submit comments, identified by docket number MISC–023 by any of the following methods:

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

• *Agency Web Site: http://www.usitc.gov.* Follow the instructions for submitting comments. See *http://www.usitc.gov/.secretary/edis.htm.*

• *Mail:* For paper submission. U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436.

• *Hand Delivery/Courier:* U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436. From the hours of 8:45 a.m. to 5:15 p.m.

For detailed instructions on submitting comments, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: William Gearhart, Esq., Senior Counsel, Office of the General Counsel, 202–205–3091 (e-mail: *william.gearhart@usitc.gov*); or Marilyn R. Abbott, Secretary to the Commission, 202–205–2000 (e-mail: *marilyn.r.abbott@usitc.gov*). General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). Hearing-impaired persons are advised that information on this interim rulemaking can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION:

Public Participation

Instructions: All submissions received must include the agency name and docket number (MISC–023) for this rulemaking. All comments received will be posted without change to *http://www.usitc.gov*, including any personal information provided. For paper copies, a signed original and 14 copies of each set of comments, along with a cover letter stating the nature of the commenter's interest in the proposed rulemaking, should be submitted to Marilyn R. Abbott, Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436. Comments, along with a cover letter, may be submitted electronically to the extent provided by § 201.8 of the Commission's rules. This rule may refer commenters to the Handbook for Electronic Filing Procedures (see *http://www.usitc.gov/secretary/edis.htm*). For those submitting comments by mail, it is advisable to mail comments in advance of the due date since Commission mail will be delayed due to necessary security screening.

Docket: For access to the docket to read comments received, go to *http://www.usitc.gov* or U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436. The preamble below is designed to assist readers in understanding these proposed amendments to the Commission's rules. The preamble includes a discussion of the background leading up to these proposed amendments, a regulatory analysis addressing government-wide statutes and issuances on rulemaking, and a description of the proposed amendments to the rules. The Commission encourages members of the public to comment—in addition to any other comments they wish to make on the proposed amendments—on whether the proposed language is sufficiently clear for users of the rules to understand.

If the Commission decides to proceed to final rulemaking after reviewing the comments filed in response to this notice, the final rule revisions will be promulgated in accordance with the Administrative Procedure Act (5 U.S.C. 553).

Background

The interim rules establish a new part 208 of 19 CFR to provide for Commission investigations, determinations, and reports under section 112(c) of the African Growth and Opportunity Act (19 U.S.C. 3721(c)) (AGOA). The Commission's general authority to issue rules is set out in 19 U.S.C. 1335. On December 20, 2006, the President signed H.R. 6111 into law (Public Law 109–432), which amends section 112 of AGOA. Newly amended section 112(c) provides for Commission investigations and determinations concerning (1) Whether a fabric or yarn produced in beneficiary sub-Saharan African countries is available in commercial quantities for use by lesser developed beneficiary sub-Saharan African countries, and if so, (2) the quantity of the fabric or yarn that will be so available in lesser developed beneficiary sub-Saharan African countries in the applicable 1-year period (October 1–September 30) after the determination is made. Section 112(c) further provides, when the Commission makes an affirmative determination, for additional Commission determinations during and after the applicable 1-year period.

Because the new provisions became effective on the date of enactment, the Commission did not have sufficient time to issue a notice of proposed rulemaking. These interim rules are necessary because the Commission must conduct an investigation upon receipt of an appropriate petition, and in the absence of interim rules the public will have no guidance with respect to how the Commission intends to conduct its investigations and make determinations. The interim rules cover petitions for an investigation, Commission investigations in response to a petition, and the determinations described in (1) and (2), above, that the Commission must make.

The interim rules identify the types of entities that may file a petition and describe the information that must be included in a petition; provide for Commission investigations and establish procedures for conducting such investigations, including with respect to confidential business information; and describe the determinations and reports that the Commission will make and their content and timing.

Regulatory Analysis of Interim Rules in 19 CFR Part 208

The Commission has determined that the interim rules do not meet the criteria described in Section 3(f) of Executive Order 12866 (58 FR 51735, Oct. 4, 1993) and thus do not constitute a significant regulatory action for purposes of the Executive Order.

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is inapplicable to this rulemaking because it is not one for which a notice of proposed rulemaking is required under 5 U.S.C. 553(b) or any other statute. These interim regulations are ''agency rules of procedure and practice,'' and thus are exempt from the notice requirement imposed by 5 U.S.C. 553(b).

These interim rules do not contain federalism implications warranting the preparation of a federalism summary impact statement pursuant to Executive Order 13132 (64 FR 43255, Aug. 4, 1999).

No actions are necessary under the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 *et seq.*) because the interim rules will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and will not significantly or uniquely affect small governments.

The interim rules are not major rules as defined by section 804 of the Small Business Regulatory Enforcement

Fairness Act of 1996 (5 U.S.C. 801 *et seq.*). Moreover, they are exempt from the reporting requirements of the Contract With America Advancement Act of 1996 (Pub. L. 104–121) because they concern rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties.

The interim rules are not subject to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), since they do not contain any new information collection requirements.

Explanation of the Interim Rules in 19 CFR Part 208

The Commission proposes to add part 208 in the manner described below.

Section 208.1

Section 208.1 of new part 208 states that this part 208 applies to functions and duties of the Commission under section 112(c) of AGOA, as amended.

Section 208.2

Section 208.2 sets forth definitions applicable to part 208, including with respect to the terms beneficiary sub-Saharan African country, lesser developed beneficiary sub-Saharan African countries, and applicable 1-year period.

Section 208.3

Section 208.3 identifies the persons who may file a petition with the Commission under section 112(c) of AGOA, and lists the types of information that must be included in the petition.

Section 208.4

Section 208.4 states that the Commission will institute an investigation not later than 10 days after receiving a properly filed petition, describes the information that the Commission will include in the Federal Register notice announcing the investigation, and states that the Commission will make the petition available for public inspection (with the exception of confidential business information).

Section 208.5

Section 208.5 states that the Commission may, in its discretion, hold a public hearing, provide reasonable notice of any hearing, and afford interested parties the opportunity to be present, present evidence, and be heard at any such hearing.

Section 208.6

Section 208.6 describes Commission procedures concerning the filing and service of documents and the required certification required by any person submitting factual information.

Section 208.7

Section 208.7 states that the Commission will, if necessary, make its determinations on the basis of the facts available; will make its determinations by September 25, 2007, with respect to petitions received on or before March 28 and accepted on or before April 11, 2007, and will make its determinations by August 1 of subsequent years with respect to petitions received on or before January 15 and accepted on or before February 1 of those years; will include in its report to the President its determination(s) and an explanation thereof, and any dissenting or separate views of Commissioners; and will make public the report it sends to the President (with the exception of confidential business information).

Section 208.8

Section 208.8 sets forth Commission policy under part 208 with respect to nondisclosure of confidential business information, and also generally requires that persons submitting confidential business information provide the Commission with a non-confidential summary of such information.

List of Subjects in 19 CFR Part 208

Administration practice and procedure, Business and industry, Customs duties, Imports, Investigations.

■ For the reasons stated in the preamble, the Commission amends 19 CFR to add part 208 to read as follows:

PART 208—INVESTIGATIONS WITH RESPECT TO COMMERCIAL AVAILABILITY OF TEXTILE FABRIC AND YARN IN SUB-SAHARAN AFRICAN COUNTRIES

Sec.

208.1 Applicability of part.
208.2 Definitions applicable to this part.
208.3 Petitions.
208.4 Institution of investigations; publication of notice; and availability of petition for public inspection.
208.5 Public hearing.
208.6 Service, filing, and certification of documents.
208.7 Determinations and reports.
208.8 Confidential business information; furnishing of nonconfidential summaries thereof.

Authority: 19 U.S.C. 1335; 19 U.S.C. 3721(c).

§ 208.1 Applicability of part.

This part 208 applies to proceedings of the Commission under section 112(c) of the African Growth and Opportunity Act, as amended (19 U.S.C. 3721(c)).

§ 208.2 Definitions applicable to this part.

(a) *Beneficiary sub-Saharan African country.* The term ''beneficiary sub-Saharan African country'' means those countries so designated by the President under 19 U.S.C. 2466a.

(b) *Lesser developed beneficiary sub-Saharan African country.* The term ''lesser developed beneficiary sub-Saharan African country'' means a beneficiary sub-Saharan African country that had a per capita gross national product of less than $1,500 in 1998, as measured by the International Bank for Reconstruction and Development; Botswana; and Namibia.

(c) *Applicable 1-year period.* The term ''applicable 1-year period'' means the 12-month period beginning on October 1 and ending on September 30 of the following year.

§ 208.3 Petitions.

(a) *Who may file.* A petition under this part may be filed with the Commission by an interested party, including a producer of fabric or yarn in a beneficiary sub-Saharan African country, a producer of apparel in a lesser developed beneficiary sub-Saharan African country, or any other person who demonstrates to the satisfaction of the Commission a proper interest in filing a petition.

(b) *Contents of petition.* The Commission will consider only petitions that address a single yarn or single fabric. The term ''a single yarn or single fabric'' means a single product, which may be classified in more than one heading of the HTS or may be only part of a heading. A petition shall include the following information in support of a request for a Commission investigation and determination under this part, to the extent that such information is available from governmental or other sources. To the extent information is not available from such sources, the petition may be based on best estimates, including an explanation of the basis therefor. If the petition does not include the required information and/or estimates and explanation, the petition will not be accepted, and it will instead be returned to the submitter. All quantities must be expressed in the unit of quantity used in the Harmonized Tariff Schedule of the United States, showing any conversion factors used (for example, most woven fabrics are reported in square meters, and most apparel are reported in numbers of units).

(1) *Product description.* The name and description of the fabric or yarn concerned, including fiber content, yarn size, fabric construction, and finishing processes, specifying the United States

tariff provision under which such article is classified (to the 8-digit level if possible) and the beneficiary sub-Saharan African country or countries in which the fabric or yarn is produced.

(2) *Statement of interest.* The names and addresses of the interested party or parties filing the petition or represented in the petition, the location and nature of their establishments, a description of the fabrics, yarns, and apparel that they produce, import, and/or sell, for each party filing or represented (including but not limited to the fabric or yarn that is a subject of the petition), and the basis for asserting that such person or entity is an interested party eligible to file a petition under this part.

(3) *Basis for certain statements.* The basis for asserting that the subject fabric or yarn produced in a beneficiary sub-Saharan African country is available in ''commercial quantities'' and for ''use'' in a lesser developed beneficiary sub-Saharan African country or countries. In support of a claim that such fabric or yarn is available in ''commercial quantities,'' provide evidence for the 3 most recent full years for which information is available, and partial year data for the most recent year (if less than a full year), that such fabric or yarn is available for sale to third parties and the quantities offered, and any evidence of such sales to third parties. Include advertisements or other documentation in support of such claim. In support of a claim that such fabric or yarn is available for ''use'' in a lesser developed beneficiary sub-Saharan African country or countries, provide evidence for the 3 most recent full years for which information is available, and partial year data for the most recent year (if less than a full year), of any offers, orders, or contracts or other supporting documentation. For orders already delivered, indicate the quantity involved and the time and location of the deliveries to the apparel producer. For orders for which deliveries have not yet been made, indicate the time or likely time of the receipt by an apparel producer in all countries where the fabric or yarn has been sold or offered for sale, including lesser developed sub-Saharan African country or countries.

(4) *Data concerning fabric and yarn.* With respect to the subject fabric or yarn:

(i) Data on production, sales, inventories, and capacity, that is supportable through documentation that can be made available to the Commission, for each firm known or believed to be producing the subject fabric or yarn in a beneficiary sub-Saharan African country, for each of the 3 most recent full years for which data are available, and partial year data for the most recent year (if less than a full year);

(ii) The name, address (house number, street, city, country, postal mailing number), telephone number, e-mail address, and contact person for each producer known or believed to be producing such fabric or yarn in a beneficiary sub-Saharan African country.

(5) *Orders from apparel producers and other users.* Data on orders from apparel producers and other users in all countries where the fabric or yarn has been sold or offered for sale, including lesser developed beneficiary sub-Saharan African countries, by country, for the most recent full year and partial year (if less than a full year), and projected orders for the 1-year period (October 1–September 30) beginning after the Commission's determination. The information furnished shall include the full fabric or yarn specification in the order, including, but not limited to, the fiber content, yarn size, fabric construction, finishing processes, quantities, projected delivery time for the fabric or yarn to the customer identified in the order, and any other information that the interested party submitting the petition believes is relevant. It shall also include the name, address (house number, street, city, country, postal mailing number), telephone number, e-mail address, and contact person (i) for each beneficiary sub-Saharan African fabric or yarn producer identified in each reported order, and (ii) for each lesser developed beneficiary sub-Saharan African apparel producer or other user identified in each reported order.

(6) *Estimated quantity available in next 1-year period.* Estimated production of the subject fabric or yarn, by firm, for the 1-year period (October 1–September 30) beginning after the Commission's determination, and an estimate of the quantity of such production of fabric or yarn, by firm, that will be available in lesser developed beneficiary sub-Saharan African countries in that 1-year period, and basis for that estimate, including orders and other supporting documents.

§ 208.4 Institution of investigations; publication of notice; and availability of petition for public inspection.

(a) *Institution of investigation and publication of notice.* The Commission, after receipt of a petition under this part, properly filed, will institute an appropriate investigation not later than 10 days after receipt of the petition, and publish notice thereof in the **Federal Register**.

(b) *Contents of notice.* The notice instituting the investigation will identify the petitioner, the fabric or yarn that is the subject of the investigation and its tariff subheading, the nature and timing of the determination to be made, the time and place of any public hearing, the deadlines for filing briefs, statements, and other documents, page limits (if any) on posthearing briefs and documents, the place at which the petition or request and any other documents filed in the course of the investigation may be inspected, and the name, address, and telephone number of the office that may be contacted for more information.

(c) *Availability for public inspection.* The Commission will promptly make each petition available for public inspection (with the exception of confidential business information).

§ 208.5 Public hearing.

(a) *In general.* The Commission may, in its discretion, hold a public hearing in connection with an investigation under this part. If the Commission holds a public hearing, it will do so only after having caused reasonable notice thereof to be published in the **Federal Register**.

(b) *Opportunity to appear.* All interested parties will be afforded an opportunity to be present, to present evidence, and to be heard at any such hearing.

§ 208.6 Service, filing, and certification of documents.

(a) *Filing.* Documents to be filed with the Commission must comply with applicable rules, including § 201.8 of this chapter. If the Commission establishes a deadline for the filing of a document, and the submitter includes confidential business information in the document, the submitter is to file the confidential version on or before the deadline date and may file the nonconfidential version no later than one business day after the deadline for filing the document. If the submitter is a party, the submitter is to serve the nonconfidential version of the document on other parties on the service list no later than one business day after the deadline for filing the document. The confidential version filed with the Commission shall enclose all confidential business information in brackets and have the following warning marked on every page: ''Bracketing of CBI not final for one business day after date of filing.'' The bracketing becomes final one business day after the date of filing of the document, i.e., at the same time as the nonconfidential version of the document is due to be filed. If the submitter discovers it has failed to

bracket correctly, the submitter may file a corrected version or portion of the confidential document at the same time as the nonconfidential version is filed. No changes to the document other than bracketing and deletion of confidential business information are permitted after the deadline. Failure to comply with this paragraph may result in the striking of all or a portion of a submitter's document.

(b) *Service.* Any party submitting a document for the consideration of the Commission in the course of an investigation to which this part pertains shall, in addition to complying with § 201.8 of this chapter, serve a copy of the public version of such document on all other parties to the investigation in the manner prescribed in § 201.16 of this chapter. If a document is filed before the Secretary's issuance of the service list provided for in § 201.11 of this chapter, the document need not be accompanied by a certificate of service, but the document shall be served on all appropriate parties within two (2) days of the issuance of the service list and a certificate of service shall then be filed. Notwithstanding § 201.16 of this chapter, petitions, briefs, and testimony filed by parties shall be served by hand or, if served by mail, by overnight mail or its equivalent. Failure to comply with the requirements of this rule may result in removal from status as a party to the investigation. The Commission shall make available, upon request, to all parties to the investigation a copy of each document, except transcripts of hearings, confidential business information, privileged information, and information required to be served under this section, placed in the docket file of the investigation by the Commission.

(c) *Certification.* Any person submitting factual information on behalf of the petitioner or any other interested party for the consideration of the Commission in the course of an investigation to which this part pertains, and any person submitting a response to a Commission questionnaire issued in connection with an investigation to which this part pertains, must certify that such information is accurate and complete to the best of the submitter's knowledge.

§ 208.7 Determinations and reports.

(a) *Determinations.* When relevant information is not available on the record or any party withholds information that has been requested by the Commission, the Commission will make its determination on the basis of the facts available. When the Commission relies on information submitted as facts available, it will, to the extent practicable, corroborate the information from independent sources that are reasonably available to the Commission.

(b) *Time for determinations and reports.* The Commission will make its determinations under section 112(c)(2)(A) and (B)(i) of AGOA and transmit its reports to the President by September 25, 2007, with respect to petitions received on or before March 28 and accepted on or before April 11, 2007, and will make its determinations by August 1 of subsequent years with respect to petitions received on or before January 15 and accepted on or before February 1 of those years.

(c) *Contents of report.* The Commission will include in its report to the President the following:

(1) The determination made with respect to whether a fabric or yarn produced in beneficiary sub-Saharan African countries is available in commercial quantities for use in lesser developed beneficiary sub-Saharan African countries, and an explanation of the basis for the determination;

(2) If the determination in paragraph (c)(1) of this section is affirmative, a determination with respect to the quantity of the fabric or yarn that will be so available in lesser developed beneficiary sub-Saharan African countries in the applicable 1-year period beginning after the determination is made;

(3) Any dissenting or separate views by members of the Commission regarding such determinations.

(c) *Public version of report.* Upon making its report to the President, the Commission will make such report public (with the exception of information which the Commission determines to be confidential), and publish a summary thereof in the **Federal Register**.

§ 208.8 Confidential business information; furnishing of nonconfidential summaries thereof.

(a) *Nonrelease of information.* In the case of an investigation under this part, the Commission will not release information which the Commission considers to be confidential business information within the meaning of § 201.6 of this chapter unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released by the Commission, or such party subsequently consents to the release of the information. When appropriate, the Commission will include confidential business information in reports transmitted to the President (and/or the United States Trade Representative); such reports will be marked as containing confidential business information, and a nonconfidential version of such report will be made available to the public.

(b) *Nonconfidential summaries.* Except as the Commission may otherwise provide, a party submitting confidential business information shall also submit to the Commission, at the time it submits such information, a nonconfidential summary of the information. If a party indicates that the confidential business information cannot be summarized, it shall state in writing the reasons why a summary cannot be provided. If the Commission finds that a request for confidentiality is not warranted and if the party concerned is either unwilling to make the information public or to authorize its disclosure in generalized or summarized form, the Commission may disregard the submission.

By order of the Commission.

Issued: February 21, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–3387 Filed 2–26–07; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2590

RIN 1210–AA62

Mental Health Parity

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Interim final amendment to regulation.

SUMMARY: This document contains an interim final amendment to modify the sunset date of interim final regulations under the Mental Health Parity Act (MHPA) to be consistent with legislation passed during the 109th Congress.

DATES: *Effective date.* The interim final amendment is effective December 31, 2006.

Applicability dates. The requirements of the interim final amendment apply to group health plans and health insurance issuers offering health insurance coverage in connection with a group health plan beginning December 31, 2006. The MHPA interim final amendment extends the sunset date from December 31, 2006 to December 31, 2007. Pursuant to the extended sunset date, MHPA requirements apply

to benefits for services furnished before December 31, 2007.

FOR FURTHER INFORMATION CONTACT: Beth Gelman, Employee Benefits Security Administration, Department of Labor, at (202) 693–8335.

Customer Service Information: Individuals interested in obtaining additional information on the Mental Health Parity Act and other health care laws may request copies of Department of Labor publications concerning changes in health care law by calling the EBSA Toll-Free Hotline at 1–866–444–EBSA (3272), or access the publications on-line at *http://www.dol.gov/ebsa*, the Department of Labor's Web site. Information on the Mental Health Parity Act and other health care laws is also available on the Department of Labor's interactive Web pages, Health Elaws (*http://www.dol.gov/elaws/ebsa/health*).

SUPPLEMENTARY INFORMATION:

A. Background

The Mental Health Parity Act of 1996 (MHPA) was enacted on September 26, 1996 (Pub. L. 104–204, 110 Stat. 2944). MHPA amended the Employee Retirement Income Security Act of 1974 (ERISA) and the Public Health Service Act (PHS Act) to provide for parity in the application of annual and lifetime dollar limits on mental health benefits with dollar limits on medical/surgical benefits. Provisions implementing MHPA were later added to the Internal Revenue Code of 1986 (Code) under the Taxpayer Relief Act of 1997 (Pub. L. 105–34, 111 Stat. 1080).

The provisions of MHPA, as originally enacted, are set forth in Part 7 of Subtitle B of Title I of ERISA, Chapter 100 of Subtitle K of the Code, and Title XXVII of the PHS Act.[1] The MHPA provisions in ERISA generally apply to all group health plans other than governmental plans, church plans, and certain other plans. These provisions also apply to health insurance issuers that offer health insurance coverage in connection with such group health plans. Generally, the Secretary of Labor enforces the MHPA provisions in ERISA, except that no enforcement action may be taken by the Secretary against issuers. However, individuals may generally pursue actions against issuers under ERISA and, in some circumstances, under state law.

B. Overview of MHPA

The MHPA provisions set forth in section 712 of ERISA apply to a group health plan (or health insurance coverage offered by issuers in connection with a group health plan) that provides both medical/surgical benefits and mental health benefits. MHPA's original text included a sunset provision specifying that MHPA's provisions applied to benefits for services furnished before September 30, 2001. On December 22, 1997, the Departments of Labor, the Treasury, and Health and Human Services issued interim final regulations under MHPA in the **Federal Register** (62 FR 66931). The interim final regulations included this statutory sunset date.

On January 10, 2002, President Bush signed H.R. 3061 (Pub. L. 107–116, 115 Stat. 2177), the 2002 Appropriations Act for the Departments of Labor, Health and Human Services, and Education. This legislation extended MHPA's original sunset date under ERISA, the Code, and the PHS Act, so that MHPA's provisions would apply to benefits for services furnished before December 31, 2002.

On March 9, 2002, President Bush signed H.R. 3090, the Job Creation and Worker Assistance Act of 2002 (Pub. L. 107–147, 116 Stat. 21), that included an amendment to section 9812 of the Code (the mental health parity provisions). This legislation further extended MHPA's original sunset date under the Code to December 31, 2003.

On September 27, 2002, the Department of Labor issued an interim final amendment for mental health parity in the **Federal Register** (67 FR 60859). The interim final amendment included the new statutory sunset date under H.R. 3061, so that MHPA's provisions would apply to benefits for services furnished before December 31, 2002. The Department made the effective date of this interim final amendment to the regulations September 30, 2001.

On December 2, 2002, President Bush signed H.R. 5716, the Mental Health Parity Reauthorization Act of 2002 (Pub. L. 107–313, 116 Stat. 2457), an amendment to section 712 of ERISA and Section 2705 of the PHS Act. This legislation further extended MHPA's original sunset date under ERISA and the PHS Act to December 31, 2003. On April 14, 2003, the Department of Labor issued an interim final amendment for mental health parity in the **Federal Register** (68 FR 18048). The interim final amendment included the new statutory sunset date under H.R. 5716, so that MHPA's provisions would apply to benefits for services furnished before December 31, 2003.

On December 19, 2003, President Bush signed S. 1929, the Mental Health Parity Reauthorization Act of 2003 (Pub. L. 108–197, 117 Stat. 2998), an amendment to section 712 of ERISA and Section 2705 of the PHS Act. This legislation further extended MHPA's original sunset date under ERISA and the PHS Act to December 31, 2004. On January 26, 2004, the Department of Labor issued an interim final amendment for mental health parity in the **Federal Register** (69 FR 3815). The final rule included the new statutory sunset date under S. 1929, so that MHPA's provisions would apply to benefits for services furnished before December 31, 2004.

On October 4, 2004, President Bush signed H.R. 1308, the Working Families Tax Relief Act of 2004 (Pub. L. 108–311, 118 Stat. 1166), an amendment to section 712 of ERISA, Section 9812 of the Code, and Section 2705 of the PHS Act which extended MHPA's original sunset date under ERISA, the Code, and the PHS Act to December 31, 2005. On December 17, 2004, the Department of Labor issued an interim final amendment for mental health parity in the **Federal Register** (69 FR 75798). The interim final amendment included the new statutory sunset date under H.R. 1308, so that MHPA's provisions would apply to benefits for services furnished before December 31, 2005.

On December 30, 2005, President Bush signed H.R. 4579, the Employee Retirement Preservation Act (Pub. L. 109–151, 119 Stat. 2886) which amends ERISA, the Code, and the PHS Act to further extend MHPA's original sunset date to December 31, 2006. On March 20, 2006, the Department of Labor issued an interim final amendment for mental health parity in the **Federal Register** (71 FR 13937). The interim final amendment included the new statutory sunset date under H.R. 4579, so that MHPA's provisions would apply to benefits for services furnished before December 31, 2006.

On December 20, 2006, President Bush signed H.R. 6111, the Tax Relief and Health Care Act of 2006 (Pub. L. 109–432, 120 Stat. 2922) which amends ERISA, the Code, and the PHS Act to further extend MHPA's original sunset date to December 31, 2007. Like MHPA, this amendment to MHPA applies to a group health plan (or health insurance coverage offered by issuers in connection with a group health plan) that provides both medical/surgical benefits and mental health benefits.[2] As

[1] Part 7 of Subtitle B of Title I of ERISA, Chapter 100 of Subtitle K of the Code, and Title XXVII of the PHS Act were added by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Pub. L. 104–191.

[2] The parity requirements under MHPA, the interim regulations, and the amendment to the interim regulations do not apply to any group health plan (or health insurance coverage offered in connection with a group health plan) for any plan

Continued

a result of this statutory amendment, and to assist employers, plan sponsors, health insurance issuers, and workers, the Department of Labor has developed this amendment of the interim final regulations, in consultation with the Departments of the Treasury and Health and Human Services, conforming the regulatory sunset date to the new statutory sunset date. The Department is also making conforming changes extending the duration of the increased cost exemption to be consistent with the new sunset date.

Since the extension of this sunset date is not discretionary, this amendment to the MHPA regulations is promulgated on an interim final basis pursuant to Section 734 of ERISA. This interim final amendment is also promulgated pursuant to Section 553(d)(3) of the Administrative Procedure Act, allowing for regulations to become effective immediately for good cause.

C. Executive Order 12866

Under Executive Order 12866, the Department must determine whether a regulatory action is ''significant'' and therefore subject to the requirements of the Executive Order and subject to review by the Office of Management and Budget (OMB). Under section 3(f), the order defines a ''significant regulatory action'' as an action that is likely to result in a rule: (1) Having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities (also referred to as ''economically significant''); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of the Executive Order, it has been determined that this action is not a ''significant regulatory action'' within the meaning of the Executive Order. This action is an amendment to the interim final regulations and merely extends the regulatory sunset date to conform to the new statutory sunset date added by H.R. 6111.

D. Paperwork Reduction Act

This action does not impose any new or revised information collection requirements for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–30. Therefore, no submission for OMB approval is being made in connection with this interim final amendment.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA) imposes certain requirements with respect to federal rules that are subject to the notice and comment requirements of section 553(b) of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*). Because this amendment to the interim final regulations is being published on an interim final basis, without prior notice and a period for comment, the Regulatory Flexibility Act does not apply.

F. Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) (UMRA), as well as Executive Order 12875, this interim final amendment does not include any federal mandate that may result in expenditures by state, local, or tribal governments, and does not include mandates that may impose an annual expenditure of $100 million or more on the private sector.

G. Congressional Review Act

This interim final amendment is subject to the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*) (SBREFA), and has been transmitted to Congress and the Comptroller General for review. This amendment to the interim final regulations is not a major rule, as that term is defined by 5 U.S.C. 804.

H. Federalism Statement

Executive Order 13132 (August 4, 1999) outlines fundamental principles of federalism and requires the adherence to specific criteria by federal agencies in the process of their formulation and implementation of policies that have substantial direct effects on the states, the relationship between the states, the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. This interim final amendment does not have federalism implications as it only conforms the regulatory sunset date to the new statutory sunset date added by H.R. 6111.

List of Subjects in 29 CFR Part 2590

Continuation coverage, Disclosure, Employee benefit plans, Group health plans, Health care, Health insurance, Medical child support, Reporting and recordkeeping requirements.

Employee Benefits Security Administration

■ 29 CFR part 2590 is amended as follows:

PART 2590—RULES AND REGULATIONS FOR GROUP HEALTH PLANS

■ 1. The authority for part 2590 continues to read as follows:

Authority: 29 U.S.C. 1027, 1059, 1135, 1161–1168, 1169, 1181–1183, 1181 note, 1185, 1185a, 1185b, 1191, 1191a, 1191b, and 1191c, sec. 101(g), Pub. L. 104–191, 101 Stat. 1936; sec. 401(b), Pub. L. 105–200, 112 Stat. 645 (42 U.S.C. 651 note); Secretary of Labor's Order 1–2003, 68 FR 5374 (Feb. 3, 2003).

§ 2590.712 [Amended]

■ 2. Amend § 2590.712 (f)(1), (g)(2), and (i) by removing the date ''December 31, 2006'' and add in its place the date ''December 31, 2007'' wherever it appears in these paragraphs.

Signed at Washington, DC this 21st day of February, 2007.

Bradford P. Campbell,

Acting Assistant Secretary, Employee Benefits Security Administration.

[FR Doc. E7–3278 Filed 2–26–07; 8:45 am]

BILLING CODE 4510–29–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2004–0357; FRL–8281–9]

RIN 2060–AO03

National Emission Standards for Hazardous Air Pollutants: Shipbuilding and Ship Repair (Surface Coating) Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule; notice of reopening of public comment period.

SUMMARY: Because EPA received adverse comments, we are withdrawing the direct final rule for the National Emission Standards for Hazardous Air Pollutants for Shipbuilding and Ship Repair (Surface Coating) Operations

year of a small employer. The term ''small employer'' is defined as an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

published on December 29, 2006. Additionally, this notice serves to reopen the public comment period for 60 days to facilitate the collection and submission of data by affected sources. This information will assist EPA in determining the appropriate course of action for addressing surface coating operations that are the subject of the direct final rule amendments.

DATES: As of February 27, 2007, EPA withdraws the direct final rule published at 71 FR 78369 on December 29, 2006 and reopens the public comment period. *Comments.* Written comments must be received on or before April 30, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2002–0093, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: a-and-r-docket@epa.gov* and *serageldin.mohamed@epa.gov.*
- *Fax:* (202) 566–1741 and (919) 541–3470.
- *Mail:* U.S. Postal Service, send comments to: Air and Radiation Docket (6102T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please include a total of two copies.
- *Hand Delivery:* In person or by courier, deliver comments to: Air and Radiation Docket (6102T), EPA West, Room 334, 1301 Constitution Avenue, NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. Please include a total of two copies.

We request that you also send a separate copy of each comment to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2004–0357, (Legacy No. A–92–11). EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. Send or deliver information identified as CBI only to the following address: Mr. Roberto Morales, OAQPS Document Control Officer, EPA (C404–02), Attention Docket ID No. EPA–HQ–OAR–2004–0357, (Legacy No. A–92–11), Research Triangle Park, NC 27711. Clearly mark the part or all of the information that you claim to be CBI.

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 with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket. All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air and Radiation Docket, Docket ID No. EPA–HQ–OAR–2002–0093, EPA West, Room 334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

Note: The EPA Docket Center suffered damage due to flooding during the last week of June 2006. The Docket Center is continuing to operate. However, during the cleanup, there will be temporary changes to Docket Center telephone numbers, addresses, and hours of operation for people who wish to make hand deliveries or visit the Public Reading Room to view documents. Consult EPA's **Federal Register** notice at 71 FR 38147 (July 5, 2006) or the EPA Web site at *http://www.epa.gov/epahome/dockets.htm* for current information on docket operations, locations, and telephone numbers. The Docket Center's mailing address for U.S. mail and the procedure for submitting comments to *www.regulations.gov* are not affected by the flooding and will remain the same.

FOR FURTHER INFORMATION CONTACT: Dr. Mohamed Serageldin, Environmental Protection Agency, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Natural Resources and Commerce Group (E143–03), Research Triangle Park, NC 27711, telephone number (919) 541–2379, electronic mail address *serageldin.mohamed@epa.gov.*

SUPPLEMENTARY INFORMATION: Because EPA received adverse comment, we are withdrawing the direct final rule for the National Emission Standards for Hazardous Air Pollutants for Shipbuilding and Ship Repair (Surface Coating) Operations published on December 29, 2006 (71 FR 78369). We stated in that direct final rule that if we received adverse comment by January 29, 2007, the direct final rule would not take effect and we would publish a timely withdrawal in the **Federal Register**. We subsequently received adverse comment on that direct final rule and are, therefore, withdrawing the rule. EPA is also reopening the public comment period for 60 days to afford affected sources an opportunity to collect and submit additional data. EPA will evaluate the comments received, including any data and other information, and will determine the appropriate course of action for addressing the activities at issue in the direct final rule.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: February 21, 2007.

Stephen L. Johnson,

Administrator.

■ The direct final amendments are withdrawn, accordingly, the amendments to the rule published on December 29, 2006 (71 FR 78369) are withdrawn as of February 27, 2007.

[FR Doc. E7–3311 Filed 2–26–07; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 061124307–7013–02; I.D. 112106A]

RIN 0648–AT65

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Specifications and Management Measures; Correction

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

ACTION: Final rule; correction.

SUMMARY: On January 30, 2007, NMFS published a final rule implementing 2007 specifications and management measures for Atlantic mackerel, squid, and butterfish and modifying existing management measures. In the codified text of the final rule, there were errors in the description of the catch associated with the fishing mortality rate (F). Also, the acronyms used for F equal to the target F (F=0.12) and B_{MSY} were published in the codified text without using standardized type production for these scientific terms. In the codified text for the procedures for closing the directed mackerel fishery NMFS inadvertently substituted the term ''executed'' for ''exceeded'' when describing when the Regional Administrator will close the fishery. This document corrects those errors.

DATES: Effective March 1, 2007.

FOR FURTHER INFORMATION CONTACT: Carrie Nordeen, Fishery Policy Analyst, 978–281–9272, fax 978–281–9135.

SUPPLEMENTARY INFORMATION: Regulations implementing the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP) appear at 50 CFR part 648, subpart B, and regulations governing foreign fishing appear at 50 CFR part 600, subpart F. The final rule published on January 30, 2007 (72 FR 4211) and corrected on February 7, 2007 (72 FR 5643) identified the annual amounts of the initial optimum yield, allowable biological catch (ABC), domestic annual harvest, and domestic annual processing, as well as, where applicable, the amounts for total allowable level of foreign fishing and joint venture processing for the affected species managed under the FMP. The final rule implementing the Atlantic mackerel, squid, and butterfish fisheries specifications for 2007 also contained modifications to existing regulatory language to clarify that the most recent information should be used when developing annual specifications.

The regulatory text contained in § 648.22(b)(2) describes the procedure for calculating mackerel's ABC using a formula ABC = T - C, where C is the estimated catch of mackerel in Canadian waters for the upcoming fishing year and T is the catch associated with a fishing mortality rate that is equal to F_{target} at B_{MSY} or greater and decreases linearly to zero at ''1/2 B_{MSY}'' or below. Values for ''F_{target}'' and ''B_{MSY}'' are as calculated in the most recent stock assessment. The final rule describes the reference points and formula, but does not include any values. This approach makes it clearer that the values from the most recent stock assessment are to be used when calculating mackerel ABC.

The codified text, § 648.21(b)(2), published in the January 30, 2007, final rule indicated that T is the catch associated with a fishing mortality rate that decreases linearly to zero at ''B_{MSY}'' rather than ''1/2 B_{MSY}''. This document corrects that error in addition to making editorial corrections to the second sentence in this paragraph, which did not reflect the subscript normally used in the scientific terms ''B_{MSY}'' and ''F_{TARGET}''. Therefore, this document corrects § 648.21(b)(2)(i) appearing on page 4217 (FR Doc. E7–1445), first column, first full paragraph, first two sentences, contained in the January 30, 2007 **Federal Register** document.

The final rule published January 30, 2007 (72 FR 4211) contained regulatory text, § 648.22(a) describing when NMFS will close the directed mackerel fishing. When the Regional Administrator, Northeast Region, NMFS, projects that 80 percent of the mackerel DAH is landed, a closure is necessary to prevent the DAH from being exceeded. However, the codified text contained the phrase ''to prevent the DAH from being executed'' rather than ''exceeded''. This document corrects the codified text, § 648.22(a) on page 4217 (FR Doc. E7–1445), column 2, first sentence of paragraph (a)(1), contained in the January 30, 2007 **Federal Register** final rule document.

Correction

■ Accordingly, the final rule published on January 30, 2007, at 72 FR 4211 (FR Doc. E7–1445), to be effective March 1, 2007, is corrected as follows:

■ 1. On page 4217, column 1, § 648.21 (b)(2)(i) is correctly revised to read as follows:

§ 648.21 Procedures for determining initial annual amounts.

* * * * *

(b) * * *

(2) * * *

(i) Mackerel ABC must be calculated using the formula ABC = T - C, where C is the estimated catch of mackerel in Canadian waters for the upcoming fishing year and T is the catch associated with a fishing mortality rate that is equal to F_{target} at B_{MSY} or greater and decreases linearly to zero at 1/2 B_{MSY} or below. Values for F_{target} and B_{MSY} are as calculated in the most recent stock assessment.

* * * * *

§ 648.22 [Corrected]

■ 2. On page 4217, column 2, § 648.22 (a)(1), in the seventh line, correctly revise ''executed'' to read ''exceeded''.

Dated: February 22, 2007.

Samuel D. Rauch III,

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

[FR Doc. E7–3337 Filed 2–26–07; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 72, No. 38
Tuesday, February 27, 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

Agriculture Marketing Service

7 CFR Part 1215

[Docket No. AMS–FV–07–0022; FV–06–706]

Popcorn Promotion, Research, and Consumer Information Order; Section 610 Review

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of regulatory review and request for comments.

SUMMARY: This document announces the Agricultural Marketing Service's (AMS) review of the Popcorn Promotion, Research, and Consumer Information Order [Order] (conducted under the Popcorn Promotion, Research, and Consumer Information Act [Act]), under the criteria contained in Section 610 of the Regulatory Flexibility Act (RFA).

DATES: Written comments on this document must be received by April 30, 2007.

ADDRESSES: Interested persons are invited to submit written comments on the internet at: *http://www.regulations.gov* or to the Research and Promotion Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, Room 0635–S, Stop 0244, 1400 Independence Avenue, SW., Washington, DC 20250–0244; FAX: (202) 205–2800. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the above office during regular business hours.

FOR FURTHER INFORMATION CONTACT: Deborah Simmons, Marketing Specialist, Research and Promotion Branch, FVP, AMS, USDA, Stop 0244, 1400 Independence Avenue, SW., Room 0635–S, Washington, DC 20250–0244; telephone: (888) 720–9917; fax: (202) 205–2800.

SUPPLEMENTARY INFORMATION: The Popcorn Promotion, Research, and Consumer Information Act of 1996, (7 U.S.C. 7481 *et seq.*) authorized the Popcorn Promotion, Research, and Consumer Information Order which is industry operated and funded, with oversight by USDA. The Popcorn Promotion, Research, and Consumer Information Order objective is to carry out an effective and continuous coordinated program of research, development, advertising, and promotion designed to strengthen popcorns' competitive position, and to maintain and expand domestic and foreign markets for popcorn and popcorn products.

The Popcorn Promotion, Research, and Consumer Information Order (7 CFR Part 1215) became effective on September 1, 1997, and was implemented in January 1998 when assessments began. The Popcorn Board (Board) collects assessments from processors of over four million pounds of popcorn per year, regardless of the country of origin of the popcorn. The assessment rate is 6 cents per hundredweight.

Assessments under this program are used to fund promotional campaigns and to conduct research in the areas of U.S. marketing, and international marketing and to enable it to exercise its duties in accordance with the Order.

The Popcorn Promotion, Research, and Consumer Information Order is administered by the Popcorn Board, which is composed of nine at-large processors who were appointed by the Secretary of Agriculture from nominations submitted by eligible processors. All processors of over four million pounds of popcorn annually are eligible to participate in the nomination process. All Board members serve terms of three years.

The Agricultural Marketing Service published in the **Federal Register** (71 FR 14828; March 24, 2006) its plan to review certain regulations, including the Popcorn Promotion, Research, and Consumer Information Order, (conducted under the Popcorn Promotion, Research, and Consumer Information Act), under criteria contained in Section 610 of the Regulatory Flexibility Act (RFA; 5 U.S.C. 601–612). Because many AMS regulations impact small entities, AMS decided, as a matter of policy, to review certain regulations which, although they may not meet the threshold requirement under section 610 of the RFA, warrant review. Accordingly, this notice and request for comments is made for the Popcorn Promotion, Research, and Consumer Information Order.

The purpose of the review is to determine whether the Popcorn Promotion, Research, and Consumer Information Order should be continued without change, amended, or rescinded (consistent with the objectives of the Popcorn Promotion, Research, and Consumer Information Act of 1996) to minimize the impacts on small entities. AMS will consider the continued need for the Popcorn Promotion, Research, and Consumer Information Order; the nature of complaints or comments received from the public concerning the Popcorn Promotion, Research, and Consumer Information Order; the complexity of the Popcorn Promotion, Research, and Consumer Information Order; the extent to which the Popcorn Promotion, Research, and Consumer Information Order overlaps, duplicates, or conflicts with other Federal rules, and, to the extent feasible, with State and local regulations; and the length of time since the Popcorn Promotion, Research, and Consumer Information Order has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the Popcorn Promotion, Research, and Consumer Information Order.

Written comments, views, opinions, and other information regarding the Popcorn Promotion, Research, and Consumer Information Order's impact on small businesses are invited.

Authority: 7 U.S.C. 7481–7491.

Dated: February 20, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E7–3262 Filed 2–26–07; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 160 and 161

[Docket No. APHIS–2006–0093]

RIN 0579–AC04

National Veterinary Accreditation Program

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule; supplemental.

SUMMARY: We are proposing four changes related to our proposed rule published in the **Federal Register** on June 1, 2006, that would amend the regulations regarding the National Veterinary Accreditation Program. The June 2006 proposed rule would establish two accreditation categories in place of the current single category, add requirements for supplemental training and renewal of accreditation, and offer accreditation specializations. In this supplemental proposed rule, we are proposing to adjust the scope of the two accreditation categories; to require initial accreditation training for veterinarians seeking accreditation; to require newly accredited veterinarians to renew their accreditation 3 years after completing initial accreditation training; and to reduce the training required for renewal of accreditation from the amount discussed in the June 2006 proposal.

DATES: We will consider all comments that we receive on or before April 30, 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–2006–0093 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–2006–0093, 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–2006–0093.

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. Todd Behre, National Veterinary Accreditation Program, VS, APHIS, 4700 River Road Unit 200, Riverdale, MD 20737; (301) 734–0853.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR chapter I, subchapter J (parts 160 through 162, referred to below as the regulations), govern the accreditation of veterinarians and the suspension and revocation of such accreditation. These regulations are the foundation for the National Veterinary Accreditation Program (NVAP). Accredited veterinarians are approved by the Administrator of the Animal and Plant Health Inspection Service (APHIS), United States Department of Agriculture (USDA), to perform certain regulatory tasks to control and prevent the spread of animal diseases throughout the United States and internationally.

We published a proposal to amend the regulations in the **Federal Register** on June 1, 2006 (71 FR 31109–31121, Docket No. APHIS–2006–0093). We proposed to establish two accreditation categories (Category I and Category II) in place of the current single category, to add requirements for supplemental training and renewal of accreditation every 3 years, and to provide for accreditation specializations.

We solicited comments concerning our proposal for 60 days ending July 31, 2006. We received 23 comments by that date. They were from State departments of agriculture, veterinary medical associations, universities, and individual veterinarians.

In the process of considering the comments we received, we identified four changes that we believe would improve the June 2006 proposed rule. We are publishing this supplemental proposed rule to allow an opportunity for public comment on these changes. After evaluating any comments received on this supplemental proposal, we will publish a final rule addressing comments received on both the June 2006 proposed rule and this supplemental proposed rule.

The four changes included in this supplemental proposal are described directly below.

Changing the Scope of Category I and Category II Accreditation

We are proposing to establish two categories of accreditation: Category I and Category II. Under the June 2006 proposal, veterinarians accredited under Category I would have been authorized to perform accredited duties on companion animals. The June 2006 proposal would have defined *companion animals* as animals commonly kept as pets in family households in the United States. The proposed definition specifically excluded horses, food or fiber animal species, and other livestock or poultry animals. Only Category II veterinarians, who would be required to complete more training than Category I veterinarians, would have been authorized to perform duties on those animals. Category II veterinarians would also have been authorized to perform accredited duties on companion animals.

We received several comments on the June 2006 proposal that asked for clarification regarding various aspects of the scope of duties that Category I and Category II accredited veterinarians would be authorized to perform, as well as comments on what tasks Category I and Category II veterinarians should be able to perform. Two commenters noted that the phrase ''commonly kept as pets'' in our proposed definition of *companion animals* appeared to exclude exotic animals and nontraditional pets, such as hedgehogs, falcons, or primates, that are sometimes brought to veterinarians for health certificates; it was not clear which category of veterinarians would have been authorized to perform accredited duties on such species. One commenter asked which category of accreditation would be appropriate for zoo veterinarians. Regarding the tasks Category I and Category II veterinarians would have been required to be able to perform, one commenter recommended that Category I veterinarians be able to develop flock health plans for bird flocks, a task that we had only proposed be required for Category II veterinarians.

These comments have led us to reconsider the division between

Category I and Category II. Some species of animals are commonly kept as household pets but are susceptible to diseases that are subject to control or eradication by APHIS. For example, pet birds are susceptible to poultry diseases such as avian influenza and exotic Newcastle disease, and pot-bellied pigs are susceptible to the same diseases as farm-raised swine, such as pseudorabies.

We would want Category II veterinarians to perform accredited duties relating to any food and fiber animal species, horses, farm-raised fish, poultry, and all other livestock. (As defined in the Animal Health Protection Act [7 U.S.C. 8301–8317], ''livestock'' refers to all farm-raised animals.) We would also want Category II veterinarians to perform accredited duties on birds. These types of animals are susceptible to diseases for which APHIS has regulatory control or eradication programs. Requiring that veterinarians performing accredited duties on those animals be accredited under Category II would ensure that they have the necessary training to recognize symptoms of those diseases and the necessary skills to take appropriate action. For example, as one of the commenters noted, it might be necessary for an accredited veterinarian to develop a flock health plan for a group of pet birds that had been exposed to a poultry disease like avian influenza. Similarly, a veterinarian who performs accredited duties on a pot-bellied pig would need to be able to recognize the clinical signs of pseudorabies and know what to do if the disease is found; the same would apply to any animal from a food or fiber animal species that is kept domestically. Requiring that veterinarians who deal with these species be accredited under Category II would ensure that they could perform the necessary tasks.

In addition, APHIS has a program in which zoo animals that could transmit exotic animal diseases to domestic livestock are kept under postentry quarantine after importation. For ruminants, this program is outlined in § 93.404(c); for swine, this program is outlined in § 93.504(c). Other zoo animals may also present a risk to domestic livestock and may be held at zoos under similar conditions. We would want veterinarians who deal with animals that could transmit exotic animal diseases to domestic livestock to have the additional training and skills required for Category II accreditation. (Category I accreditation would be adequate for veterinarians who did not work with animals that could transmit exotic animal diseases to domestic livestock.)

Therefore, in this supplemental proposal, we are proposing that Category I veterinarians be authorized to perform accredited duties only on animals other than food and fiber animals, horses, farm-raised fish, poultry, all other livestock, birds, and zoo animals that could transmit exotic animal diseases to livestock. We would refer to these animals as nonregulated animals, and add a definition of *nonregulated animals* in § 160.1.[1] We would not include the definition of *companion animals* from the June 2006 proposed rule in the regulations. We would replace all the references to companion animals in the June 2006 proposed rule with references to nonregulated animals.

Our definition of *nonregulated animals* would also indicate that dogs and cats are examples of nonregulated animals. Under this supplemental proposal, Category I veterinarians would be required to be able to perform the tasks listed in paragraph (g)(1) of proposed § 161.1. The category of animals that are not included in the definition of *nonregulated animals* is diverse. Veterinarians pursuing accreditation under Category I should at a minimum be able to perform the tasks listed in paragraph (g)(1) of proposed § 161.1 on dogs and cats, the most common types of nonregulated animals. While we recognize that Category I veterinarians may specialize in exotic types of nonregulated animals, we would want veterinarians accredited under Category I to be able to perform the tasks listed in paragraph (g)(1) of proposed § 161.1 on common nonregulated animals as well.

Relating to the tasks listed in paragraph (g)(1) of proposed § 161.1, we note that we would retain the proposed requirement that Category I veterinarians be able to recognize and report clinical signs and lesions of exotic animal diseases that occur in nonregulated animals. Some diseases for which APHIS has a regulatory control or eradication program can be found in almost any species, even though we are pursuing control or eradication of the diseases primarily in livestock or poultry. The screwworm parasite is one example. We would want Category I veterinarians to be able to recognize the screwworm parasite if a nonregulated animal, such as a dog or cat, is affected by it, so they can take the appropriate action.

Under this supplemental proposal, Category II veterinarians would be authorized to perform accredited duties on all animals, both those that are susceptible to diseases for which APHIS does have a regulatory control or eradication program and those that are not. This is unchanged from the June 2006 proposal, which also would have authorized Category II veterinarians to perform accredited duties on all animals.

For the most part, these changes would result in Category I and Category II veterinarians being able to perform the same scope of tasks as they would have under the June 2006 proposed rule. We believe that the division between categories is clearer in this supplemental proposal than it was in the June 2006 proposed rule. Some types of animals would have been considered companion animals on which Category I veterinarians would have been allowed to perform accredited duties under the June 2006 proposed rule, but would now be considered animals on which only Category II veterinarians could perform accredited duties; these would most prominently include pet birds. However, as discussed earlier, we believe it is necessary to require that veterinarians performing accredited duties on livestock, birds, and zoo animals be accredited under Category II.

Requiring Initial Accreditation Training for All Veterinarians Seeking Accreditation

The June 2006 proposal would have allowed veterinarians applying for initial accreditation to choose between Category I and Category II accreditation. Applicants seeking Category II accreditation would have been required to complete five additional supplemental training units in addition to their core orientation before they could become accredited under Category II; applicants for Category I accreditation would simply have had to complete the core orientation.

However, since the publication of the June 2006 proposed rule, we have begun efforts to develop initial accreditation training that would be required to be completed by all veterinarians seeking accreditation. In this supplemental proposal, we would add a requirement that veterinarians seeking accreditation complete initial accreditation training. Veterinarians seeking accreditation

[1] We would consider these animals to be ''nonregulated'' from the perspective of the veterinary accreditation program, which is concerned with APHIS animal disease regulations. In 9 CFR parts 1, 2, and 3, APHIS has promulgated separate standards and other requirements governing the humane handling, housing, care, treatment, and transportation of animals including dogs, cats, and other animals considered nonregulated under this definition. This change would not affect those regulations.

under both Categories I and II would have to complete initial accreditation training prior to becoming accredited.

The initial accreditation training would typically be administered in veterinary schools using content developed by APHIS, although we would ensure that it would be available through other venues for veterinarians seeking accreditation who do not graduate from U.S. veterinary schools. The initial accreditation training would supplement the core orientation described in § 161.1(e)(4) of this supplemental proposal, which is conducted by the Veterinarian-in-Charge for the State in which the applicant is applying for accreditation. The initial accreditation training would be designed to ensure that all veterinarians seeking accreditation have a common knowledge base in addition to the program administration and State-specific topics discussed in the core orientation.

As mentioned earlier, the June 2006 proposal would have required that, in addition to the core orientation, veterinarians seeking Category II accreditation complete an additional five units of training prior to accreditation. Because this supplemental proposal would require all veterinarians to complete initial accreditation training, we believe that the previous requirement that Category II veterinarians complete five additional supplemental training units unnecessary. Therefore, we have not included it in this supplemental proposal. Veterinarians who complete initial accreditation training would be able to opt for accreditation under either Category I or Category II, without the additional training requirement.

To accomplish these changes, we propose to revise § 161.1 of the June 2006 proposed rule by adding a new paragraph (b) describing the division between Category I and Category II accreditation and by removing the paragraph in the June 2006 proposed rule that would have required additional training for applicants for initial accreditation under Category II. We would also add a new paragraph § 161.1(e)(3) that would require the initial accreditation training. This supplemental proposal also makes some organizational changes to § 161.1 as it was set out in the June 2006 proposal, to make the order of the regulatory provisions more consistent with the order in which the steps required for initial accreditation would need to be accomplished. These changes can be reviewed in the regulatory text at the end of this document.

Requiring Newly Accredited Veterinarians To Renew Accreditation 3 Years After Completing Initial Accreditation Training

In the June 2006 proposal, we would have required that accredited veterinarians complete training to renew their accreditation every 3 years. We did not specifically state how we would set the dates by which newly accredited veterinarians would have to renew their accreditation. We had intended that newly accredited veterinarians would be required to renew their accreditation 3 years after they were initially accredited.

We proposed to require that veterinarians complete training to renew their accreditation in order to ensure that accredited veterinarians have up-to-date information on disease threats and other important topics involved in performing their duties. For veterinarians seeking initial accreditation, this training would be provided in the initial accreditation training, as we would require in proposed § 161.1(e)(3), and in the core orientation, described in proposed § 161.1(e)(4). Besides completing the initial accreditation training and core orientation, veterinarians seeking accreditation must also have graduated from a college of veterinary medicine and be licensed or legally able to practice veterinary medicine in the State in which the veterinarian wishes to perform accredited duties. After all these requirements are met, a veterinarian may be accredited.

However, some veterinary schools may give the initial accreditation training to their students as much as 18 months before graduation. If we were to set the date by which these newly accredited veterinarians would have to renew their accreditation at 3 years from the date on which they were initially accredited, their initial accreditation training could have occurred as long as 4.5 years ago by the time they renew their accreditation. The intention of our proposed renewal provisions is to require that accredited veterinarians complete additional training every 3 years, to ensure that their training is up to date.

Therefore, in this supplemental proposal, we are proposing to require that newly accredited veterinarians renew their accreditation within 3 years of completing the initial accreditation training in § 161.1(e)(3), regardless of when their accreditation is granted. Other veterinarians would have to renew their accreditation within 3 years of the previous renewal. (We would still plan to handle the initial renewal of accreditation for currently accredited veterinarians according to the procedures in § 161.3(d) of the June 2006 proposed rule.) This change would ensure that newly accredited veterinarians receive up-to-date training when they renew their accreditation.

Reducing the Amount of Training Required for Renewal of Accreditation

We received several comments on the June 2006 proposed rule expressing concern about the amount of training that would have been required for renewal of accreditation. After reviewing our planned training, we agree that essential topics for renewal of accreditation could be covered in fewer units of training than we would have required in the June 2006 proposal. Accordingly, this supplemental proposal reduces the amount of training we would require for renewal of Category II accreditation from nine supplemental training units to six, and the amount of training we would require for the renewal of Category I accreditation from four units to three.

Miscellaneous Changes

The text in proposed § 161.3(b) in the June 2006 proposed rule stated the requirements for renewal of accreditation under an accredited veterinarian's current category, but did not provide information on how to change accreditation categories. This process requires a new application, and the process for changing accreditation categories would be described in proposed § 161.1(f). This supplemental proposal would include a reference to that process in § 161.3(b).

In addition, the June 2006 proposed rule referred to specific form titles and numbers when discussing applying for accreditation and renewal of accreditation. However, we do not believe it is necessary to refer to specific forms in the regulations, and doing so may impede efforts to simplify the application and renewal processes in the future. Therefore, this supplemental proposal does not include any references to specific form titles and numbers.

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.

This action supplements a proposed rule published in the **Federal Register** on June 1, 2006, that proposed to amend

the regulations to establish two accreditation categories (Category I and Category II) in place of the current single category, to add requirements for supplemental training and renewal of accreditation every 3 years, and to provide for accreditation specializations. The economic analysis for the June 2006 proposed rule was set forth in that proposed rule. It included a cost-benefit analysis as required by Executive Order 12866 and an analysis of the potential economic effects on small entities as required by the Regulatory Flexibility Act.

This supplemental proposal contains four changes to the June 2006 proposal: Changing the scope of Category I and Category II accreditation; requiring initial accreditation training for veterinarians seeking accreditation; requiring newly accredited veterinarians to renew their accreditation 3 years after completing core orientation; and reducing the amount of training required for renewal of accreditation.

The first change could result in some veterinarians who would have been accredited under Category I under the June 2006 proposal instead being accredited under Category II. This means that the training they would have to complete, and the scope of tasks that they would have to be able to perform, would increase. Specifically, veterinarians accredited under Category II rather than Category I would have to complete six units of supplemental training every 3 years, rather than three units; they would also have to perform the more diverse list of tasks in proposed paragraph (g)(2) of § 161.1, rather than the tasks listed in proposed (g)(1).

However, the marginal cost of the additional training would be expected to be minimal. The majority of the supplemental training would be delivered through the World Wide Web, with no charge to the participating veterinarians. The Internet-based training would eliminate the need for additional costs for travel and accommodations for these veterinarians taking the training. We also anticipate approving some classroom training conducted at the State level, which could then be used to fulfill part of the renewal requirement. Paper copies of training materials would also be available for a printing and mailing fee. Thus, there would be no additional costs associated with being accredited under Category II rather than Category I, except for the time spent completing the additional training.

With regard to performing tasks, most graduates of veterinary school are capable of performing the tasks listed in proposed § 161.1(g)(2); therefore, we would not expect accredited veterinarians to incur any additional expenses to be able to perform them.

Requiring initial accreditation training for veterinarians seeking accreditation, the second change in this supplemental proposal, would not affect the expected training burden for Category II veterinarians, as they would no longer be required to complete five separate supplemental training units. For Category I veterinarians, the initial accreditation training would be an additional time burden. Applicants for accreditation who have already completed their veterinary education, such as veterinarians from other countries, would have to take the initial accreditation training separately, but APHIS would make the training available at no cost.

The third change, requiring newly accredited veterinarians to renew their accreditation 3 years after completing core orientation, would simply shift the training burden for some newly accredited veterinarians, but the amount of training they would be required to complete would remain the same.

The fourth change, reducing the amount of training required for renewal of accreditation, would reduce the time burden on accredited veterinarians and thus the costs associated with maintaining their accreditation.

Impact on Small Entities

The Regulatory Flexibility Act requires that agencies consider the economic effects of their rules on small entities. According to the Small Business Administration's (SBA's) Office of Advocacy, regulations create economic disparities based on size when they have a significant economic impact on a substantial number of small entities.

This supplemental proposed rule and the June 2006 proposal would change a continuing program. Entities that would be affected as a result of the proposed changes in the regulations would be the participating veterinarians who enter into the new NVAP program. Under the North American Industrial Classification System (NAICS), Veterinary Services (NAICS 541940) is included under the Professional, Scientific, and Technical Services subsector.

The veterinary services industry comprises establishments of licensed veterinary practitioners primarily engaged in the practice of veterinary medicine, dentistry, or surgery for animals (i.e., animal hospitals, veterinary clinics, and veterinarians' offices); and establishments primarily engaged in providing testing services for licensed veterinary practitioners (i.e., veterinary testing laboratories). Veterinary services entities that have less than $5 million in annual revenues are considered small according to the SBA's standards.

The number of U.S. veterinary establishments was reported to be 24,510 in 2000; they employed 219,868 people with an annual payroll of $4.82 billion (2000 County Business Patterns, NAICS, U.S. Economic Census 2000).

We do not know how many of these establishments are considered small entities under the SBA's standards. However, the changes in this supplemental proposal would not be expected to have any significant economic effect on any of these 24,510 establishments whether they are small or large, since the vast majority of program costs will be borne by the Agency.

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.

Paperwork Reduction Act

This action supplements a proposed rule published in the **Federal Register** on June 1, 2006, that would have necessitated revisions to the Application for Veterinary Accreditation, as well as the introduction of two additional forms: An Application to Perform Accredited Duties in Another State and an Application for Renewal of Accreditation. This supplemental proposal does not affect those requirements or add new requirements that impose a paperwork burden.

This supplemental 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

9 CFR Part 160

Veterinarians.

9 CFR Part 161

Reporting and recordkeeping requirements, Veterinarians.

For the reasons set forth in the preamble, we propose to amend parts 160 and 161 as set out in the proposed rule published on June 1, 2006 (71 FR 31109–31121), as follows:

PART 160—DEFINITION OF TERMS

1. The authority citation for part 160 would continue to read as follows:

Authority: 7 U.S.C. 8301–8317; 15 U.S.C. 1828; 7 CFR 2.22, 2.80, and 371.4.

2. Section 160.1 is amended as follows:

a. By removing the definition of *companion animals.*

b. By adding, in alphabetical order, a new definition of *nonregulated animals* to read as set forth below.

§ 160.1 Definitions.

* * * * *

Nonregulated animals. Animals other than food and fiber animals, horses, farm-raised fish, poultry, all other livestock, birds, and zoo animals that could transmit exotic animal diseases to livestock. Examples of nonregulated animals include dogs and cats.

* * * * *

PART 161—REQUIREMENTS AND STANDARDS FOR ACCREDITED VETERINARIANS AND SUSPENSION OR REVOCATION OF SUCH ACCREDITATION

3. The authority citation for part 161 would continue to read as follows:

Authority: 7 U.S.C. 8301–8317; 15 U.S.C. 1828; 7 CFR 2.22, 2.80, and 371.4.

4. In § 161.1, paragraphs (b) through (g) are revised to read as follows, and a new paragraph (h) is added to read as follows:

§ 161.1 Statement of purpose; requirements and application procedures for accreditation.

* * * * *

(b) *Categories of accreditation.* A veterinarian may be accredited as a Category I veterinarian or a Category II veterinarian. A veterinarian who is accredited under Category I is only authorized to perform accredited duties on nonregulated animals, as defined in § 160.1. A veterinarian who is accredited under Category II is authorized to perform accredited duties on all animals, both regulated and nonregulated.

(c) *Application for initial accreditation.* A veterinarian may apply for accreditation by completing an application for accreditation and submitting it to the Veterinarian-in-Charge in the State where he or she wishes to perform accredited duties. In completing the application, the veterinarian will choose one of the accreditation activity categories, either Category I or Category II, as discussed in paragraph (b) of this section. Applications for Category I accreditation must include certification that the applicant is able to perform the tasks listed in paragraph (g)(1) of this section. Applications for Category II accreditation must include certification that the applicant is able to perform the tasks listed in paragraph (g)(2) of this section. An accredited veterinarian must not perform duties requiring an accreditation specialization unless he or she is accredited under Category II and qualified to perform such duties in accordance with § 161.5 of this part.

(d) *Review of application.* Applications for accreditation received by a Veterinarian-in-Charge shall be forwarded to the State Animal Health Official for the State in which the veterinarian wishes to perform accredited duties for approval. Within 14 days after receiving an application, a State Animal Health Official shall either endorse the application or send a written statement to the Administrator explaining why it was not endorsed; but if the State Animal Health Official fails to take one of these actions within 14 days, the Veterinarian-in-Charge shall proceed to review the application. The Administrator will review the application and the written statement, if any, and determine whether the applicant meets the requirements for accreditation contained in this part.

(e) *Accreditation requirements.* The Administrator is hereby authorized to accredit a veterinarian when he or she determines that:

(1) The veterinarian is a graduate with a Doctorate of Veterinary Medicine or an equivalent degree (any degree that qualifies the holder to be licensed by a State to practice veterinary medicine) from a college of veterinary medicine;

(2) The veterinarian is licensed or legally able to practice veterinary medicine in the State in which the veterinarian wishes to perform accredited duties. APHIS will confirm the licensing status of the applicant by contacting the State board of veterinary medical examiners or any similar State organization that maintains records of veterinarians licensed in a State;

(3) The veterinarian has completed initial accreditation training, using content provided by APHIS; and

(4) The veterinarian has completed an orientation program approved by the Veterinarian-in-Charge for the State in which the veterinarian wishes to practice, and upon completion of the orientation, has signed a written statement listing the date and place of orientation, the subjects covered in the orientation, and any written materials provided to the veterinarian at the orientation. The Veterinarian-in-Charge shall also give the State Animal Health Official an opportunity to review the contents of the orientation, and invite him or her to participate in developing orientation materials and conducting the orientation. The core orientation program shall include the following topics:

(i) Federal animal health laws, regulations, and rules;

(ii) Interstate movement requirements for animals;

(iii) Import and export requirements for animals;

(iv) USDA animal disease eradication and control programs;

(v) Laboratory support in confirming disease diagnoses;

(vi) Ethical and professional responsibilities of an accredited veterinarian;

(vii) Foreign animal disease awareness;

(viii) Animal health emergency management; and

(ix) Animal health procedures, issues, and information resources relevant to the State in which the veterinarian wishes to perform accredited duties.

(f) *Change in accreditation category.*—(1) *Category I to Category II.* A veterinarian who is accredited under Category I may become accredited under Category II if the veterinarian applies for accreditation under Category II by completing an application for accreditation, including certification that the applicant is able to perform the tasks listed in paragraph (g)(2) of this section, and submitting it to the Veterinarian-in-Charge in the State where he or she wishes to perform accredited duties. The veterinarian must also have fulfilled the training requirements in § 161.3(b) that are associated with renewal of accreditation under Category II.

(2) *Category II to Category I.* A veterinarian who is accredited under Category II may become accredited under Category I if the veterinarian applies for accreditation under Category I by completing an application for accreditation, including certification that the applicant is able to perform the tasks listed in paragraph (g)(1) of this section, and submitting it to the Veterinarian-in-Charge in the State where he or she wishes to perform accredited duties. The veterinarian must also have fulfilled the training requirements in § 161.3(b) that are associated with renewal of accreditation under Category I.

(g) *Tasks that applicants for accredited status must be able to perform.* Applicants for accredited status must be able to:

(1) *Category I.*

(i) Perform physical examination of individual nonregulated animals to determine whether they are free from any clinical signs suggestive of communicable disease.

(ii) Recognize the common breeds of nonregulated animals and accurately record breed information on official documents.

(iii) Apply common animal identification for nonregulated animals.

(iv) Properly complete certificates for domestic and international movement of nonregulated animals.

(v) Perform necropsies on nonregulated animals.

(vi) Recognize and report clinical signs and lesions of exotic animal diseases that occur in nonregulated animals.

(vii) Vaccinate nonregulated animals and accurately complete the vaccination certificate.

(viii) Properly collect and ship specimen samples to appropriate laboratory for testing with complete and accurate paperwork.

(ix) Develop appropriate biosecurity protocols, as well as cleaning and disinfection protocols, to control communicable disease spread in nonregulated animals.

(2) *Category II.*

(i) Perform physical examination of individual animals and visually inspect herds or flocks to determine whether the animals are free from any clinical signs suggestive of communicable disease.

(ii) Recognize the common breeds of nonregulated animals, the types of poultry as defined by the National Poultry Improvement Plan in subchapter G of this chapter, and the common breeds of livestock, and be able to accurately record breed information on official documents.

(iii) Recognize all USDA animal identification systems.

(iv) Estimate the age of livestock using a dental formula.

(v) Apply USDA-recognized identification (e.g., eartag, microchip, tattoo) for the USDA animal identification system.

(vi) Certify the health status of a poultry flock regarding diseases of domestic or international regulatory concern, and evaluate records pertaining to flock testing and participation in Federal and State poultry health programs and classifications.

(vii) Properly complete certificates for domestic and international movement of animals.

(viii) Apply and remove official seals.

(ix) Perform necropsies on animals.

(x) Recognize and report clinical signs and lesions of exotic animal diseases.

(xi) Develop a herd or flock health plan.

(xii) Vaccinate for USDA program diseases and accurately complete the vaccination certificate.

(xiii) Properly collect and ship sample specimens to an appropriate laboratory for testing with complete and accurate paperwork.

(xiv) Properly perform testing for tuberculosis (e.g., caudal fold test).

(xv) Develop appropriate biosecurity protocols, as well as cleaning and disinfection protocols, to control communicable disease spread.

(xvi) Explain basic principles for control of diseases for which APHIS or APHIS-State cooperative programs presently exist.

(h) *Authorization to perform duties.* An accredited veterinarian may not perform accredited duties in a State until after receiving written authorization from APHIS. If a Category I accredited veterinarian completes the necessary training requirements and becomes a Category II accredited veterinarian, the veterinarian may not perform Category II accredited duties in a State until after receiving written authorization from APHIS.

5. In § 161.3, paragraphs (a) and (b) are revised to read as follows:

§ 161.3 Renewal of accreditation.

(a) Accredited veterinarians who wish to continue participating in the National Veterinary Accreditation Program must renew their accreditation every 3 years by completing an application for accreditation renewal and submitting it to APHIS. Newly accredited veterinarians must renew their accreditation within 3 years of completing the initial accreditation training described in § 161.1(e)(3) of this part, regardless of when their accreditation was granted. Other veterinarians must renew their accreditation within 3 years of the previous renewal.

(b) Accredited veterinarians who wish to renew their accreditation under Category I must complete three supplemental training units approved by APHIS by the end of their 3-year tenure as an accredited veterinarian. Accredited veterinarians who wish to renew their accreditation under Category II must complete six supplemental training units approved by APHIS by the end of their 3-year tenure as an accredited veterinarian. Accredited veterinarians who wish to change the category in which they are accredited, rather than renew accreditation in their current accreditation category, should follow the procedure in § 161.1(f) of this part.

* * * * *

Done in Washington, DC, this 20th day of February, 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–3256 Filed 2–26–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26692; Directorate Identifier 2006–CE–89–AD]

RIN 2120–AA64

Airworthiness Directives; REIMS AVIATION S.A. Model F406 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

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

several reports regarding an important corrosion on the bearings with propagation to the bracket-hinge of the rudder. This corrosion has been discovered after rudder removals. This condition, if left uncorrected, could result in the loss of the rudder control on the airplane.

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by March 29, 2007.

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

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Streamlined Issuance of AD

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

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

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2006–26692; Directorate Identifier 2006–CE–89–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

The Direction générale de l'aviation civile (DGAC), which is the aviation authority for France, has issued AD No. F–2005–081, dated May 25, 2005, (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states that there have been:

> several reports regarding an important corrosion on the bearings with propagation to the bracket-hinge of the rudder. This corrosion has been discovered after rudder removals. This condition, if left uncorrected, could result in the loss of the rudder control on the airplane.

The MCAI requires:

> Within the next 100 flight hours or 3 months after the effective date of this AD, whichever occurs first, perform the REIMS AVIATION INDUSTRIES Service Bulletin No F406–57. These actions must be done in accordance with the manufacturer's technical publications.

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

Relevant Service Information

REIMS AVIATION S.A. has issued REIMS AVIATION INDUSTRIES Service Bulletin No. F406–57, dated April 25, 2005. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

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

Differences Between This Proposed AD and the MCAI or Service Information

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

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a Note within the proposed AD.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 7 products of U.S. registry. We also estimate that it would take about 6 work-hours per product to comply with the proposed AD. The average labor rate is $80 per work-hour. Required parts would cost about $100 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $4,060, or $580 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

REIMS AVIATION S.A.: Docket No. FAA–2006–26692; Directorate Identifier 2006–CE–89–AD

Comments Due Date

(a) We must receive comments by March 29, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Reims Aviation S.A. Model F406 airplanes, serial numbers F406–0001 through F406–0092, certificated in any category.

Reason

(d) The mandatory continuing airworthiness information (MCAI) states that there have been:

several reports regarding an important corrosion on the bearings with propagation to the bracket-hinge of the rudder. This corrosion has been discovered after rudder removals. This condition, if left uncorrected, could result in the loss of the rudder control on the airplane.

Actions and Compliance

(e) Unless already done, do the following actions:

(1) Within the next 100 hours time-in-service or 3 months after the effective date of this AD, whichever occurs first, and thereafter repetitively during a period not to exceed every 12 months, unless previously accomplished in the past 12 months, inspect the rudder brackets-hinge and bearings for corrosion and lubricate the rudder bearings in accordance with the accomplishment instructions of REIMS AVIATION INDUSTRIES Service Bulletin No. F406–57, dated April 25, 2005. If corrosion is found, replace these parts before further flight

(2) Initially lubricate the rudder bearings within 600 hours time-in-service or within 12 months, whichever occurs first, after the effective date of this AD, and repetitively thereafter at intervals not to exceed 12 months. During this step, remove the rudder to realize an optimum inspection and lubrication in accordance with the accomplishment instructions of Reims Aviation Industries Service Bulletin No. F406–57, dated April 25, 2005.

Note 1: We have established the repetitive inspection times of this AD so that they may coincide with annual inspections.

Note 2: We encourage you to put Reims temporary revision No. 4 into the maintenance program of the F406 airplane (chapter 5–10–01, page 17 of the maintenance manual).

FAA AD Differences

Note 3: This AD differs from the MCAI and/or service information as follows: We have added repetitive inspection requirements in the AD to coincide with the maintenance requirement in the service bulletin.

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, Standards Staff, FAA, ATTN: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri, 64106; telephone: (816) 329–4144; fax: (816) 329–4090, 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 (44 U.S.C. 3501 et. seq.), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(g) Refer to MCAI Direction générale de l'aviation civile (DGAC), which is the aviation authority for France, AD No. F–2005–081, dated May 25, 2005; and REIMS AVIATION INDUSTRIES Service Bulletin No. F406–57, dated April 25, 2005, for related information.

Issued in Kansas City, Missouri, on February 20, 2007.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–3399 Filed 2–26–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 145

[Docket No. FAA–2006–26408]

RIN 2120–AI53

Repair Stations; Extension of Comment Period

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); extension of comment period.

SUMMARY: This action extends the comment period for the Repair Stations NPRM, Docket No. FAA–2006–26408 that was published on December 1, 2006. In that document, the FAA proposed to amend the regulations for repair stations by revising the system of ratings and requiring repair stations to establish a quality program. The FAA also proposed additional changes critical to maintaining safety. On January 26, 2007, the Aeronautical Repair Station Association (ARSA) requested an extension to the comment period for this NPRM. The FAA has considered this request and decided to extend the comment period for 45 days.

DATES: Comments must be received on or before April 16, 2007.

ADDRESSES: You may send comments, identified by Docket Number FAA–2006–26408, using any of the following methods:

- *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 20590–0001.
- *Fax:* 1–202–493–2251.
- *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 more information on the rulemaking process, see the

SUPPLEMENTARY INFORMATION section of this document.

Privacy: We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. For more information, see the Privacy Act discussion in the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: To read background documents or comments received, go to *http://dms.dot.gov* at any time or to 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 FURTHER INFORMATION CONTACT: George W. Bean, General Aviation and Repair Station Branch, AFS–340, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–3109; facsimile: (202) 267–5115 or e-mail: *George.W.Bean@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the Web address in the **ADDRESSES** section.

Privacy Act: Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://dms.dot.gov*.

Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, 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 to you.

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by:

(1) Searching the Department of Transportation's electronic Docket Management System (DMS) Web page (*http://dms.dot.gov/search*);

(2) Visiting the Office of Rulemaking's Web page at *http://www.faa.gov/avr/arm/index.cfm*; or

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

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

Proprietary or Confidential Business Information

Do not file in the docket information that you consider to be proprietary or confidential business information. Send or deliver this information directly to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document. You must mark the information that you consider proprietary or confidential. If you send the information on a disk or CD ROM, mark the outside of the disk or CD ROM and also identify electronically within the disk or CD ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), when we are aware of proprietary information filed with a comment, we do not place it in the docket. We hold it in a separate file to which the public does not have access, and place a note in the docket that we have received it. If we receive a request to examine or copy this information, we treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). We process such a request under the DOT procedures found in 49 CFR part 7.

Background

On December 1, 2006, the Federal Aviation Administration (FAA) issued Notice of Proposed Rulemaking (NPRM) Repair Stations (71 FR 70254, 12/01/2006). In that document, the FAA proposed to amend the regulations for repair stations by revising the system of ratings and requiring repair stations to establish a quality program. The FAA also proposed additional changes critical to maintaining safety. Comments to that document were to be received on or before March 1, 2007.

By letter dated January 26, 2007, the Aeronautical Repair Station Association (ARSA) requested that the FAA extend the comment period for NPRM Repair Stations until June 1, 2007. ARSA represents international organizations involved in designing, producing, operating, and maintaining civil aviation products. The association is mainly made up of repair stations certificated under 14 CFR part 145. Their members will be directly and significantly impacted by the changes proposed in this rulemaking. ARSA requested an extension of the comment period by 90 days to provide sufficient time to collect and compile comments from its membership before submitting those comments to the FAA.

While the FAA concurs with the ARSA's request for an extension of the comment period on the Repair Stations NPRM, the FAA believes that a 90-day extension would be excessive. As the Repair Stations NPRM is lengthy, the FAA provided a 90-day comment period. Although the FAA agrees that additional time for comments may be needed by repair stations that would be affected by the proposal, this need must be balanced against the need to proceed expeditiously with this rulemaking. The FAA believes an additional 45 days would be adequate for ARSA to collect and compile comments from its membership and to provide meaningful comment on the Repair Stations NPRM to the FAA. This will also allow commenters who may have anticipated an extension in the comment period to submit their comments by a certain date. Absent unusual circumstances, the FAA does not anticipate any further extension of the comment period for this rulemaking.

Extension of Comment Period

In accordance with § 11.47(c) of Title 14, Code of Federal Regulations, the FAA has reviewed the request made by ARSA for extension of the comment period to the Repair Stations, NPRM. ARSA has shown a substantive interest in the proposed rule and presented good

cause for the extension. The FAA also has determined that extension of the comment period is consistent with the public interest, and that good cause exists for taking this action.

Accordingly, the comment period for the Repair Stations, NPRM, Docket No. FAA–2006–26408, is extended until April 16, 2007.

Issued in Washington, DC, February 20, 2007.

James J. Ballough,

Director, Flight Standards Service, Aviation Safety.

[FR Doc. E7–3331 Filed 2–26–07; 8:45 am]

BILLING CODE 4910–13–P

RAILROAD RETIREMENT BOARD

20 CFR Part 230

RIN 3220–AA61

Reduction and Nonpayment of Annuities by Reason of Work

AGENCY: Railroad Retirement Board.

ACTION: Proposed rule; withdrawal.

SUMMARY: The above mentioned regulation was previously published as a proposed rule on August 16, 1995 (60 FR 42482). The Railroad Retirement Board has determined not to go final with that proposed rule and hereby withdraws the proposed rule to amend 20 CFR Part 230.

ADDRESSES: 844 North Rush Street, Chicago, Illinois 60611–2092.

FOR FURTHER INFORMATION CONTACT: Marguerite P. Dadabo, Assistant General Counsel, Office of General Counsel, Railroad Retirement Board, (312) 751–4945, FAX (312) 751–7102, TDD (312) 751–4701.

Dated: February 21, 2007.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 07–872 Filed 2–26–07; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 868

[Docket No. 2007N–0019]

Medical Devices; Anesthesiology Devices; Oxygen Pressure Regulators and Oxygen Conserving Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is publishing a proposed rule to reclassify pressure regulators for use with medical oxygen, currently class I devices included in the generic type of device called pressure regulator, into class II, subject to special controls in the form of a guidance document. Pressure regulators for use with all other medical gases will remain in class I, subject only to general controls. FDA is also proposing to establish a separate classification regulation for oxygen conserving devices (or oxygen conservers), now included in the generic type of device called noncontinuous ventilator. Oxygen conserving devices will continue to be classified in class II, but those that incorporate a built-in oxygen pressure regulator will become subject to the special controls guidance if the rule is finalized. Elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of a class II special controls draft guidance for industry and FDA staff entitled ''Class II Special Controls Guidance Document: Oxygen Pressure Regulators and Oxygen Conserving Devices.'' The agency is proposing this action because it believes that special controls are necessary to provide a reasonable assurance of safety and effectiveness for these devices.

DATES: Submit comments by May 29, 2007. FDA is proposing that any final rule based on this proposed rule be effective 2 years after the date of its publication in the **Federal Register**.

ADDRESSES: You may submit comments, identified by Docket No. 2007N–0019, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following ways:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Agency Web site: *http://www.fda.gov/dockets/ecomments*. Follow the instructions for submitting comments on the agency Web site.

Written Submissions

Submit written submissions in the following ways:

- FAX: 301–827–6870.
- Mail/Hand delivery/Courier [For paper, disk, or CD–ROM submissions]: Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

To ensure more timely processing of comments, FDA is no longer accepting comments submitted to the agency by e-mail. FDA encourages you to continue to submit electronic comments by using the Federal eRulemaking Portal or the agency Web site, as described in the **ADDRESSES** portion of this document under *Electronic Submissions*.

Instructions: All submissions must include the agency name and Docket No. for this rulemaking. All comments received may be posted without change to *http://www.fda.gov/ohrms/dockets/default.htm*, including any personal information provided. For additional information on submitting comments, see section XII ''What if I Have Comments to the Proposed Rule'' heading in the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.fda.gov/ohrms/dockets/default.htm* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Christy Foreman, Center for Devices and Radiological Health (HFZ–340), Food and Drug Administration, 2094 Gaither Rd., Rockville, MD 20850, 240–276–0120.

SUPPLEMENTARY INFORMATION:

I. What Are the Highlights of the Proposed Rule?

The highlights of the proposed rule are as follows:

- FDA is dividing the classification of pressure regulators into two classification regulations.
- Pressure regulators for use with medical gases other than oxygen will remain in class I.
- Pressure regulators for use with medical oxygen will be identified as ''oxygen pressure regulators'' and will be reclassified into class II (special controls).
- FDA is establishing a separate classification regulation for oxygen conserving devices, which are now included in the generic type of device called noncontinuous ventilators.
- Both noncontinuous ventilators and oxygen conserving devices will remain in class II.
- Oxygen conservers will be classified within their own class according to whether or not the device incorporates a built-in oxygen pressure regulator.
- FDA is establishing a special controls guidance document for oxygen pressure regulators and oxygen conservers that have built-in oxygen pressure regulators entitled ''Class II Special Controls Guidance Document: Oxygen Pressure Regulators and Oxygen

Conserving Devices.'' The main component of the special control guidance will be the American Society of Standards and Materials (ASTM International) Standard G175–03, ''Standard Test Method for Evaluating the Ignition Sensitivity and Fault Tolerance of Oxygen Regulators Used for Medical and Emergency Applications,'' published May 2003.

- Manufacturers of oxygen pressure regulators that meet the ASTM standard must label the device ''[c]onforms with ASTM G175–03.''
- Manufacturers of oxygen conservers with a built-in oxygen pressure regulator that meet the ASTM standard must label the oxygen conserver ''[b]uilt-in oxygen pressure regulator conforms with ASTM G175–03.''
- Manufacturers of oxygen pressure regulators that meet ASTM G175–03 will be exempt from the premarket notification (510(k)) (section 510(k) of the act (21 U.S.C. 360(k))) requirements, subject to the limitations of exemption in § 868.9 (21 CFR 868.9).
- Manufacturers of oxygen pressure regulators that do not conform with ASTM G175–03 will be required to submit 510(k)s for their devices and demonstrate that the alternate measures they follow to address the risks identified in the guidance document provide equivalent assurances of safety and effectiveness.
- Although all oxygen conservers will continue to require 510(k) clearance, manufacturers of oxygen conservers with a built-in oxygen pressure regulator may choose to submit an Abbreviated 510(k). This will allow them to address the risks to health associated with use of oxygen pressure regulators by certifying conformance with ASTM G175–03.

II. Which Devices Does the Proposed Rule Affect?

The proposed rule would reclassify pressure regulators that are intended to be used with medical oxygen, currently classified under 21 CFR 868.2700 (Pressure regulator). In addition, the proposed rule would create a separate classification regulation for oxygen conserving devices, currently classified under 21 CFR 868.5905 (Noncontinuous ventilator).

A pressure regulator, sometimes called a pressure-reducing valve, is a medical device used to convert medical gas pressure from a high variable pressure to a lower, more constant working pressure. To illustrate, medical gas is packaged in high pressure cylinders. The gas is released through a part of the cylinder called the post-valve, which functions as an on/off mechanism. When the valve is opened, the cylinder begins to depressurize and medical gas is released at a very high rate of speed. To reduce the pressure and control the gas flow, a pressure regulator is affixed to the post-valve, enabling the user to safely deliver medical gas from the cylinder. This group of devices currently includes pressure regulators for use with medical oxygen.

A noncontinuous ventilator is a device intended to deliver intermittently an aerosol to a patient's lungs or to assist a patient's breathing. Because these devices deliver medical gas to a patient only when needed, they function to conserve the medical gas as well. This group of devices currently includes oxygen conserving devices.

III. What Is the Legal Authority for This Proposed Rule?

The Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321 *et seq.*), as amended by the Medical Devices Amendments of 1976 (the amendments) (Public Law 94–295), the Safe Medical Devices Act of 1990 (SMDA) (Public Law 101–629), the Food and Drug Administration Modernization Act of 1997 (FDAMA) (Public Law 105–115), the Medical Device User Fee and Modernization Act of 2002 (MDUFMA) (Public Law 107–250), and the Medical Devices Technical Corrections Act (MDTCA) (Public Law 108–214), establishes a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the act (21 U.S.C. 360c) establishes three classes of devices, class I (general controls), class II (special controls), and class III (premarket approval). Device classifications depend on the regulatory controls needed to provide reasonable assurance of safety and effectiveness.

Class I devices are devices for which general controls are sufficient to provide reasonable assurance of safety and effectiveness (section 513(a)(1)(A) of the act). Class II devices cannot be classified in class I because 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 such assurance. Special controls may include performance standards, postmarket surveillance, patient registries, the development and dissemination of guidelines, and other measures the agency deems necessary (section 513(a)(1)(B) of the act). Class III devices require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning the safety and effectiveness of the device (section 513(a)(1)(C) of the act).

Under section 513(e)(1) of the act, based on new information respecting a device, the agency may, on its own initiative, by regulation change a device's classification. The new information needs to demonstrate that either more regulatory control is needed to provide reasonable assurance of the device's safety and effectiveness or that less regulatory control is sufficient to provide such assurance. Based on the new information discussed in section V of this document, FDA believes that reclassifying pressure regulators for use with medical oxygen from class I to class II, and designating a special control for these devices and for oxygen conserving devices that incorporate a built-in oxygen pressure regulator, is necessary to provide reasonable assurance of the safety and effectiveness of these generic device types.

FDAMA added a new section 510(m) to the act. 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 the agency determines that premarket notification is not necessary to assure the safety and effectiveness of the device. FDA has determined that premarket notification is not necessary to provide reasonable assurance of the safety and effectiveness of oxygen pressure regulators when the manufacturer meets the ASTM standard G175–03 identified in the special controls guidance.

IV. What Is the Regulatory History of These Devices?

In the **Federal Register** of July 16, 1982 (47 FR 31130), FDA issued a final rule classifying oxygen pressure regulators into class II as part of a generic group of devices known as pressure regulators (21 CFR 868.2700) (the 1982 final rule). The 1982 final rule also classified noncontinuous ventilators, which includes oxygen conservers, into class II (21 CFR 868.5905). At that time, under the existing classification scheme set forth in section 513 of the act, the agency determined that the establishment of a performance standard was appropriate to provide reasonable assurance of the safety and effectiveness of these device types.

Because of a lack of reported adverse events or threats to the public health associated with the use of oxygen pressure regulators, however, the agency later determined that general controls by themselves would provide such assurance. Accordingly, when FDA published a proposed rule on July 28,

1995 (60 FR 38902), which proposed to reclassify 112 generic types of devices from class II to class I, FDA included pressure regulators. FDA received no comments regarding the proposed reclassification of pressure regulators and they were reclassified into class I by final rule on January 16, 1996 (61 FR 1117).

V. What Is the Public Health Concern FDA Is Addressing With This Rule?

Since the January 16, 1996, final rule, FDA has received over 50 adverse event reports associated with the use of pressure regulators when used with oxygen. The majority of the adverse event reports involved oxygen pressure regulators that were made from aluminum. Although the number of events suggests that these occurrences are infrequent, the severity of each event has been significant, including at least one reported death attributable to this problem. In one case, a firefighter suffered third degree burns to the left hand and arm. In a separate incident, another firefighter suffered severe burns to the arms, chest, neck, and face. Overall, these reported incidents show that users of oxygen pressure regulators, including firefighters, emergency medical staff, healthcare workers, and patients, have experienced severe and even fatal bodily trauma. A comprehensive list of reported adverse events may be found by accessing the agency's Manufacturer and User Facility Device Experience Database (MAUDE) at *http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfmaude/search.cfm*.

As previously discussed in section II of this document, medical oxygen is packaged in high pressure cylinders. The oxygen is released through a part of the cylinder called the post-valve at approximately 2,200 pounds per square inch. The pressure must be reduced, however, to 50 pounds per square inch so that medical oxygen can safely be delivered to a patient. To reduce the pressure, a regulator is affixed to the pressurized container of gas and is used to control the gas flow. Oxygen regulator fires take place when there is a combustible contaminant (e.g., motor oil, gasoline, hand lotion, cleaning agent) in the flow channel of the oxygen regulator and when the post valve is opened very rapidly. In such situations, the oxygen, on being released from the tank through the post valve, undergoes a rapid expansion and drop in pressure. Upon entering the constricted channels of the oxygen regulator, the gas is recompressed, causing a rapid rise in temperature. If there are combustible contaminants in the flow channels of the oxygen regulator during this rapid rise in temperature, they can catch fire in an environment of relatively high pressure oxygen at high flow rates. The oxygen markedly increases the likelihood and severity of the fire, resulting in serious risk to patients and healthcare workers. Minute shavings of aluminum that collect in aluminum oxygen tanks can also play a role in this process. The shavings can become trapped in the released gas and create friction sparks as they hit the oxygen regulator flow channel walls. Such sparking can cause contaminants to burn in the presence of pressurized oxygen at high rates of flow.

To address the adverse events described previously in this section of the document, FDA and the National Institute for Occupational Safety and Health (NIOSH) issued a public health advisory in February 1999 to fire departments, safety directors, biomedical engineers, nursing homes, emergency transportation services, rescue squads, state emergency medical squad systems, hospital administrators, risk managers, and home health care agencies (Ref. 1). The advisory warned of the potential for explosion or fire associated with pressure regulators when used with medical oxygen. In response to the FDA and NIOSH advisory, many manufacturers stopped producing aluminum regulators, others conducted additional testing, and one voluntarily recalled its products.

VI. How Will More Regulatory Control Reduce the Risks Associated With Pressure Regulators Used With Medical Oxygen?

While the public health advisory served to make manufacturers and users aware of the hazards associated with use of oxygen pressure regulators, it does not address the underlying concerns of safety and effectiveness. To address these concerns, FDA is proposing to reclassify these devices into class II, subject to special controls. Pressure regulators for use with all other medical gases would remain in class I. The proposed special control is a draft guidance document entitled ''Class II Special Controls Guidance Document: Oxygen Pressure Regulators and Oxygen Conserving Devices.'' The guidance contains labeling recommendations and explains that FDA recognizes ASTM G175–03, ''Standard Test Method for Evaluating the Ignition Sensitivity and Fault Tolerance of Oxygen Regulators Used for Medical and Emergency Applications.'' Manufacturers who follow the labeling recommendations and the testing protocols in the guidance would satisfy the special control requirements for oxygen pressure regulators. The draft guidance would also serve as a special control for oxygen conservers that incorporate a built-in oxygen pressure regulator, devices already classified into class II. Interested persons can obtain the standard from ASTM International, 100 Barr Harbor Dr., West Conshohocken, PA 19428–2959. Further information about ASTM is found at *http://www.astm.org*. (FDA has verified the Web site address, but we are not responsible for subsequent changes to the Web site after this document published in the **Federal Register**.) Elsewhere in this issue of the **Federal Register**, FDA is publishing a notice of availability of the draft special controls guidance document.

Preventing fires associated with the use of oxygen pressure regulators requires manufacturers to eliminate active ignition mechanisms in the system or to compensate for their presence. Eliminating the ignition mechanisms is unrealistic, given the conditions of use of medical oxygen pressure regulators, especially in emergency medical service applications where fire and explosion cause the most catastrophic results. Therefore, to mitigate the risks associated with the various potential ignition sources, careful attention to materials selection and established design practice is critical to ensure the fire safety of oxygen regulators.

FDA believes that manufacturers can best validate fire safety design through the use of standard test methods. The consensus standard identified in the special controls guidance describes a two-tier test method for evaluating the ignition sensitivity and fault tolerance of oxygen regulators used for medical and emergency applications. The first test identified by ASTM G175–03 is a rapid pressurization test. It is equivalent to standard 10524, ''Pressure Regulators and Pressure Regulators with Flow-Metering Devices for Medical Gas Systems,'' originally developed by the International Organization for Standardization (ISO) in 1995. The second test is a promoted ignition test and was developed by ASTM in cooperation with industry, oxygen safety experts, and FDA.

Overall, the standard is intended to account for all potential types of ignition mechanisms present under normal conditions and reasonably foreseeable atypical conditions, including use error. Adherence to the standard can control the risk of fire and explosion by ensuring that manufacturers design regulators to have a low probability of ignition (i.e., greater

ignition resistance) and a low consequence of ignition. In this way, the special control can be used as an aid in designing and evaluating the safety of pressure regulators used with medical oxygen. Designation of this guidance document as a special control means that these devices must meet either the specific recommendations of the guidance or some alternate measure that provides equivalent assurance of safety and effectiveness.

FDA is proposing that oxygen pressure regulators that meet the ASTM testing standard identified in the special controls guidance be exempt from premarket notification requirements, subject to the limitations of exemption in § 868.9. If the device did not meet the ASTM testing standard, then the manufacturer would be required to submit a premarket notification that includes information demonstrating that the alternate measure used provides equivalent assurance of safety and effectiveness.

Under the proposed rule, manufacturers of oxygen pressure regulators that meet the ASTM standard would be required to permanently affix to the body of the regulator a statement indicating that the device conforms with ASTM G175–03, ''Standard Test Method for Evaluating the Ignition Sensitivity and Fault Tolerance of Oxygen Regulators Used for Medical and Emergency Applications.'' Similarly, manufacturers of oxygen conserving devices with a built-in oxygen pressure regulator that meet the ASTM standard would also be required to provide labeling that states the oxygen pressure regulator's conformity with ASTM G175–03. In the case of these devices, however, manufacturers would be required to affix the statement to the body of the oxygen conserving device, not the built-in oxygen pressure regulator.

Unlike oxygen pressure regulators, oxygen conserving devices with a built-in oxygen pressure regulator that meets the ASTM standard would not be exempt from premarket notification requirements. This is because the oxygen pressure regulator is just one component of this device and FDA has previously determined that the submission of a 510(k) is necessary to provide reasonable assurance of the safety and effectiveness of oxygen conserving devices. However, manufacturers of oxygen conserving devices with a built-in oxygen pressure regulator who can certify conformance with ASTM G175–03 may be able to submit an abbreviated 510(k) rather than a traditional one.

VII. What Other Alternatives Were Considered by FDA?

FDA considered other alternatives to address the risks associated with use of oxygen pressure regulators, but concluded that reclassifying pressure regulators for use with medical oxygen from class I to class II and designating a special control for these devices, and for oxygen conserving devices that incorporate a built-in oxygen pressure regulator, best addresses the public health and safety concerns associated with these devices in the most efficient and timely manner.

A. Public Outreach

One approach FDA considered was a public outreach campaign. Safety alerts and educational materials, however, would serve only to further identify the risks to health associated with the use of these devices, but would not serve as a sufficient mitigation measure against them. As discussed previously in this document, FDA, in conjunction with NIOSH, issued a safety advisory alerting industry and consumers of the adverse event reports received by the agency as well as the risks associated with the use of oxygen pressure regulators. The safety alert increased public awareness of the risks to health associated with use of these devices and prompted some manufacturers to modify their materials selection. At the same time, FDA continued to receive reports of adverse events associated with combustion after the safety advisory was issued and concluded, therefore, that public advisories cannot be a substitute for safety controls necessary to ensure the public health.

B. A Mandatory Performance Standard

Another approach FDA considered was to establish a mandatory performance standard. However, a mandatory performance standard may be less flexible than a special controls guidance document in the face of changing market conditions and/or technological circumstances. The proposed rule and special controls guidance document allow for more flexibility. For example, the manufacturer may choose to meet the recommendations of the special controls guidance document or choose to follow some other approach that provides equivalent assurances of safety and effectiveness.

C. Labeling

FDA also considered both mandatory and voluntary labeling as the sole means of addressing the risks associated with these devices. Specifically, FDA considered requiring or suggesting that manufacturers state whether the device conforms with ASTM G175–03. Neither labeling alternative, however, would require that the devices meet a standard or alternate measure providing equivalent assurances of safety and effectiveness. Thus, FDA concluded that labeling by itself fails to address the underlying potential risks associated with use of these devices.

VIII. How Will FDA Implement a Final Rule?

FDA proposes that any final rule that may issue based on this proposal would become effective 2 years after the date of its publication in the **Federal Register**. Such final rule would apply to all models of oxygen regulators and oxygen conservers with a built-in oxygen pressure regulator. Thus, beginning 2 years after publication of a final rule in the **Federal Register**, all oxygen pressure regulators would become class II devices and would be required to comply with the special controls guidance or an alternative measure that provides equivalent assurances of safety and effectiveness before they could be legally marketed. Once the final rule takes effect, any oxygen pressure regulator that does not meet either the special control or an alternative measure that provides equivalent assurances of safety and effectiveness will be rendered violative under the act and cannot be introduced into interstate commerce. FDA is proposing that a final rule based on this proposal be effective 2 years after the date of its publication in the **Federal Register** in order to safeguard against potential device shortages. Because oxygen pressure regulators are short-lived devices, this 2-year period will allow manufacturers ample time to test and introduce compliant oxygen pressure regulator models, while any existing, non-compliant models are phased-out of the marketplace.

A. Exemption From Premarket Notification (510(k)) Requirements

Upon the effective date of any final rule that issues from this proposal, oxygen pressure regulators would generally be exempt from the premarket notification (510(k)) requirements of the act if they meet the ASTM standard specified in the special controls guidance and follow the labeling recommendations set forth in the guidance. However, manufacturers of oxygen pressure regulators who use measures other than the ASTM standard identified in the special controls guidance would be required to submit a premarket notification establishing that the alternate measures provide

equivalent assurances of safety and effectiveness.

B. Oxygen Conservers

Oxygen conserving devices will remain class II devices, however, those oxygen conservers that have a built-in oxygen pressure regulator will also become subject to the special controls established for the oxygen pressure regulator. As such, beginning on the 2-year effective date, oxygen conservers with a built-in oxygen pressure regulator would become subject to the special controls guidance. Although manufacturers of oxygen conservers with a built-in oxygen pressure regulator that meet the special controls guidance would still need to meet premarket notification requirements, these manufacturers could submit an abbreviated 510(k).

Again, to safeguard against potential device shortages, FDA is proposing that any final rule that issues based on this proposal be effective 2 years after the date of its publication in the **Federal Register**. The 510(k) provides reasonable assurances of safety and effectiveness for these devices.

IX. What Is the Environmental Impact of the Proposed Rule?

The agency has determined under 21 CFR 25.34(b) that this reclassification 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.

X. What Are the Economic Impacts of This Rule?

FDA has examined the impacts of the proposed rule under Executive Order 12866 and 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 proposed rule is not a significant regulatory action as defined by 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. The agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. Nevertheless, because our projections regarding the number of small entities affected and the economic impact of the proposed rule on small entities are uncertain, the analysis presented in this section of the document, along with this preamble, constitutes the agency's Initial Regulatory Flexibility Analysis (IRFA).

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement, including 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 approximately $122 million, using the most current (2005) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this proposed rule to result in any 1-year expenditure that would meet or exceed this amount.

FDA has reviewed related Federal rules and has not identified any rules that duplicate, overlap, or conflict with this proposed rule.

A. Background

FDA is proposing to reclassify pressure regulators for use with medical oxygen as class II medical devices subject to special controls. The proposed rule also designates a special control for oxygen conserving devices that incorporate a built-in oxygen pressure regulator, which are already in class II. The proposed special control for both types of devices is an FDA draft guidance document that contains labeling recommendations and recommends conformance with an ASTM standard. The agency has received reports of adverse events associated with these devices that have resulted in serious injuries to emergency medical services personnel and patients, including second and third degree burns, and at least one patient death. The majority of adverse event reports associated with these devices involve oxygen pressure regulators made from aluminum. As discussed in greater detail in sections I and II of this document, the agency is proposing these actions in order to provide reasonable assurance of product safety and effectiveness.

B. Affected Entities

This proposed rule would affect manufacturers of oxygen pressure regulators and noncontinuous ventilators (oxygen conservers) that incorporate a built-in oxygen pressure regulator. FDA is aware of 19 manufacturers and approximately 1.5 million to 2 million affected devices currently in use in the emergency medical services and home health care environments. Under this proposed rule, manufacturers of both new and already marketed devices would be required to demonstrate that their devices conform with either the labeling recommendations and the ASTM standard referenced in the guidance document, or some alternate measure that provides equivalent assurance of safety and effectiveness. Also, under the proposed rule, if an oxygen pressure regulator meets the ASTM G175–03 standard, it would be exempt from premarket notification (or 510(k)) requirements, subject to the limitations on exemptions described in § 868.9. Oxygen pressure regulators that do not meet the ASTM G175–03 standard would not be exempt and manufacturers of these devices would be required to submit a premarket notification (510(k)) and receive an order of substantial equivalence from FDA in order to legally market their devices (sections 510(k) and (m) and 513(f) and (i) of the act; see also proposed § 868.2750(b)(1)). Devices that do not meet the ASTM G175–03 standard and are not found to be substantially equivalent to devices that meet the standard may be adulterated (section 501(f)(1)(B) of the act (21 U.S.C. 351(f)(1)(b))). Finally, under the proposed rule, devices that meet the ASTM G175–03 standard would be required to bear a statement that the device conforms to the standard (proposed §§ 868.2750(b)(2) and 868.5910(b)(3)). All elements of any final rule based on this proposed rule would become effective 2 years after publication in the **Federal Register**.

C. Compliance Requirements and Costs

The major compliance burden associated with this proposed rule is the cost of testing affected devices to demonstrate that they conform with the ASTM standard or submitting a premarket notification demonstrating that an alternate measure provides equivalent assurances of safety and effectiveness. Manufacturers would incur these costs for existing oxygen pressure regulator models they wish to continue marketing, as well as for new models of oxygen pressure regulators they wish to introduce into interstate commerce.

The standard incorporated by reference in §§ 868.2750(b) and 868.5910(b)(3) is ASTM G175–03, ''Standard Test Method for Evaluating

the Ignition Sensitivity and Fault Tolerance of Oxygen Regulators used for Medical and Emergency Applications.'' This two-tier test is expected to cost between $4,000 and $6,500 for each model of regulator tested, based on the submission of 5 individual test articles. The lower figure represents the estimated cost for many predicate devices, which will not require phase 1 testing because manufacturers have already met this part of the standard in validating their current designs.

An internet search for available information indicated that manufacturers typically produce between 2 and 9 models of these devices. The average number of models produced by manufacturers for which data were available was 4.5 devices per manufacturer. Based on this information, the average one-time cost for testing existing devices is estimated to range from $18,000 ($4,000 per device x 4.5 devices) to $29,250 ($6,500 per device x 4.5 devices) per manufacturer. Applying this range of costs to the 19 known manufacturers yields total one-time testing costs for existing devices that range from $342,000 ($18,000 x 19 manufacturers) to $555,750 ($29,250 x 19 manufacturers).

The actual one-time testing burden may be lower than these estimates suggest because some of these costs have already been incurred by affected entities. Currently, FDA knows of five manufacturers that have voluntarily submitted regulators for additional testing, and three more that plan to do so. However, if either the number of manufacturers or the number of affected models per manufacturer is significantly greater than assumed in this analysis, the one-time testing burden may be greater than FDA's estimates suggest.

Currently, the agency has no basis for predicting the number or pattern of introduction of new models of affected devices in the future. Therefore, FDA is unable to generate an estimate of annual or recurring testing costs at this time. However, information provided by manufacturers of affected devices indicates that innovation in this market is relatively infrequent. Manufacturers typically rely on a few standard designs that remain on the market for many years with only occasional, minor design changes. It is also the case that, under this proposed rule, not all design changes will require manufacturers to submit devices for additional testing. In particular, additional testing will not be required when design changes do not affect the high pressure areas of the regulator, or components in ignition prone areas. Thus, the agency does not expect that the annual or recurring costs to test affected devices will be significant.

Based on the information presented previously in this document, the agency estimates that the total annualized cost (assuming a 7-percent interest rate over 10 years) to test existing affected devices will range from about $49,000 to $79,000 per year. A sensitivity analysis was also performed (assuming a 3-percent interest rate over 10 years) and suggests a total annualized cost of between $40,000 and $65,000 per year. These figures should be interpreted as lower-bound estimates of the true burden because they do not reflect the annual or recurring costs for manufacturers to test new or redesigned devices. The agency's cost estimates are summarized in table 1 of this document.

TABLE 1.—SUMMARY OF COST ESTIMATES[1]

Total One-Time Cost	Total Annual Cost	Total Annualized Cost[2]	Total Annualized Cost[3]
$342,000 to $556,000	Unknown minimal	$49,000 to $79,000	$40,000 to $65,000

[1] All figures expressed in $US (2005).
[2] At 7-percent interest over 10 years.
[3] At 3-percent interest over 10 years.

FDA does not intend to take enforcement action against end users of devices that fail to meet the special control. Therefore, the proposed rule is not expected to impose any direct costs on end users of these devices. However, although not required under this proposed rule, some manufacturers of affected devices may voluntarily incur costs to recall or replace marketed devices that do not meet the class II special control. FDA has been informed that a significant amount of voluntary recall and replacement has already occurred. Many affected entities, including the manufacturer of the model most commonly associated with the adverse events reported to FDA, have ceased production of regulators made only from aluminum and/or recalled implicated devices. These voluntary actions on the part of manufacturers were taken in response to the issuance of the FDA/NIOSH public health advisory in February 1999, as discussed previously in this document.

Some manufacturers may also incur costs to redesign affected products in response to the special control. The agency currently has no basis for predicting the extent of redesign activities in the future. However, FDA has been informed that 15 affected entities plan to manufacture at least one model of a ''brass-only'' regulator in the future, and all 19 manufacturers known to the agency have indicated that they will no longer produce regulators with aluminum parts in ignition prone areas. These manufacturers have generally redesigned existing models to be constructed entirely of brass, or to consist of a brass core with an aluminum housing. A search for information on the internet also revealed that only about 10 percent of regulators available on the market today are made from aluminum. The agency is also aware that manufacturers and distributors of affected devices are advertising the availability of brass only regulators designed in accordance with FDA and NIOSH recommendations. Due to uncertainty regarding the timing and extent of redesign activity that may occur as a result of this proposed rule, the agency is not able to quantify this potential source of compliance costs.

The labeling requirement specified in the proposed rule is not expected to generate a significant new cost burden for affected entities because labeling is already required for all medical devices under 21 CFR part 801. A manufacturer can comply with the requirement by adding to the body of the device a permanent sticker that states the device meets ASTM G175–03. Therefore, FDA believes that this requirement will impose only nominal costs on affected entities.

D. Benefits

The proposed rule is expected to generate benefits due to a reduction in the number of adverse events associated with oxygen regulators. Major categories of costs incurred as a result of these adverse events include: (1) Expenditures for medical treatment of resulting

injuries; (2) work, income, and productivity loss; and (3) pain and suffering.

Pressure regulators for use with medical oxygen were reclassified as class I medical devices in January 1996, and FDA received 55 reports of regulators involved with fires and/or explosions between 1993 and 2005. These events resulted in serious injuries to 40 individuals, consisting mainly of burns, typically second and/or third degree burns to the hands, arms, chest, neck and/or face, and at least 1 patient death. These figures imply an average of 4 adverse events (55 adverse events/13 years = 4.23) and 3 cases of serious injury to individuals (40 serious injuries/13 years = 3.08) annually.

The U.S. Consumer Product Safety Commission (CPSC) collects information on various types of consumer product-related injuries and generates estimates of the associated costs. In a 1998 report (Ref. 2), the CPSC presents estimates of the: (1) Lifetime medical costs; (2) total of short-term and long-term victim work-loss; and (3) pain and suffering cost per survivor of consumer-product related injury, both by the nature of injury and body part injured. These cost estimates are further categorized by type of treatment received, e.g., non-hospital admitted, which typically includes treatment in a physician's office or emergency department, and hospital admitted, or inpatient care. The CPSC estimates are based on the Revised Injury Cost Model and are designed to be representative of the costs of treating consumer product related injuries on average, adjusting for various demographic and other factors. The figures in the CPSC report are expressed in 1995 dollars, and were adjusted to 2005 dollars based on inflation statistics reported by the U.S. Department of Labor. The CPSC cost estimates used in this analysis are summarized in table 2 of this document.

TABLE 2.—COSTS OF TREATING BURN INJURIES BY THE NATIONAL ELECTRONIC INJURY SURVEILLANCE SYSTEM (NEISS) INJURY DIAGNOSIS CODE AND TYPE OF TREATMENT (PER OCCURRENCE)[1]

NEISS Injury Diagnosis Code	Treatment Costs	Income Loss	Pain and Suffering	Total Costs
a. Non-Hospitalized—Emergency Department Treatment				
51: Burns, thermal	$750	$1,700	$24,700	$27,150
84: 25% to 50% of body	$1000	$1,000	$8,300	$10,300
b. Admitted/Inhospital Treatment				
51: Burns, thermal	$39,300	$36,800	$177,200	$253,300
84: 25% to 50% of body	$49,400	$54,400	$190,600	$294,400

[1] All figures expressed in $US (2005).

The NEISS diagnosis codes reflected in tables 2a and 2b of this document were chosen for this analysis because they are the most relevant given the type of injuries typically cited in the adverse event reports. The lower figures in table 2a of this document are indicative of the costs of treating relatively minor burn injuries associated with the less serious oxygen pressure regulator adverse events. The higher figures in table 2b of this document reflect the costs of treating severe injuries associated with the more serious adverse events. The majority of adverse events reported to the agency appear to fall into the latter, more serious, category.

Based on the cost estimates obtained from the CPSC report and using the average number of reported adverse events (4), a range of annual benefits estimates (reflecting medical treatment costs, work/income loss and pain and suffering avoided) can be generated. The estimated annual benefits associated with this proposed rule are presented in table 3 of this document.

TABLE 3.—SUMMARY OF TOTAL ANNUAL BENEFITS ESTIMATES[1]

NEISS Injury Diagnosis Code	Emergency Department Treatment	Admitted/Inhospital Treatment
51: Burns, thermal	$109,000	$1 million
84: 25% to 50% of body	$41,000	$1.2 million

[1] All figures expressed in $US (2005).

Based on this information, the estimated annual benefits of this proposed rule are expected to be between $41,000 and $1.2 million. These figures should be interpreted as conservative, lower bound estimates of the potential benefits of this proposed rule for a number of reasons. First, the adverse event reports upon which these estimates are based were submitted voluntarily, and the agency is aware that many adverse events are not reported under the current voluntary systems. A 1997 General Accounting Office report (Ref. 3) on FDA's reporting systems found evidence of significant under-reporting of adverse events associated with medical devices. Thus, the risks associated with affected devices, as well as the potential benefits of the proposed rule, may be significantly greater than the agency's estimates suggest. Second, because of a lack of data, no attempt was made to estimate the value of property damage associated with the adverse events reported. In one case, cited in section V of this document, the interior compartment of an ambulance was incinerated as a result of an oxygen pressure regulator fire/explosion, resulting in a loss of valuable property. Finally, the estimates presented in table 3 of this document do not reflect the potential benefits of any reduction in mortality risk resulting from oxygen pressure regulator fires and/or

explosions. Voluntary reports of adverse events submitted to the agency indicate that at least one death was associated with oxygen pressure regulator fires and/or explosions during the period 1993 to 2005. The agency expects that this proposed rule would significantly reduce the risk of similar events in the future.

If, however, recent actions on the part of manufacturers (since issuance of the 1999 public health advisory) have already reduced the risk of oxygen regulator fires and explosions, FDA's estimates may overstate the potential benefits of this proposed rule to some extent.

E. Impact on Small Entities

FDA believes that it is unlikely that the proposed rule would have a significant economic impact on a substantial number of small entities. The agency knows of 19 firms currently manufacturing the affected devices. Some of the entities affected by this proposed rule meet the Small Business Administration's (SBA) criteria characterizing small entities in the relevant industry category. The North American Industry Classification System (NAICS) code for manufacturers of oxygen pressure regulators is 339112—*Surgical and Medical Instrument Manufacturing*. According to the SBA criteria, a small firm in this industry sector has fewer than 500 employees (Ref. 4.) A review of available data, including the internet sites of Dun and Bradstreet® (*http://www.dnb.com*) and ThomasRegister® (*http://www.thomasnet.com*) (Refs. 5 and 6), revealed that 12 manufacturers of these devices had fewer than 500 employees and would therefore be considered small entities. (FDA has verified the Web site addresses, but we are not responsible for subsequent changes to the Web sites after this document publishes in the **Federal Register**. Thus, a majority, or approximately 63 percent [(12 / 19) x 100], of entities affected by this proposed rule would qualify as small entities.

An FDA review of available data found that the average annual revenue of small entities affected by this rule is approximately $123 million (Refs. 5 and 6). The total annualized cost for this proposed rule (assuming a 7-percent interest rate) ranges from $49,000 to $79,000, and an average annualized cost per affected entity ranging from $2,600 ($49,000 / 19 entities) to $4,200 ($79,000 / 19 entities). A sensitivity analysis was also performed (assuming a 3-percent interest rate) and suggests a total annualized cost of between $40,000 and $65,000. These estimates correspond to an average annualized cost of between $2,100 and $3,400 per affected entity. Thus, the average annualized cost of the proposed rule, expressed as a percentage of average annual revenues for affected small entities, ranges from 0.002 [($2,100 / $123 million) x 100 = 0.0017] percent to 0.003 [($4,200 / $123 million) x 100 = 0.0034] percent. This information is summarized in table 4 of this document.

TABLE 4.—SUMMARY OF SMALL BUSINESS IMPACTS[1]

Interest Rate	Total Annualized Cost	Average Annualized Cost	Average Annualized Cost as a Percentage of Average Revenue
7%	$49,000 to $79,000	$2,600 to $4,200	0.002% to 0.003%
3%	$40,000 to $65,000	$2,100 to $3,400	0.002% to 0.003%

[1] All figures expressed in $US (2005).

As discussed earlier in this section of the document, the economic impacts of the proposed rule are not expected to be significant. Therefore, the agency believes that the rule will not have a significant economic impact on a substantial number of small entities. However, due to uncertainty with respect to the size distribution of manufacturers, the number of affected devices that will be introduced in the future, and the overall impact of the rule on small entities, the agency is unable to certify that there would be no significant economic impact on a substantial number of small entities. Therefore, FDA specifically requests detailed industry comment on the number of affected small entities and the potential economic impact of the proposed rule on affected entities.

A number of provisions of the proposed rule would help to minimize the economic impact of the rule, particularly for affected small entities. For example, affected devices would not be required to comply with the special control until 2 years after publication of any final rule based on this proposal. This time period would allow manufacturers an opportunity to make any necessary design changes, test products, and modify labeling. In addition, this should help prevent product shortages and thereby minimize the potential for significant fluctuation in the price of the affected devices.

In addition, manufacturers who choose not to meet the ASTM G175–03 standard referenced in the special control would have the option to demonstrate, through the pre-market notification (510(k)) process, that their devices are substantially equivalent to devices that meet the standard. This provides manufacturers of the affected devices with more flexibility in complying with the special controls necessary to provide reasonable assurances of the safety and effectiveness of these devices.

FDA has considered several regulatory alternatives to this proposed rule in addition to taking no regulatory action at all. The alternatives are: (1) Public outreach, (2) adoption of a mandatory performance standard, and (3) product labeling alone. Taking no action was deemed inappropriate because the adverse event reports received by the agency indicate that these devices present a clear risk to public health and safety. Similarly, although public outreach through the FDA/NIOSH safety advisory alerted consumers to the risks to health associated with the use of oxygen pressure regulators, it did not provide a sufficient means for mitigating those risks.

A mandatory performance standard was rejected in favor of the special control guidance document for several reasons. A mandatory performance standard may be less flexible than a special controls guidance document in the face of changing market conditions and technological circumstances. The special controls guidance document allows for some flexibility. For example, the manufacturer may meet either the recommendations of the special controls guidance document or some other measure that provides equivalent assurances of safety and effectiveness. FDA believes that the proposed rule will address the risks to health presented by

these devices without significantly disrupting the market for these devices.

FDA also considered both mandatory and voluntary labeling alone as the special control. We rejected these options because labeling provisions alone, whether mandatory or voluntary, would not ensure that the devices meet some accepted industry standard or other equivalent measure and, therefore, would not provide adequate assurances of product safety and effectiveness. Furthermore, a voluntary labeling provision would leave the agency without an effective monitoring and enforcement mechanism. FDA believes that reclassifying pressure regulators for use with medical oxygen from class I to class II and designating a special control for these devices, and for oxygen conserving devices that incorporate a built-in oxygen regulator, best addresses the public health and safety concerns associated with these devices in the most efficient and timely manner.

XI. Are There Any Paperwork Burdens Created by the Proposed Rule Under the Paperwork Reduction Act of 1995?

No. The labeling statements that would be required by this regulation are ''public disclosure[s] of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public * * *'' (5 CFR 1320.3(c)(2)). Accordingly, FDA concludes that the labeling requirements in this proposed rule are not subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

XII. What if I Have Comments to the Proposed Rule?

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

XIII. What Are the References for the Proposed Rule?

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. FDA and NIOSH Public Health Advisory: Explosions and Fires in Aluminum Oxygen Regulators, February 1999.

2. U.S. Consumer Product Safety Commission, Estimating the Cost to Society of Consumer Product Injuries: The Revised Injury Cost Model, January 1998.

3. U.S. General Accounting Office, Medical Device Reporting: Improvements Needed in FDA's System for Monitoring Problems with Approved Devices, January 1997.

4. U.S. Small Business Administration, Office of Size Standards, Table of Size Standards, Sector 62—Health Care and Social Assistance, 2002.

5. Dun and Bradstreet®, available online at *http://www.dnb.com*.

6. Thomas Register®, available online at *http://www.thomasnet.com*.

List of Subjects in 21 CFR Part 868

Incorporation by reference, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 868 be amended as follows:

PART 868—ANESTHESIOLOGY DEVICES

1. The authority citation for 21 CFR part 868 continues to read as follows:

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

2. Section 868.2700 is amended by revising paragraph (a) to read as follows:

§ 868.2700 Pressure regulator.

(a) *Identification.* A pressure regulator is a device, often called a pressure-reducing valve, that is intended for medical purposes and that is used to convert a medical gas pressure from a high variable pressure to a lower, more constant working pressure. This device does not include pressure regulators for use with medical oxygen.

* * * * *

3. Section 868.2750 is added to supbart C to read as follows:

§ 868.2750 Oxygen pressure regulator.

(a) *Identification.* An oxygen pressure regulator is a device, often called a pressure-reducing valve, that is intended for medical purposes and that is used to convert medical oxygen pressure from a high variable pressure to a lower, more constant working pressure.

(b) *Classification.* (1) Class II (special controls). The special control for this device is FDA's ''Class II Special Controls Guidance Document: Oxygen Pressure Regulators and Oxygen Conserving Devices.'' See § 868.1(e) for the availability of this guidance document. If the device meets American Society for Testing and Materials Standard (ASTM) G175–03, ''Standard Test Method for Evaluating the Ignition Sensitivity and Fault Tolerance of Oxygen Regulators Used for Medical and Emergency Applications,'' the device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 868.9. ASTM G175–03, ''Standard Test Method for Evaluating the Ignition Sensitivity and Fault Tolerance of Oxygen Regulators Used for Medical and Emergency Applications'' is incorporated by reference.

(2) If the device conforms with American Society for Testing and Materials Standard (ASTM) G175–03, ''Standard Test Method for Evaluating the Ignition Sensitivity and Fault Tolerance of Oxygen Regulators Used for Medical and Emergency Applications,'' the device must bear a statement permanently affixed to the body of the regulator that states: ''Conforms with ASTM G175–03.'' ASTM G175–03, ''Standard Test Method for Evaluating the Ignition Sensitivity and Fault Tolerance of Oxygen Regulators Used for Medical and Emergency Applications'' is incorporated by reference.

4. Section 868.5905 is amended by revising paragraph (a) to read as follows:

§ 868.5905 Noncontinuous ventilator.

(a) *Identification.* A noncontinuous ventilator is a device intended to deliver intermittently an aerosol to a patient's lungs or to assist a patient's breathing. This classification includes intermittent positive pressure breathing devices, continuous positive airway pressure devices, and bilevel positive airway pressure devices.

* * * * *

5. Section 868.5910 is added to subpart F to read as follows:

§ 868.5910 Oxygen conserver.

(a) *Oxygen conserver*—(1) *Identification.* An oxygen conserver is a device intended to conserve oxygen delivered to a patient, but does not incorporate a built-in oxygen pressure regulator.

(2) *Classification.* Class II (performance standards).

(b) *Oxygen conserver with built-in oxygen pressure regulator*—(1) *Identification.* An oxygen conserver with built-in oxygen pressure regulator is a device intended to conserve oxygen delivered to a patient and incorporates a built-in oxygen pressure regulator.

(2) *Classification.* Class II (special controls). The special control for an oxygen conserver with built-in oxygen

pressure regulator is FDA's ''Class II Special Controls Guidance Document: Oxygen Pressure Regulators and Oxygen Conserving Devices.'' See § 868.1(e) for the availability of this guidance document.

(3) If the built-in oxygen pressure regulator conforms with ASTM G175–03, ''Standard Test Method for Evaluating the Ignition Sensitivity and Fault Tolerance of Oxygen Regulators Used for Medical and Emergency Applications,'' then a statement must be permanently affixed to the body of the oxygen conserver that states: ''Built-in oxygen pressure regulator conforms with ASTM G175–03.'' ASTM G175–03, ''Standard Test Method for Evaluating the Ignition Sensitivity and Fault Tolerance of Oxygen Regulators Used for Medical and Emergency Applications'' is incorporated by reference.

Dated: February 8, 2007.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. E7–3253 Filed 2–26–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA–B–7708]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed Base (1% annual chance) Flood Elevations (BFEs) and proposed BFEs modifications for the communities listed below. The BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., Engineering Management Section, Mitigation Division, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3151.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This proposed rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This proposed rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground	
				Effective	Modified
Town of Mapleton, Maine					
Maine	Town of Mapleton	Aroostook River	Down stream of Mapleton Corporate Limit	None	+433
			Upstream of Mapleton Corporate Limit	None	+435
		Clayton Brook	Approximately 1,000 feet downstream of old Railroad Grade.	None	+471
			Approximately 2,000 feet upstream of Hughes Road.	None	+583
		Hanson Brook	Confluence with Hanson Lake	None	+504
			Just upstream of Bagley Road	None	+515
		Hanson Lake	Hanson Lake	None	+504

State	City/town/county	Source of flooding	Location	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground	
				Effective	Modified
		Libby Brook	Confluence with North Branch Presque Isle.	None	+524
			Upstream of Mapleton Corporate Limit	None	+584
		North Branch Presque Isle Stream.	Confluence with Presque Isle Stream	None	+440
			Upstream of Town of Mapleton Corporate Limit.	None	+527
		Presque Isle Stream	Just down stream of confluence with Arnold Brook.	None	+440
			Upstream of Mapleton Corporate Limit	None	+448
		Tea Kettle Brook	Confluence of North Branch Presque Isle Stream.	None	+468
			Just upstream of Pulcifer Road	None	+470
		Unnamed Brook	Confluence with North Branch Presque Isle Stream.	None	+458
			Just upstream of Creasy Ridge Road	None	+508

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

Town of Mapleton

Maps are available for inspection at 103 Pulcifur Road, P.O. Box 500, Mapleton, ME 04757.
Send comments to The Honorable John Y. Edgecomb, Town Manager, 103 Pulcifur Road, P.O. Box 500, Mapleton, ME 04757.

Town of Van Buren, Maine

Maine	Town of Van Buren	Violette Brook	At confluence of Violette Stream	None	+468
			Just upstream of Castonguay Road	None	+530
			Approximately 2,500 feet upstream of private road at the Corporate Limits.	None	+608
		Violette Stream	At Bangor and Aroostook Railroad	None	+451
			At confluence of Violette Brook	None	+468
			Approximately 1,000 feet upstream of Champlain Street.	None	+483

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

Town of Van Buren

Maps are available for inspection at 51 Main Street, Suite 101, Van Buren, ME 04785.
Send comments to The Honorable John Rossignol, Council Chairman, 51 Main Street, Suite 101, Van Buren, ME 04785.

Townships of Hillsborough and Warren, Somerset County, New Jersey

New Jersey	Township of Warren.	Cory's Brook	At the confluence with Passaic River	+214	+213
			Approximately 1,800 feet upstream of Powder Horn Road.	None	+405
	Township of Hillsborough.	Neshanic River	At the confluence with South Branch Raritan River.	+81	+82
			Approximately 1.73 miles upstream of Montgomery Road.	+103	+102

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

Township of Hillsborough

Maps are available for inspection at the Hillsborough Township Municipal Complex, 379 South Branch Road, Hillsborough, New Jersey.
Send comments to The Honorable Carl Suraci, Mayor of the Township of Hillsborough, Hillsborough Township Municipal Complex, 379 South Branch Road, Hillsborough, New Jersey 08844.

Township of Warren

Maps are available for inspection at the Township of Warren Engineering Department, 46 Mountain Boulevard, Warren, New Jersey.
Send comments to The Honorable Carolyn Garafola, Mayor of the Township of Warren, 46 Mountain Boulevard, Warren, New Jersey 07059.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Clark County, Nevada, and Incorporated Areas				
Virgin River	5.0 miles downstream of the confluence of Pulsipher Wash.	None	+1473	Clark County (Unincorporated Areas), City of Mesquite.
	0.5 miles upstream of the confluence of the Virgin River Avulsion.	+1592	+1597	
Virgin River Avulsion	0.3 miles upstream of the confluence with the Virgin River.	+1587	+1591	City of Mesquite.
	0.8 miles upstream of the confluence with the Virgin River.	+1592	+1598	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

City of Mesquite

Maps are available for inspection at Office of the City Engineer, 10 E. Mesquite Boulevard, Mesquite, NV 89027.
Send comments to The Honorable Bill Nicholes, Mayor, City of Mesquite, 10 East Mesquite Boulevard, Mesquite, NV 89027.

Clark County (Unincorporated Areas)

Maps are available for inspection at Office of the Director of Public Works, 500 Grand Central Pky, Las Vegas, NV 89155.
Send comments to The Honorable Rory Reid, Chairman, Clark County Commission, 500 Grand Central Parkway, Las Vegas, NV 89106.

Montgomery County, North Carolina, and Incorporated Areas				
Alls Fork	At the Montgomery/Davidson County boundary	None	+511	Montgomery County (Unincorporated Areas).
	At the confluence with Beaverdam Creek	None	+511	
Arnett Branch	At the confluence with Densons Creek	None	+504	Montgomery County (Unincorporated Areas).
	Approximately 75 feet downstream of Substation Road (State Road 1315).	None	+519	
Asheworth Branch	At the confluence with Little River	None	+562	Montgomery County (Unincorporated Areas).
	Approximately 200 feet upstream of King Drive	None	+574	
Barnes Creek	At the confluence with Uwharrie River	None	+329	Montgomery County (Unincorporated Areas).
	Approximately 1,570 feet upstream of Flint Hill Road	None	+483	
Barnes Mill Creek	At the confluence with West Fork Little River	None	+480	Montgomery County (Unincorporated Areas).
	Approximately 1.0 mile upstream of the confluence with West Fork Little River.	None	+523	
Beaverdam Creek	At the confluence with Reynolds Creek	None	+511	Montgomery County (Unincorporated Areas).
	At the Montgomery/Davidson County boundary	None	+511	
Betsy Creek	At the confluence with West Fork Little River	None	+588	Montgomery County (Unincorporated Areas).
	Approximately 1,330 feet upstream of Smith Farm Road.	None	+630	
Big Creek	Approximately 1,200 feet upstream of the confluence with Little River.	+362	+363	Montgomery County (Unincorporated Areas).
	Approximately 3.1 miles upstream of the confluence of Little Creek.	None	+604	
Big Mountain Creek	At the Montgomery/Richmond County boundary	None	+378	Montgomery County (Unincorporated Areas).
	Approximately 890 feet upstream of Big Mountain Creek Tributary 2.	None	+454	
Big Mountain Creek Tributary 1.	At the confluence with Big Mountain Creek	None	+432	Montgomery County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence with Big Mountain Creek.	None	+449	
Big Mountain Creek Tributary 2.	At the confluence with Big Mountain Creek	None	+450	Montgomery County (Unincorporated Areas).
	Approximately 1,800 feet upstream of the confluence with Big Mountain Creek.	None	+471	
Big Town Creek	At the confluence with Little River	None	+211	Montgomery County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
	Approximately 1.44 miles upstream of NC 731 Highway.	None	+368	
Big Wolf Branch	At the confluence with Little Hamer Creek	None	+257	Montgomery County (Unincorporated Areas).
	Approximately 200 feet upstream of Warner Farm Road.	None	+283	
Bishop Creek	At the confluence with Dumas Creek	None	+486	Montgomery County (Unincorporated Areas).
	Approximately 1.5 miles upstream of Shiloh Church Road.	None	+563	
Bridgers Creek	At the downstream side of Capelsie Road (State Road 1519).	+382	+383	Montgomery County (Unincorporated Areas).
	Approximately 680 feet downstream of Currie Road	None	+549	
Cabin Creek	At the Montgomery/Moore County boundary	None	+486	Montgomery County (Unincorporated Areas).
	Approximately 0.8 mile upstream of U.S. Highway 220.	None	+587	
Cabin Creek Tributary	At the confluence with Cabin Creek	None	+538	Montgomery County (Unincorporated Areas).
	Approximately 1,000 feet upstream of Post Office Road.	None	+557	
Cedar Creek	Approximately 500 feet upstream of the confluence with Little River.	None	+389	Montgomery County (Unincorporated Areas).
	Approximately 0.66 mile upstream of McCaskill Road	None	+540	
Cheek Creek	At the Montgomery/Richmond County boundary	None	+207	Montgomery County (Unincorporated Areas).
	Approximately 2.0 miles upstream of the confluence of Indian Branch.	None	+418	
Clark's Creek Tributary	Approximately 80 feet upstream of the railroad	None	+284	Town of Mount Gilead.
	At NC Highway 731	None	+289	
Clarks Creek	At the confluence with Pee Dee River	None	+230	Montgomery County (Unincorporated Areas).
	Approximately 1.6 miles upstream of NC Highway 24/27.	None	+539	
Cotton Creek	At the Montgomery/Moore County boundary	None	+477	Montgomery County (Unincorporated Areas).
	Approximately 40 feet upstream of Cotton Creek Road.	None	+507	
Densons Creek	At the confluence with Little River	None	+395	Montgomery County (Unincorporated Areas) Town of Troy.
	Approximately 600 feet upstream of Substation Road	None	+520	
Dicks Creek	At the confluence with Little River	None	+415	Montgomery County (Unincorporated Areas).
	Just downstream of the confluence of Lick Creek	None	+481	
Dicks Creek Tributary 1	At the confluence with Dicks Creek	None	+424	Montgomery County (Unincorporated Areas) Town of Biscoe.
	Approximately 1.8 miles upstream of Dicks Creek	None	+576	
Disons Creek	At the confluence with Little River	None	+218	Montgomery County (Unincorporated Areas).
	Approximately 580 feet upstream of Calvery Church Road.	None	+333	
Disons Creek Tributary 1	At the confluence with Disons Creek	None	+304	Montgomery County (Unincorporated Areas).
	Approximately 0.58 mile upstream of the confluence with Disons Creek.	None	+337	
Drowning Creek	At the Montgomery/Moore/Richmond County boundary.	None	+368	Montgomery County (Unincorporated Areas).
	Approximately 1.5 miles upstream of Dowd Road	None	+672	
Drowning Creek Tributary 1	At the confluence with Drowning Creek	None	+406	Montgomery County (Unincorporated Areas).
	Approximately 0.5 mile upstream of Bennett Road	None	+514	
Dry Creek	At the confluence with Big Mountain Creek	None	+389	Montgomery County (Unincorporated Areas).
	Approximately 1,340 feet upstream of Graham Road	None	+405	
Dumas Creek	At the confluence with Densons Creek	None	+452	Montgomery County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
	Approximately 0.9 mile upstream of the confluence of Flat Rock Branch.	None	+637	
Duncombe Creek	At the confluence with Uwharrie River	None	+338	Montgomery County (Unincorporated Areas).
	Approximately 0.5 mile upstream of Uwharrie River	None	+367	
Dutchmans Creek	Approximately 800 feet upstream of the confluence with Uwharrie River.	None	+289	Montgomery County (Unincorporated Areas).
	Approximately 330 feet upstream of River Road	None	+348	
Flat Rock Branch	At the confluence with Dumas Creek	None	+581	Montgomery County (Unincorporated Areas).
	Approximately 0.4 mile upstream of Dumas Creek	None	+598	
Garr Creek	At the confluence with Yadkin River	None	+511	Montgomery County (Unincorporated Areas).
	Approximately 280 feet upstream of Tuckertown Road	None	+516	
Glady Fork	At the confluence with Reynolds Creek	None	+511	Montgomery County (Unincorporated Areas).
	Approximately 0.6 mile upstream of NC 109 Highway	None	+574	
Hickory Branch	At the confluence with White Oak Creek	None	+540	Montgomery County (Unincorporated Areas) Town of Biscoe.
	Approximately 330 feet upstream of West Main Street	None	+595	
Indian Branch	At the confluence with Cheek Creek	None	+337	Montgomery County (Unincorporated Areas).
	Approximately 0.6 mile upstream of Cheek Creek	None	+358	
Lick Creek	At the confluence with Dicks Creek	None	+481	Montgomery County (Unincorporated Areas).
	Approximately 30 feet upstream of the confluence of Lick Creek Tributary 1.	None	+544	
Lick Creek (into Cotton Creek).	At the confluence with Cotton Creek	None	+507	Montgomery County (Unincorporated Areas).
	Approximately 1.1 miles upstream of Cotton Creek Road.	None	+525	
Lick Creek Tributary 1	At the confluence with Lick Creek	None	+544	Montgomery County (Unincorporated Areas) Town of Biscoe.
	Approximately 650 feet upstream of Jackson Drive	None	+569	
Lick Creek Tributary 2	At the confluence with Lick Creek	None	+501	Montgomery County (Unincorporated Areas) Town of Biscoe.
	Approximately 0.6 mile upstream of Wright Road	None	+572	
Lick Creek Tributary 2A	At the confluence with Lick Creek Tributary 2	None	+512	Montgomery County (Unincorporated Areas) Town of Biscoe.
	Approximately 590 feet upstream of Shady Oak Drive	None	+545	
Lick Fork	At the upstream side of CC Camp Road	None	+301	Montgomery County (Unincorporated Areas).
	Approximately 350 feet upstream of NC Highway 27/24.	None	+584	
Lick Fork Tributary 1	At the confluence with Lick Fork	None	+455	Montgomery County (Unincorporated Areas).
	Approximately 0.8 mile upstream of the confluence with Lick Fork.	None	+491	
Little Creek	At the confluence with Big Creek	None	+464	Montgomery County (Unincorporated Areas).
	Approximately 0.7 mile upstream of the confluence with Big Creek.	None	+487	
Little Dry Creek	At the confluence with Big Creek	None	+374	Montgomery County (Unincorporated Areas).
	Approximately 0.7 mile upstream of the confluence with Big Creek.	None	+396	
Little Dumas Creek	At the confluence with Dumas Creek	None	+553	Montgomery County (Unincorporated Areas).
	Approximately 1.6 miles upstream of Shiloh Church Road.	None	+678	
Little Hamer Creek	At the Montgomery/Richmond County boundary	None	+241	Montgomery County (Unincorporated Areas).
	Approximately 1.1 miles upstream of Gaddy Farm Road.	None	+298	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Little River	At the Montgomery/Richmond County boundary	None	+207	Montgomery County (Unincorporated Areas).
	At the Montgomery/Randolph County boundary	None	+572	
Little River Tributary 1	Approximately 2,000 feet upstream of the confluence with Little River.	+382	+383	Montgomery County (Unincorporated Areas).
	Approximately 0.7 mile upstream of Little River	None	+400	
Long Branch	At the confluence with Little River	None	+360	Montgomery County (Unincorporated Areas).
	Approximately 310 feet upstream of Hicks Road	None	+386	
McLeans Creek	At the confluence with Moccasin Creek	None	+338	Montgomery County (Unincorporated Areas).
	Approximately 1.3 miles upstream of Mullinix Road	None	+458	
Middle Prong Hamer Creek	At the Montgomery/Richmond County boundary	None	+247	Montgomery County (Unincorporated Areas)
	Approximately 0.5 mile upstream of Melton Grove Church Road.	None	+296	
Moccasin Creek	Approximately 1,500 feet upstream of the confluence with Uwharrie River.	None	+322	Montgomery County (Unincorporated Areas).
	Approximately 100 feet upstream of the confluence with West Branch.	None	+348	
Mountain Branch	At the confluence with Glady Fork	None	+523	Montgomery County (Unincorporated Areas).
	At the Montgomery/Davidson County boundary	None	+600	
Naked Creek (into Drowning Creek).	At the Montgomery/Richmond County boundary	None	+458	Montgomery County (Unincorporated Areas).
	Approximately 1,400 feet downstream of Belford Church Road.	None	+544	
Nichols Run	At the confluence with West Fork Little River	None	+545	Montgomery County (Unincorporated Areas).
	Approximately 1,350 feet upstream of Lucas Road	None	+596	
Nichols Run Tributary 1	At the confluence with Nichols Run	None	+555	Montgomery County (Unincorporated Areas).
	Approximately 0.9 mile upstream of NC 134 Highway N.	None	+596	
Pee Dee River	At the Montgomery/Richmond County boundary	None	+220	Montgomery County (Unincorporated Areas).
	At the confluence of Yadkin River and Uwharrie River	None	+287	
Pee Dee River Tributary 5	At the confluence with Pee Dee River	None	+222	Montgomery County (Unincorporated Areas).
	Approximately 0.9 mile upstream of Pee Dee River	None	+242	
Poison Fork	At the confluence with Barnes Creek	None	+454	Montgomery County (Unincorporated Areas).
	Approximately 2.3 miles upstream of Flint Hill Road	None	+567	
Polly Branch	At the confluence with Cheek Creek	None	+296	Montgomery County (Unincorporated Areas).
	Approximately 0.7 mile upstream of the confluence with Cheek Creek.	None	+333	
Reedy Fork	At the confluence with Cedar Creek	None	+537	Montgomery County (Unincorporated Areas).
	Approximately 0.6 mile upstream of Cedar Creek	None	+577	
Reynolds Creek	At the confluence with Yadkin River	None	+511	Montgomery County (Unincorporated Areas).
	At the Montgomery/Davidson County boundary	None	+522	
Rock Branch	At the confluence with Big Creek	None	+446	Montgomery County (Unincorporated Areas).
	Approximately 0.7 mile upstream of the confluence with Big Creek.	None	+470	
Rocky Creek (East)	At the confluence with Little River	None	+316	Montgomery County (Unincorporated Areas).
	Approximately 0.41 mile upstream of Mount Carmel Church Road.	None	+646	
Rocky Creek (East) Tributary 1.	At the confluence with Rocky Creek	None	+633	Montgomery County (Unincorporated Areas).
	Approximately 0.5 mile upstream of Mount Carmel Church Road.	None	+667	
Rocky Creek (West)	At the confluence with Pee Dee River	None	+280	Montgomery County (Unincorporated Areas).
	Approximately 0.6 mile upstream of NC Highway 24/27.	None	+362	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Sand Branch	At the confluence with Cheek Creek	None	+304	Montgomery County (Unincorporated Areas).
	Approximately 0.4 mile upstream of the confluence with Cheek Creek.	None	+318	
Silver Creek	Approximately 400 feet upstream of County Line Road.	None	+386	Montgomery County (Unincorporated Areas).
	Approximately 1.2 miles upstream of County Line Road.	None	+413	
Suck Branch	At the confluence with Densons Creek	None	+428	Town of Troy.
	Just downstream of Williamson Road	None	+528	
Suggs Creek	At the confluence with Little River	None	+505	Montgomery County (Unincorporated Areas).
	Approximately 0.5 mile upstream of Suggs Creek Tributary.	None	+603	
Suggs Creek Tributary	At the confluence with Suggs Creek	None	+586	Montgomery County (Unincorporated Areas).
	Approximately 0.8 mile upstream of Suggs Creek	None	+612	
Susies Creek	At the confluence with Little River	None	+214	Montgomery County (Unincorporated Areas).
	Approximately 0.4 mile upstream of NC Highway 731	None	+272	
Thickety Creek	At the confluence with Little River	None	+230	Montgomery County (Unincorporated Areas).
	Approximately 1.2 miles upstream of Thickety Creek Road.	None	+306	
Townsend Branch	At the confluence with Woodwards Branch	None	+257	Montgomery County (Unincorporated Areas).
	Approximately 2.2 miles upstream of the confluence with Woodwards Branch.	None	+307	
Turkey Creek	Approximately 1,550 feet upstream of the confluence with Little River.	+377	+378	Montgomery County (Unincorporated Areas).
	Approximately 0.6 mile upstream of the confluence with Little River.	None	+397	
Unnamed Tributary to Wolf Branch Creek.	Approximately 1,000 feet downstream of Nelson Store Road.	None	+241	Montgomery County (Unincorporated Areas).
	Approximately 0.5 mile downstream of Haithcock Road.	None	+248	
Uwharrie River	At the confluence with Yadkin River	None	+287	Montgomery County (Unincorporated Areas).
	Approximately 1.7 miles upstream of Low Water Bridge Road.	None	+369	
Warner Creek	At the confluence with Rocky Creek (East)	None	+417	Montgomery County (Unincorporated Areas).
	Approximately 1.7 miles upstream of Saunders Road	None	+472	
West Branch	At the confluence with Moccasin Creek	None	+348	Montgomery County (Unincorporated Areas).
	Approximately 1.2 miles upstream of McLeans Creek Road.	None	+403	
West Fork Little River	At the confluence with Little River	None	+432	Montgomery County (Unincorporated Areas).
	At the Montgomery/Randolph County boundary	None	+615	
West Prong Hamer Creek	At the confluence with Middle Prong Hamer Creek	None	+248	Montgomery County (Unincorporated Areas).
	Approximately 1.2 miles upstream of NC 109 Highway S.	None	+293	
White Oak Creek	At the confluence with Cedar Creek	None	+455	Montgomery County (Unincorporated Areas) Town of Biscoe.
	Approximately 0.4 mile upstream of Martin Street	None	+608	
White Oak Creek Tributary 1	At the confluence with White Oak Creek	None	+521	Montgomery County (Unincorporated Areas) Town of Biscoe.
	Approximately 1,600 feet upstream of Quinton Road	None	+580	
White Oak Creek Tributary 1A.	At the confluence with White Oak Creek Tributary 1	None	+541	Montgomery County (Unincorporated Areas).
	Approximately 0.4 mile upstream of White Oak Creek Tributary 1.	None	+573	
Wolf Creek	Approximately 1,000 feet downstream of Hogan Farm Road.	None	+519	Montgomery County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
	Approximately 1,700 feet upstream of U.S. Highway 220.	None	+628	
Wolf Creek Tributary	At the confluence with Wolf Creek	None	+542	Montgomery County (Unincorporated Areas).
	Approximately 50 feet downstream of Wolf Creek Road.	None	+609	
Woodwards Branch	At the confluence with Cheek Creek	None	+255	Montgomery County (Unincorporated Areas).
	Approximately 1,320 feet upstream of NC 731 Highway E.	None	+270	
Yadkin River	At the confluence of Pee Dee River and Uwharrie River.	None	+287	Montgomery County (Unincorporated Areas).
	Approximately 13.3 miles upstream of Uwharrie River	None	+566	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

Town of Biscoe

Maps are available for inspection at Biscoe Town Hall, 110 West Main Street, Biscoe, NC.
Send comments to The Honorable James Blake, Mayor of the Town of Biscoe, P.O. Box 1228, Biscoe, NC 27209.

Town of Mount Gilead

Maps are available for inspection at Mount Gilead Town Hall, 110 West Allenton Street, Mount Gilead, NC.
Send comments to The Honorable Earl Poplin, Mayor of the Town of Mount Gilead, P.O. Box 325, Mount Gilead, NC 27306.

Town of Troy

Maps are available for inspection at Troy Town Hall, 315 North Main Street, Troy, NC.
Send comments to Mr. Greg Zephir, Troy Town Manager, 315 North Main Street, Troy, NC 27371.

Montgomery County (Unincorporated Areas)

Maps are available for inspection at Montgomery County Inspections and Zoning Office, 219 South Main Street, Troy, NC.
Send comments to Mr. Lance Metzler, Montgomery County Manager, P.O. Box 425, Troy, NC 27371.

Alexander County, North Carolina and Incorporated Areas

Beaverdam Creek	At the confluence with Big Branch into South Yadkin River.	None	+1,026	Alexander County (Unincorporated Areas).
	Approximately 2.5 miles upstream of Vashti Road	None	+1,151	
Big Branch into South Yadkin River.	At the confluence with South Yadkin River	None	+1,025	Alexander County (Unincorporated Areas).
	Approximately 0.5 mile upstream of Vashti Cemetery Road.	None	+1,181	
Greasy Creek	At the confluence with Wallace Creek	None	+1,016	Alexander County (Unincorporated Areas).
	Approximately 1,930 feet upstream of Carson Chapel Road.	None	+1,175	
Greasy Creek Tributary 1	At the confluence with Greasy Creek	None	+1,035	Alexander County (Unincorporated Areas), Town of Taylorsville.
	Approximately 1,950 feet upstream of Hammer Road	None	+1,199	
Mill Creek	At the confluence with South Yadkin River	None	+1,020	Alexander County (Unincorporated Areas).
	Approximately 0.4 mile upstream of confluence with South Yadkin River.	None	+1,025	
Miller Creek	At the confluence with South Yadkin River	None	+857	Alexander County (Unincorporated Areas).
	Approximately 250 feet upstream of Sprinkle Dairy Road.	None	+1,009	
Rocky Creek	At the Alexander County boundary	None	+1,096	Alexander County (Unincorporated Areas).
	Approximately 900 feet upstream of Linney's Mill Road.	None	+1,191	
Snow Creek	Approximately 200 feet downstream of the Iredell/Alexander County boundary.	None	+1,013	Alexander County (Unincorporated Areas).
	Approximately 150 feet upstream of the Iredell/Alexander County boundary.	None	+1,013	
South Yadkin River	Approximately 400 feet downstream of the Iredell/Alexander County boundary.	None	+843	Alexander County (Unincorporated Areas).
	Approximately 500 feet downstream of Vashti Road	None	+1,066	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
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Third Creek	Approximately 150 feet downstream of the Iredell/Alexander County boundary.	None	+915	Alexander County (Unincorporated Areas).
	Approximately 0.5 mile upstream of Lentz Road	None	+1,004	
Wallace Creek	At the confluence with South Yadkin River	None	+905	Alexander County (Unincorporated Areas).
	Approximately 1,230 feet upstream of confluence of Greasy Creek.	None	+1,018	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

Town of Taylorsville

Maps are available for inspection at the Alexander County Planning and Inspection Office, 332 1st Avenue Southwest, Taylorsville, North Carolina.

Send comments to The Honorable Guy Barriger, Mayor of the Town of Taylorsville, 67 Main Avenue Drive, Taylorsville, North Carolina 28681.

Alexander County (Unincorporated Areas)

Maps are available for inspection at the Alexander County Planning and Inspection Office, 332 1st Avenue Southwest, Taylorsville, North Carolina.

Send comments to Mr. Darrell Robertson, Chairman of the Alexander County Board of Commissioners, 621 Liledoun Road, Taylorsville, North Carolina 28681.

Lincoln County, South Dakota and Incorporated Areas

Ninemile Creek	Just downstream from 273rd Street	None	+1311	Lincoln County (Unincorporated Areas).
	Just downstream from 274th Street	None	+1385	
	Just upstream from South Dakota Highway 115	None	+1411	
	Just upstream from 272nd Street	None	+1472	
	Approximately 320 feet downstream from Kevin Drive	None	+1477	
	Approximately 650 feet upstream from Ryan Drive	None	+1483	
	1550 feet upstream from 469th Avenue	None	+1518	
Ninemile Creek Tributary	Just upstream from the confluence with Ninemile Creek.	None	+1387	Lincoln County (Unincorporated Areas).
	Approximately 2150 feet downstream from 475th Avenue.	None	+1391	
	Approximately 500 feet downstream from 475th Avenue at the Corporate Limit line.	None	+1400	
	Just downstream from 273rd Street	None	+1417	
	Approximately 2050 feet upstream from 273rd Street	None	+1425	
	Just downstream from 473rd Avenue	None	+1466	
Schindler Creek	Just upstream from the confluence with Ninemile Creek.	None	+1267	Lincoln County (Unincorporated Areas).
	Just downstream from 477th Avenue	None	+1394	
	Approximately 1150 feet upstream from 271st Street	None	+1452	
Spring Creek	Just upstream from the confluence with Big Sioux River.	None	+1269	Lincoln County (Unincorporated Areas).
	Just downstream from South Dakota Highway 11	None	+1368	
	Approximately 950 feet upstream from Cliff Avenue	None	+1461	
Spring Creek Tributary	Just upstream from the confluence with Spring Creek	None	+1346	Lincoln County (Unincorporated Areas).
	Just downstream from Cody Road	None	+1392	
	Just upstream from 269th Street	None	+1425	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

Town of Harrisburg

Maps are available for inspection at P.O. BOX 26, Harrisburg, SD 57032.

Send comments to The Honorable Reed Ramstad, Mayor, Town of Harrisburg, P.O. BOX 26, Harrisburg, SD 57032.

Town of Tea

Maps are available for inspection at 600 East 1st Street, P.O. BOX 128, Tea, SD 57064.

Send comments to The Honorable John Lawler, Mayor, Town of Tea, P.O. BOX 128, Tea, SD 57064–0128.

Lincoln County (Unincorporated Areas)

Maps are available for inspection at 224 West Ninth Street, Sioux Falls, SD 57104.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Send comments to Commissioner Michael Poppens, Commissioner, Lincoln County South Dakota, 100 East 5th Street, Canton, SD 57013.				
Liberty County, Texas and Unincorporated Areas				
Cedar Bayou (Lower)	Approximately 1800 feet downstream from Kenning Road (County Boundary).	*37	+36	Liberty County (Unincorporated Areas).
	Approximately 3200 feet upstream from Crosby East Gate Road (County Boundary).	*64	+62	
Trinity River	Approximately 1.3 miles downstream from U.S. Route 90.	*26	+25	City of Liberty, Liberty County, (Unincorporated Areas).
	Approximately 3.6 miles upstream from the Missouri Pacific Railroad.	*37	+36	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

City of Liberty

Maps are available for inspection at Liberty City Hall, 1829 Sam Houston, Liberty, TX 77575.
Send comments to The Honorable Carl Pickett, Mayor, City of Liberty, 1829 Sam Houston, Liberty, TX 77575.

Liberty County (Unincorporated Areas)

Maps are available for inspection at Liberty County Annex, 2103 Cos Street, Liberty, TX 77575.
Send comments to The Honorable Lloyd Kirkham, Judge, Liberty County, 1923 Sam Houston, Liberty, TX 77575.

Dane County, Wisconsin, and Incorporated Areas				
Badger Mill Creek	Approximately 500 feet downstream of State Highway 69.	+924	+925	City of Madison, City of Verona, Dane County (Unincorporated Areas).
	At upstream face of U.S. Highway 18	+939	+942	
	Downstream face of McKee Road	+979	+983	
Badger Mill Creek Diversion Channel.	At downstream face of Old County Highway PB	+952	+953	City of Verona, Dane County (Unincorporated Areas).
	At downstream face of U.S. Highway 18	+953	+954	
Black Earth Creek	At downstream county boundary approximately 1 mile downstream of railroad crossing.	+746	+745	Village of Black Earth, Dane County (Unincorporated Areas).
	At upstream face of State Street	+772	+770	Village of Cross Plains.
	Approximately 0.8 miles upstream of US Highway 14	None	+924	Village of Mazomanie.
Black Earth Creek Secondary Channel.	Approximately 500 feet upstream of confluence with Black Earth Creek.	None	+765	Village of Mazomanie, Dane County (Unincorporated Areas).
	At divergence from Black Earth Creek	None	+771	
Brewery Creek	At confluence with Black Earth Creek	+872	+873	Village of Cross Plains.
	Approximately 600 feet upstream of Brewery Road	+905	+906	
Dry Tributary to Badger Mill Creek.	Just upstream of U.S. Highway 18/151	+937	+943	City of Verona, Dane County (Unincorporated Areas).
	At downstream face of Mid-Town Road	None	+1032	
East Branch Badger Mill Creek.	At confluence with Badger Mill Creek	+972	+973	City of Madison.
	Approximately 350 feet downstream of McKee Road	+982	+983	
East Branch Starkweather Creek.	At upstream face of Milwaukee Street	+849	+850	City of Madison, Dane County (Unincorporated Areas).
	At upstream face of South Stoughton Road	+851	+853	
	At upstream face of Interstate 39	None	+878	
Koshkonong Creek (Lower)	At upstream face of Aarback Road	+800	+801	Village of Cambridge, Dane County (Unincorporated Areas).
	Approximately 350 feet upstream of Adams Street	+823	+817	
	At upstream side of bike path near Oak Park Road	+856	+855	Village of Rockdale.
Koshkonong Creek (Upper)	Approximately 0.7 miles downstream of North Jargo Road.	+858	+857	City of Sun Prairie, Dane County (Unincorporated Areas).
	At downstream face of Baxter Road	+864	+866	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
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	At upstream face of County Highway T	+909	+912	
	Approximately 200 feet upstream of Musket Ridge Drive.	+961	+962	
Milwaukee Street Tributary	At confluence with East Branch Starkweather Creek	+850	+851	City of Madison.
	Approximately 1,200 feet downstream of Milwaukee Street.	+851	+852	
Pennito Creek	At upstream face of West Beltline Highway	+858	+860	City of Madison, Dane County (Unincorporated Areas).
	At upstream face of County Highway AB	None	+878	
Pheasant Branch	At upstream face of Century Avenue	+856	+853	City of Middleton, Dane County (Unincorporated Areas).
	At upstream face of Park Street	+899	+912	
	At downstream face of Schneider Road	+932	+934	
Portage Road Tributary	At confluence with West Branch Starkweather Creek	+860	+862	City of Madison, Dane County (Unincorporated Areas).
	At downstream face of Interstate 39	+892	+893	
Sixmile Creek	At downstream face of County Highway M	+852	+853	Village of Waunakee, Dane County (Unincorporated Areas).
	At downstream face of Kingsley Road	+921	+922	
South Fork to Pheasant Branch.	At confluence with Pheasant Branch	+919	+916	City of Middleton.
	At downstream face of Eagle Drive	None	+929	
Sugar River	Approximately 0.5 miles upstream of Lake Belle View Dam.	+863	+864	Village of Belleville, Dane County (Unincorporated Areas).
	At downstream face of U.S. Highway 18	None	+926	
Token Creek	Approximately 1,500 feet downstream of County Highway C.	+889	+891	City of Sun Prairie, Dane County (Unincorporated Areas).
	Approximately 1,200 feet downstream of Egre Road	+912	+909	
	At downstream face of Egre Road	+915	+914	
Unnamed Tributary To Lake Waubesa.	At downstream face of South Stoughton Road	+851	+849	City of Madison, City of Monona, Dane County (Unincorporated Areas).
	At upstream face of Interstate 39	None	+862	
West Branch Starkweather Creek.	At downstream face of Commercial Avenue	+852	+851	City of Madison, Dane County (Unincorporated Areas).
	At upstream face of North Stoughton Road	+859	+862	
	At downstream face of Interstate 39	None	+867	
Wisconsin River	At downstream county boundary approximately 8.5 miles downstream of State Highway 12.	+732	+731	Dane County (Unincorporated Areas).
	Approximately 500 feet downstream of State Highway 60.	+749	+748	
Yahara River	Approximately 1 mile downstream of County Highway N.	+819	+820	City of Madison, City of Middleton.
	At confluence with Token Creek	+854	+856	City of Monona.
	Approximately 600 feet downstream of U.S. Highway 51.	+936	+939	City of Stoughton, Dane County (Unincorporated Areas), Village of De Forest, Village of McFarland, Village of Shorewood Hills.

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

City of Madison

Maps are available for inspection at 210 Martin Luther King Boulevard, Madison, WI.
Send comments to The Honorable David Cieslewicz, Mayor, 210 Martin Luther King Boulevard, # 403, Madison, WI 53703–3342.

City of Middleton

Maps are available for inspection at 7426 Hubbard Avenue, Middleton, WI.
Send comments to Douglas Zwank, Mayor, 7426 Hubbard Avenue, Middleton, WI 53562–3118.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	

City of Monona

Maps are available for inspection at 5211 Schluter Road, Monona, WI.
Send comments to The Honorable Robb Kahl, Mayor, 5211 Schluter Road, Monona, WI 53716–2598.

City of Stoughton

Maps are available for inspection at 381 E. Main Street, Stoughton, WI.
Send comments to The Honorable Helen Johnson, Mayor, 381 E. Main Street, Stoughton, WI 53589–1724.

City of Sun Prairie

Maps are available for inspection at 300 E. Main Street, Sun Prairie, WI.
Send comments to The Honorable Joe Chase, Mayor, 300 E. Main Street, Sun Prairie, WI 53590–2227.

City of Verona

Maps are available for inspection at 111 Lincoln Street, Verona, WI.
Send comments to The Honorable Jon Hochkammer, Mayor, 111 Lincoln Street, Verona, WI 53593–1520.

Dane County (Unincorporated Areas)

Maps are available for inspection at 210 Martin Luther King Boulevard, Madison, WI.
Send comments to The Honorable Kathleen Falk, County Executive, 210 Martin Luther King Boulevard, #421, Madison, WI 53703.

Village of Belleville

Maps are available for inspection at 24 West Main Street, Belleville, WI.
Send comments to Mr. Paul Ziehli, President, PO Box 79, Belleville, WI 53508.

Village of Black Earth

Maps are available for inspection at 1210 Mills Street, Black Earth, WI.
Send comments to Mr. Vern Wendt, President, PO Box 347, Black Earth, WI 53515.

Village of Cambridge

Maps are available for inspection at 200 Spring Street, Cambridge, WI.
Send comments to Mr. Donn Trieloff, President, PO Box 99, Cambridge, WI 53523–0099.

Village of Cross Plains

Maps are available for inspection at 2417 Brewery Road, Cross Plains, WI 53528–9471.
Send comments to Mr. Mike Schutz, President, 2417 Brewery Road, Cross Plains, WI 53528–9471.

Village of De Forest

Maps are available for inspection at 306 Deforest Street, Deforest, WI 53532.
Send comments to Jeff Miller, President, 306 Deforest Street, Deforest, WI 53532.

Village of Mazomanie

Maps are available for inspection at 133 Crescent Street, Mazomanie, WI.
Send comments to Mr. Jeffrey Wirth, President, P.O. Box 26, Mazomanie, WI 53560.

Village of McFarland

Maps are available for inspection at 5915 Milwaukee Street, McFarland, WI 53558–0110.
Send comments to Chris Klar, President, 5915 Milwaukee Street, McFarland, WI 53558–0110.

Village of Rockdale

Maps are available for inspection at 148 Water Street, Rockdale, WI 53523.
Send comments to Mr. Charles Hutchens, President, 148 Water Street, Rockdale, WI 53523.

Village of Shorewood Hills

Maps are available for inspection at 810 Shorewood Blvd., Madison, WI 53705–2115.
Send comments to Peter Hans, President, 810 Shorewood Blvd., Madison, WI 53705–2115.

Village of Waunakee

Maps are available for inspection at 500 West Main Street, Waunakee, WI.
Send comments to Mr. John Laubmeier, President, P.O. Box 100, Waunakee, WI 5397.

Columbia County, Wisconsin and Incorporated Areas

Baraboo River	At confluence with the Wisconsin River	*788	*790	Columbia County (Unincorporated Areas).
	Downstream side of Interstate 90	*797	*796	
Big Slough	At confluence with Neenah Creek	*791	*790	Columbia County (Unincorporated Areas).
	Downstream side of State Highway 16	*792	*796	
Duck Creek	Upstream side of U.S. Highway 51	*789	*791	Columbia County (Unincorporated Areas).
	Upstream side of Chicago Milwaukee St. Paul and Pacific Railroad.	*791	*791	
Fox River	At downstream county boundary between Columbia and Marquette counties.	*782	*779	City of Portage, Columbia County (Unincorporated Areas).
	Downstream side of Chicago Milwaukee St. Paul and Pacific Railroad.	*789	*785	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Neenah Creek	Downstream side of County Highway CM	*783	*781	Columbia County (Unincorporated Areas).
	At confluence with Big Slough	*791	*790	
Spring Creek	Approximately ½ mile downstream of Fair Street	*806	*805	City of Lodi.
	Upstream side of Riddle Road	*833	*834	
Spring Creek Tributary A	At confluence with Spring Creek	*821	*821	City of Lodi.
	Approximately 1,300 feet upstream of Spring Street	*821	*821	
Wisconsin River	Downstream side of State Highway 60	*748	*748	City of Portage, City of Wisconsin Dells, Columbia County (Unincorporated Areas).
	Upstream side of Interstate 39	*795	*798	
	At upstream county boundary between Columbia and Adams counties.	*848	*848	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

Columbia County (Unincorporated Areas)

Maps are available for inspection at: Columbia County Planning and Zoning Department, 400 DeWitt St., Portage, WI 53901.
Send comments to: John Bluemke, Director of Planning and Zoning, 400 DeWitt St., Portage, WI 53901.

City of Lodi

Maps are available for inspection at: City Clerk's Office, 130 S. Main St., Lodi, WI 53555.
Send comments to: Zoning Administrator, 130 S. Main St., Lodi, WI 53555.

City of Portage

Maps are available for inspection at: City Hall, 115 W. Pleasant St., Portage, WI 53901.
Send comments to: City Administrator, 115 W. Pleasant St., Portage, WI 53901.

City of Wisconsin Dells

Maps are available for inspection at: City Hall, 300 La Crosse St., Wisconsin Dells, WI 53965.
Send comments to: Michael Horkan, Director of Public Works, 300 La Crosse St., Wisconsin Dells, WI 53965.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: February 20, 2007.

David I. Maurstad,

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

[FR Doc. E7–3280 Filed 2–26–07; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 531 and 533

[Docket No. NHTSA–2007–27350]

Corporate Average Fuel Economy—Request for Product Plan Information for Model Year 2007–2017 Passenger Cars and 2010–2017 Light Trucks

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Request for comments.

SUMMARY: The purpose of this request for comments is to acquire new and updated information regarding vehicle manufacturers' future product plans to aid in implementing the President's plan for reforming and increasing corporate average fuel economy (CAFE) standards for passenger cars and further increasing the already reformed light truck standards. Under this plan, the President set a goal of reducing the annual gasoline use in 2017 by up to 8.5 billion gallons.

More specifically, we are seeking information related to fuel economy improvements for MY 2007–2017 passenger cars and MY 2010–2017 light trucks. The agency is seeking information in anticipation of obtaining statutory authority to reform the passenger car CAFE program and to set standards under that structure for MY 2010–2017 passenger cars. The agency is also seeking this information in anticipation of setting standards for MY 2012–2017 light trucks. This information will help the agency in assessing, in greater detail, the potential levels of future standards under a reformed structure, and the impact of those standards on gasoline consumption, manufacturers, consumers, the economy, and motor vehicle safety.

DATES: Comments must be received on or before May 29, 2007.

ADDRESSES: You may submit comments [identified by DOT DMS Docket Number 2007–] 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 20590–0001.
- *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:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, call Ken Katz, Lead Engineer, Fuel Economy Division, Office of International Vehicle, Fuel Economy and Consumer Standards at (202) 366–0846, facsimile (202) 493–2290, electronic mail *ken.katz@dot.gov.* For legal issues, call Steve Wood, Office of the Chief Counsel, at (202) 366–2992, electronic mail *steve.wood@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

In December 1975, during the aftermath of the energy crisis created by the oil embargo of 1973–74, Congress enacted the Energy Policy and Conservation Act (EPCA). The Act established an automotive fuel economy regulatory program by adding Title V, ''Improving Automotive Efficiency,'' to the Motor Vehicle Information and Cost Saving Act. Title V has been amended from time to time and codified without substantive change as Chapter 329 of Title 49 of the United States Code. Chapter 329 provides for the issuance of average fuel economy standards for passenger automobiles and automobiles that are not passenger automobiles (passenger cars).

Section 32902(a) of Chapter 329 states that the Secretary of Transportation shall prescribe by regulation corporate average fuel economy (CAFE) standards for passenger cars for each model year. That section also states that ''each standard shall be the maximum feasible average fuel economy level that the Secretary decides the manufacturers can achieve in that model year.'' (The Secretary has delegated the authority to implement the automotive fuel economy program to the Administrator of NHTSA. (49 CFR 1.50(f))). Section 32902(f) provides that, in determining the maximum feasible average fuel economy level, we shall consider four criteria: technological feasibility, economic practicability, the effect of other motor vehicle standards of the Government on fuel economy, and the need of the United States to conserve energy.

To assist the agency in analyzing vehicle manufacturers' future product plans NHTSA has included a number of questions, found in an appendix to this notice, directed primarily toward vehicle manufacturers. To facilitate our analysis, we are seeking detailed comments relative to the requests found in the appendix of this document. The appendix requests information from manufacturers regarding their product plans—including data about engines and transmissions—from MY 2007 through MY 2017 for passenger cars, and the assumptions underlying those plans. Regarding light trucks, the agency is asking manufacturers to update the information it provided previously regarding MYs 2010 and 2011 product plans and to provide information regarding future product plans for MYs 2012 to 2017. The appendix also asks manufacturers to assist the agency with its estimates of the future vehicle population and the fuel economy improvements and costs attributed to technologies.

To facilitate comments and to ensure the conformity of data received regarding manufacturers' product plans from MY 2007 through MY 2017, NHTSA has developed spreadsheet templates for manufacturers' use. The uniformity provided by these spreadsheets is intended to aid and expedite our review, integration, and analysis of the information provided. These templates are the preferred format for data submittal, and can be found on the Volpe National Transportation Systems Center (Volpe Center) Web site at: *ftp://ftpserver.volpe.dot.gov/pub/CAFE/templates/.* (If there are difficulties in downloading these templates, contact Ken Katz at (202) 366–0846.) The templates include an automated tool (*i.e.*, a macro) that performs some auditing to identify missing or potentially erroneous entries. The Appendix also includes sample tables that manufacturers may refer to when submitting their data to the Agency.

II. Comments

Submission of Comments

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. *(49 CFR 553.21).* We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**. Comments may also be submitted to the docket electronically by logging onto the Dockets Management System Web site at *http://dms.dot.gov.* Click on ''Help & Information'' or ''Help/Info'' to obtain instructions for filing the document electronically.

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR part 512.)

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. We are issuing this notice now in the anticipation that Congress will act quickly on the President's request for statutory authority necessary to reform the CAFE standards for passenger cars. Accordingly, the agency may be very limited in its ability to consider comments filed after the comment closing date.

How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location. You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (*http://dms.dot.gov/*).

(2) On that page, click on ''search.''

(3) On the next page (*http://dms.dot.gov/search/searchFormSimple.cfm*), type in the

four-digit docket number shown at the beginning of this document. *Example:* If the docket number were ''NHTSA–1998–1234,'' you would type ''1234.'' After typing the docket number, click on ''search.''

(4) On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments. However, since the comments are imaged documents, instead of word processing documents, the downloaded comments are not word searchable. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Accordingly, we recommend that you periodically check the Docket for new material.

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

Authority: 15 U.S.C. 2007; delegation of authority at 49 CFR 1.50.

Issued on: February 21, 2007.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

Appendix

I. Definitions

As used in this appendix—

1. ''Automobile,'' ''fuel economy,'' ''manufacturer,'' and ''model year,'' have the meaning given them in Section 32901 of Chapter 329 of Title 49 of the United States Code,49 U.S.C. 32901.

2. ''Cargo-carrying volume,'' ''gross vehicle weight rating'' (GVWR), and ''passenger-carrying volume'' are used as defined in 49 CFR 523.2.

3. ''Basic engine'' has the meaning given in 40 CFR 600.002–85(a)(21). When identifying a basic engine, respondent should provide the following information:

(i) Engine displacement (in liters). If the engine has variable displacement (i.e., cylinder deactivation) the respondent should provide both the minimum and maximum engine displacement.

(ii) Number of cylinders or rotors.

(iii) Number of valves per cylinder.

(iv) Cylinder configuration (V, in-line, etc.).

(v) Other engine characteristics, abbreviated as follows:

A—Atkinson cycle
AM—Atkinson/Miller cycle
D—Diesel cycle
M—Miller cycle
O—Otto cycle
OA—Otto/Atkinson cycle
V—V-shaped
I—Inline
R—Rotary
DI—Direct injection
IDI—Indirect injection
MPFI—Multipoint fuel injection
PFI—Port fuel injection
SEFI—Sequential electronic fuel injection
SIDI—Stoichiometric spark ignition direct injection
TBI—Throttle body fuel injection
NA—Naturally aspirated
T—Turbocharged
S—Supercharged
FFS—Feedback fuel system
2S—Two-stroke engines
C—Camless
OHV—Overhead valve
SOHC—Single overhead camshaft
DOHC—Dual overhead camshafts
VVT—Variable valve timing
VVLT—Variable valve lift and timing
VCT—Variable cam timing
CYDA—Cylinder deactivation
IVT—Intake valve throttling
CVA—Camless valve actuation
VCR—Variable compression ratio
LBFB—lean burn-fast burn combustion
DCL—Dual cam lobes
E—Exhaust continuous phasing
EIE—Equal continuous intake and exhaust phasing
ICP—Intake continuous phasing
IIE—Independent continuous intake and exhaust
CV—Continuously variable valve lift
F—Fixed valve lift
SVI—Stepped variable intake with 2 or more fixed profiles
SVIE—Stepped variable intake and exhaust with 2 or more fixed profiles

4. ''Domestically manufactured'' is used as defined in Section 32904(b)(2) of Chapter 329, 49 U.S.C. 32904(b)(2).

5. ''Footprint'' means the product of average track width (measured in inches and rounded to the nearest tenth of an inch) times wheelbase (measured in inches and rounded to the nearest tenth of an inch) divided by 144 and then rounded to the nearest tenth of a square foot. For purposes of this definition, track width is the lateral distance between the centerlines of the base tires at ground, including the camber angle. For purposes of this definition, wheelbase is the longitudinal distance between front and rear wheel centerlines.

6. ''Passenger car'' means an automobile of the type described in 49 CFR part 523.3 and 523.4.

7. A ''model'' of passenger car is a line, such as the Chevrolet Impala, Ford Fusion, Honda Accord, etc., which exists within a manufacturer's fleet.

8. ''Model Type'' is used as defined in 40 CFR 600.002–85(a)(19).

9. ''Percent fuel economy improvements'' means that percentage which corresponds to the amount by which respondent could improve the fuel economy of vehicles in a given model or class through the application of a specified technology, averaged over all vehicles of that model or in that class which feasibly could use the technology. Projections of percent fuel economy improvement should be based on the assumption of maximum efforts by respondent to achieve the highest possible fuel economy increase through the application of the technology. The baseline for determination of percent fuel economy improvement is the level of technology and vehicle performance with respect to acceleration and gradeability for respondent's 2007 model year passenger cars and light trucks in the equivalent class.

10. ''Percent production implementation rate'' means that percentage which corresponds to the maximum number of passenger cars of a specified class, which could feasibly employ a given type of technology if respondent made maximum efforts to apply the technology by a specified model year.

11. ''Production percentage'' means the percent of respondent's passenger cars of a specified model projected to be manufactured in a specified model year.

12. ''Project'' or ''projection'' refers to the best estimates made by respondent, whether or not based on less than certain information.

13. ''Redesign'' means any change, or combination of changes, to a vehicle that would change its weight by 50 pounds or more or change its frontal area or aerodynamic drag coefficient by 2 percent or more.

14. ''Relating to'' means constituting, defining, containing, explaining, embodying, reflecting, identifying, stating, referring to, dealing with, or in any way pertaining to.

15. ''Respondent'' means each manufacturer (including all its divisions) providing answers to the questions set forth in this appendix, and its officers, employees, agents or servants.

16. ''Test Weight'' is used as defined in 40 CFR 86.082–2.

17. ''Track Width'' means the lateral distance between the centerlines of the base tires at ground, including the camber angle.

18. ''Transmission class'' is used as defined in 40 CFR 600.002–85(a)(22). When identifying a transmission class, respondent also must indicate whether the type of transmission, and whether it is equipped with a lockup torque converter (LUTC), a split torque converter (STC), and/or a wide gear ratio range (WR) and specify the number of forward gears or whether the transmissions a continuously variable design (CVT). If the transmission is of a hybrid type, that should also be indicated. Other descriptive information may also be added, as needed.

19. ''Truckline'' means the name assigned by the Environmental Protection Agency to a different group of vehicles within a make or car division in accordance with that agency's 2001 model year pickup, van (cargo vans and passenger vans are considered separate truck lines), and special purpose vehicle criteria.

20. ''Variants of existing engines'' means versions of an existing basic engine that differ from that engine in terms of displacement, method of aspiration, induction system or that weigh at least 25 pounds more or less than that engine.

21. ''Wheelbase'' means the longitudinal distance between front and rear wheel centerlines.

II. Assumptions

All assumptions concerning emission standards, damageability regulations, safety standards, etc., should be listed and described in detail by the respondent.

III. Specifications—Passenger Car Data

Go to *ftp://ftpserver.volpe.dot.gov/pub/CAFE/templates/* for spreadsheet templates. (If there are difficulties in downloading these templates, contact Ken Katz at (202) 366–0846.)

1. Identify all passenger car models currently offered for sale in MY 2007 whose production you project discontinuing before MY 2010 and identify the last model year in which each will be offered.

2. Identify all basic engines offered by respondent in MY 2007 passenger cars which respondent projects it will cease to offer for sale in passenger cars before MY 2010, and identify the last model year in which each will be offered.

3. For each model year 2007–2017, list all projected car lines and provide the information specified below for each model type. Model types that are essentially identical except for their nameplates (e.g., Ford Fusion/Mercury Milan) may be combined into one item. Engines having the same displacement but belonging to different engine families are to be grouped separately. Within the fleet, the vehicles are to be sorted first by car line, second by basic engine, and third by transmission type. For each model type, a specific indexed engine and transmission are to be identified. As applicable, an indexed predecessor model type is also to be identified. Spreadsheet templates can be found at *ftp://ftpserver.volpe.dot.gov/pub/CAFE/templates/*. These templates include codes and definitions for the data that the agency is seeking, including, but not limited to the following:

a. General Information

1. Number—a unique number assigned to each model
2. Manufacturer—manufacturer abbreviation (e.g., TOY)
3. Model—name of model (e.g., Camry)
4. Nameplate—vehicle nameplate (e.g., Camry Solara)
5. Fuel Economy—measured in miles per gallon; weighted (FTP + highway) fuel economy
6. Actual FE (FFVs)—measured in miles per gallon; for flexible fuel vehicles, fuel economy when vehicle is operated on gasoline only
7. Engine Code—unique number assigned to each engine

A. Manufacturer—manufacturer abbreviation (e.g., GMC, FMC, HON)
B. Name—name of engine
C. Configuration—classified as V = V4, V6, V8, V10 or V12; I = inline; R = rotary
D. Fuel—classified as CNG = compressed natural gas, D = diesel, E = electricity, E85 = ethanol flexible-fuel, E100 = neat ethanol, G = gasoline, H = hydrogen, LNG = liquefied natural gas, LPG = propane, M85 = methanol flexible-fuel, M100 = neat methanol
E. Engine's country of origin
F. Engine Oil Viscosity—typical values as text include 0W20, 5W20, etc.; ratio between the applied shear stress and the rate of shear, which measures the resistance of flow of the engine oil (as per SAE Glossary of Automotive Terms)
G. Cycle—combustion cycle of engine. Classified as A = Atkinson, AM = Atkinson/Miller, D = Diesel, M = Miller, O = Otto, OA = Otto/Atkinson
H. Air/Fuel Ratio—the weighted (FTP + highway) air/fuel ratio (mass): a number generally around 14.7
I. Fuel System—mechanism that delivers fuel to engine. Classified as DI = direct injection, IDI = indirect injection, MPFI = multipoint fuel injection, PFI = port fuel injection, SEFI = sequential electronic fuel injection, SIDI = Stoichiometric spark ignition direct injection, TBI = throttle body fuel injection
J. Aspiration—based on breathing or induction process of engine (as per SAE Automotive Dictionary). Classified as NA = naturally aspirated,S = supercharged, T = turbocharged
K. Valvetrain Design—describes design of the total mechanism from camshaft to valve of an engine that actuates the lifting and closing of a valve (as per SAE Glossary of Automotive Terms). Classified as C = camless, DOHC = dual overhead cam, OHV = overhead valve,SOHC = single overhead cam
L. Valve Actuation/Timing—based on valve opening and closing points in the operating cycle (as per SAE J604). Classified as CC = continuously controlled, EIE = equal continuous intake and exhaust phasing,DCL = dual cam lobes, E = exhaust continuous phasing, F = fixed, ICP = intake continuous phasing, IIE = independent continuous intake and exhaust phasing, or other designation, VCT = variable cam timing, VVTE = variable valve timing, exhaust
M. Valve Lift—describes the manner in which the valve is raised during combustion (as per SAE Automotive Dictionary). Classified as CV = continuously variable (throttled), F = fixed, SVI = stepped variable intake with 2 or more fixed profiles, SVIE = stepped variable intake and exhaust with 2 or more fixed profiles, or other designation
N. Cylinders—the number of engine cylinders. An integer equaling 3, 4, 5, 6, 8, 10 or 12
O. Valves/Cylinder—the number of valves per cylinder. An integer from 2 through 5
P. Deactivation—weighted (FTP + highway) aggregate degree of deactivation. For example, enter 0.25 for deactivation of half the cylinders over half the drive cycle, and enter 0 for no valve deactivation
Q. Displacement—total volume displaced by a piston in a single stroke, measured in liters
R. Compression Ratio (min)—typically a number around 8; for fixed CR engines, should be identical to maximum CR
S. Compression Ratio (max)—a number between 8 and 14; for fixed CR engines, should be identical to minimum CR
T. Horsepower—the maximum power of the engine, measured as horsepower
U. Torque—the maximum torque of the engine, measured as ft-lb.

8. Transmission Code—an integer; unique number assigned to each transmission

A. Manufacturer—manufacturer abbreviation (e.g., GMC, FMC, HON)
B. Name—name of transmission
C. Country of origin—where the transmission is manufactured
D. Type—type of transmission. Classified as C = clutch, CVT1 = belt or chain CVT, CVT2 = other CVT, T = torque converter
E. Number of Forward Gears—integer indicating number of forward gears (or blank or ''CVT'' for CVT)
F. Control—classified as A = automatic, M = manual; ASMT would be coded as Type = C, Control = A
G. Logic—indicates aggressivity of automatic shifting. Classified as A = aggressive, C = conventional U.S.

9. Origin—classification (under CAFE program) as domestic or import, listed as D = domestic, I = import

b. Sales—actual and projected U.S. production for MY2007 to MY 2017 inclusive, measured in number of vehicles

c. Vehicle Information

1. Style—classified as Sedan; Coupe; Hatchback; Wagon; or Convertible
2. Class—classified as Two-Seater Car; Mini-Compact Car; Subcompact Car; Compact Car; Midsize Car; Large Car; Small Station Wagon; Midsize Station Wagon; or Large Station Wagon
3. Structure—classified as either Ladder or Unibody
4. Drive—classified as A = all-wheel drive; F = front-wheel drive; R = rear-wheel-drive; 4 = 4-wheel drive
5. Length—measured in inches; defined per SAE J1100, L103 (Sept. 2005)
6. Width—measured in inches; defined per SAE J1100, W116 (Sept. 2005)
7. Wheelbase—measured in inches; defined per SAE J1100, L101 (Sept. 2005)
8. Track Width (front)—measured in inches; defined per SAE J1100, W101–1 (Sept. 2005), and clarified above
9. Track Width (rear)—measured in inches; defined per SAE J1100, W101–2(Sept. 2005), and clarified above
10. Footprint—wheelbase times average track width; measured in square feet, clarified above
11. Running Clearance—measured in centimeters; defined per 49 CFR 323.5
12. Front Axle Clearance—measured in centimeters; defined per 49 CFR 323.5
13. Rear Axle Clearance—measured in centimeters; defined per 49 CFR 323.5
14. Angle of Approach—measured in degrees; defined per 49 CFR 323.5
15. Breakover Angle—measured in degrees; defined per 49 CFR 323.5
16. Angle of Departure—measured in degrees; defined per 49 CFR 323.5
17. Curb Weight—total weight of vehicle including batteries, lubricants, and other expendable supplies but excluding the driver, passengers, and other payloads, measured in pounds; per SAE J1100 (Sept. 2005)
18. Test Weight—weight of vehicle as tested, including the driver, operator (if necessary), and all instrumentation (as per SAE J1263); measured in pounds
19. GVWR—Gross Vehicle Weight Rating; maximum weight of loaded vehicle, including passengers and cargo; measured in pounds
20. Towing Capacity (Standard)—measured in pounds
21. Towing Capacity (Maximum)—measured in pounds
22. Payload—measured in pounds
23. Cargo volume behind the front row—measured in cubic feet, defined per Table 28 of SAE J1100 (Sept. 2005)
24. Cargo volume behind the second row—measured in cubic feet, defined per Table 28 of SAE J1100 (Sept. 2005)
25. Cargo volume behind the third row—measured in cubic feet, defined per Table 28 of SAE J1100 (Sept. 2005)
26. Enclosed Volume—measured in cubic feet
27. Passenger Volume—measured in cubic feet; the volume measured using SAE J1100 as per EPA Fuel Economy regulations (40 CFR 600.315–82, ''Classes of Comparable Automobiles''). This is the number that manufacturers calculate and submit to EPA.
28. Cargo Volume Index—defined per Table 28 of SAE J1100 (Sept. 2005)
29. Luggage Capacity—measured in cubic feet; defined per SAE J1100, V1 (Sept. 2005)
30. Frontal Area—a measure of the wind profile of the vehicle, typically calculated as the height times width of a vehicle body, e.g. 35 square feet.
31. Aerodynamic Drag Coefficient, C_d—an experimentally derived, dimensionless coefficient that relates the motion resistance force created by the air drag over the entire surface of a moving vehicle to the force of dynamic air pressure acting only over the vehicle's frontal area e.g., 0.25.
32. Tire Rolling Resistance, C_{rr}—an experimentally derived, dimensionless coefficient that relates the motion resistance force force due to tire energy losses (e.g., deflection, scrubbing, slip, and air drag) to a vehicle's weight e.g., 0.0012.
33. Seating (max)—number of usable seat belts before folding and removal of seats (where accomplished without special tools); provided in integer form
34. Fuel Capacity—measured in gallons of diesel fuel or gasoline; MJ (LHV) of other fuels (or chemical battery energy)
35. Electrical System Voltage—measured in volts, e.g., 12 volt, 42 volts 2005)

d. MSRP—measured in dollars (2007); actual and projected average MSRP (sales-weighted, including options) for MY2007 to MY 2017 inclusive

e. Hybridization

1. Type of hybridization of the vehicle, if any—classified as E = electric, H = hydraulic
2. Voltage (volts) or, for hydraulic hybrids, pressure (psi)
3. Energy storage capacity—measured in MJ
4. Battery type—Classified as NiMH = Nickel Metal Hydride; Li-ion = Lithium Ion
5. Percentage of breaking energy recovered and stored
6. Percentage of maximum motive power provided by stored energy system

f. Planning and Assembly

1. US/Canadian/Mexican Content—measured as a percentage; overall percentage, by value, that originated in U.S., Canada and Mexico
2. Final Assembly City
3. Final Assembly State/Province (if applicable)
4. Final Assembly Country
5. Predecessor—number and name of model upon which current model is based, if any
6. Last Freshening—model year
7. Next Freshening—model year
8. Last Redesign—model year; where redesign means any change, or combination of changes to a vehicle that would change its weight by 50 pounds or more or change its frontal area or aerodynamic drag coefficient by 2 percent or more.
9. Next Redesign—model year
10. Employment Hours Per Vehicle—number of hours of U.S. labor applied per vehicle produced

The agency also requests that each manufacturer provide an estimate of its overall passenger car CAFE for each model year. This estimate should be included as an entry in the spreadsheets that are submitted to the agency.

4. Does respondent project introducing any variants of existing basic engines or any new basic engines, other than those mentioned in your response to Question 3, in its passenger car fleets in MYs 2007–2017? If so, for each basic engine or variant indicate:

a. The projected year of introduction,

b. Type (e.g., spark ignition, direct injection diesel, 2-cycle, alternative fuel use),

c. Displacement (If engine has variable displacement, please provide the minimum and maximum displacement),

d. Type of induction system (e.g., fuel injection with turbocharger, naturally aspirated),

e. Cylinder configuration (e.g., V–8, V–6, I–4),

f. Number of valves per cylinder (e.g., 2, 3, 4),

g. Valvetrain design (e.g., overhead valve, overhead camshaft),

h. Valve technology (e.g., variable valve timing, variable valve lift and timing, intake valve throttling, camless valve actuation, etc.),

i. Horsepower and torque ratings,

j. Models in which engines are to be used, giving the introduction model year for each model if different from ''a,'' above.

5. Relative to MY 2007 levels, for MYs 2007–2017, please provide information, by carline and as an average effect on a manufacturer's entire passenger car fleet, on the weight and/or fuel economy impacts of the following standards or equipment:

a. Federal Motor Vehicle Safety Standard (FMVSS 208) Automatic Restraints,

b. FMVSS 201 Occupant Protection in Interior Impact,

c. Voluntary installation of safety equipment (e.g., antilock brakes),

d. Environmental Protection Agency regulations,

e. California Air Resources Board requirements,

f. Other applicable motor vehicle regulations affecting fuel economy.

6. For each of the model years 2007–2017, and for each passenger car model projected to be manufactured by respondent (if answers differ for the various models), provide the requested information on new technology applications for each of items ''6a'' through ''6r'' listed below:

(i) description of the nature of the technological improvement;

(ii) the percent fuel economy improvement averaged over the model;

(iii) the basis for your answer to 6(ii), (e.g., data from dynamometer tests conducted by respondent, engineering analysis, computer simulation, reports of test by others);

(iv) the percent production implementation rate and the reasons limiting the implementation rate;

(v) a description of the 2007 baseline technologies and the 2007 implementation rate; and

(vi) the reasons for differing answers you provide to items (ii) and (iv) for different models in each model year. Include as a part of your answer to 6(ii) and 6(iv) a tabular presentation, a sample portion of which is shown in Table III–A.

a. Improved automatic transmissions. Projections of percent fuel economy improvements should include benefits of lock-up or bypassed torque converters, electronic control of shift points and torque converter lock-up, and other measures which should be described.

b. Improved manual transmissions. Projections of percent of fuel economy improvement should include the benefits of increasing mechanical efficiency, using improved transmission lubricants, and other measures (specify).

c. Overdrive transmissions. If not covered in ''a'' or ''b'' above, project the percentage of fuel economy improvement attributable to overdrive transmissions (integral or auxiliary gear boxes), two-speed axles, or other similar devices intended to increase the range of available gear ratios. Describe the devices to be used and the application by model, engine, axle ratio, etc.

d. Use of engine crankcase lubricants of lower viscosity or with additives to improve friction characteristics or accelerate engine break-in, or otherwise improved lubricants to lower engine friction horsepower. When describing the 2007 baseline, specify the viscosity of and any fuel economy-improving additives used in the factory-fill lubricants.

e. Reduction of engine parasitic losses through improvement of engine-driven accessories or accessory drives. Typical engine-driven accessories include water pump, cooling fan, alternator, power steering pump, air conditioning compressor, and vacuum pump.

f. Reduction of tire rolling losses, through changes in inflation pressure, use of materials or constructions with less hysteresis, geometry changes (e.g., reduced aspect ratio), reduction in sidewall and tread deflection, and other methods. When describing the 2007 baseline, include a description of the tire types used and the percent usage rate of each type.

g. Reduction in other driveline losses, including losses in the non-powered wheels, the differential assembly, wheel bearings, universal joints, brake drag losses, use of improved lubricants in the differential and wheel bearing, and optimizing suspension geometry (e.g., to minimize tire scrubbing loss).

h. Reduction of aerodynamic drag.

i. Turbocharging or supercharging.

j. Improvements in the efficiency of 4-cycle spark ignition engines including (1) increased compression ratio; (2) leaner air-to-fuel ratio; (3) revised combustion chamber configuration; (4) fuel injection; (5) electronic fuel metering; (6) interactive electronic control of engine operating parameters (spark advance, exhaust gas recirculation, air-to-fuel ratio); (8) variable valve timing or valve lift; (9) multiple valves per cylinder; (10) cylinder deactivation; (11) friction reduction by means such as low tension piston rings and roller cam followers; (12) higher temperature operation; and (13) other methods (specify).

k. Direct injection gasoline engines.

l. Naturally aspirated diesel engines, with direct or indirect fuel injection.

m. Turbocharged or supercharged diesel engines with direct or indirect fuel injection.

n. Stratified-charge reciprocating or rotary engines, with direct or indirect fuel injection.

o. Two cycle spark ignition engines.

p. Use of hybrid drivetrains.

q. Use of fuel cells; provide a thorough description of the fuel cell technology employed, including fuel type and power output.

r. Other technologies for improving fuel economy or efficiency.

7. For each model of respondent's passenger car fleet projected to be manufactured in each of MYs 2007–2017, describe the methods used to achieve reductions in average test weight. For each specified model year and model, describe the extent to which each of the following methods for reducing vehicle weight will be used. Separate listings are to be used for 4x2 passenger cars, 4x4 passenger cars, and all-wheel drive passenger cars.

a. Substitution of materials.

b. ''Downsizing'' of existing vehicle design to reduce weight while maintaining interior roominess and comfort for passengers, and utility, i.e., the same or approximately the same, payload and cargo volume, using the same basic body configuration and driveline layout as current counterparts.

c. Use of new vehicle body configuration concepts, which provides reduced weight for approximately the same payload and cargo volume.

8. Indicate any MY 2007–2017 passenger car model types that have higher average test weights than comparable MY 2006 model types. Describe the reasons for any weight increases (e.g., increased option content, less use of premium materials) and provide supporting justification.

9. For each new or redesigned vehicle identified in response to Question 3 and each new engine or fuel economy improvement identified in your response to Questions 3, 4, 5, and 6, provide your best estimate of the

following, in terms of constant 2007 dollars:

(a) Total capital costs required to implement the new/redesigned model or improvement according to the implementation schedules specified in your response. Subdivide the capital costs into tooling, facilities, launch, and engineering costs.

(b) The maximum production capacity, expressed in units of capacity per year, associated with the capital expenditure in (a) above. Specify the number of production shifts on which your response is based and define ''maximum capacity'' as used in your answer.

(c) The actual capacity that is planned to be used each year for each new/redesigned model or fuel economy improvement.

(d) The increase in variable costs per affected unit, based on the production volume specified in (b) above.

(e) The equivalent retail price increase per affected vehicle for each new/redesigned model or improvement. Provide an example describing methodology used to determine the equivalent retail price increase.

10. Please provide respondent's actual and projected U.S. passenger car sales, 4x2 and 4x4, 0–8,500 lbs. GVWR for each model year from 2007 through 2017, inclusive. Please subdivide the data into the following vehicle categories:

i. Two-Seater Car (e.g., Chevrolet Corvette, Honda S2000, Porsche Boxter)
ii. Mini-Compact Car (e.g., Audi TT, Mitsubishi Eclipse, Mini Cooper)
iii. Compact Car (e.g., Ford Focus, VW Golf, Kia Rio)
iv. Midsize Car (e.g., Chevrolet Malibu, Honda Accord, Toyota Camry)
v. Large Car (e.g., Ford Crown Victoria, Cadillac DTS, Mercedes Maybach)
vi. Small Station Wagon (e.g., BMW 325 Sport Wagon, Subaru Impreza Wagon, Pontiac Vibe/Toyota Matrix)
vii. Midsize Station Wagon (e.g., Saab 9–5 Wagon, Volvo V70 Wagon, Jaguar X-Type Wagon)
viii. Large Station Wagon (e.g., Mercedes E-Class Wagon, Dodge Magnum, BMW 530 XiT Wagon)

See Table III–B for a sample format.

11. Please provide your estimates of projected *total industry* U.S. passenger car sales for each model year from 2007 through 2017, inclusive. Please subdivide the data into 4x2, 4x4 and all-wheel drive sales and into the vehicle categories listed in the sample format in Table III–C.

12. Please provide your company's assumptions for U.S. gasoline and diesel fuel prices during 2007 through 2017.

13. Please provide projected production capacity available for the North American market (at standard production rates) for each of your company's passenger carline designations during MYs 2007–2017.

14. Please provide your estimate of production lead-time for new models, your expected model life in years, and the number of years over which tooling costs are amortized.

Note: The parenthetical numbers in Tables III–A refer to the items in Section III, *Specifications.*

TABLE III–A.—TECHNOLOGY IMPROVEMENTS

Technological improvement	Baseline technology	Percent fuel economy improvement, %	Basis for improvement estimate	Models on which technology is applied	Production share of model with technological improvement				
					2007	2008	2009	2010	2011+
(6a.) Improved Auto Trans:									
A5		4.0			20	35	50	60	80
A6		4.5			15	20	30	40	55
A7		5.0			0	0	15	25	35
(6b.) Improved Manual Trans:									
M5		1.0			12	15	20	25	32
M6		0.7			0	0	0	8	10

TABLE III–B.—ACTUAL AND PROJECTED U.S. PASSENGER CAR SALES

Amalgamated Motors passenger car sales projections

Model line	Model year					
	2007	2008	2009	2010	2011	2012+
Two-Seater	43,500					
Mini-Compact	209,340					
Subcompact	120,000					
Compact	60,000					
Midsize	20,000					
Large	29,310					
Small Station Wagon	54,196					
Midsize Station Wagon	38,900					
Large Station Wagon	24,000					
Total	TBD					

TABLE III–C.—TOTAL U.S. PASSENGER CAR SALES

Model type	2007	2008	2009	2010	2011	2012+
Two-Seater						
Mini-Compact						
Subcompact						

TABLE III–C.—TOTAL U.S. PASSENGER CAR SALES—Continued

Model type	2007	2008	2009	2010	2011	2012+
Compact						
Midsize						
Large						
Small Station Wagon						
Midsize Station Wagon						
Large Station Wagon						
Total						

IV. Specifications—Light Truck Data

Go to *ftp://ftpserver.volpe.dot.gov/pub/CAFE/templates/* for spreadsheet templates. (If there are difficulties in downloading these templates, contact Ken Katz at (202) 366–0846.)

1. Identify all light truck models currently offered for sale in MY 2007 whose production you project discontinuing before MY 2010 and identify the last model year in which each will be offered.

2. Identify all basic engines offered by respondent in MY 2007 light trucks which respondent projects it will cease to offer for sale in light trucks before MY 2010, and identify the last model year in which each will be offered.

3. For each model year 2010–2017, list all projected light truck lines and provide the information specified below for each model type. Model types that are essentially identical except for their nameplates (e.g., Chrysler Town & Country/Dodge Caravan) may be combined into one item. Engines having the same displacement but belonging to different engine families are to be grouped separately. Within the fleet, the vehicles are to be sorted first by truck line, second by basic engine, and third by transmission type. For each model type, a specific indexed engine and transmission are to be identified. As applicable, an indexed predecessor model type is also to be identified. Spreadsheet templates can be found at *ftp://ftpserver.volpe.dot.gov/pub/CAFE/templates/*. These templates include codes and definitions for the data that the Agency is seeking, including, but not limited to the following:

a. General Information

1. Number—a unique number assigned to each model

2. Manufacturer—manufacturer abbreviation (e.g., GMC)

3. Model—name of model (e.g., Escalade)

4. Nameplate—vehicle nameplate (e.g., Escalade ESV)

5. Fuel Economy—measured in miles per gallon; weighted (FTP + highway) fuel economy

6. Actual FE (FFVs)—measured in miles per gallon; for flexible fuel vehicles, fuel economy when vehicle is operated on gasoline only

7. Engine Code—unique number assigned to each engine

A. Manufacturer—manufacturer abbreviation (e.g., GMC, FMC, HON)

B. Name—name of engine

C. Configuration—classified as V = V4, V6, V8, V10 or V12; I = inline; R = rotary

D. Fuel—classified as CNG = compressed natural gas, D = diesel, E = electricity, E85 = ethanol flexible-fuel, E100 = neat ethanol, G = gasoline, H = hydrogen, LNG = liquefied natural gas, LPG = propane,M85 = methanol flexible-fuel, M100 = neat methanol

E. Engine's country of origin

F. Engine Oil Viscosity—typical values as text include 0W20, 5W20, etc.; ratio between the applied shear stress and the rate of shear, which measures the resistance of flow of the engine oil (as per SAE Glossary of Automotive Terms)

G. Cycle—combustion cycle of engine. Classified as A = Atkinson, AM = Atkinson/Miller, D = Diesel, M = Miller, O = Otto, OA = Otto/Atkinson

H. Air/Fuel Ratio—the weighted (FTP + highway) air/fuel ratio (mass): a number generally around 14.7

I. Fuel System—mechanism that delivers fuel to engine. Classified as DI = direct injection, IDI = indirect injection, MPFI = multipoint fuel injection, PFI = port fuel injection, SEFI = sequential electronic fuel injection, SIDI = Stoichiometric spark ignition direct injection, TBI = throttle body fuel injection

J. Aspiration—based on breathing or induction process of engine (as per SAE Automotive Dictionary). Classified as NA = naturally aspirated, S = supercharged, T = turbocharged

K. Valvetrain Design—describes design of the total mechanism from camshaft to valve of an engine that actuates the lifting and closing of a valve (as per SAE Glossary of Automotive Terms). Classified as C = camless, DOHC = dual overhead cam, OHV = overhead valve, SOHC = single overhead cam

L. Valve Actuation/Timing—based on valve opening and closing points in the operating cycle (as per SAE J604). Classified as CC = continuously controlled, EIE = equal continuous intake and exhaust phasing,DCL = dual cam lobes, E = exhaust continuous phasing, F = fixed, ICP = intake continuous phasing, IIE = independent continuous intake and exhaust phasing, or other designation, VCT = variable cam timing, VVTE = variable valve timing, exhaust

M. Valve Lift—describes the manner in which the valve is raised during combustion (as per SAE Automotive Dictionary). Classified as CV = continuously variable (throttled), F = fixed, SVI = stepped variable intake with 2 or more fixed profiles, SVIE = stepped variable intake and exhaust with 2 or more fixed profiles, or other designation

N. Cylinders—the number of engine cylinders. An integer equaling 3, 4, 5, 6, 8, 10 or 12

O. Valves/Cylinder—the number of valves per cylinder. An integer from 2 through 5

P. Deactivation—weighted (FTP + highway) aggregate degree of deactivation. For example, enter 0.25 for deactivation of half the cylinders over half the drive cycle, and enter 0 for no valve deactivation

Q. Displacement—total volume displaced by a piston in a single stroke, measured in liters

R. Compression Ratio (min)—typically a number around 8; for fixed CR engines, should be identical to maximum CR

S. Compression Ratio (max)—a number between 8 and 14; for fixed CR engines, should be identical to minimum CR

T. Horsepower—the maximum power of the engine, measured as horsepower.

U. Torque—the maximum torque of the engine, measured as ft-lb.

8. Transmission Code—an integer; unique number assigned to each transmission

A. Manufacturer—manufacturer abbreviation (e.g., GMC, FMC, HON)
B. Name—name of transmission
C. Country of origin—where the transmission is manufactured
D. Type—type of transmission. Classified as C = clutch, CVT1 = belt or chain CVT, CVT2 = other CVT, T = torque converter
E. Number of Forward Gears—integer indicating number of forward gears (or blank or ''CVT'' for CVT)
F. Control—classified as A = automatic, M = manual; ASMT would be coded as Type = C, Control = A
G. Logic—indicates aggressivity of automatic shifting. Classified as A = aggressive, C = conventional U.S.
9. Origin—classification (under CAFE program) as domestic or import, listed as D = domestic, I = import

b. Sales—Actual and Projected U.S. Production for MY2010 to MY 2017 Inclusive, Measured in Number of Vehicles

c. Vehicle Information

1. Style—classified as Crossover; Pickup; Sport Utility; or Van
2. Class—classified as Cargo Van; Crossover Vehicle; Large Pickup; Midsize Pickup; Minivan; Passenger Van; Small Pickup; Sport Utility Vehicle; or Sport Utility Truck
3. Structure—classified as either Ladder or Unibody
4. Drive—classified as A = all-wheel drive; F = front-wheel drive; R = rear-wheel-drive; 4 = 4-wheel drive
5. Length—measured in inches; defined per SAE J1100, L103 (Sept. 2005)
6. Width—measured in inches; defined per SAE J1100, W116 (Sept. 2005)
7. Wheelbase—measured in inches; defined per SAE J1100, L101 (Sept. 2005)
8. Track Width (front)—measured in inches; defined per SAE J1100, W101–1 (Sept. 2005), and clarified above
9. Track Width (rear)—measured in inches; defined per SAE J1100, W101–2(Sept. 2005), and clarified above
10. Footprint—wheelbase times average track width; measured in square feet, clarified above
11. Running Clearance—measured in centimeters; defined per 49 CFR 323.5
12. Front Axle Clearance—measured in centimeters; defined per 49 CFR 323.5
13. Rear Axle Clearance—measured in centimeters; defined per 49 CFR 323.5
14. Angle of Approach—measured in degrees; defined per 49 CFR 323.5
15. Breakover Angle—measured in degrees; defined per 49 CFR 323.5
16. Angle of Departure—measured in degrees; defined per 49 CFR 323.5
17. Curb Weight—total weight of vehicle including batteries, lubricants, and other expendable supplies but excluding the driver, passengers, and other payloads, measured in pounds; per SAE J1100 (Sept. 2005)
18. Test Weight—weight of vehicle as tested, including the driver, operator(if necessary), and all instrumentation (as per SAE J1263); measured in pounds
19. GVWR—Gross Vehicle Weight Rating; maximum weight of loaded vehicle, including passengers and cargo; measured in pounds
20. Towing Capacity (Standard)—measured in pounds
21. Towing Capacity (Maximum)—measured in pounds
22. Payload—measured in pounds
23. Cargo volume behind the front row—measured in cubic feet, defined per Table 28 of SAE J1100 (Sept. 2005)
24. Cargo volume behind the second row—measured in cubic feet, defined per Table 28 of SAE J1100 (Sept. 2005)
25. Cargo volume behind the third row—measured in cubic feet, defined per Table 28 of SAE J1100 (Sept. 2005)
26. Enclosed Volume—measured in cubic feet
27. Passenger Volume—measured in cubic feet; the volume measured using SAE J1100 as per EPA Fuel Economy regulations (40 CFR 600.315–82, ''Classes of Comparable Automobiles''). This is the number that manufacturers calculate and submit to EPA.
28. Cargo Volume Index—defined per Table 28 of SAE J1100 (Sept. 2005)
29. Luggage Capacity—measured in cubic feet; defined per SAE J1100, V1 (Sept. 2005)
30. Frontal Area—a measure of the wind profile of the vehicle, typically calculated as the height times width of a vehicle body, e.g. 35 square feet.
31. Aerodynamic Drag Coefficient, C_d—an experimentally derived, dimensionless coefficient that relates the motion resistance force created by the air drag over the entire surface of a moving vehicle to the force of dynamic air pressure acting only over the vehicle's frontal area e.g., 0.25.
32. Tire Rolling Resistance, Cr_{rr}—an experimentally derived, dimensionless coefficient that relates the motion resistance force force due to tire energy losses (e.g., deflection, scrubbing, slip, and air drag) to a vehicle's weight e.g., 0.0012.
33. Seating (max)—number of usable seat belts before folding and removal of seats (where accomplished without special tools); provided in integer form
34. Fuel Capacity—measured in gallons of diesel fuel or gasoline; MJ (LHV) of other fuels (or chemical battery energy)
35. Electrical System Voltage—measured in volts, e.g., 12 volt, 42 volts 2005

d. MSRP—Measured in Dollars (2007); Actual and Projected Average MSRP (Sales-Weighted, Including Options) for MY2010 to MY 2017 Inclusive

e. Hybridization

1. Type of hybridization of the vehicle, if any—classified as E = electric, H = hydraulic
2. Voltage (volts) or, for hydraulic hybrids, pressure (psi)
3. Energy storage capacity—measured in MJ
4. Battery type—Classified as NiMH = Nickel Metal Hydride; Li-ion = Lithium Ion
5. Percentage of breaking energy recovered and stored
6. Percentage of maximum motive power provided by stored energy system

f. Planning and Assembly

1. U.S./Canadian/Mexican Content—measured as a percentage; overall percentage, by value, that originated in U.S., Canada and Mexico
2. Final Assembly City
3. Final Assembly State/Province (if applicable)
4. Final Assembly Country
5. Predecessor—number and name of model upon which current model is based, if any
6. Last Freshening—model year
7. Next Freshening—model year
8. Last Redesign—model year; where redesign means any change, or combination of changes to a vehicle that would change its weight by 50 pounds or more or change its frontal area or aerodynamic drag coefficient by 2 percent or more.
9. Next Redesign—model year
10. Employment Hours Per Vehicle—number of hours of U.S. labor applied per vehicle produced

The agency also requests that each manufacturer provide an estimate of its overall light truck CAFE for each model year. This estimate should be included as an entry in the spreadsheets that are submitted to the agency.

4. Does respondent project introducing any variants of existing basic engines or any new basic engines, other than those mentioned in your response to Question 3, in its light truck fleets in MYs 2010–2017? If so, for each basic engine or variant indicate:

a. The projected year of introduction,

b. Type (e.g., spark ignition, direct injection diesel, 2-cycle, alternative fuel use),

c. Displacement (If engine has variable displacement, please provide the minimum and maximum displacement),

d. Type of induction system (e.g., fuel injection with turbocharger, naturally aspirated),

e. Cylinder configuration (e.g., V–8, V–6, I–4),

f. Number of valves per cylinder (e.g., 2, 3, 4),

g. Valvetrain design (e.g., overhead valve, overhead camshaft)

h. Valve technology (e.g., variable valve timing, variable valve lift and timing, intake valve throttling, camless valve actuation, etc.)

i. Horsepower and torque ratings,

j. Models in which engines are to be used, giving the introduction model year for each model if different from ''a,'' above.

5. Relative to MY 2007 levels, for MYs 2010–2017, please provide information, by truckline and as an average effect on a manufacturer's entire light truck fleet, on the weight and/or fuel economy impacts of the following standards or equipment:

a. Federal Motor Vehicle Safety Standard (FMVSS 208) Automatic Restraints

b. FMVSS 201 Occupant Protection in Interior Impact

c. Voluntary installation of safety equipment (e.g., antilock brakes)

d. Environmental Protection Agency regulations

e. California Air Resources Board requirements

f. Other applicable motor vehicle regulations affecting fuel economy.

6. For each of the model years 2010–2017, and for each light truck model projected to be manufactured by respondent (if answers differ for the various models), provide the requested information on new technology applications for each of items ''6a'' through ''6r'' listed below:

(i) description of the nature of the technological improvement;

(ii) the percent fuel economy improvement averaged over the model;

(iii) the basis for your answer to 6(ii), (e.g., data from dynamometer tests conducted by respondent, engineering analysis, computer simulation, reports of test by others);

(iv) the percent production implementation rate and the reasons limiting the implementation rate;

(v) a description of the 2007 baseline technologies and the 2007 implementation rate; and

(vi) the reasons for differing answers you provide to items (ii) and (iv) for different models in each model year. Include as a part of your answer to 6(ii) and 6(iv) a tabular presentation, a sample portion of which is shown in Table III–A.

a. Improved automatic transmissions. Projections of percent fuel economy improvements should include benefits of lock-up or bypassed torque converters, electronic control of shift points and torque converter lock-up, and other measures which should be described.

b. Improved manual transmissions. Projections of percent of fuel economy improvement should include the benefits of increasing mechanical efficiency, using improved transmission lubricants, and other measures (specify).

c. Overdrive transmissions. If not covered in ''a'' or ''b'' above, project the percentage of fuel economy improvement attributable to overdrive transmissions (integral or auxiliary gear boxes), two-speed axles, or other similar devices intended to increase the range of available gear ratios. Describe the devices to be used and the application by model, engine, axle ratio, etc.

d. Use of engine crankcase lubricants of lower viscosity or with additives to improve friction characteristics or accelerate engine break-in, or otherwise improved lubricants to lower engine friction horsepower. When describing the 2007 baseline, specify the viscosity of and any fuel economy-improving additives used in the factory-fill lubricants.

e. Reduction of engine parasitic losses through improvement of engine-driven accessories or accessory drives. Typical engine-driven accessories include water pump, cooling fan, alternator, power steering pump, air conditioning compressor, and vacuum pump.

f. Reduction of tire rolling losses, through changes in inflation pressure, use of materials or constructions with less hysteresis, geometry changes (e.g., reduced aspect ratio), reduction in sidewall and tread deflection, and other methods. When describing the 2007 baseline, include a description of the tire types used and the percent usage rate of each type.

g. Reduction in other driveline losses, including losses in the non-powered wheels, the differential assembly, wheel bearings, universal joints, brake drag losses, use of improved lubricants in the differential and wheel bearing, and optimizing suspension geometry (e.g., to minimize tire scrubbing loss).

h. Reduction of aerodynamic drag.

i. Turbocharging or supercharging.

j. Improvements in the efficiency of 4-cycle spark ignition engines including (1) increased compression ratio; (2) leaner air-to-fuel ratio; (3) revised combustion chamber configuration; (4) fuel injection; (5) electronic fuel metering; (6) interactive electronic control of engine operating parameters (spark advance, exhaust gas recirculation, air-to-fuel ratio); (8) variable valve timing or valve lift; (9) multiple valves per cylinder; (10) cylinder deactivation; (11) friction reduction by means such as low tension piston rings and roller cam followers; (12) higher temperature operation; and (13) other methods (specify).

k. Direct injection gasoline engines.

l. Naturally aspirated diesel engines, with direct or indirect fuel injection.

m. Turbocharged or supercharged diesel engines with direct or indirect fuel injection.

n. Stratified-charge reciprocating or rotary engines, with direct or indirect fuel injection.

o. Two cycle spark ignition engines.

p. Use of hybrid drivetrains.

q. Use of fuel cells; provide a thorough description of the fuel cell technology employed, including fuel type and power output.

r. Other technologies for improving fuel economy or efficiency.

7. For each model of respondent's light truck fleet projected to be manufactured in each of MYs 2010–2017, describe the methods used to achieve reductions in average test weight. For each specified model year and model, describe the extent to which each of the following methods for reducing vehicle weight will be used. Separate listings are to be used for 4x2 light trucks, 4x4 light trucks, and all-wheel drive light trucks.

a. Substitution of materials.

b. ''Downsizing'' of existing vehicle design to reduce weight while maintaining interior roominess and comfort for passengers, and utility, i.e., the same or approximately the same, payload and cargo volume, using the same basic body configuration and driveline layout as current counterparts.

c. Use of new vehicle body configuration concepts, which provides reduced weight for approximately the same payload and cargo volume.

8. Indicate any MY 2010–2017 light truck model types that have higher average test weights than comparable MY 2007 model types. Describe the reasons for any weight increases (e.g., increased option content, less use of premium materials) and provide supporting justification.

9. For each new or redesigned vehicle identified in response to Question 3 and each new engine or fuel economy improvement identified in your response to Questions 3, 4, 5, and 6, provide your best estimate of the

following, in terms of constant 2007 dollars:

(a) Total capital costs required to implement the new/redesigned model or improvement according to the implementation schedules specified in your response. Subdivide the capital costs into tooling, facilities, launch, and engineering costs.

(b) The maximum production capacity, expressed in units of capacity per year, associated with the capital expenditure in (a) above. Specify the number of production shifts on which your response is based and define ''maximum capacity'' as used in your answer.

(c) The actual capacity that is planned to be used each year for each new/redesigned model or fuel economy improvement.

(d) The increase in variable costs per affected unit, based on the production volume specified in (b) above.

(e) The equivalent retail price increase per affected vehicle for each new/redesigned model or improvement. Provide an example describing methodology used to determine the equivalent retail price increase.

10. Please provide respondent's actual and projected U.S. light truck sales, 4x2 and 4x4, 0–8,500 lbs. GVWR, and 8,501–10,000 lbs. GVWR for each model year from 2010 through 2017, inclusive. Please subdivide the data into the following vehicle categories:

i. Compact Pickup (e.g., Ford Ranger, Chevrolet Colorado, Nissan Frontier)
ii. Standard Pickup—Light (e.g., Ford F150, Chevrolet Silverado, Toyota Tundra)
iii. Standard Pickup—Heavy (e.g., Ford F250/350, Dodge Ram 2500/3500)
iv. Standard Cargo Van—Light (e.g., Chevrolet Savana, Ford E–150)
v. Standard Cargo Van—Heavy (e.g., Chevrolet G2500, Ford E–250/350, Dodge Sprinter)
vi. Compact Passenger Van/Minivan (e.g., Toyota Sienna, Dodge Caravan, Nissan Quest)
vii. Standard Passenger Van—Light (e.g., GMC Express, Ford E–150)
viii. Standard Passenger Van—Heavy (e.g., Ford E–250/350, Dodge Sprinter)
ix. Compact Sport Utility (e.g., Jeep Wrangler, Toyota RAV4)
x. Mid-size Sport Utility (e.g., Chevrolet Trailblazer, Ford Explorer, Toyota 4Runner)
xi. Full-size Sport Utility (e.g., Chevrolet Tahoe, Ford Expedition, Nissan Titan)
xii. Crossover Vehicle (e.g., Toyota RX 330, Nissan Murano, Acura MDX)
xiii. Sport Utility Truck (e.g., Cadillac Escalade EXT, Honda Ridgeline)

See Table III–B for a sample format.

11. Please provide your estimates of projected *total industry* U.S. light truck sales for each model year from 2010 through 2017, inclusive. Please subdivide the data into 4x2, 4x4, and all-wheel drive sales and into the vehicle categories listed in the sample format in Table III–C.

12. Please provide your company's assumptions for U.S. gasoline and diesel fuel prices during 2010 through 2017.

13. Please provide projected production capacity available for the North American market (at standard production rates) for each of your company's light truckline designations during MYs 2010–2017.

14. Please provide your estimate of production lead-time for new models, your expected model life in years, and the number of years over which tooling costs are amortized.

Note: The parenthetical numbers in Tables IV–A refer to the items in Section IV, *Specifications.*

TABLE IV–A.—TECHNOLOGY IMPROVEMENTS

Technological improvement	Baseline technology	Percent fuel economy improvement, %	Basis for improvement estimate	Models on which technology is applied	Production share of model with technological improvement				
					2010	2011	2012	2013	2014+
(6a.) Improved Auto Trans.:									
A5		4.0			20	35	50	60	80
A6		4.5			15	20	30	40	55
A7		5.0			0	0	15	25	35
(6b.) Improved Manual Trans.:									
M5		1.0			12	15	20	25	32
M6		0.7			0	0	0	8	10

TABLE IV–B.—ACTUAL AND PROJECTED U.S. LIGHT TRUCK SALES

Amalgamated Motors light truck sales projections

Model line	Model year					
	2010	2011	2012	2013	2014	2015+
Compact Pickup	43,500					
Standard Pickup—Light	209,340					
Standard Pickup—Heavy	120,000					
Standard Cargo Van—Light	20,000					
Standard Cargo Van—Heavy	29,310					
Compact Passenger Van/Minivan	54,196					
Standard Passenger Van—Light	38,900					
Standard Passenger Van—Heavy	24,000					
Compact Sport Utility	125,000					
Mid-size Sport Utility	221,000					
Full-size Sport Utility	165,000					
Crossover Vehicle	98,000					
Sport Utility Truck	10,000					
Total	TBD					

TABLE IV–C.—TOTAL U.S. LIGHT TRUCK SALES

Model type	2010	2011	2012	2013	2014	2015	2016+
Compact Pickup							
Standard Pickup—Light							
Standard Pickup—Heavy							
Standard Cargo Van—Light							
Standard Cargo Van—Heavy							
Compact Passenger Van/Minivan							
Standard Passenger Van—Light							
Standard Passenger Van—Heavy							
Compact Sport Utility							
Mid-size Sport Utility							
Full-size Sport Utility							
Crossover Vehicle							
Sport Utility Truck							
Total							

V. Cost and Potential Fuel Economy Improvements of Technologies

The agency requests that each manufacturer and other interested parties provide estimates of the range of costs and fuel economy improvements of available fuel economy technologies. These estimates should follow the format provided by Tables V–A through V–D. For comparison purposes the agency has listed the technologies included in the NAS report, together with the range (low and high) of fuel economy improvement and cost estimates for all of the technologies included in the report.

The agency has also added some technologies to these tables as well as separate rows for the cost and fuel economy improvement estimates when technologies are applied to engines having a different number of cylinders or when they are applied to vehicles with different numbers of gears. Thus, for example, if a manufacturer or other interested party has different cost and fuel economy improvement estimates for the application of a technology to a 4-cylinder and a 6-cylinder engine, these estimates should be represented as separate rows on its table. Likewise, for example, if a manufacturer or other interested party has different cost and fuel economy improvement estimates for using 6-speed automatic transmission versus a 4-speed and a 5-speed automatic transmission, these estimates should be represented as separate rows on its table.

The agency is also interested in whether different cost and fuel economy improvement estimates apply to different vehicle classes. Thus, the agency is asking for any information regarding the effectiveness and cost of fuel economy technologies on a vehicle class basis. Passenger car vehicle classes are listed in Tables III–B and III–C.

If respondents have information that breaks out the cost and fuel economy improvement estimates by vehicle classes, the agency asks that in addition to providing charts which provide a respondent's complete range of estimates, that respondents provide separate charts for each vehicle class following the example of Tables V–B and V–D. Spreadsheet templates for these tables can be found at *ftp://ftpserver.volpe.dot.gov/pub/cafe/templates/*. (If there are difficulties in downloading these templates, contact Ken Katz at (202) 366–0846.) If a manufacturer or other interested party has fuel economy improvement and cost estimates for technologies not included on these tables, the agency asks the manufacturer or other interested party to provide that information to the agency.

TABLE V–A.—ESTIMATES OF FUEL ECONOMY IMPROVEMENT OF FUEL ECONOMY TECHNOLOGIES FOR ALL VEHICLE CLASSES

	NAS		Amalgamated	
	Low	High	Low	High
Production-Intent Engine Technology				
Engine Friction Reduction	1.0%	5.0%	[1.0%]c	[6.0%]c
Low Friction Lubricants	1.0%	1.0%	[0.5%]c	[1.0%]c
Multi-Valve, Overhead Camshaft	2.0%	5.0%	[2.5%]c	[3.6%]c
Variable Valve Timing	2.0%	3.0%	[2.0%]c	[3.2%]c
—4 cylinder engine	2.0%	3.0%	[2.5%]c	[3.2%]c
—6 cylinder engine	2.0%	3.0%	[2.0%]c	[3.0%]c
—8 cylinder engine	2.0%	3.0%	[2.0%]c	[2.5%]c
Variable Valve Lift & Timing	1.0%	2.0%	[1.0%]c	[1.5%]c
Cylinder Deactivation	3.0%	6.0%	[4.0%]c	[6.5%]c
—6 cylinder engine	3.0%	6.0%	[4.0%]c	[4.5%]c
—8 cylinder engine	3.0%	6.0%	[5.5%]c	[6.5%]c
Engine Accessory Improvement	1.0%	2.0%	[0.5%]c	[2.5%]c
Engine Supercharging & Downsizing	5.0%	7.0%		
Production-Intent Transmission Technology				
5–Speed Automatic Transmission	2.0%	3.0%	[2.0%]c	[2.8%]c
Continuously Variable Transmission	4.0%	8.0%	[5.0%]c	[6.5%]c
Automatic Transmission w/Aggressive Shift Logic	1.0%	3.0%		

TABLE V–A.—ESTIMATES OF FUEL ECONOMY IMPROVEMENT OF FUEL ECONOMY TECHNOLOGIES FOR ALL VEHICLE CLASSES—Continued

	NAS		Amalgamated	
	Low	High	Low	High
6–Speed Automatic Transmission (vs. 5-speed automatic)	1.0%	2.0%	[1.0%]c	[2.7%]c
6–Speed Automatic Transmission (vs. 4-speed automatic)	3.0%	5.0%	[3.5%]c	[4.0%]c
Production-Intent Vehicle Technology				
Aero Drag Reduction	1.0%	2.0%	[0.9%]c	[2.0%]c
Improve Rolling Resistance	1.0%	1.5%	[0.8%]c	[1.5%]c
Emerging Engine Technology				
Intake Valve Throttling	3.0%	6.0%	[4.0%]c	[7.0%]c
Camless Valve Actuation	5.0%	10.0%	[6.0%]c	[9.0%]c
Variable Compression Ratio	2.0%	6.0%	[2.5%]c	[5.5%]c
Direct Injection	N/A	N/A	[2.0%]c	[2.5%]c
Diesel Engine	N/A	N/A	[15%]c	[40%]c
Emerging Transmission Technology				
Automatic Shift Manual Transmission (AST/AMT)	3.0%	5.0%	[4.0%]c	[5.0%]c
Advanced CVTs	0.0%	2.0%	[1.0%]c	[1.0%]c
Emerging Vehicle Technology				
42 Volt Electrical Systems	1.0%	2.0%	[1.0%]c	[3.0%]c
Integrated Starter/Generator	4.0%	7.0%	[5.0%]c	[8.5%]c
Electric Power Steering	1.5%	2.5%	[1.0%]c	[2.0%]c
Vehicle Weight Reduction	3.0%	4.0%	[2.0%]c	[6.0%]c
Integrated Motor Assist	N/A	N/A	[15%]c	[20%]c
Dual-Mode Hybrid	N/A	N/A	[20%]c	[30%]c
Full Hybrid	N/A	N/A	[35%]c	[55%]c

TABLE V–B.—COST ESTIMATES FOR FUEL ECONOMY TECHNOLOGIES FOR ALL VEHICLE CLASSES

Technology	NAS		Amalgamated	
	Low	High	Low	High
Production-Intent Engine Technology				
Engine Friction Reduction	$35	$140	[$30]c	[$90]c
Low Friction Lubricants	$8	$11	[$1]c	[$5]c
Multi-Valve, Overhead Camshaft	$105	$140	[$110]c	[$180]c
Variable Valve Timing	$35	$140	[$30]c	[$130]c
—4 cylinder engine	$35	$140	[$40]c	[$110]c
—6 cylinder engine	$35	$140	[$30]c	[$100]c
—8 cylinder engine	$35	$140	[$60]c	[$130]c
Variable Valve Lift & Timing	$70	$210	[$50]c	[$190]c
Cylinder Deactivation	$112	$252	[$80]c	[$280]c
—6 cylinder engine	$112	$252	[$200]c	[$280]c
—8 cylinder engine	$112	$252	[$80]c	[$150]c
Engine Accessory Improvement	$84	$112	[$5]c	[$5]c
Engine Supercharging & Downsizing	$350	$560	[$500]c	[$750]c
Production-Intent Transmission Technology				
5-Speed Automatic Transmission	$70	$154	[$90]c	[$140]c
Continuously Variable Transmission	$140	$350	[$500]c	[$500]c
Automatic Transmission w/Aggressive Shift Logic	$—	$70	.....	.....
6-Speed Automatic Transmission (vs. 5-speed automatic)	$140	$280	[$110]c	[$225]c
6-Speed Automatic Transmission (vs. 4-speed automatic)	N/A	N/A	[$200]c	[$350]c
Production-Intent Vehicle Technology				
Aero Drag Reduction	$—	$140	[$100]c	[$100]c
Improve Rolling Resistance	$14	$56	[$6]c	[$6]c
Emerging Engine Technology				
Intake Valve Throttling	$210	$420	[$220]c	[$380]c
Camless Valve Actuation	$280	$560	.....	.....
Variable Compression Ratio	$210	$490	.....	.....
Direct Injection	N/A	N/A	[$210]c	[$315]c
Diesel Engine	N/A	N/A	[$1,500]c	[$5,000]c
Emerging Transmission Technology				
Automatic Shift Manual Transmission (AST/AMT)	$70	$280	[$90]c	[$240]c
Advanced CVTs	$350	$840	[$390]c	[$640]c

TABLE V–B.—COST ESTIMATES FOR FUEL ECONOMY TECHNOLOGIES FOR ALL VEHICLE CLASSES—Continued

Technology	NAS		Amalgamated	
	Low	High	Low	High
Emerging Vehicle Technology				
42 Volt Electrical Systems	$70	$280	[$80]c	[$190]c
Integrated Starter/Generator	$210	$350	[$190]c	[$340]c
Electric Power Steering	$105	$150	[$100]c	[$140]c
Vehicle Weight Reduction	$210	$350	[$150]c	[$250]c
Integrated Motor Assist	N/A	N/A	[$1500]c	[$2000]c
Dual-Mode Hybrid	N/A	N/A	[$4200]c	[$10000]c
Full Hybrid	N/A	N/A	[$3000]c	[$8000]c

[ ]c = Confidential.

[FR Doc. 07–878 Filed 2–22–07; 12:19 pm]

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Notices

Federal Register

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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

Agricultural Marketing Service

[Docket No. AMS–TM–O6–0191; TM–07–02]

Notice of Funds Availability (NOFA) Inviting Applications for the Farmers' Market Promotion Program (FMPP); Notice of a Revision to the Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS) announces funding of approximately $1 million in competitive grant funds for fiscal year (FY) 2007 to increase domestic consumption of agricultural commodities by expanding direct producer-to-consumer market opportunities. These grant funds are contingent upon AMS's receipt of Congressional funding in 2007 for this program. Examples of direct producer-to-consumer market opportunities include new farmers' markets, roadside stands, community supported agriculture programs, and other direct producer-to-consumer infrastructures. AMS hereby requests proposals from eligible entities from the following categories: (1) Agricultural cooperatives, (2) local governments, (3) nonprofit corporations, (4) public benefit corporations, (5) economic development corporations, (6) regional farmers' market authorities, and (7) tribal governments. The maximum award per grant is $75,000. No matching funds are required. AMS strongly recommends that each applicant read the entire NOFA herein, and visit the AMS Web site at *http://www.ams.usda.gov/FMPP* to review a copy of the FMPP Guidelines and Application Package Preparation information to assist in preparing the proposal narrative and application package.

DATES: Applications should be received at the address below and must be postmarked not later than April 13, 2007. Comments regarding the information collection requirement under the Paperwork Reduction Act of 1995 must be received on or before April 30, 2007.

ADDRESSES: Submit proposals and other required materials to Mr. Errol Bragg, Associate Deputy Administrator, Marketing Services Branch, Transportation and Marketing Programs, Agricultural Marketing Service (AMS), USDA, Room 2646-South, 1400 Independence Avenue, SW., Washington, DC 20250–0269, phone 202/720–8317.

For hard-copy (paper) submissions, all forms, narratives, letters of support, and other required materials must be forwarded in one application package. AMS will not accept application packages by e-mail; electronic applications will be accepted only if submitted via *http://www.Grants.gov.*

Comments concerning the information collection requirements should reference docket number AMS–TM–06–0191, TM–07–02 and be sent to Mr. Errol Bragg at the above address or via the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Errol Bragg, Associate Deputy Administrator, Marketing Services Branch, Transportation and Marketing Programs, Agricultural Marketing Service (AMS), on 202/720–8317, fax 202/690–0031, or by e-mail *USDAFMPP@usda.gov*. State that your request for information refers to Docket No. TM–07–02.

SUPPLEMENTARY INFORMATION: This solicitation is issued pursuant to Section 6 of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3001–3006) as amended by Section 10605 of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171) (the Acts) authorizing the establishment of the Farmers' Market Promotion Program (7 U.S.C. 3005) (FMPP). The amended act states that the purposes of the FMPP are ''(A) to increase domestic consumption of agricultural commodities by improving and expanding, or assisting in the improvement and expansion of, domestic farmers' markets, roadside stands, community-supported agriculture programs, and other direct producer-to-consumer market opportunities; and (B) to develop, or aid in the development of, new farmers' markets, roadside stands, community-supported agriculture programs, and other direct producer-to-consumer infrastructure.'' The Secretary of Agriculture has delegated the program's administration to the USDA–AMS. Further, in accordance with the Secretary's Statement of Policy (36 FR 13804), it is found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to engage in further public participation under 5 U.S.C. 553 because the applications for the FMPP need to be made available as soon as possible as the programs season approaches.

Background

AMS's authorizing authorities are the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627), the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3001–3006), and the recent amendment to the 1976 Act, the Farmers' Market Promotion Program (7 U.S.C. 3005). Under the Agricultural Marketing Act of 1946, the Secretary of Agriculture is authorized to conduct, assist, and foster research, investigation, and experimentation to determine the best methods of processing, preparation for market, packaging, handling, transporting, storing, distributing, and marketing agricultural products, 7 U.S.C. 1622(a). Moreover, 7 U.S.C. 1622(f) directs and authorizes the Secretary to conduct and cooperate in consumer education for more effective utilization and greater consumption of agricultural products. In addition, 7 U.S.C. 1622(n) authorizes the Secretary to conduct services and to perform activities that will facilitate the marketing and utilization of agricultural products through commercial channels.

The Farmer-To-Consumer Marketing Act of 1976 directs USDA to encourage the direct marketing of agricultural commodities from farmers to consumers, and to promote the development and expansion of direct marketing of agricultural commodities from farmers to consumers.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. Chapter 35), this notice announces AMS's request for the approval of a revision to a currently approved information collection under the Office

of Management and Budget (OMB) collection number 0581–0235. Information collected from FMPP selected grant recipients was inadvertently omitted from the FY–2006 FMPP grant program NOFA published in the March 15, 2006 **Federal Register**.

Title: Farmers' Market Promotion Program.

OMB Number: 0581–0235.

Type of Request: Revision of a currently approved collection. OMB approved this collection on July 11, 2006 for 3 years expiring July 31, 2009.

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

Abstract: The primary objective of the FMPP is to help eligible entities to improve and expand domestic farmers' markets, roadside stands, community-supported agriculture programs, and other direct producer-to-consumer market opportunities. Eligible entities under this program include agricultural cooperatives, local governments, nonprofit corporations, public benefit corporations, economic development corporations, regional farmers' market authorities, and other entities as the Secretary may designate (7 U.S.C. 3005(c)). The Secretary has designated Tribal Governments as an eligible entity for this grant program.

AMS has established guidelines for the FMPP that contain full details of the program and application process. The guidelines and all (SF and AD) forms required for applying for FMPP grants are available from AMS's Marketing Services Branch Web site at: *http://www.ams.usda.gov/FMPP*, by calling 202/720–8317, or faxing 202/690–0031. Eligible entities are strongly encouraged to consult the guidelines when preparing applications for submission to the FMPP.

All applicants requesting Federal funding under the FMPP program must complete the following:

(a) *Form SF–424*, ''Application for Federal Assistance,'' (approved under OMB collection number 4040–0004) is required by all entities seeking Federal assistance.

(b) *Form SF–424A*, ''Budget Information—Non-Construction Programs,'' (approved under OMB collection number 0348–0044) must also be completed by applicants to show the project's budget breakdown, both as to expense categories and the division between Federal and non-federal funding sources, as applicable.

(c) *Form SF–424B*, ''Assurances—Non-Construction Programs,'' (approved under OMB collection number 0348–0040) must also be completed by applicants to assure the Federal government of the applicant's legal authority to apply for Federal assistance.

(d) *Form SF–269A*, Financial Status Report (Short form approved under OMB collection number 0348–0038) or SF–269, Financial Status Report, (Long form approved under OMB collection number 0348–0039, (if the project had program income)) is to be completed once by the eligible entity 90 days after the expiration date of the grant period. The applicant also gives assurance that it will comply with various legal and regulatory requirements as described within the form.

(e) *Proposal Narrative and Eligibility Statement.* Completed applications must include a proposal narrative along with an eligibility statement. AMS has developed the ''FMPP Project Proposal Narrative Form'' and the ''FMPP Supplemental Budget Summary Form'' to assist applicants in placing the required information in the proper order.

(f) *FMPP Narrative Forms.* AMS has developed the ''FMPP Project Proposal Narrative Form'' and the ''FMPP Supplemental Budget Summary Form'' to assist applicants in placing the required information in the proper order in the proposal narrative. These voluntary forms are recommended for use as guidance for the application development and submittal processes. The voluntary ''FMPP Project Proposal Narrative Form'' and ''FMPP Supplemental Budget Summary Form'' used to complete the proposal narrative will not increase the total number of burden hours. These burden hours have been captured in the proposal narrative.

Before funds are dispersed, applicants that are selected for FMPP grant funds (awardees) must complete the following forms:

(a) *Form AD–1047*, ''Certification Regarding Disbarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions.'' This form must have the awardee's original signature.

(b) *Form AD–1048*, ''Certification Regarding Disbarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions.'' This form must have the awardee's original signature.

(c) *Form AD–1049*, ''Certification Regarding Drug-Free Workplace Requirements (Grants) Alternative I—For Grantees Other Than Individuals.'' The awardee keeps this document for their records.

Additionally, awardees must also complete the following form and paperwork for AMS:

(a) *Grant Agreement.* The grant agreement is used as documentation of the agreed upon responsibilities of AMS and the awardee(s) performing the project work. It also indicates the agreed upon grant funding dollar amounts and the beginning date and ending date of the project work and the grant agreement. Four (4) copies of this agreement are required with the awardee's and the AMS Administrator's office signatures and dated for each grant.

(b) *Form SF–270*, ''Request for Advance and Reimbursement'' is required whenever the awardees request an advance or reimbursement of Federal grant funds. AMS expects that at least three (3) SF–270 forms will be submitted during the grant agreement period.

(c) *Progress Reports.* The Progress Report is written documentation required to notify AMS about the work activities and progress towards completing the awardee's established project workplan goals, objectives, and timelines. AMS expects that at least two (2) Progress Reports will be submitted during the grant agreement period.

(d) *Final Report.* The Final Report is written information required by AMS within 90 days after the ending date of the grant agreement. This information is utilized as final documentation of completion of the workplan goals, objectives, and activities.

Estimate of Burden: The public reporting and recordkeeping burden for the collection of information is estimated to average 6.684 hours per response.

Respondents: Agricultural Cooperatives, Local Governments, Nonprofit Corporations, Public Benefit Corporations, Economic Development Corporations, Regional Farmers' Market Authorities, and Tribal Governments.

Estimated annual number of respondents: 400.

Estimated annual number of responses per respondent: 1.475.

Estimated annual number of responses: 590.

Estimated total annual burden on the respondents: 3,944 hours.

Comments are requested on this revision to the public reporting and recordkeeping burden from the estimated 3,200 annual burden hours to an estimated 3,944 total annual burden hours. Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether this information will have practical utility; (2) the accuracy of the agency's estimate of the burden of this collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the

information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments concerning the information collection shall reference docket number AMS–TM–06–0191, TM–07–02 and the date and page number of this issue of the **Federal Register** Notice. Comments should be sent to Mr. Errol Bragg, Associate Deputy Administrator, Marketing Services Branch, Transportation and Marketing Programs, Agricultural Marketing Service (AMS), USDA, Room 2646–South, 1400 Independence Avenue, SW., Washington, DC, 20250–0269; phone 202/720–8317; or via the Internet at *http://www.regulations.gov*. Comments received will be available for public inspection during regular business hours at the same address and via the Internet at *http://www.regulations.gov*. All comments will become a matter of public record.

AMS is committed to compliance with the Government Paperwork Elimination Act that requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For paper application submissions:

- The SF and AD forms can be filled out electronically and printed out for submission with original signatures.
- The voluntary ''FMPP Proposal Narrative Form'' and ''FMPP Supplemental Budget Summary Form'' can be filled electronically and printed out for submission.

For Grants.gov all SF and AD forms, as well as the proposal narrative and eligibility statement, can also be filled out electronically and submitted as an attachment through Grants.gov.

Definitions of Eligible Entities

The eligible entities include those outlined in Section 6(c) of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C 3005(c)). In addition, the Secretary has designated Tribal Governments as an eligible entity for this grant program. Eligible entities are defined in this program and throughout this NOFA as follows: [1]

Agricultural cooperative—A group- or member-owned entity or business that provides, offers, or sells agricultural products or services for the mutual benefit of the members thereof.

Local Government—Local government means any unit of local government within a State, including a county, borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of governments, and any other instrumentality of local government.

Nonprofit Corporation—Any organization or institution, including nonprofits with 501(c)(3) IRS status and accredited institutions of higher education, no part of the net earnings of which inures to the benefit of any private shareholders or individuals.

Public Benefit Corporation—A corporation organized to construct or operate a public improvement, the profits from which inure to the benefit of a State(s) or to the people thereof.

Economic Development Corporation—An organization whose mission is the improvement, maintenance, development and/or marketing or promotion of a specific geographic area.

Regional Farmers' Market Authority—An entity that establishes and enforces region, State, or county policies and jurisdiction over regional, State, or county farmers markets.

Tribal Government—A governing body or a governmental agency of any Indian tribe, band, nation, or other organized group or community (including any Native village as defined in section 3 of the Alaska Native Claims Settlement Act, 85 Stat. 688 (43 U.S.C. 1602)) certified by the Secretary of the Interior as eligible for the special programs and services provided through the Bureau of Indian Affairs.

Recipient and Project Eligibility Requirements

All eligible entities shall be domestic entities, *i.e.*, those owned, operated, and located within one or more of the 50 United States and the District of Columbia only. Entities located within U.S. territories are not eligible.

Additionally, under this program eligible entities must apply for FMPP funds on behalf of direct marketing operators that include two or more agricultural farmers/vendors that produce and sell their own products through a common distribution channel. For example, a sole proprietor of a roadside farm market would not be eligible for this program. Because the FMPP is authorized by and amends the Farmer-To-Consumer Marketing Act of 1976, AMS will oversee and award grant projects that continue in developing, promoting, and expanding direct marketing of agricultural commodities from farmers to consumers. Eligible proposals should support marketing entities where agricultural farmers or vendors sell their own products directly to consumers, and the sales of these farm products should represent the core business of the entity.

Individual agricultural producers, including farmers and farmers' market vendors, roadside stand operators, community supported agriculture participants, and other individual direct marketers are not eligible for FMPP funds. FMPP funds exclude existing routine operational expenses such as management salaries or other's salaries associated with normal operation of farmers markets/marketing entities, utility bills, and insurance premiums.

FMPP grant funds must be applied to the specific programs and objectives identified in the application. Proprietary projects and projects that benefit one agricultural producer or individual will not be considered.

Project Timeframe

Projects are to be completed within 18 months.

Proposal and Application Preparation

Applicants must submit the following information; applications that do not contain this information will not be considered:

1. Form SF–424, ''Application for Federal Assistance.'' This form must have an original signature.

2. Form SF–424A, ''Budget Information—Non-Construction Programs.''

3. Form SF–424B, ''Assurances—Non-Construction Programs.''

4. DUNS Number—A Dun and Bradstreet Data Universal Numbering System (DUNS) number is required for all FMPP applications and all Federal grants (68 FR 38 402). The DUNS number must be included in the appropriate section of the Form SF–424. The applicant may check to see if the organization applying for the grant already has a DUNS number, or if they do not already have a DUNS number, acquire one online at no cost at *http://fedgov.dnb.com/webform/* or call the dedicated toll-free DUNS number request line on 1–866–705–5711.

5. Eligibility Statement. Explain how the applicant meets the definition of an agricultural cooperative, local government, nonprofit corporation, public benefit corporation, regional farmers' market authority, or other eligible entity as outlined in the ''Definitions of Eligible Entities'' section of this NOFA. Applications without sufficient information to determine their

[1] References to a state also include the District of Columbia.

eligibility will not be considered. This eligibility statement will be counted towards the 10-page maximum for the proposal narrative.

6. Proposal Narrative. The narrative portion of the project proposal must not exceed 10 pages (Times New Roman font, 12 pt. pitch, single spaced, 8.5 by 11 inch-paper). AMS has provided guidance for use in organizing the narrative and placing this information in its proper order. Refer to the FMPP Guidelines available from AMS's Marketing Services Branch Web site at: *http://www.ams.usda.gov/FMPP* for more information. The narrative must be organized under the following headings:

a. Project Title. Provide a title that captures the primary focus of the project.

b. Applicant/Organization Information. Provide the applicant/organization name, applicant/organization contact name, mailing address, telephone and fax number, and email address for the person responsible for the application, financial information, and the proposed project budget.

c. Primary Project Manager Information. Provide the name, mailing address, telephone and fax number, and email address for the person(s) responsible for managing and/or overseeing the project.

d. Entity Type. Indicate the entity type of the applicant/organization, *i.e.*, an agricultural cooperative, local government, nonprofit corporation, public benefit corporation, economic benefit corporation, regional farmers' market authority, tribal government, or other entity type.

e. Executive Summary. The project proposal summary, not to exceed 200 words, must include the following: a description of the project including the goals to be accomplished, stages of work and resources required, the expected timeframe for completing all tasks and results, and primary project manager responsible for the project.

f. Goals of the Project. Provide a clear statement that includes the ultimate goal(s) and objective(s) (one or two sentences) of the project.

g. Background Statement. Provide information regarding past, current, and/or future events, conditions, or actions taken that justify the need for the project.

h. Workplan and Resource Requirements. Provide a statement that includes the planned scope of work, anticipated stages and timelines, and the resources required to complete the project. Identify who will do the work, whether collaborative arrangements or subcontractors will be used, the amount of resource commitments of the collaborators, and the role(s) and responsibilities of each collaborator or project partner.

i. Expected Outcomes and Project Evaluation. Describe what is to be accomplished, the expected results, and how success will be measured at the completion of the project.

j. Beneficiaries. Describe which persons, organizations, and/or entities will benefit from the project work or research outlined in the proposal.

k. Supplemental Budget Summary. Provide in sufficient detail information about the budget categories listed on Form SF–424A to demonstrate that the budget is reasonable and adequate for the proposed work. Additional detail and justification must be provided for any purchase that is expected to exceed $5,000. For full information on how to complete the Supplemental Budget Summary, please refer to the FMPP Guidelines available from AMS's Marketing Services Branch Web site at: *http://www.ams.usda.gov/FMPP.*

l. Primary Proposal Activity. Identify the main activity (only one specific activity, *i.e.*, waste management) that the proposal has indicated to meet the goals and objectives. Refer to the ''Eligible Grant Uses'' section to assist in identifying this activity.

m. Secondary Proposal Activity. Identify the secondary activities (as many as are applicable) that the proposal has indicated to meet the goals and objectives. Refer to the ''Eligible Grant Uses'' section to assist in identifying these activities.

7. Methods of Evaluating Proposals. Applicants should ensure that evaluation criteria are addressed within the proposal narrative. The suggested questions with each criterion are provided as general guidance for completing the narrative; provide additional information as appropriate.

Each criterion has a maximum score value, and the total maximum score for an FMPP proposal narrative will equal 100. Proposals will be rated on each criterion as follows:

a. *The Need for the Project* (maximum score = 25). Provide justification for the project approach and/or strategies in the proposal; to include:

(1) How do the project activities in the proposal conform to the FMPP program objectives and eligible funding uses?

(2) How does the proposal demonstrate the project's merit? Why are these activities appropriate for achieving the project's stated objectives?

b. *Direct Benefit to Farmers/Vendors* (maximum score = 20). Explain the direct benefit to market/market entity farmers and vendors. Any benefit for individual farmers/vendors should be provided for every participating farmer/vendor in a market/market entity. Include:

(1) How will the farmer/vendor benefit from these activities? How many farmers/vendors will benefit from your project's activities?

(2) What is the overall potential impact on the local/regional farm economy?

c. *Reasonableness of Budget* (maximum score = 15). Provide justification for the budget and funds usage. Include:

(1) How is budget appropriate for the scope of work?

d. *Project Innovation* (maximum score = 10). Provide justification of the proposal's innovative approach. Include:

(1) Has this approach been done before? And if it has, how does it differ from previous efforts?

(2) Why is your approach different or better than other efforts?

e. *Transferability of Project Outcomes* (maximum score = 10). Explain how and why proposed activities could be used elsewhere. Include:

(1) Will the outcome and lessons learned from this project be applicable to other locations?

f. *Degree of Collaboration/Partnerships (include partner qualifications) and Participation* (maximum score = 10). Outline the collaboration/partnerships formed and farmer/producer participation for this project. Include:

(1) How many collaborators/partners and farmers/producers will participate in this project? What role will they play?

(2) How will collaborators/partners and farmers/producers assist in implementing the project?

(3) What resource commitments will they provide?

g. *Quantitative Evaluation and Measurement of Project's Impact* (maximum score = 10). Define how successes will be measured and how sustainable the activities are after FMPP funds are no longer available. Include:

(1) How will project results be measured?

(2) How self-sustaining will the project be after FMPP grant funding is exhausted?

8. Application/Proposal Packages. To ensure proper application preparation, see the FMPP Guidelines available from AMS's Marketing Services Branch Web site at: *http://www.ams.usda.gov/FMPP* for submission to AMS.

Grant Amounts

The amount of funds available for FMPP grants in FY 2007 is

approximately $1 million. These grant funds are contingent upon Congress's providing funding to AMS for this program. The maximum amount of Federal funds awarded for any one proposal will be $75,000.

Number of Awards

An applicant can not receive more than one FMPP grant in a grant funding year.

Eligible Grant Uses

FMPP grants were established for projects intended to benefit more than one agricultural farmer or producer. Applications for FMPP grants funds should be for, but not limited to, projects and proposals that are associated with the following three categories:

1. Improving Farmer/Vendor Access to Relevant Marketing and Financial Information—Projects that provide opportunities and promote training, education, networking, technical assistance, and information sharing for farmers, vendors, market management, and market sponsors. These projects are designed to enhance sales volumes, self-sufficiency, and product security/safety. Project focuses may address:

- Direct marketing practices and methods, business planning, market growth management, recordkeeping, food handling and safety.
- Farmer and vendor selection, recruitment, and retention.
- Consumer trends, demographics, changing ethnic demographics, and their relationship to customer purchasing patterns.
- Alternative purchasing methods, such as Women, Infants, and Children Farmers Market Nutrition Programs (WIC-FMNP) coupons; Senior Farmers Market Nutrition Program (SFMNP) coupons; and debit/credit technologies.
- Association and other organizational development.

2. Consumer-Based Education and Market Access—Projects that address ways to improve consumers' access and utilization of markets/entities: These projects may include:

- Consumer education that focuses on new food and agricultural products, product applications, and chef demonstrations with a required emphasis on the assessment, evaluation, and impact of such education on consumer patronage at eligible markets/entities.
- Assessment, evaluation, and impact of the vendors and/or the market/entities in providing access to fresh fruits and vegetables to low-income households, children, and seniors.

3. Innovative Approaches to Market/Facility Operations and Management—Projects that address operational or marketing opportunities and issues of markets and/or farmers/vendors to: enhance product value and sales; increase revenue and efficiency; or reduce expenses. These projects may address:

- The use and effect of advertising, market promotion, labeling, and/or signage and the measurement of their impact.
- Waste management/recycling.
- Liability coverage and insurance.
- Facility planning and/or design.
- Transportation and delivery systems.
- Infrastructure for electronic benefits transfer (EBT) usage; processing, kitchen incubators, storage, packaging, and refrigeration.

Any of the projects within each category above can be identified as a ''primary'' or ''secondary'' proposal activity. Only one activity, however, should be selected and identified as the ''primary project activity'' for FMPP grant funding uses. See ''Proposal Narrative,'' sections 6.l. and 6.m. in ''Proposal and Application Preparation,'' for more information.

Ineligible Grant Uses

FMPP grant funds cannot be used to pay for:

1. Acquisition of land, repair, rehabilitation, acquisition or construction of a building or facility.
2. Political or lobbying activities.
3. Any activities prohibited by 7 CFR parts 3015 and 3019.

How To Submit Proposals and Applications

Each application must contain the following information stated in the ''Proposal Preparation'' section of the NOFA: Forms SF–424, SF–424A, and SF–424B; the entity DUNS number; the entity eligibility statement; and the proposal narrative. Electronic forms, proposals, letters of support, or any other application materials emailed directly to AMS or USDA–AMS staff will not be accepted.

Following are the options available for submitting proposals and applications to AMS:

Paper Submissions—For paper submissions an original and one copy of the proposal, required forms, narrative, letters of support, and all required materials *must be submitted in one package, preferably via express mail.* Because packages sent to the Agency through the United States Postal Service can be damaged or delayed due to security procedures at USDA Washington DC headquarters, express mail services or couriers are strongly recommended. Paper submissions must be sent to:

Mr. Errol Bragg, Associate Deputy Administrator, Marketing Services Branch, Transportation and Marketing Programs, AMS, USDA, Room 2646-South, 1400 Independence Avenue, SW., Washington, DC, 20250–0269.

If an e-mail address is provided on Form SF–424, FMPP will send an e-mail message to the applicant confirming receipt of the application package.

Electronic Submissions via Grants.gov—Applicants may apply electronically for grants through the Federal grants Web site: *http://www.Grants.gov*. Applicants who submit their FMPP proposals via the Federal grants Web site are not required to submit any paper documents to FMPP.

FMPP is listed in the ''Catalog of Federal Domestic Assistance'' under number 10.168 and subject agencies must adhere to Title VI of the Civil Rights Act of 1964, which bars discrimination in all federally assisted programs.

Dated: February 21, 2007.

Lloyd Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E7–3263 Filed 2–26–07; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Information Collection; Commodity Request (Food Aid Request Entry System, FARES)

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Commodity Credit Corporation (CCC) is seeking comments from all interested individuals and organizations on the extension and revision of an approved information collection under the Paperwork Reduction Act. CCC procures various processed foods and commodities to be exported and donated for use in humanitarian food aid programs. Information related to this activity is collected and processed electronically through the Food Aid Request Entry System (FARES).

DATES: Comments on this notice must be received on or before April 30, 2007 to be assured consideration.

ADDRESSES: Comments concerning this notice should be addressed to: Khristy Baughman, Chief, Business Operations Support Division, Kansas City Commodity Office, 6501 Beacon Drive, Kansas City, Missouri 64133–4676. Comments also may be submitted via facsimile to (816) 926–1648, telephone (816) 926–6509 or by e-mail to *khristy.baughman@kcc.fsa.gov.* Comments regarding this information collection requirement may be directed to the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB), Attention: Desk Officer for USDA, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Sharon Hadder, Marketing Specialist, (202) 720–3816, or *Sharon.Hadder@fsa.usda.gov.*

SUPPLEMENTARY INFORMATION:

Description of Information Collection

Title: Food Aid Request Entry System (FARES).

OMB Control Number: 0560–0225.

Type of Request: Extension with revision.

Abstract: The information collection is necessary for the Commodity Credit Corporation (CCC) to procure various processed foods and commodities for export under humanitarian food aid programs. The FARES was developed to automate the entry of commodity requests submitted to CCC from the United States Agency for International Development (USAID), private voluntary organizations (PVOs), the World Food Program (WFP), the Foreign Agricultural Service (FAS), and the Farm Service Agency (FSA).

Estimate of Burden: Public reporting burden for collecting information under this notice is estimated to average .75 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information.

Respondents: USAID, PVOs, the WFP, FAS and FSA.

Respondents: 305.

Estimated Number of Annual Responses per Respondent: 12.

Estimated Total Annual Burden on Respondents: 2,745 hours.

Comment is invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information collected; or (d) ways to minimize the burden of the collection of the 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. All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission for OMB approval.

Signed at Washington, DC, on February 21, 2007.

Teresa C. Lasseter,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. E7–3374 Filed 2–26–07; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Child and Adult Care Food Program (CACFP) Meal Claiming Data Collection Pilot Project—Data Collection Instrument

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Food and Nutrition Service (FNS) invites the general public and other public agencies to comment on this proposed information collection.

This notice announces FNS' intent to request from the Office of Management and Budget (OMB) approval of the data collection instrument for the CACFP Meal Claiming Data Collection Pilot Project.

DATES: Written comments on this notice must be received on or before April 30, 2007.

ADDRESSES: Comments may be sent to: Fred Lesnett, Contracting Officer's Representative, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302. Comments may also be submitted via fax to the attention of Fred Lesnett at 703–305–2576 or via e-mail to *Fred.Lesnett@fns.usda.gov.*

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

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Fred Lesnett at 703–605–0811.

SUPPLEMENTARY INFORMATION:

Title: CACFP Meal Claiming Data Collection Pilot Project.

OMB Number: Not Yet Assigned.

Expiration Date: Not yet determined.

Type of Request: New collection of information.

Abstract: The Improper Payments Information Act of 2002 (Act) (Pub. L. 107–300) requires the Department of Agriculture (USDA) to identify and reduce significant improper over- and under-payments in various programs, including the Child and Adult Care Food Program (CACFP). Therefore, the Food and Nutrition Service (FNS), on behalf of the Secretary of Agriculture, is conducting a feasibility evaluation of four possible data collection methods for validating the number and type of meals claimed for reimbursement by family day care homes (FDCHs) in the CACFP. The feasibility evaluation is scheduled to collect data from August 2007 until September 2007. Localized data collection is to be conducted in up to four States to evaluate whether the data collection methodologies under evaluation can:

*Validate the meal reimbursement claims submitted by FDCHs for the number of children who are CACFP eligible and present in the FDCHs during the time period(s) for which the meals/snacks were claimed.

*Generate the data required for developing an estimate of improper payments, based on the meals claimed for reimbursement by FDCHs, that meet the requirements of the IPIA.

*Be implemented nationwide in an efficient and cost effective method.

Under this task order, the contractor is to conduct a pretest evaluation which compares meal reimbursement claims submitted by FDCHs to their sponsors

and data collected through each of the following four proposed data collection methodologies:

*Recollections of parents/guardians on their children's attendance at the FDCHs during the days and times of the claims.

*Parent sign-in/sign-out logs which are maintained at FDCH locations and are designed to track, by day and time, parents' dropping off and picking up of their children.

*Parent sign-in/sign-out logs and the recollections of parents/guardians.

*Observations made on site visits to FDCHs during scheduled meal times.

Based on the findings from the pretest evaluation, the contractor shall recommend which of the data collection methods, up to four, have the greatest chance of success for validating meal reimbursement claims submitted by FDCHs. The recommended methods of data collection shall be tested by the contractor at a local level and evaluated. The testing and after-test evaluation of the selected data collection methodologies shall address, at a minimum, the following questions:

*What are the strengths of the proposed methodology for validating the meal reimbursement claims submitted by FDCHs?

*What are the weaknesses of the proposed methodology for validating the meal reimbursement claims submitted by FDCHs? What, if any, steps could be taken to overcome these weaknesses?

*What is the level of confidence that the estimations of improper payments developed from application of the tested data collection methodology will meet the requirements in the IPIA?

*What is the feasibility of administering the validation methodology on a national level? Could the methodology be administered at this time on a national level? What are the factors or events that must be present for the projected level of feasibility to take place?

*What is the potential cost of implementing each of the data collection methodologies nationwide?

After completing the testing and evaluation of the recommended data collection methods, the contractor shall propose a data collection methodology to validate the meals claimed for reimbursement. The contractor's recommended data collection methodology shall be:

*Presented in sufficient detail so as to be able to be applied and tested.

*Designed so that it has a high probability of validating the meal reimbursement claims submitted by FDCHs.

*Feasible to administer from both a practicality and cost standpoint on a national scale.

Affected Public: A parent/guardian of each of the children attending a sample of FDCHs will be sampled and contacted by telephone.

Estimated Number of Respondents: The estimated number of respondents included in the survey of parents is 150.

Estimated Number of Responses per Respondent: The number of responses per set of parents/guardians for a child attending a FDCH is one.

Estimated Time per Response: The estimated average time to respond to the parent/guardian survey is 10 minutes (.17/Hour).

Estimated Total Annual Burden on Respondents: 25 hours.

Dated: February 16, 2007.

Roberto Salazar,

Administrator, Food and Nutrition Service.

[FR Doc. E7–3308 Filed 2–26–07; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed collection; Comment Request—Evaluation of the Nebraska Rural Area Eligibility Determination for Day Care Homes Pilot

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Food and Nutrition Service (FNS) invites the general public and other public agencies to comment on this proposed information collection.

This notice announces FNS' intent to request from the Office of Management and Budget (OMB) approval to collect information for the evaluation of impacts of the Rural Area Eligibility Determination for Day Care Homes Pilot in Nebraska.

DATES: Written comments must be received on or before April 30, 2007.

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

Comments may be sent to Dr. John A. Kirlin, Contracting Officer's Representative, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302. Comments may also be submitted via fax to the attention of John A. Kirlin at 703–305–2576 or via e-mail to *John.Kirlin@fns.usda.gov.*

All responses to this notice will be summarized and included in the request for OMB approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to John A. Kirlin at 703–305–2128.

SUPPLEMENTARY INFORMATION:

Title: Evaluation of the Nebraska Rural Area Eligibility Determination for Day Care Homes Pilot.

OMB Number: Not Yet Assigned.

Expiration Date: Not yet determined.

Type of Request: New collection of information.

Abstract: As authorized by Public Law 108–265 (Section 119 of the Child Nutrition and WIC Reauthorization Act of 2004), which amended Section 17 of the Richard B. Russell National School Lunch Act, 42 U.S.C. 1766 (p), the Food and Nutrition Service (FNS), on behalf of the Secretary of Agriculture, is evaluating the impacts of the Rural Area Eligibility Determination for Day Care Homes pilot in Nebraska. The two-year pilot expands the threshold for determining eligibility for the Child and Adult Care Food Program (CACFP) in rural areas of Nebraska where poor economic conditions exist. The State of Nebraska is authorized by this legislation to use either school data (on the percent of students qualifying for free or reduced-price school lunches) or census data to determine the eligibility threshold for higher (tier I) reimbursement rates. During the two-year pilot, the area eligibility threshold is reduced from the current criterion (50 percent of students qualifying for free or reduced-price school lunches) to 40 percent, thereby letting more areas qualify for higher reimbursement rates. The pilot runs from October 1, 2005 through September 30, 2007.

The evaluation of the pilot will examine the impact of the reduced area

eligibility threshold on: (1) The number of family day care homes offering meals through the CACFP in rural areas; (2) the number of family day care homes offering meals as a tier I entity, that would otherwise be defined as tier II family day care home under program regulations; (3) the geographic location of the family day care homes; (4) a description of services provided to eligible children; and (5) other factors determined by the Secretary. The evaluation will collect information from CACFP staff at the Nebraska Department of Education, from CACFP sponsor agencies in the state, from family day care providers, and from parents of children in family day care homes. Two surveys will be conducted: A survey of a random sample of family day care providers (Provider Survey); and a survey of a random sample of providers who drop out of the CACFP program after the pilot ends and reimbursement levels for some providers decrease (Exit Survey). A report of the results of the evaluation is due to Congress no later than March 31, 2008.

Affected Public: Two respondent groups are identified: (1) A random sample of all rural family day care providers in Nebraska who participate in the CACFP at the time of the planned survey (Summer 2007), and (2) a random sample of all rural family day care providers in Nebraska who exit the CACFP program after the end of the pilot.

Estimated Number of Respondents: 632. The estimated number of respondents to the Provider Survey is 582. The estimated number of respondents to the Exit Survey is uncertain because the number of exiting providers is unknown. The evaluation contractor will survey up to 50 respondents as part of the Exit Survey.

Estimated Number of Responses per Respondent: The number of responses per respondent is one for each of the two surveys. Because both surveys will contact random samples of the family day care community in rural areas of Nebraska, however, it is possible that some exiting providers who are contacted for the second survey may also have responded to the first survey. If the probability of exiting is equally distributed across the approximately 1,350 rural providers in Nebraska, and if at least 50 rural providers leave the CACFP program after the pilot ends, the a priori likelihood of a provider being sampled for both surveys is approximately 1.6 percent (i.e., about a 43 percent chance of being selected for the Provider Survey times about a 3.7 percent chance of being selected for the Exit Survey).

Estimated Total Annual Responses: 632.

Estimated Time per Response: 38.4 minutes (0.64 hours). The estimated average time to respond to the Provider Survey is 40 minutes (0.67 hours), based on a pre-test of the draft instrument in December 2006 and subsequent revisions based on pre-test results. The data collection instrument for the Exit Survey cannot be pre-tested because the pilot will not end until September 30, 2007. The Exit Survey instrument shares many questions with the Provider Survey instrument, however, and the pre-test results for the Provider Survey are used to estimate average response time for the Exit Survey, which is 20 minutes (0.33 hours).

Estimated Total Annual Burden on Respondents: 405 hours.

Dated: February 16, 2007.

Roberto Salazar,

Administrator, Food and Nutrition Service.

[FR Doc. E7–3309 Filed 2–26–07; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Child Nutrition Programs—Income Eligibility Guidelines

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This Notice announces the Department's annual adjustments to the Income Eligibility Guidelines to be used in determining eligibility for free and reduced price meals and free milk for the period from July 1, 2007 through June 30, 2008. These guidelines are used by schools, institutions, and facilities participating in the National School Lunch Program (and Commodity School Program), School Breakfast Program, Special Milk Program for Children, Child and Adult Care Food Program and Summer Food Service Program. The annual adjustments are required by section 9 of the Richard B. Russell National School Lunch Act. The guidelines are intended to direct benefits to those children most in need and are revised annually to account for changes in the Consumer Price Index.

DATES: *Effective Date:* July 1, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Eadie, Chief, Policy and Program Development Branch, Child Nutrition Division, FNS, USDA, Alexandria, Virginia 22302, or by phone at (703) 305–2590.

SUPPLEMENTARY INFORMATION: This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of that Act.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), no new recordkeeping or reporting requirements have been included that are subject to approval from the Office of Management and Budget.

This action is exempted from review by the Office of Management and Budget under Executive Order 12866.

These programs are listed in the Catalog of Federal Domestic Assistance under No. 10.553, No. 10.555, No. 10.556, No. 10.558 and No. 10.559 and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V, and the final rule related notice published at 48 FR 29114, June 24, 1983.)

Background

Pursuant to sections 9(b)(1) and 17(c)(4) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(1) and 42 U.S.C. 1766(c)(4)), and sections 3(a)(6) and 4(e)(1)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)(6) and 1773(e)(1)(A)), the Department annually issues the Income Eligibility Guidelines for free and reduced price meals for the National School Lunch Program (7 CFR Part 210), the Commodity School Program (7 CFR Part 210), School Breakfast Program (7 CFR Part 220), Summer Food Service Program (7 CFR Part 225) and Child and Adult Care Food Program (7 CFR Part 226) and the guidelines for free milk in the Special Milk Program for Children (7 CFR Part 215). These eligibility guidelines are based on the Federal income poverty guidelines and are stated by household size. The guidelines are used to determine eligibility for free and reduced price meals and free milk in accordance with applicable program rules.

Definition of Income

In accordance with the Department's policy as provided in the Food and Nutrition Service publication *Eligibility Guidance for School Meals Manual,* ''income,'' as the term is used in this Notice, means income before any deductions such as income taxes, Social Security taxes, insurance premiums, charitable contributions and bonds. It includes the following: (1) Monetary compensation for services, including wages, salary, commissions or fees; (2) net income from nonfarm self-employment; (3) net income from farm self-employment; (4) Social Security; (5) dividends or interest on savings or

bonds or income from estates or trusts; (6) net rental income; (7) public assistance or welfare payments; (8) unemployment compensation; (9) government civilian employee or military retirement, or pensions or veterans payments; (10) private pensions or annuities; (11) alimony or child support payments; (12) regular contributions from persons not living in the household; (13) net royalties; and (14) other cash income. Other cash income would include cash amounts received or withdrawn from any source including savings, investments, trust accounts and other resources that would be available to pay the price of a child's meal.

''Income,'' as the term is used in this Notice, does *not* include any income or benefits received under any Federal programs that are excluded from consideration as income by any legislative prohibition. Furthermore, the value of meals or milk to children shall not be considered as income to their households for other benefit programs in accordance with the prohibitions in section 12(e) of the Richard B. Russell National School Lunch Act and section 11(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1760(e) and 1780(b)).

The Income Eligibility Guidelines

The following are the Income Eligibility Guidelines to be effective from July 1, 2007 through June 30, 2008. The Department's guidelines for free meals and milk and reduced price meals were obtained by multiplying the year 2007 Federal income poverty guidelines by 1.30 and 1.85, respectively, and by rounding the result upward to the next whole dollar.

The income eligibility chart for School Year 2007–2008 continues the changes that were implemented for School Year 2004–2005. Prior to School Year 2004–2005, the Department displayed the monthly and weekly amounts for the Federal poverty guidelines in addition to the annual figures as issued by the Department of Health and Human Services. This Notice, however, only displays the annual figures because the monthly and weekly Federal poverty guidelines were not used to determine the Income Eligibility Guidelines. As detailed below, all calculations are based on the annual figures.

In addition, the chart which details the free and reduced price eligibility criteria includes columns for income received twice monthly as well as income received every two weeks. To differentiate, a person paid every two weeks is paid 26 times per year, whereas a person paid twice monthly is paid 24 times per year. Furthermore, the inclusion of information about income received twice per month as well as income received every two weeks conforms to the format used by the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) (42 U.S.C. 1786; 7 CFR Part 246).

Income calculations are made based on the following formulas: Monthly income is calculated by dividing the annual income by 12; twice monthly income is computed by dividing annual income by 24; income received every two weeks is calculated by dividing annual income by 26; and weekly income is computed by dividing annual income by 52. All numbers are rounded upward to the next whole dollar. The numbers reflected in this notice for a family of four in the 48 contiguous states, the District of Columbia, Guam and the territories represent an increase of 3.25% over last year's level for a family of the same size.

BILLING CODE 3410–30–P

INCOME ELIGIBILITY GUIDELINES

Effective from July 1, 2007 to June 30, 2008

HOUSEHOLD SIZE	FEDERAL POVERTY GUIDELINES	REDUCED PRICE MEALS - 185 %					FREE MEALS - 130 %				
	ANNUAL	ANNUAL	MONTHLY	TWICE PER MONTH	EVERY TWO WEEKS	WEEKLY	ANNUAL	MONTHLY	TWICE PER MONTH	EVERY TWO WEEKS	WEEKLY
48 CONTIGUOUS STATES, DISTRICT OF COLUMBIA, GUAM, AND TERRITORIES											
1	10,210	18,889	1,575	788	727	364	13,273	1,107	554	511	256
2	13,690	25,327	2,111	1,056	975	488	17,797	1,484	742	685	343
3	17,170	31,765	2,648	1,324	1,222	611	22,321	1,861	931	859	430
4	20,650	38,203	3,184	1,592	1,470	735	26,845	2,238	1,119	1,033	517
5	24,130	44,641	3,721	1,861	1,717	859	31,369	2,615	1,308	1,207	604
6	27,610	51,079	4,257	2,129	1,965	983	35,893	2,992	1,496	1,381	691
7	31,090	57,517	4,794	2,397	2,213	1,107	40,417	3,369	1,685	1,555	778
8	34,570	63,955	5,330	2,665	2,460	1,230	44,941	3,746	1,873	1,729	865
For each add'l family member, add	3,480	6,438	537	269	248	124	4,524	377	189	174	87
ALASKA											
1	12,770	23,625	1,969	985	909	455	16,601	1,384	692	639	320
2	17,120	31,672	2,640	1,320	1,219	610	22,256	1,855	928	856	428
3	21,470	39,720	3,310	1,655	1,528	764	27,911	2,326	1,163	1,074	537
4	25,820	47,767	3,981	1,991	1,838	919	33,566	2,798	1,399	1,291	646
5	30,170	55,815	4,652	2,326	2,147	1,074	39,221	3,269	1,635	1,509	755
6	34,520	63,862	5,322	2,661	2,457	1,229	44,876	3,740	1,870	1,726	863
7	38,870	71,910	5,993	2,997	2,766	1,383	50,531	4,211	2,106	1,944	972
8	43,220	79,957	6,664	3,332	3,076	1,538	56,186	4,683	2,342	2,161	1,081
For each add'l family member, add	4,350	8,048	671	336	310	155	5,655	472	236	218	109
HAWAII											
1	11,750	21,738	1,812	906	837	419	15,275	1,273	637	588	294
2	15,750	29,138	2,429	1,215	1,121	561	20,475	1,707	854	788	394
3	19,750	36,538	3,045	1,523	1,406	703	25,675	2,140	1,070	988	494
4	23,750	43,938	3,662	1,831	1,690	845	30,875	2,573	1,287	1,188	594
5	27,750	51,338	4,279	2,140	1,975	988	36,075	3,007	1,504	1,388	694
6	31,750	58,738	4,895	2,448	2,260	1,130	41,275	3,440	1,720	1,588	794
7	35,750	66,138	5,512	2,756	2,544	1,272	46,475	3,873	1,937	1,788	894
8	39,750	73,538	6,129	3,065	2,829	1,415	51,675	4,307	2,154	1,988	994
For each add'l family member, add	4,000	7,400	617	309	285	143	5,200	434	217	200	100

Authority: (42 U.S.C. 1758(b)(1))

Dated: February 16, 2007.

Roberto Salazar,

Administrator.

[FR Doc. 07–883 Filed 2–26–07; 8:45 am]

BILLING CODE 3410–30–C

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2007–0003]

Codex Alimentarius Commission: Meeting of the Codex Committee on Food Additives

AGENCY: Office of the Under Secretary for Food Safety, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, U.S. Department of Agriculture (USDA), and the Food and Drug Administration (FDA), U.S. Department of Health and Human Services, are sponsoring a public meeting on March 8, 2007. The objective of the public meeting is to provide information and receive public comments on agenda items and draft United States positions that will be discussed at the Thirty-ninth Session of the Codex Committee on Food Additives (CCFA) of the Codex Alimentarius Commission (Codex), which will be held in Beijing, China, on April 24–28, 2007. The Under Secretary for Food Safety and FDA recognize the importance of providing interested parties the opportunity to obtain background information on the 39th Session of CCFA and to address items on the agenda.

DATES: The public meeting is scheduled for Thursday, March 8, 2007 from 3 p.m. to 5 p.m.

ADDRESSES: The public meeting will be held in the auditorium (Room 1A003), Harvey W. Wiley Federal Building, FDA, Center for Food Safety and Applied Nutrition, 5100 Paint Branch Highway, College Park, MD 20740. Documents related to the 39th Session of CCFA are accessible via the World Wide Web at the following address: *http://www.codexalimentarius.net/current.asp.*

The U.S. Delegate to the CCFA, Dr. Dennis Keefe, invites U.S. interested parties to submit their comments electronically to the following e-mail address: *ccfa@fda.hhs.gov.*

Registration: Attendees may register electronically to the same e-mail address above by March 6, 2007. Early registration is encouraged because it will expedite entry into the building and its parking area. If you require parking, please include the vehicle make and tag number, if known, when you register. Because the meeting will be held in a Federal building, you should also bring a photo identification (ID) and plan for adequate time to pass through security screening systems.

FOR FURTHER INFORMATION ABOUT THE 39TH SESSION OF THE CCFA CONTACT: Dennis Keefe, Office of Food Additive Safety (HFS–205), Center for Food Safety and Applied Nutrition, FDA, 5100 Paint Branch Parkway, College Park, MD 20740. Phone (301) 436–1284, *Fax:* (301) 436–2972, e-mail *dennis.keefe@fda.hhs.gov.*

FOR FURTHER INFORMATION ABOUT THE PUBLIC MEETING CONTACT: Ellen Matten, International Issues Analyst, U.S. Codex Office, Food Safety and Inspection Service, Room 4861, South building, 1400 Independence Ave SW., Washington, DC 20250. Phone (202) 205–7760, *Fax:* (202) 720–3157.

SUPPLEMENTARY INFORMATION:

Background

The Codex Alimentarius (Codex) was established in 1963 by two United Nations organizations, the Food and Agriculture Organization and the World Health Organization. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to protect the health of consumers and ensure that fair practices are used in trade.

The Codex Committee on Food Additives was formed in 2006 from the division of the Codex Committee on Food Additives and Contaminants. It was established to set or endorse maximum levels for individual food additives; prepare priority lists of food additives for risk assessment by the Joint FAO/WHO Expert Committee on Food Additives (JECFA); assign functional classes to individual food additives; recommend specifications of identity and purity for food additives for adoption by the Commission; consider methods of analysis for the determination of additives in food; and consider and elaborate standards or codes for related subjects such as the labeling of food additives when sold as such. The Committee is hosted by the People's Republic of China.

Issues To Be Discussed at the Public Meeting

The following items on the Agenda for the 39th Session of CCFA will be discussed during the public meeting:

- Matters Referred to the Committee from other Codex bodies.
- Matters of Interest arising from FAO/WHO.
- Endorsement/revision of Maximum Levels for Food Additives and Processing Aids in Codex Standards.
- Inclusion of Food Additive Provisions of Commodity Standards into the Codex General Standard for Food Additives (GSFA).
- Consideration of the Codex General Standard for Food Additives.
- Proposed Draft Guidelines for the Use of Flavourings.
- Processing Aids.
- International Numbering System (INS) for Food Additives.
- Specifications for the Identity and Purity of Food Additives.
- Priority List of Food Additives Proposed for Evaluation by JECFA.

Each issue listed will be fully described in documents distributed, or to be distributed, by the Secretariat prior to the Meeting. Members of the public may access or request copies of these documents (see **FOR FURTHER INFORMATION ABOUT THE 39TH SESSION OF THE CCFA CONTACT**).

Public Meeting

At the March 8, 2007 public meeting, draft U.S. positions on the agenda items will be described and discussed, and attendees will have the opportunity to pose questions and offer comments. Written comments may be offered at the meeting or sent to the U.S. Delegate for CCFA, Dr. Dennis Keefe (see **ADDRESSES**). Written comments should state that they relate to activities of the 39th Session of CCFA.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it on-line through the FSIS Web page located at *http://www.fsis.usda.gov/regulations/2007_Notices_Index/.* FSIS also will make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and other types of information that could affect or would be of interest to constituents and stakeholders. The update is communicated via Listserv, a free electronic mail subscription service for industry, trade and farm groups, consumer interest groups, allied health professionals, and other individuals

who have asked to be included. The update is available on the FSIS Web page. Through the Listserv and Web page, FSIS is able to provide information to a much broader and more diverse audience. In addition, FSIS offers an e-mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/news_and_events/email_subscription/.* Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves and have the option to password protect their account.

Done at Washington, DC, on February 21, 2007.

F. Edward Scarbrough,

U.S. Manager for Codex Alimentarius.

[FR Doc. E7–3264 Filed 2–26–07; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Farm Service Agency

Notice of Request for Extension of a Currently Approved Information Collection

AGENCIES: Rural Housing Service (RHS) and Farm Service Agency (FSA), USDA.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Agencies intention to request an extension for a currently approved information collection in support of the Real Estate Title Clearance and Loan Closing regulation.

DATES: Comments on this notice must be received by April 30, 2007 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Gale Richardson, Loan Specialist, Single Family Housing Direct Loan Division, Rural Housing Service, U.S. Department of Agriculture, Mail STOP 0783, 1400 Independence Ave., SW., Washington, DC 20250–0783, Telephone 202–720–1459. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION:

Title: 7 CFR 1927–B, Real Estate Title Clearance and Loan Closing.

OMB Number: 0575–0147.

Expiration Date of Approval: June 30, 2007.

Type of Request: Extension of a currently approved information collection.

Abstract: Section 501 of Title V of the Housing Act of 1949, as amended, authorizes the Secretary of Agriculture to extend financial assistance to construct, improve, alter, repair, replace, or rehabilitate dwellings, farm buildings, and/or related facilities to provide decent, safe, and sanitary living conditions and adequate farm buildings and other structures in rural areas. Sections 302, 311, and 321 of the Consolidated Farm and Rural Development Act, as amended, authorize the Secretary to extend agricultural credit to farmers and ranchers. Title clearance is required to assure the Agency(s) that the loan is legally secured and has the required lien priority.

The Agencies will be collecting information to assure that those participating in this program remain eligible to proceed with loan closing and to ensure that loans made with Federal funds are legally secured. The respondents are individuals or households, farms, businesses, and nonprofit institutions. The information required is used by USDA personnel to verify that the required lien position has been obtained. The information is collected at the field office responsible for processing a loan application through loan closing. The information is also used to ensure the program is administered in a manner consistent with legislative and administrative requirements. If not collected, the Agency would be unable to determine if the loan is adequately and legally secured.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .28 hours per response.

Respondents: Individuals or households, farms, businesses, non-profit institutions.

Estimated Number of Respondents: 90,399.

Estimated Number of Responses per Respondent: 1.

Estimated Number of Responses: 90,399.

Estimated Total Annual Burden on Respondents: 25,042 hours.

Copies of this information collection can be obtained from Renita Bolden, Regulations and Paperwork Management Branch, at (202) 692–0035.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) 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; (c) Ways to enhance the quality, utility and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on 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. Comments may be sent to Renita Bolden, Regulation and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, Stop 0742, 1400 Independence Ave., SW, Washington, DC 20250–0742. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: February 1, 2007.

Russell T. Davis,

Administrator, Rural Housing Service.

Dated: January 31, 2007.

Thomas B. Hofeller,

Acting Administrator, Farm Service Agency.

[FR Doc. 07–867 Filed 2–26–07; 8:45 am]

BILLING CODE 3410–XY–P

ANTITRUST MODERNIZATION COMMISSION

Public Meeting

AGENCY: Antitrust Modernization Commission.

ACTIONS: Notice of public meeting.

SUMMARY: The Antitrust Modernization Commission will hold a public meeting on March 14, 2007. The purpose of the meeting is for the Antitrust Modernization Commission to deliberate on possible recommendations regarding the antitrust laws to Congress and the President.

DATES: March 14, 2007, 9:30 a.m. to approximately 5 p.m. Advanced registration is required.

ADDRESSES: Morgan Lewis, Main Conference Room, 1111 Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Andrew J. Heimert, Executive Director & General Counsel, Antitrust Modernization Commission: telephone: (202) 233–0701; e-mail: *info@amc.gov*. Mr. Heimert is also the Designated Federal Officer (DFO) for the Antitrust Modernization Commission.

For Registration: For building security purposes, advanced registration is

required. If you wish to attend the Commission meeting, please provide your name by e-mail to *meetings@amc.gov* or by calling the Commission offices at (202) 233–0701. Please register by 12 noon on March 13, 2007.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is for the Antitrust Modernization Commission to deliberate on its report and/or recommendations to Congress and the President regarding the antitrust laws. The Commission may conduct additional business as necessary. Materials relating to the meeting will be made available on the Commission's Web site (*http://www.amc.gov*) in advance of the meeting.

The AMC has called this meeting pursuant to its authorizing statute and the Federal Advisory Committee Act. Antitrust Modernization Commission Act of 2002, Pub. L. No. 107–273, § 11054(f), 116 Stat. 1758, 1857; Federal Advisory Committee Act, 5 U.S.C. App., § 10(a)(2); 41 CFR 102–3.150 (2005).

Dated: February 22, 2007.

By direction of Deborah A. Garza, Chair of the Antitrust Modernization Commission.

Approved by Designated Federal Officer:

Andrew J. Heimert,

Executive Director & General Counsel, Antitrust Modernization Commission.

[FR Doc. E7–3403 Filed 2–26–07; 8:45 am]

BILLING CODE 6820–YH–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of Issuance of an Amended Export Trade Certificate of Review, Application No. 05–2A001.

SUMMARY: On February 21, 2007, The U.S. Department of Commerce issued an amended Export Trade Certificate of Review to Central America Poultry Export Quota, Inc. (''CA–PEQ'').

FOR FURTHER INFORMATION CONTACT: Jeffrey C. Anspacher, Director, Export Trading Company Affairs, International Trade Administration, (202) 482–5131 (this is not a toll-free number) or E-mail at *oetca@ita.doc.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (2005).

Export Trading Company Affairs (''ETCA'') is issuing this notice pursuant to 15 CFR 325.6(b), which requires the U.S. Department of Commerce to publish a summary of the certification in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

The original CA–PEQ Certificate (No. 05–00001) was issued on January 30, 2006 (71 FR 6753, February 9, 2006) and last amended on July 11, 2006 (71 FR 40076, July 14, 2006).

CA–PEQ's Export Trade Certificate of Review has been amended to—

1. Change the Export Trade Activities and Methods of Operation section of its certificate at part 2 (Implementation), F (Contents of Bid), first sentence, (ii) *from:* the quantity of poultry bid, in an amount that is a multiple of 25 metric tons *to:* the quantity of poultry bid, with a minimum bid of one metric ton.

2. Allow for the public disclosure of the following two additional pieces of information regarding the result of its public tender process: (a) The average bid price for all successful bids; and (b) the names of the successful bidders. This change would be reflected by amending the Export Trade Activities and Methods of Operation section of its certificate at part 2 (Implementation), H (Confidentiality of Information) *from:* The Administrator shall treat all bids and their contents as confidential. The Administrator shall disclose any such information only to another neutral third party or authorized government official of the United States, El Salvador, Guatemala, Honduras or Nicaragua, signatories to the DR–CAFTA, and only where necessary to ensure the effective operation of the TRQ System or where required by law (including appropriate disclosure in connection with the arbitration of a dispute). However, after the issuance of all TRQ Certificates from an open-tender process, the Administrator shall notify all bidders and shall disclose publicly (i) the total tonnage for which TRQ Certificates were awarded, and (ii) the lowest price per metric ton of all successful bids *to:* The Administrator shall treat all bids and their contents as confidential. The Administrator shall disclose any such information only to another neutral third party or authorized government official of the United States, El Salvador, Guatemala, Honduras or Nicaragua, signatories to the DR–CAFTA, and only where necessary to ensure the effective operation of the TRQ System or where required by law (including appropriate disclosure in connection with the arbitration of a dispute). However, after close of each open-tender process the Administrator shall notify all bidders and shall disclose publicly (i) the total tonnage for which TRQ certificates were awarded, (ii) the lowest price per metric ton of all successful bids, (iii) the average price per metric ton for all successful bids, and (iv) the names of the winning bidders.

The effective date of the amended certificate is November 28, 2006. A copy of the amended certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4100, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: February 21, 2007.

Jeffrey C. Anspacher,

Director, Export Trading Company Affairs.

[FR Doc. E7–3409 Filed 2–26–07; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews: Notice of Termination of Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of Consent Motion to Terminate the Panel Review of the Final Results and Partial Rescission of Antidumping Duty Administrative Review made by the International Trade Administration, respecting Certain Oil Country Tubular Goods from Mexico, Secretariat File No. USA–MEX–2006–1904–06.

SUMMARY: Pursuant to the Notice of Consent Motion to Terminate the Panel Review by the complainants, the panel review is terminated as of February 21, 2007. A panel has not been appointed to this panel review. Pursuant to Rule 71(2) of the *Rules of Procedure for Article 1904 Binational Panel Review,* this panel review is terminated.

FOR FURTHER INFORMATION CONTACT: Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a

mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686). The panel review in this matter was requested and terminated pursuant to these Rules.

Dated: February 21, 2007.

Caratina L. Alston,

United States Secretary, NAFTA Secretariat.

[FR Doc. E7–3396 Filed 2–26–07; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Announcing a Meeting of the Information Security and Privacy Advisory Board

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that the Information Security and Privacy Advisory Board (ISPAB) will meet Thursday, March 22, 2007, from 8:30 a.m. until 5 p.m., and Friday, March 23, 2007, from 8:30 a.m. until 5 p.m. All sessions will be open to the public. The Advisory Board was established by the Computer Security Act of 1987 (Pub. L. 100–235) and amended by the Federal Information Security Management Act of 2002 (Pub. L. 107–347) to advise the Secretary of Commerce and the Director of NIST on security and privacy issues pertaining to federal computer systems. Details regarding the Board's activities are available at *http://csrc.nist.gov/ispab/.*

DATES: The meeting will be held on March 22, 2007 from 8:30 a.m. until 5 p.m. and March 23, 2007, from 8:30 a.m. until 5 p.m.

ADDRESSES: The meeting will take place at the George Washington University Cafritz Conference Center, 800 21st Street, NW, Room 413 & 414, Washington, DC.

Agenda

—Welcome and Overview

—NIST Briefing

—IPV6 Briefing

—Security Line of Business

—Security COOP Panel

—Privacy Technology Project

—NIST Metrics Projects

—DHS Software Assurance

—FISMA Panel Discussion

—Network effects of identity and other distributed systems

—ISPAB Work Plan Status Review

—Wrap-Up

Note that agenda items may change without notice because of possible unexpected schedule conflicts of presenters.

Public Participation: The Board agenda will include a period of time, not to exceed thirty minutes, for oral comments and questions from the public. Each speaker will be limited to five minutes. Members of the public who are interested in speaking are asked to contact the Board Secretariat at the telephone number indicated below. In addition, written statements are invited and may be submitted to the Board at any time. Written statements should be directed to the ISPAB Secretariat, Information Technology Laboratory, 100 Bureau Drive, Stop 8930, National Institute of Standards and Technology, Gaithersburg, MD 20899–8930. It would be appreciated if 25 copies of written material were submitted for distribution to the Board and attendees no later than March 16, 2007. Approximately 15 seats will be available for the public and media.

FOR FURTHER INFORMATION CONTACT: Ms. Pauline Bowen, Board Secretariat, Information Technology Laboratory, National Institute of Standards and Technology, 100 Bureau Drive, Stop 8930, Gaithersburg, MD 20899–8930, Telephone: (301) 975–2938.

Dated: February 16, 2007.

James Hill,

Acting Deputy Director.

[FR Doc. E7–3361 Filed 2–26–07; 8:45 am]

BILLING CODE 3510–CN–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of State Coastal Management Programs and National Estuarine Research Reserves

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Office of Ocean and Coastal Resource Management, National Ocean Service, Commerce.

ACTION: Notice of Intent to Evaluate and Notice of Availability of Final Findings.

SUMMARY: The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performance of the New York Coastal Management Program, the Waquoit Bay (Massachusetts) National Estuarine Research Reserve, the Ohio Coastal Management Program, the New Jersey Coastal Management Program, the South Slough (Oregon) National Estuarine Research Reserve, and the Virgin Islands Coastal Management Program.

The Coastal Zone Management Programs evaluation will be conducted pursuant to section 312 of the Coastal Zone Management Act of 1972, as amended (CZMA) and regulations at 15 CFR Part 923, Subpart L. The National Estuarine Research Reserve evaluations will be conducted pursuant to sections 312 and 315 of the CZMA and regulations at 15 CFR Part 921, Subpart E and Part 923, Subpart L. The CZMA requires continuing review of the performance of states with respect to coastal program implementation. Evaluation of Coastal Management Programs and National Estuarine Research Reserves requires findings concerning the extent to which a State has met the national objectives, adhered to its Coastal Management Program document or Reserve final management plan approved by the Secretary of Commerce, and adhered to the terms of financial assistance awards funded under the CZMA.

Each evaluation will include a site visit, consideration of public comments, and consultations with interested Federal, State, and local agencies and members of the public. A public meeting will be held as part of each site visit. Notice is hereby given of the dates of the site visits for the listed evaluations, and the dates, local times, and locations of the public meetings during the site visits.

DATES AND TIMES: The New York Coastal Management Program evaluation site visit will be held April 9–13, 2007. One

public meeting will be held during the week. The public meeting will be held on Tuesday, April 10, 2007, at 9 a.m. at the Rochester City Hall, 30 Church Street, Commissioner of Environmental Services Offices, Room 321B, 3rd Floor, Rochester, New York.

The Waquoit Bay (Massachusetts) National Estuarine Research Reserve evaluation site visit will be held May 8–10, 2007. One public meeting will be held during the week. The public meeting will be held on Tuesday, May 8, 2007, at 6 p.m. at the Waquoit Bay National Estuarine Research Reserve Visitors Center, 149 Waquoit Highway, East Falmouth, Massachusetts.

The Ohio Coastal Management Program evaluation site visit will be held May 14–18, 2007. One public meeting will be held during the week. The public meeting will be held on Wednesday, May 16, 2007, at 7 p.m. at the Erie County Commissioners Office, 247 Columbus Avenue, 3rd Floor Chambers, Room 301, Sandusky, Ohio.

The New Jersey Coastal Management Program evaluation site visit will be held June 4–8, 2007. One public meeting will be held during the week. The public meeting will be held on Wednesday, June 6, 2007, at 5:30 p.m. at Ocean County College, Technology Center, 1st Floor Lecture Hall, College Drive, Toms River, New Jersey.

The South Slough (Oregon) National Estuarine Research Reserve evaluation site visit will be held June 19–22, 2007. One public meeting will be held during the week. The public meeting will be held on Tuesday, June 19, 2007, at 5:30 p.m. at the North Bend Public Library, 1800 Sherman Avenue, North Bend, Oregon.

The Virgin Islands Coastal Management Program evaluation site visit will be held June 25–29, 2007. Three public meetings will be held during the week. The first public meeting will be held on Tuesday, June 26, 2007, at 6 p.m. at the Department of Education Curriculum Center, Kingshill, St. Croix, U.S. Virgin Islands. The second public meeting will be held on Wednesday, June 27, 2007, at 6 p.m. at the Main Conference Room, Department of Planning and Natural Resources, Cyril E. King Airport, Terminal Building—Second Floor, No. 70 Lindberg Bay, St. Thomas, U.S. Virgin Islands. The third public meeting will be held on Thursday, June 28, 2007, at 6 p.m. at the Conference Room, Legislature Building, No. 109 Enighed Contant, St. John, U.S. Virgin Islands.

ADDRESSES: Copies of states' most recent performance reports, as well as OCRM's evaluation notification and supplemental information request letters to the states, are available upon request from OCRM. Written comments from interested parties regarding these Programs are encouraged and will be accepted until 15 days after the public meeting held for a Program. Please direct written comments to Ralph Cantral, Chief, National Policy and Evaluation Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th Floor, N/ORM7, Silver Spring, Maryland 20910. When the evaluation is completed, OCRM will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the availability of the final evaluation findings for the Old Woman Creek (Ohio) and Apalachicola (Florida) National Estuarine Research Reserves (NERRs) and the Commonwealth of the Northern Mariana Islands Coastal Management Program. Sections 312 and 315 of the Coastal Zone Management Act of 1972 (CZMA), as amended, require a continuing review of the performance of coastal states with respect to approval of CMPs and the operation and management of NERRs. The Old Woman Creek (Ohio) and Apalachicola (Florida) NERRs were found to be adhering to programmatic requirements of the NERR System. The Commonwealth of the Northern Mariana Islands was found to be implementing and enforcing its federally approved coastal management program, addressing the national coastal management objectives identified in CZMA Section 303(2)(A)–(K), and adhering to the programmatic terms of its financial assistance awards.

Copies of these final evaluation findings may be obtained upon written request from: Ralph Cantral, Chief, National Policy and Evaluation Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th Floor, N/ORM7, Silver Spring, Maryland 20910, or *Ralph.Cantral@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Ralph Cantral, Chief, National Policy and Evaluation Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th Floor, N/ORM7, Silver Spring, Maryland 20910, (301)563–7118.

Federal Domestic Assistance Catalog No. 11.419; Coastal Zone Management Program Administration.

Dated: February 20, 2007.

David M. Kennedy,

Director, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. E7–3272 Filed 2–26–07; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Availability of Commercial Fishing Seat for the Flower Garden Banks National Marine Sanctuary Advisory Council

AGENCY: National Marine Sanctuary Program (NMSP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration, Department of Commerce (DOC).

ACTION: Notice and request for applications.

SUMMARY: The Flower Garden Banks National Marine Sanctuary (FGBNMS or Sanctuary) is seeking applicants for the Commercial Fishing seat on its Sanctuary Advisory Council (Council). Applicants are chosen based upon their particular expertise and experience in relation to the seat for which they are applying; community and professional affiliations; philosophy regarding the protection and management of marine resources; and possibly the length of residence in the area affected by the Sanctuary. The Applicant chosen as a member should expect to serve a 2-year term, pursuant to the Council's Charter.

DATES: Applications are due by March 15, 2007.

ADDRESSES: Application kits may be obtained from Jennifer Morgan at NOAA–Flower Garden Banks National Marine Sanctuary, 4700 Avenue U, Bldg. 216, Galveston, TX 77551. Completed applications should be sent to the same address.

FOR FURTHER INFORMATION CONTACT: Jennifer Morgan, NOAA–Flower Garden Banks National Marine Sanctuary, 4700 Avenue U, Bldg. 216, Galveston, TX 77551, 409–621–5151 ext. 103, *Jennifer.Morgan@noaa.gov.*

SUPPLEMENTARY INFORMATION: Located in the northwestern Gulf of Mexico, the Flower Garden Banks National Marine Sanctuary includes three separate areas, known as East Flower Garden, West Flower Garden, and Stetson Banks. The Sanctuary was designated on January 17, 1992. Stetson Bank was added to the Sanctuary in 1996. The Sanctuary Advisory Council will consist of no

more than 11 members; 8 non-governmental voting members and 3 governmental non-voting members. The Council may serve as a forum for consultation and deliberation among its members and as a source of advice to the Sanctuary manager regarding the management of the Flower Garden Banks National Marine Sanctuary.

Authority: 16 U.S.C. Sections 1431, *et seq.* (Federal Domestic Assistance Catalog Number 11.429, Marine Sanctuary Program)

Dated: February 12, 2007.

Daniel J. Basta,

Director, National Marine Sanctuary Program, National Ocean Services, National Oceanic and Atmospheric Administration.

[FR Doc. 07–869 Filed 2–26–07; 8:45 am]

BILLING CODE 3510–NK–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021407A]

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Amendment 10 Butterfish Stock Rebuilding and Amendment 11 Atlantic Mackerel Limited Access Program

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

ACTION: Supplemental Notice Of Intent (NOI) to prepare an environmental impact statement; request for comments.

SUMMARY: On December 19, 2005, the Mid-Atlantic Fishery Management Council (Council), in cooperation with NMFS, announced its intent to prepare an environmental assessment (EA) for Amendment 10 (butterfish stock rebuilding program) and a supplemental environmental impact statement (SEIS) for Amendment 11 (Atlantic mackerel limited access program) to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan (FMP). Since then, the Council and NMFS have concluded that a SEIS must be prepared for Amendment 10; therefore, this supplemental NOI seeks comments on Amendment 10. In addition, the Council hereby notifies the public that SEIS documents for Amendment 10 and Amendment 11 will be developed simultaneously, but each amendment will remain separate fishery management actions.

DATES: Public comments on the supplementary NOI for Amendment 10 must be received no later than 5 p.m., eastern standard time, on March 29, 2007.

ADDRESSES: Copies of supporting documents used by the Council are available from: Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904–6790.

Written comments on the supplementary notice of intent for Amendment 10 may be sent by any of the following methods:

- E-mail to the following address: *MSBAmendment10@noaa.gov.* Include in the subject line of the e-mail comment the following document identifier: ''Comments on MSB Amendment 10'';
- Mail to Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904–6790. Mark the outside of the envelope ''Comments on MSB Amendment 10''; or
- Fax to Daniel Furlong, 302–674–5399.

FOR FURTHER INFORMATION CONTACT: Carrie Nordeen, Fishery Policy Analyst, phone 978–281–9272, fax 978–281–9135.

SUPPLEMENTARY INFORMATION:

Amendment 10 Butterfish Stock Rebuilding

The most recent stock assessment for Atlantic butterfish indicated that while overfishing of the stock is not occurring, the stock is overfished because the most recent estimates of stock biomass are slightly below the minimum biomass threshold supporting maximum sustainable yield (50 percent of B_{MSY}). Based on this information, NMFS notified the Council that the butterfish stock is designated as being overfished as defined under the Magnuson-Stevens Fisheries Conservation and Management Act (Magnuson-Stevens Act). The purpose of Amendment 10 to the FMP is to develop a management program consistent with the Magnuson-Stevens Act which would rebuild the butterfish stock to the level associated with B_{MSY}. After a preliminary analysis of the action, the Council believed that an EA would fulfill the requirements of the National Environmental Policy Act (NEPA). However, during the development and preliminary analyses of alternatives for rebuilding strategies and possible management measures, it became apparent that some of the measures being considered could potentially have significant effects on the human environment, particularly the *Loligo* squid fishery. Potential measures being considered are no action, gear modifications, area management, and bycatch/retention requirements. In order to consider the full range of alternatives potentially necessary to rebuild the overfished butterfish stock, the Council has determined that the development of a SEIS will be necessary to fulfill the requirements of NEPA and this supplemental notice of intent requests comments on this action.

Amendment 11 Atlantic Mackerel Limited Access Program

On March 4, 2005 (70 FR 10605), the Council published an NOI to prepare a SEIS to consider the impacts of alternatives for limiting access to the Atlantic mackerel fishery. The Council subsequently conducted scoping meetings on the development of a limited access program, which the Council originally planned to include in Amendment 9 to the FMP. However, due to unforeseen delays in the development of Amendment 9, the Council subsequently notified the public on December 19, 2005 (70 FR 75114), that the mackerel limited access program would be considered in Amendment 11 to the FMP. The Council hereby notifies the public that it will begin development of Amendment 11 and the associated SEIS while Amendment 10 is being developed, although the two amendments will remain separate fishery management actions. Comments received during the previous scoping period for Amendment 11 will be considered and no additional comments are being sought at this time. This notification also reminds the public that interested participants should locate and preserve records that substantiate and verify their participation in the Atlantic mackerel fishery in Federal waters.

Request for Comments

The public will have the opportunity to comment on the measures and alternatives being considered by the Council for both amendments through public meetings and public comment periods required by NEPA, the Magnuson-Stevens Act, and the Administrative Procedure Act. NMFS anticipates completing these SEISs and all related documents by early 2009.

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

Dated: February 21, 2007.

James P. Burgess,

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

[FR Doc. E7–3336 Filed 2–26–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Public Meeting

SUMMARY: The Advisory Committee on Commercial Remote Sensing (ACCRES) will meet March 15, 2007.

DATES AND TIMES: The meeting is scheduled as follows: March 15, 2007, 9 a.m.–3:45 p.m. The first part of this meeting will be closed to the public. The public portion of the meeting will begin at 2 p.m.

ADDRESSES: The meeting will be held in the Auditorium of the National Association of Home Builders Building Washington, DC. The National Association of Home Builders Building is located at 1201 15th Street, NW., Washington, DC 20005. While open to the public, seating capacity may be limited.

SUPPLEMENTARY INFORMATION: As required by section 10(a) (2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1982), notice is hereby given of the meeting of ACCRES. ACCRES was established by the Secretary of Commerce (Secretary) on May 21, 2002, to advise the Secretary through the Under Secretary of Commerce for Oceans and Atmosphere on long- and short-range strategies for the licensing of commercial remote sensing satellite systems.

Matters To Be Considered

The first part of the meeting will be closed to the public pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, as amended by section 5(c) of the Government in Sunshine Act, Public Law 94–409 and in accordance with section 552b(c)(1) of Title 5, United States Code. Accordingly, portions of this meeting which involve the ongoing review and implementation of the April 2003 U.S. Commercial Remote Sensing Space Policy and related national security and foreign policy considerations for NOAA's licensing decisions are closed to the public. These briefings are likely to disclose matters that are specifically authorized under criteria established by Executive Order 12958 to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order.

All other portions of the meeting will be open to the public. During the open portion of the meeting, the Committee will receive a presentation on updates of NOAA's licensing activities. The committee will also receive public comments on its activities.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for special accommodations may be directed to ACCRES, NOAA/NESDIS International and Interagency Affairs Office, 1335 East-West Highway, Room 7311, Silver Spring, Maryland 20910.

Additional Information and Public Comments

Any member of the public wishing further information concerning the meeting or who wishes to submit oral or written comments should contact Kay Weston, Designated Federal Officer for ACCRES, NOAA/NESDIS International and Interagency Affairs Office, 1335 East-West Highway, Room 7311, Silver Spring, Maryland 20910. Copies of the draft meeting agenda can be obtained from David Hasenauer at (301) 713–2024 ext. 207, fax (301) 713–2032, or e-mail *David.Hasenauer@noaa.gov.*

The ACCRES expects that public statements presented at its meetings will not be repetitive of previously-submitted oral or written statements. In general, each individual or group making an oral presentation may be limited to a total time of five minutes. Written comments (please provide at least 13 copies) received in the NOAA/NESDIS International and Interagency Affairs Office on or before March 7, 2007, will be provided to Committee members in advance of the meeting. Comments received too close to the meeting date will normally be provided to Committee members at the meeting.

FOR FURTHER INFORMATION CONTACT: Kay Weston, NOAA/NESDIS International and Interagency Affairs, 1335 East-West Highway, Room 7313, Silver Spring, Maryland 20910; telephone (301) 713–2024 x205, fax (301) 713–2032, e-mail *Kay.Weston@noaa.gov,* or David Hasenauer at telephone (301) 713–2024 x207, e-mail *David.Hasenauer@noaa.gov.*

Mary E. Kicza,

Assistant Administrator for Satellite and Information Services.

[FR Doc. E7–3356 Filed 2–26–07; 8:45 am]

BILLING CODE 3510–HR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Hydrographic Services Review Panel Meeting

AGENCY: National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The Hydrographic Services Review Panel (HSRP) was established by the Secretary of Commerce to advise the Under Secretary of Commerce for Oceans and Atmosphere on matters related to the responsibilities and authorities set forth in section 303 of the Hydrographic Services Improvement Act of 1998, its amendments, and such other appropriate matters that the Under Secretary refers to the Panel for review and advice.

DATE AND TIME: The meeting will be held Wednesday, March 21, 2007, from 8 a.m. to 2:30 p.m., and Thursday, March 22, 2007, from 8 a.m. to 3:30 p.m.

Location: The JW Marriott Hotel, Pennsylvania Avenue; 1331 Pennsylvania Avenue, Washington, DC 20004, Telephone: 202–393–2000. The times and agenda topics are subject to change. Refer to the HSRP Web site listed below for the most current meeting agenda.

FOR FURTHER INFORMATION CONTACT: Captain Steven Barnum, NOAA, Designated Federal Official (DFO), Office of Coast Survey, National Ocean Service (NOS), NOAA (N/CS), 1315 East West Highway, Silver Spring, Maryland 20910; Telephone: 301–713–2770, Fax: 301–713–4019; e-mail: *Hydroservices.panel@noaa.gov* or visit the NOAA HSRP Web site at *http://nauticalcharts.noaa.gov/ocs/hsrp/hsrp.htm.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public and public comment periods will be scheduled at various times throughout the meeting. These comment periods will be part of the final agenda that will be published before the meeting date on the HSRP Web site listed above. Each individual or group making a verbal presentation will be limited to a total time of five (5) minutes. Written comments (at least 30 copies) should be submitted to the DFO by March 13, 2007. Written comments received by the DFO after March 13, 2007, will be distributed to the HSRP, but may not be reviewed before the meeting date. Approximately 25 seats will be available

for the public, on a first-come, first-served basis.

Matters To Be Considered: (1) Delivery of the HSRP special report on its most wanted hydrographic services improvements; (2) future trends and challenges for the United States' Marine Transportation System; (3) economic benefits of NOAA's navigation services; (4) re-authorization of the Hydrographic Services Improvement Act; (5) briefings on major NOAA initiatives; and (6) public statements.

Dated: February 21, 2007.

Captain Steven Barnum,

Director, Office of Coast Survey, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. E7–3271 Filed 2–26–07; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021207E]

South Atlantic Fishery Management Council; Public Meetings; Correction

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

ACTION: Notice of public meetings; correction.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of its Snapper Grouper Committee, Southeast Data, Assessment, and Review (SEDAR) Committee, Controlled Access Committee, Mackerel Committee, Scientific and Statistical Committee (SSC) Selection Committee, a joint meeting of its Habitat Committee and Ecosystem-Based Management Committee, Economics Committee, Shrimp Committee, Information and Education Committee, a joint meeting of its Executive Committee and Finance Committee, and a meeting of the full Council. In addition, the Council will also hold a public hearing regarding Amendment 18 to the Fishery Management Plan for Coastal Migratory Pelagics in the South Atlantic and Gulf of Mexico, and a general public input session. This document corrects an omitted agenda item for the March 6, 2007 meeting and adds a few words that were omitted from the March 8, 2007 meeting.

DATES: The meetings will be held in March 2007.

ADDRESSES: The meeting will be held at the Jekyll Island Club Hotel, 371 Riverview Drive, Jekyll Island, GA, 31527; Telephone: (1–800) 535–9547 or 912/635–2600, FAX 912/635–2818. Copies of documents are available from Kim Iverson, Public Information Officer, 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 at 866/SAFMC–10; fax: 843/769–4520; email: *kim.iverson@safmc.net*.

SUPPLEMENTARY INFORMATION: This document corrects a notice that published at 72 FR 7608, February 16, 2007, by correctly adding an omitted agenda item for the March 6, 2007 meeting and by correctly adding a few words that were omitted from the March 8, 2007 meeting. All other text has been unchanged and will not be repeated here. The two corrections are set out as follows:

Correction

1. On page 7609, in column 2, an agenda item is correctly added to the March 6, 2007 meeting to read as follows:

March 6, 2007, 6:30 p.m.–(or immediately following the Mackerel Public Hearing), a scoping session on annual catch limits and accountability measures (addressing recent amendments to the Magnuson-Stevens Fishery Conservation and Management Act) will be conducted by the National Marine Fisheries Service. Following the scoping session, the Council will conduct a listening session to receive public input on revising NOAA procedures to integrate the National Environmental Policy Act into the Magnuson-Stevens Fishery Conservation and Management Act as specified in the recent amendments to the Act.

2. On page 7609, in column 2, the Shrimp Committee Meeting is corrected to read as follows:

8. Shrimp Committee Meeting, March 8, 2007, 8 a.m. until 10 a.m.

The Shrimp Committee will review a report of the Shrimp Review Panel and provide recommendations, receive an overview of the ''use it or lose it'' provision for the rock shrimp fishery and develop recommendations, discuss additional items to include in Amendment 6 to the Shrimp FMP and make recommendations, and address framework action to revise the list of allowable bycatch reduction devices for the southeastern shrimp fishery.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305 (c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Except for advertised (scheduled) public hearings and public comment, the times and sequence specified on this agenda is subject to change.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by March 1, 2007.

Dated: February 22, 2007.

Tracey L. Thompson,

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

[FR Doc. E7–3279 Filed 2–26–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021307C]

Vessel Monitoring Systems; Approval of Mobile Transceiver Unit

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

ACTION: Notice.

SUMMARY: This document provides notice of the type-approval of the Faria WatchDog 750VMS in the following fisheries: The Fisheries of the Northwestern Pacific Ocean, the Fisheries of Alaska, the Fisheries of the Pacific Islands, the South Atlantic Rock Shrimp Fishery, and the Atlantic Highly Migratory Species Fishery, the Gulf of Mexico Reef Fishery, and the Northwestern Hawaiian Islands Marine National Monument.

ADDRESSES: To obtain copies of the list of NOAA-approved Vessel Monitoring Systems (VMS) Mobile Transceiver Unit and VMS Mobile Communications Service Providers, or to obtain information regarding the status of VMS systems being evaluated by NOAA, write to the VMS Support Center, NOAA Fisheries Service, Office for Law Enforcement (OLE), 8484 Georgia

Avenue, Suite 415, Silver Spring, MD 20910; or call toll free 888–219–9228.

FOR FURTHER INFORMATION CONTACT: For questions regarding the status of VMS evaluations contact Jonathan Pinkerton, National VMS Program Manager by phone: 301–427–2300 or by fax: 301–427–2055.

SUPPLEMENTARY INFORMATION: The WatchDog 750VMS manufactured and sold by Faria WatchDog, Inc. has satisfied the requirements for type-approval for use in the following United States fisheries:

The Fisheries of the Northwestern Pacific Ocean, the Fisheries of Alaska, the Fisheries of the Pacific Islands, the South Atlantic Rock Shrimp Fishery, the Atlantic Highly Migratory Species Fishery, the Gulf of Mexico Reef Fish Fishery, and the Northwestern Hawaiian Islands Marine National Monument.

Faria WatchDog 750VMS

The transceiver consists of an integrated dual mode GPS/GSM/GPRS/Iridium Satellite Communicator mounted in the wheelhouse or on a console and antennas mounted atop the vessel. The unit is pre-configured and tested for NOAA Fisheries Service VMS operations. Authorized dealers who are listed at *http://www.vmstracking.com* provide satellite commissioning services.

Automatic GPS position reporting starts after transceiver installation and power activation onboard the vessel. The unit is a car radio sized transceiver powered by any 9 to 16 VDC power supply. The unit can be factory configured for automatic reduced position transmissions when the vessel is stationary (i.e., in port) which allows for port stays in a reduced power state and without the need for unit shut down. The unit restarts normal position transmission automatically when the vessel goes to sea.

The unit has an omni-directional Iridium, GPS, and GSM/GPRS antennas, providing operation from 5 degrees above or below the horizon anywhere on earth. The GSM/GPRS capability gives the system the additional ability to communicate through the Cingular wireless network where available.

A configuration option is available to automatically send daily status reports to a private e-mail address. A 2 inch user interface is included with this system that displays if the MTU is operating properly and can send emergency notification messages to up to four e-mail addresses and/or telephone numbers. An available option allows fishers the ability to send and receive private e-mail utilizing an optional touch screen display. A complete list of options is available from the VMS provider.

A vessel owner may purchase the Faria Watchdog 750VMS and the GSM/Iridium communications service by contacting a Faria Watchdog Inc., authorized reseller. Reseller information can be found on the internet website at *www.vmstracking.com*. Alternatively vessel owners may contact Mark O'Brien, VP Sales, Faria WatchDog Inc., 385 Norwich-New London Turnpike, Uncasville, CT 06382, 860–848–9271, ext. 1218 office, 860–608–5875 cell, 860–848–2704 fax, *mark@faria-instruments.com* e-mail. The owner should identify himself or herself as a vessel owner and identify which VMS required fishery they wish to participate in.

Dated: February 21, 2007.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. E7–3335 Filed 2–26–07; 8:45 am]

BILLING CODE 3510–22–S

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice; Information Collection 3038–0019, Stocks of Grain in Licensed Warehouses.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected costs and burden; it includes the actual data collection instruments [if any].

DATES: Comments must be submitted on or before March 29, 2007.

FOR FURTHER INFORMATION CONTACT: *For Further Information or a Copy Contact:* Gary Martinaitis at CFTC, (202) 418–5209; FAX: (202) 418–5527; e-mail: *gmartinaitis@cftc.gov* and refer to OMB Control No. 3038–0019.

SUPPLEMENTARY INFORMATION:

Title: Stocks of Grain in Licensed Warehouses, OMB Control No. 3038–0019. This is a request for extension of a currently approved information collection.

Abstract: Under Commission Regulation 1.44, 17 CFR 1.44, contract markets must require operators of warehouses regular for delivery to keep records on stocks of commodities and make reports on call by the Commission. The regulation is designed to assist the Commission in prevention of market manipulation and is promulgated pursuant to the Commission's rulemaking authority contained in section 5a of the Commodity Exchange Act, 7 U.S.C. 7a.

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 the CFTC's regulations were published on December 30, 1981. See 46 FR 63035 (Dec. 30, 1981). The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on December 27, 2006 (71 FR 248).

Burden statement: The respondent burden for this collection is estimated to average 1 hour per response. This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: 3.

Estimated number of responses: 156.

Estimated total annual burden on respondents: 156 hours.

Frequency of collection: Weekly.

Send comments regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden, to the addresses listed below. Please refer to OMB Control No. 3038–0019 in any correspondence.

Gary Martinaitis, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581 and Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Office for CFTC, 725 17th Street, Washington, DC 20503.

Issued in Washington, DC, on February 22, 2007.

Eileen A. Donovan,

Acting Secretary of the Commission.

[FR Doc. 07–879 Filed 2–26–07; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[DoD–2006–OS–0214]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by March 29, 2007.

Title, Form, and OMB Number: Personal Check Cashing Agreement; DD Form 2761; OMB Control Number 0730–0005.

Type of Request: Extension.

Number of Respondents: 46,153.

Responses per Respondent: 1.

Annual Responses: 46,153.

Average Burden Per Response: 15 minutes.

Annual Burden Hours: 11,538.

Needs and Uses: This collection of information is necessary to meet the Department of Defense's (DoD) requirement for cashing personal checks overseas and afloat by DoD disbursing activities, as provided in 31 U.S.C. 3342. The DoD Financial Management Regulation, Volume 5, provides guidance to DoD Disbursing Officers in the performance of this information collection. This provides the DoD disbursing officer or authorized agent the authority to offset the pay without prior notification in cases where this form has been signed subject to conditions specified within the approved procedures.

Affected Public: Individuals or Households.

Frequency: On Occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Ms. Hillary Jaffe.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jaffe at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: February 20, 2007.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 07–873 Filed 2–26–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[DOD–2007–DARS–0014]

Submission for OMB review; comment request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by March 29, 2007.

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Subparts 227.71, Rights in Technical Data and 227.72, Rights in Computer Software and Computer Software Documentation and related clauses at 252.227; OMB Control Number 0704–0369.

Type of Request: Extension.

Number of Respondents: 54,925.

Responses per Respondent: 9.6 approximately.

Annual Responses: 526,797.

Average Burden per Response: 2.9 hours (average).

Annual Burden Hours: 1,633,269 (1,535,894 annual response burden hours and 97,375 annual recordkeeping burden hours).

Needs and Uses: DFARS Subparts 227.71 and 227.72 prescribe the use of solicitation provisions and contract clauses containing information collection requirements that are associated with rights in technical data and computer software. DoD needs this information to implement 10 U.S.C. 2320, Rights in technical data, and 10 U.S.C. 2321, Validation of proprietary data restrictions. DoD uses the information to recognize and protect contractor rights in technical data and computer software that are associated with privately funded developments; and to ensure that technical data delivered under a contract is complete and accurate and satisfies contract requirements.

Affected Public: Business or other for-profit; not-for-profit institutions.

Frequency: On Occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Hillary Jaffe.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jaffe at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Patricia Toppings. Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: February 20, 2007.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 07–874 Filed 2–26–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[DOD–2007–OS–0011]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to Add a System of Records.

SUMMARY: The Office of the Secretary of Defense proposes to add a system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The changes will be effective on March 29, 2007 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to OSD Privacy Act Coordinator, Records Management Section, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: Ms. Juanita Irvin at (703) 696–4940.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, were submitted on February 16, 2007, to the House Committee on Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: February 20, 2007.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DUSDA 13

SYSTEM NAME:

War Souvenir Registration/ Authorization.

SYSTEM LOCATION:

United States Transportation Command (USTRANSCOM), ATTN: TCJ5/4–PT, 508 Scott Drive, Scott AFB, IL 62225–5357.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military and DoD civilian personal serving in overseas theaters.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number (SSN), Rank or Grade, Unit/Organization, home address, and war souvenir description, and overseas theater.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Part IV, Chapter 153, Sec 2579; DoDD 5030.40, DoD Customs and Border Clearance Program; DoD 4500.9R Defense Transportation Regulation, Part V DoD Customs and Border Clearance Policies and Procedures; and E.O. 9397 (SSN).

PURPOSE(S):

To register and authorize an individual to retain a war souvenir and to return the item to the United States.

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

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 552a(b)(3) as follows:

The DoD ''Blanket Routine Uses'' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.

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

STORAGE:

Paper in file folders.

RETRIEVABILITY:

Name and Social Security Number (SSN).

SAFEGUARDS:

Access to the records is limited to those who require the records in the performance of their official duties. Physical entry is restricted by the use of locks, guards, and administrative procedures.

RETENTION AND DISPOSAL:

Disposition pending approval of records disposition schedule by the National Records and Administration Agency.

SYSTEM MANAGER(S) AND ADDRESS:

United States Transportation Command (USTRANSCOM), ATTN: TCJ5/4–PT—Transportation Specialist, 508 Scott Drive, Scott AFB, IL 62225–5357.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the United States Transportation Command (USTRANSCOM), ATTN: TCJ5/4–PT–Transportation Specialist, 508 Scott Drive, Scott AFB, IL 62225–5357.

Requests should contain individual's name, address, Social Security Number (SSN), unit, Company Commander/ Contracting Officer's Representative, and date requested war souvenir registration.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the United States Transportation Command (USTRANSCOM), ATTN: TCJ5/4–PT–Transportation Specialist, 508 Scott Drive, Scott AFB, IL 62225–5357.

Requests should contain individual's name, address, Social Security Number (SSN), unit, Company Commander/ Contracting Officer's Representative, and date requested war souvenir registration.

RECORD SOURCE CATEGORIES:

From the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E7–3300 Filed 2–26–07; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of Secretary of Defense

[DOD–2007-OS–0012]

Privacy Act of 1974; Systems of Records

AGENCY: Defense Finance and Accounting Service.

ACTION: Notice To Add a New System of Records.

SUMMARY: The Defense Finance and Accounting Service (DFAS) is proposing to add a system of records notice to its inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This action will be effective without further notice on March 29, 2007 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the FOIA/PA Program Manager, Corporate Communications and Legislative Liaison, Defense Finance and Accounting Service, 6760 E. Irvington Place, Denver, CO 80279–8000.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Krabbenhoft at (303) 676–6045.

SUPPLEMENTARY INFORMATION: The Defense Finance and Accounting Service notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on February 16, 2007, to the House Committee on Government Reform, the Senate Committee on Government Affairs, and the Office of Management and budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records about Individuals,'' dated December 12, 2000, 65 FR 239.

Dated: February 20, 2007.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

T7335a

SYSTEM NAME:

Automated Time Attendance and Production System (ATAAPS).

SYSTEM LOCATION:

Defense Information Systems Agency (DISA), Defense Enterprise Computing Center (DECC), CDS13, P. O. Box 20012, St. Louis, Missouri 63120–0012.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DoD civilian employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Social Security Numbers (SSN), user name, time and attendance, leave balances, labor-reporting records that include leave, overtime, and compensatory time.

AUTHORITY FOR THE MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 5 U.S.C. Chapters 53, 55, 61 and 63; 31 U.S.C. Chapter 35; DoD Financial Management Regulation (DoDFMR) 7000.14–R, Vol. 8, Chapter 5; and E.O. 9397(SSN).

PURPOSE(S):

To support the core financial requirements for Defense Finance and Accounting Service (DFAS), as well as provide civilian time and attendance services for the Department of Defense (DoD) Components located worldwide. This system will capture time and attendance, labor and production data for input to payroll and accounting systems. It will also provide the user a single, consolidated input method for reporting both time and attendance and labor information.

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

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The ''Blanket Routine Uses'' published at the beginning of the DFAS compilation of systems of records notices also apply to this system.

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

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Name, Social Security Number (SSN), or other user identification number.

SAFEGUARDS:

Records are stored in office buildings protected by guards, controlled screening, use of visitor registers, electronic access, and/or locks. Access to records is limited to individuals who are properly screened and cleared on a need-to-know basis in the performance of their official duties. Passwords and digital signatures are used to control access to the systems data, and procedures are in place to deter and detect browsing and unauthorized access. Physical and electronic access are limited to persons responsible for servicing and authorized to use the record system.

RETENTION AND DISPOSAL:

Records are considered temporary in nature and cutoff at the end of each payroll year. The records are then destroyed after GAO audit or when 6 years old, whichever is sooner. Records stored on electronic media are destroyed by degaussing and hardcopy output products are destroyed by shredding, burning, or pulping.

SYSTEM MANAGER(S) AND ADDRESS:

Defense Finance and Accounting Service—Pensacola, ATAAPS System Manager, Civilian Pay Systems Management Directorate, 250 Raby Avenue, Pensacola, FL 32509–5128.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Defense Finance and Accounting Service, Freedom of Information/ Privacy Act Program Manager, Corporate Communications and Legislative Liaison, 6760 E. Irvington Place, Denver, CO 80279–8000.

Requests should contain individual's full name, Social Security Number (SSN), current address, and telephone number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Defense Finance and Accounting Service, Freedom of Information/Privacy Act Program Manager, Corporate Communications and Legislative Liaison, 6760 E. Irvington Place, Denver, CO 80279–8000.

Requests should contain individual's full name, Social Security Number (SSN), current address, and telephone number.

CONTESTING RECORD PROCEDURES:

The DFAS rules for accessing records, for contesting contents and appealing initial agency determinations are published in DFAS Regulation 5400.11–R; 32 CFR part 324; or may be obtained from the Freedom of Information/ Privacy Act Program Manager, Corporate Communications and Legislative Liaison, 6760 E. Irvington Place, Denver, CO 80279–8000.

RECORD SOURCE CATEGORIES:

From the individual and DoD Components.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E7–3301 Filed 2–26–07; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of Secretary of Defense

[DOD–2007–OS–0013]

Privacy Act of 1974; System of Records

AGENCY: Defense Intelligence Agency, DoD.

ACTION: Notice to Add a System of Records.

SUMMARY: The Defense Intelligence Agency is proposing to add a system of records to its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: The proposed action will be effective on March 29, 2007 unless comments are received that would result in a contrary determination.

ADDRESSES: Freedom of Information Office, Defense Intelligence Agency (DAN–1A), 200 MacDill Blvd, Washington, DC 20340–5100.

FOR FURTHER INFORMATION CONTACT: Ms. Theresa Lowery at (202) 231–1193.

SUPPLEMENTARY INFORMATION: The Defense Intelligence Agency systems of

records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on February 16, 2007, to the House Committee on Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: February 20, 2007.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

LDIA 05–0002

SYSTEM NAME:

Retiree Database.

SYSTEM LOCATION:

Defense Intelligence Agency, 200 MacDill Blvd, Washington, DC 20340–0001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Retired Department of Defense military and civilian personnel living abroad who are willing to volunteer information of actual, apparent or potential use for the Department of Defense.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information includes but is not limited to names, Social Security Number, home address, phone number, e-mail address, current profession or military specialty, country residing in, time in country, and language proficiency.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended, (50 U.S.C. 401 *et seq.*) 10 U.S.C. 113, Militia: composition and classes; 5 U.S.C. 301, Departmental Regulations; and E.O. 9397 (SSN).

PURPOSE(S):

The purpose of this system is to support the administration, operation, and management of the Department of Defense Expatriate Contact Program.

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

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the Department of Defense as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD ''Blanket Routine Uses'' set forth at the beginning of the Defense Intelligence Agency's compilation of systems of records notices apply to this system.

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

STORAGE:

Paper records and electronic storage media.

RETRIEVABILITY:

Name, Social Security Number, and address.

SAFEGUARDS:

Records are maintained in a building protected by security guards and are stored in vaults, safes or locked cabinets and are accessible only to authorized personnel who are properly screened, cleared and trained in the protection of privacy information. Manual records and computer printouts are available only to authorized personnel having a need-to-know. Records will be maintained on a secure, password protected server.

RETENTION AND DISPOSAL:

Master files are permanent. Temporary records are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Directorate for Human Intelligence, Defense Intelligence Agency, 200 MacDill Blvd., Washington, DC 20340–5339.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Freedom of Information Office, Defense Intelligence Agency (DAN–1A), 200 MacDill Blvd, Washington, DC 20340–5100.

Individuals should provide their full name, current address, telephone number, and Social Security Number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves, contained in this system of records, should address written inquiries to the Freedom of Information Office, Defense Intelligence Agency (DAN–1A), 200 MacDill Blvd, Washington, DC 20340–5100.

Individuals should provide their full name, current address, telephone number, and Social Security Number.

CONTESTING RECORD PROCEDURES:

The Defense Intelligence Agency's rules for accessing records, for contesting contents and appealing initial agency determinations are published in DIA Regulation 12–12 ''Defense Intelligence Agency Privacy Program''; 32 CFR part 319—Defense Intelligence Agency Privacy Program; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, DIA records and reports, and other sources providing or containing pertinent information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E7–3303 Filed 2–26–07; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[USAF–2007–0013]

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force.

ACTION: Notice to Amend a System of Records.

SUMMARY: The Department of the Air Force proposes to amend a system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The proposed action will be effective on March 29, 2007 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Air Force Privacy Act Officer, Office of Warfighting Integration and Chief Information Officer, SAF/XCISI, 1800 Air Force Pentagon, Suite 220, Washington, DC 20330–1800.

FOR FURTHER INFORMATION CONTACT: Ms. Novella Hill at (703) 588–7855.

SUPPLEMENTARY INFORMATION: The Department of the Air Force systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the

Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: February 20, 2007.

C.R. Choate,

Alternative OSD Federal Register Liaison Officer, Department of Defense.

F036 AETC M

SYSTEM NAME:

Air University Academic Records (March 27, 2003, 68 FR 14951).

CHANGES:

* * * * *

SYSTEM LOCATION:

Replace entry with ''Air University, Maxwell Air Force Base, AL 36112–6337. Air Force Institute of Technology, Admissions and Registrars Office (AFIT/ENER) Wright-Patterson Air Force Base, OH 45433–7765.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Replace entry with ''Graduates and students currently or previously enrolled in Air Force Institute of Technology (AFIT), Air University (AU) schools to include Air Force Institute of Advanced Distributed Learning (formerly, ECI).''

CATEGORIES OF RECORDS IN THE SYSTEM:

Replace entry with ''Education records which include transcripts; test scores; completion/non-completion status; course grades; type of degree earned; rating of distinguished, outstanding or excellent graduate as appropriate; and other documents associated with academic records.''

* * * * *

SAFEGUARDS:

Replace entry with ''Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties and who are properly screened and cleared for need-to-know. All records in the system are attended by responsible Air Force personnel during duty hours and stored in locked facilities under constant or periodic surveillance by Air Force Security Forces during non-duty hours. Those in computer storage devices are protected by computer system software.''

RETENTION AND DISPOSAL:

Replace entry with ''Permanent records.''

* * * * *

F036 AETC M

SYSTEM NAME:

Air University Academic Records.

SYSTEM LOCATION:

Air University, Maxwell Air Force Base, AL 36112–6337.

Air Force Institute of Technology, Admissions and Registrars Office (AFIT/ENER) Wright-Patterson Air Force Base, OH 45433–7765.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Graduates and students currently or previously enrolled in Air Force Institute of Technology (AFIT), Air University (AU) schools to include Air Force Institute of Advanced Distributed Learning (formerly, ECI).

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual name; SSN; transcripts; test scores; completion/non-completion status; course grades; type of degree earned; rating of distinguished, outstanding or excellent graduate as appropriate; and other documents associated with academic records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force; Air Force Instruction 36–2201, Air Force Training Program; Air Force Instruction 36–2301, Professional Military Education; and E.O. 9397 (SSN).

PURPOSE(S):

To support the core functions for the administration of academic records required for graduate education, professional military education, and continuing education. The system will provide academic records that meet the requirements of academic accreditation of Air University's various educational programs.

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

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD ''Blanket Routine Uses'' published at the beginning of the Air Force's compilation of systems of records notices apply to this system.

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

STORAGE:

Paper in file folders and on electronic storage media.

RETRIEVABILITY:

Retrieved by name and Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties and who are properly screened and cleared for need-to-know. All records in the system are attended by responsible Air Force personnel during duty hours and stored in locked facilities under constant or periodic surveillance by Air Force Security Forces during non-duty hours. Those in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Permanent records.

SYSTEM MANAGER(S) AND ADDRESS:

Registrar, Air Force Institute of Technology, Wright-Patterson Air Force Base, OH 45433–7765.

Air University Registrar, Maxwell Air Force Base, AL 36112–6337.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to or visit the Registrar, Air Force Institute of Technology, Wright-Patterson Air Force Base, OH 45433–7765; Air University Registrar, Maxwell Air Force Base, AL 36112–6337.

Requests should contain full name, Social Security Number (SSN) and class designation.

Individuals may visit the Office of the Registrar. Identification is required.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to or visit the Registrar, Air Force Institute of Technology, Wright-Patterson Air Force Base, OH 45433–7765; Air University Registrar, Maxwell AFB AL 36112–6337.

Requests should contain full name, Social Security Number (SSN) and class designation.

Individuals may visit Office of the Registrar. Identification is required.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 33–332; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from educational institutions, source documents such as reports, testing agencies, student, and on-the-job training officials.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E7–3305 Filed 2–26–07; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[USN–2006–0063]

Submission for OMB Review; Comment Request

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by March 29, 2007.

Title, Form, and OMB Number: Personal Information Questionnaire; NAVMC 10064; OMB Control Number 0703–0012.

Type of Request: Extension.

Number of Respondents: 16,700.

Responses Per Respondent: 1.

Annual Responses: 16,700.

Average Burden Per Response: 15 minutes.

Annual Burden Hours: 4,175.

Needs and Uses: This collection of information is used by the U.S. Marine Corps to provide a standardized method in rating officer program applicants in the areas of character, leadership, ability, and suitability for service as a commissioned officer.

Affected Public: Individuals or Households.

Frequency: On Occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Hillary Jaffe.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jaffe at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: February 20, 2007.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 07–875 Filed 2–26–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Navy

[USN–2007–0014]

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to Alter a System of Records.

SUMMARY: The Department of the Navy proposes to alter a system of records notice in its existing inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on March 29, 2007 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations (DNS–36), 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–325–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy's systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system reports, as required by 5 U.S.C. 552a(r), of the Privacy Act of 1974, as amended, were submitted on (February 16, 2007, to the House Committee on Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: February 20, 2007.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N01531–1

SYSTEM NAME:

USNA Applicants, Candidates, and Midshipmen Records.

CHANGES:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Admissions records contain pre-candidate questionnaires concerning educational background, personal data, physical data, extracurricular activities, and employment; candidate fitness assessment; personal statements; transcripts from previously attended academic institutions; admission tests results; recommendation letters from school officials and others; extracurricular activities reports; reports of officer interviews; records of prior military service; and, Privacy Act disclosure forms. Nomination information is entered electronically by congressional offices. This information which includes the names of the persons whom each Congressman nominated is matched to candidate data within the Admissions Information System (AIS) database. The applications for the following nomination categories are accepted via paper application, entered into AIS, and saved: President, Children of Deceased and Disabled Veterans, Vice-President, Children of Medal of Honor Recipients, Secretary of the Navy, and Naval Reserve Officers Training Corps Units with Distinction, and International Applicants.

Performance jackets and academic records include candidate fitness assessment, performance grades, personal history, autobiography, record of emergency data, aptitude history, review boards records, medical excuse from duty forms, conduct records and grades, counseling and guidance development tests, counseling and guidance interview sheets and data forms, academic grades, class rankings, letters of commendation, training records, Oath of Office, Agreement to Serve, Privacy Act disclosure forms and

other such records and information relative to the midshipmen.

Midshipmen separation files; midshipmen military justice files; midshipmen Judge Advocate General Manual (JAGMAN) investigations; midshipmen personnel claim files; and midshipmen honor records.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 6956, 6957, 6958, 6962, and 6963; and E.O. 9397 (SSN).''

PURPOSE(S):

At end of entry, add the following: ''To the USNA Blue and Gold Officers (BGOs) for the purpose of providing counseling to USNA candidates and prospective USNA candidates about the USNA admissions process.

To the Naval Academy Graduate Education Office for the limited purpose of selecting and assisting midshipmen in the application process for graduate education.''

* * * * *

RETENTION AND DISPOSAL:

In paragraph 3, delete ''Admission records of unsuccessful candidates are properly destroyed after one year.'' And replace with ''Electronic Admissions information is available via Automated Information System (AIS) for the class of 1999 to present.''

* * * * *

N01531–1

SYSTEM NAME:

USNA Applicants, Candidates, and Midshipmen Records

SYSTEM LOCATION:

U.S. Naval Academy, 117 Decatur Road, Annapolis, MD 21402–5017.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants and candidates for admission and Naval Academy Midshipmen.

CATEGORIES OF RECORDS IN THE SYSTEM:

Admissions records contain pre-candidate questionnaires concerning educational background, personal data, physical data, extracurricular activities, and employment; candidate fitness assessment; personal statements; transcripts from previously attended academic institutions; admission tests results; recommendation letters from school officials and others; extracurricular activities reports; reports of officer interviews; records of prior military service; and, Privacy Act disclosure forms. Nomination information is entered electronically by congressional offices. This information which includes the names of the persons whom each Congressman nominated is matched to candidate data within the Admissions Information System (AIS) database. The applications for the following nomination categories are accepted via paper application, entered into AIS, and saved: President, Children of Deceased and Disabled Veterans, Vice-President, Children of Medal of Honor Recipients, Secretary of the Navy, and Naval Reserve Officers Training Corps Units with Distinction, and International Applicants.

Performance jackets and academic records include candidate fitness assessment, performance grades, personal history, autobiography, record of emergency data, aptitude history, review boards records, medical excuse from duty forms, conduct records and grades, counseling and guidance development tests, counseling and guidance interview sheets and data forms, academic grades, class rankings, letters of commendation, training records, Oath of Office, Agreement to Serve, Privacy Act disclosure forms and other such records and information relative to the midshipmen.

Midshipmen separation files; midshipmen military justice files; midshipmen Judge Advocate General Manual (JAGMAN) investigations; midshipmen personnel claim files; and midshipmen honor records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 6956, 6957, 6958, 6962, and 6963; and E.O. 9397 (SSN).

PURPOSE(S):

To establish an audit trail of files which contains information on individuals as they progress from the application stage, through the admissions process, to disenrollment or graduation from the Naval Academy. Applicant's files contain information which is used to evaluate and to determine competitive standing and eligibility for appointments to the Naval Academy. Successful applicants become candidates whose files contain information to evaluate further each candidate's eligibility. Candidates' files are also used to identify candidates' profiles for initiation of formal officer accession programs in conjunction with the Naval Academy admission process. Successful candidates who accept appointments become midshipmen. Midshipmen records contain personal, academic, and professional background information and are used for the management, supervision, administration, counseling, and discipline of midshipmen. To the USNA Blue and Gold Officers (BGOs) for the purpose of providing counseling to USNA candidates and prospective USNA candidates about the USNA admissions process. To the Naval Academy Graduate Education Office for the limited purpose of selecting and assisting midshipmen in the application process for graduate education.

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

In addition to those disclosures generally permitted under 5 U.S.C. 552a (b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Parents and legal guardians of midshipmen for the limited purpose of counseling midshipmen who encounter academic, performance and/or disciplinary difficulties, as well as health and welfare issues.

The United States Naval Institute for the limited purpose of notifying midshipmen and their parents about benefits and opportunities provided by the United States Naval Institute.

The Naval Academy Athletic Association for the limited purpose of promoting and funding the Naval Academy Intercollegiate Athletic Program and for the purpose of supporting its activities related to the mission of the Naval Academy.

The United States Naval Academy Foundation for the limited purpose of sponsoring midshipmen candidates who were not admitted in previous years.

The United States Naval Academy Alumni Association for the limited purpose of supporting its activities related to the mission of the Naval Academy.

The Contract Tailor Shop for the limited purpose of scheduling appointments as required for uniform fittings.

The ''Blanket Routine Uses'' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

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

STORAGE:

All hard copy records are kept in file folders in secure rooms or in locked cabinets.

On-line storage is maintained on the Honeywell DPS8 mainframe in Computer Services, with line networking to VACs and interfacing

with microcomputers and dial-up lines. Off-line storage is kept on disks.

Records on magnetic tapes and hard copy data are kept in secured rooms or in locked cabinets for operator access and user pickup. Backup magnetic tapes are kept in a vault.

RETRIEVABILITY:

Records are kept alphabetically by Company and Class. Records can be retrieved from data base by selection of any data element, i.e., name, address, alpha code, six digit candidate number, or Social Security Number, etc.

SAFEGUARDS:

Visitor control. Records are kept in locked cabinets or in secured rooms. Computer records are safeguarded through selective file access, signing of Privacy Act forms, passwords, RAM systems, program passwords, user controls, encoding and port controls. Disk and tape storage is in a secure room. Backup systems on magnetic tapes are secured in fire proof vault in Ward Hall.

RETENTION AND DISPOSAL:

On-line computer records are destroyed one year after the midshipman's class graduates or the midshipman is separated.

Performance records are retained by the Performance Officer for two years after the midshipman's class graduates, and then destroyed. Backup systems on magnetic tapes and disks are kept in secure storage and destroyed two years after the midshipman's class graduates. Files relative to midshipmen separated involuntarily, including by qualified resignation, are retained for two years after the midshipman's class graduates, or three years from the date of separation, whichever date is later, and then destroyed.

Official transcripts and records files are kept indefinitely by the Registrar on microfilm, computer files, magnetic tapes, and hard copy. A tape is sent to the National Archives two years after class graduates to be stored as a national disaster recovery measure. Electronic Admissions information is available via AIS for the class of 1999 to present. Electronic Admissions Applications are available via Automated Information System(AIS) for the class of 2009 to present. Counseling and Guidance Research data are kept by the Professional Development Research Coordinator indefinitely. Nomination and appointment files are retained for varying lengths of time.

SYSTEM MANAGER(S) AND ADDRESS:

Superintendent, U.S. Naval Academy, 121 Blake Road, Annapolis, MD 21402–5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Superintendent, U.S. Naval Academy, 121 Blake Road, Annapolis, MD 21402–5000.

Written requests should contain full name, company, class, and any personal identifier, such as a Social Security Number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Superintendent, U.S. Naval Academy, 121 Blake Road, Annapolis, MD 21402–5000.

Written requests should contain full name, company, class, and any personal identifier, such as a Social Security Number.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individuals, midshipman, supervisors, Registrar, instructors, professors, officers, midshipman personal history/performance record, midshipman autobiography, Record of Emergency Data (NAVPERS 601–2), Statement of Personal History (DD Form 398), Aptitude History Record (Form 1610–105), Midshipman Summary Sheet, Certificate of Release or Discharge From Active Duty (DD Form 214), Military Performance Board Results, Letters of Probation, Midshipmen Performance Evaluation Reports (Form 54A), Medical Reports, Clinical Psychologist Reports, Excused Squad Chits (Form 6320/20), Conduct Card (Form 1690/91C), Letters of Commendation, Counseling and Guidance Interview and Data Records, Letters of Congressmen, parents, etc., and copies of replies thereto, transcripts from high school or prior college, Review Board Records, and Record of Disclosure (Privacy Act).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E7–3304 Filed 2–26–07; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

RIN 1865–ZA04

Safe Schools/Healthy Students

AGENCY: Office of Safe and Drug-Free Schools, Department of Education.

ACTION: Notice of proposed priorities, requirements, selection criteria, and definitions.

SUMMARY: The Departments of Education (ED), Health and Human Services (HHS), and Justice (DOJ) issue this notice to propose priorities, requirements, selection criteria, and definitions for the Safe Schools/Healthy Students (SS/HS) Initiative. We propose this action to focus Federal financial assistance on safe, disciplined, and drug-free learning environments and healthy childhood development. We intend the priorities to support the implementation and enhancement of integrated, comprehensive community-wide plans that create safe and drug-free schools and promote healthy childhood development. The Assistant Deputy Secretary may use these proposed priorities, requirements, selection criteria, and definitions for competitions in fiscal year (FY) 2007 and later years.

DATES: We must receive your comments on or before March 29, 2007.

ADDRESSES: Address all comments about these proposed priorities, requirements, selection criteria, and definitions to Karen Dorsey, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E336, Washington, DC 20202–6450. If you prefer to send your comments through the Internet, use the following address: *Karen.Dorsey@ed.gov*.

Please include the following in the subject line of all e-mails, ''Comments on SS/HS NPP.''

FOR FURTHER INFORMATION CONTACT: Karen Dorsey. Telephone (202) 708–4674 or via Internet: *Karen.Dorsey@ed.gov.*

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 the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION:

Invitation To Comment

We invite you to submit comments regarding the proposed priorities, requirements, selection criteria, and

definitions. To ensure that your comments have maximum effect in developing the notice of final priorities, requirements, selection criteria, and definitions, we urge you to identify clearly the specific proposed priority, requirement, selection criterion, or definition your comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirements of reducing regulatory burden that might result from the proposed priorities, requirements, selection criteria, and definitions. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about these proposed priorities, requirements, selection criteria, and definitions in room 3E316 at 400 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Eastern Time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or printer magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed priorities, requirements, selection criteria, and definitions. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

We will announce the final priorities, requirements, selection criteria, and definitions in a notice in the **Federal Register**. We will determine the final priorities, requirements, selection criteria, and definitions after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing or funding additional priorities, other selection criteria, or other requirements, or changing definitions, subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. In any year in which we choose to use these priorities, we will invite applications through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority we give competitive preference to an application by either (1) awarding additional points, depending on how well or the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the competitive priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority we are particularly interested in applications that meet the invitational priority. However, we do not give an application that meets the invitational priority a competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

Discussion of Proposed Priorities

Proposed Priority 1—Comprehensive Plan

Background

The Safe Schools/Healthy Students (SS/HS) grant program draws on the best practices of the education, justice, social service, and mental health systems to provide a continuum of activities, curricula, programs, and services designed to increase protective factors and reduce risk as an effective way to promote healthy child development and address the problems of school violence and alcohol and other drug abuse.

Key to the SS/HS grant program is the creation and implementation of a comprehensive plan that addresses specific needs, gaps, or weaknesses in services, and builds on available resources and services. Creating and implementing the comprehensive plan allows an applicant to prevent youth drug use and violence, promote safe environments and prosocial behaviors, and provide for healthy child development.

In previous years, the required comprehensive plan has included six elements. The proposed priority for the program has been revised to include five elements. We propose this change in order to reduce overlap between the required elements.

Proposed Priority 1—Comprehensive Plan

This proposed priority would support the projects of local educational agencies (LEAs) proposing to implement an integrated, comprehensive community-wide plan designed to create safe, respectful, and drug-free school environments and promote prosocial skills and healthy childhood development. Plans must focus activities, curricula, programs, and services in a manner that responds to the community's existing needs, gaps, or weaknesses in areas related to the five comprehensive plan elements:

- Element One—Safe School Environments and Violence Prevention Activities.
- Element Two—Alcohol, Tobacco, and Other Drug Prevention Activities.
- Element Three—Student Behavioral, Social, and Emotional Supports.
- Element Four—Mental Health Services.
- Element Five—Early Childhood Social and Emotional Learning Programs.

Proposed Priority 2—LEAs That Have Not Previously Received a Grant or Services Under the Safe Schools/Healthy Students Initiative

Background

In recent fiscal years, we have limited eligibility for SS/HS grants to LEAs that had not previously received an SS/HS grant. We limited eligibility for awards in this way in an effort to maximize the opportunity for as many LEAs as possible to receive SS/HS funding. We now propose eliminating this absolute restriction on LEA eligibility, and, instead, propose to establish a priority for LEAs that have not previously received funding under the SS/HS program. We believe that this approach addresses the needs of LEAs that have not previously received SS/HS funding while still permitting prior recipients that need additional resources in order to fully achieve their goals to have an opportunity to compete for another award. We do not intend this change to apply to prior recipients of SS/HS grants that have a current active grant under the program.

Proposed Priority 2—LEAs That Have Not Previously Received a Grant or Services Under the Safe Schools/Healthy Students Initiative

Under this proposed priority, we would give priority to applications from LEAs that have not yet received a grant under this program as an applicant or as a member of a consortium. In order for a consortium application to be eligible under this priority, no member of the LEA consortium may have received a grant or services under this program as an applicant or as a member of a consortium applicant.

Discussion of Proposed Requirements

Background

SS/HS applicants from prior competitions and former SS/HS grantees have suggested that we clarify or modify certain SS/HS application requirements. These include: eligibility requirements

that prohibit former SS/HS grantees from reapplying for SS/HS funding; the requirement that an application include two memoranda in order to be forwarded to peer review; the use of the National Center for Education Statistics (NCES) Common Core of Data (CCD) school locale codes to establish maximum funding amounts that applicants may request; and the limits on the amount of funds that grantees may use for certain project activities.

We have carefully considered this input, and propose several new or modified program requirements. First, we propose eliminating the restriction on eligibility for former SS/HS grantees. We believe that in some instances, for example in the case of very large LEAs, additional resources may be required to fully implement their comprehensive plan and achieve their goals. However, to ensure that former SS/HS grantees that wish to apply for additional funding are targeting different school sites or target populations, we propose that LEAs that have previously received an SS/HS grant include the following assurance as part of their application. This assurance would state that the scope of work included in the current SS/HS application is new and that funding, if awarded, will not be used to sustain previously funded activities, curricula, programs, and services provided to a population served by the first SS/HS grant.

We also propose changes in funding limits established for applicants. Previously, we used locale code designations from the NCES Common Core of Data to determine maximum award sizes. Because that approach has produced some unintended results, we propose using enrollment size in order to establish maximum grant award amounts. We believe that this approach better matches funding needs with maximum grant amounts.

Instead of two memoranda of agreement (MOAs) that have been required in previous competitions, we propose that a single, preliminary MOA be submitted with the application. This preliminary MOA would be more general in nature than those required in previous competitions. We propose that the preliminary MOA must be signed by the authorized representatives of the LEA, the local public mental health authority, the local law enforcement agency, and the local juvenile justice agency—the required SS/HS partners.

Because SS/HS projects for a consortium of LEAs often involve multiple local public mental health, law enforcement, and/or juvenile justice partners, we propose that applications submitted by a consortium be signed by the authorized representative for each LEA included in the consortium, and authorized representatives for the corresponding required SS/HS partners for each member LEA. We also propose that the preliminary MOA must demonstrate the support and commitment of the required SS/HS partners to implement and sustain the project.

We propose that applicants include information in the preliminary MOA that supports the selection of the identified local public mental health, law enforcement, and juvenile justice partners. The preliminary MOA must name a core management team, comprised of senior representatives from the required partners, and detail how the team would support the project director in the day-to-day management of the project. The preliminary MOA must also describe how multiple and diverse sectors of the community, including parents and students, have been and will continue to be involved in the design, implementation, and continuous improvement of the project.

Finally, we propose that applicants submit a logic model as an attachment to the preliminary MOA. The logic model, a graphic representation of the project in chart format, would identify needs or gaps with the corresponding goals, objectives, activities, partners' roles, outcomes, and method for measuring outcomes for each of the SS/HS elements. The core management team discussion and the logic model attachment would serve to clarify the roles of the SS/HS required partners as they relate to project planning, management, implementation, evaluation, and communication.

We also propose that grantees be required to submit a final MOA. The final MOA would provide an opportunity for successful applicants to update and revise the information included in the preliminary MOA furnished with the application, including information about the selection of partners, updates to the statement of support and commitment provided by the required SS/HS partners, the final roster of the core management team, any needed revisions to the process for including multiple and diverse sectors of the community in project implementation, and the final logic model. We also propose that the final MOA include descriptive information about partner financial responsibility for services and other issues including quality, accountability and coordination of services. We propose that the final MOA must also detail the procedures to be used for referral, treatment, and follow-up for children and adolescents needing mental health services. The final MOA must also include an assurance that the local public mental health authority will provide administrative control and/or oversight of the delivery of mental health services. We believe that these additional requirements, when implemented, will increase the likelihood of project success. The final MOA must be signed by the authorized representatives of each of the required partners and be submitted approximately six months after the award is made.

We also propose that grantees use at least seven percent of their grant award amount to conduct a local evaluation. SS/HS projects are unusually complex, and require a broad range of evaluation activities, including process, formative, and outcome evaluations in order to supply the information needed for effective management and project improvement.

Finally, we propose to limit a grantee's use of grant funds for costs associated with security equipment, security personnel, and minor remodeling of school facilities to improve school safety, to no more than 10 percent of the total budget for each year. Expenditures for security equipment and personnel will have limited impact on school safety absent a comprehensive approach.

Accordingly we propose the following requirements:

Proposed Requirements

Application and Eligibility. We propose that an applicant must meet the following requirements:

Proposed Requirement 1: Program-Specific Assurance for Former SS/HS Grant Recipients

For those LEAs that have received funds or services (or for those LEA consortia that include a member LEA that has received funds or services) under the SS/HS program, a program-specific assurance must be submitted as part of the SS/HS application. All participating LEAs in a proposed consortium project must sign this program-specific assurance. The assurance must state that the scope of work included in the current SS/HS application is new and that funding, if awarded, will not be used to sustain previously funded activities, curricula, programs, and services to a population served by the first SS/HS grant. Applications from prior SS/HS grant recipients (or from a consortium that includes an LEA that has previously received SS/HS funds or services) that do not include the program-specific

assurance would be rejected and not considered for funding.

Proposed Requirement 2: Funding Limits for Applicants

We propose that an applicant's request for funding must not exceed the following maximum amounts, based on student enrollment data. Specifically, we propose that the maximum amount an applicant may request for any of the project's four 12-month budget periods would be: $2,250,000 for an LEA with at least 35,000 students; $1,500,000 for an LEA with at least 5,000 students but less than 35,000 students; and $750,000 for an LEA with less than 5,000 students; and that in applying these maximums, applicants must use the most recent student enrollment data from the National Center for Education Statistics' (NCES) Common Core of Data (CCD) as posted on the NCES Web site. In the case of consortium applicants, the maximum funding request is based on combined student enrollment data for the participating LEAs. Bureau of Indian Affairs schools not included in the NCES database and requesting grant funds that exceed $750,000 for any of the project's four 12-month periods must provide documentation of enrollment data.

Proposed Requirement 3: Preliminary Memorandum of Agreement (MOA)

We propose that each applicant must include in its application a preliminary MOA that is signed by the authorized representatives of the LEA, the local public mental health authority, the local law enforcement agency, and the local juvenile justice agency—the required SS/HS partners. For consortium applicants, the preliminary MOA must be signed by each member LEA and the corresponding required SS/HS partners for each member LEA. Additionally, the preliminary MOA must:

(a) Include information that supports the selection of each identified SS/HS required partner that has signed the preliminary MOA;

(b) demonstrate the support and commitment of the required SS/HS partners to implement and sustain the project if funded;

(c) name a core management team of senior representatives from the required partners, and clearly define how each member of the team will support the project director in the day-to-day management of the project;

(d) describe how multiple and diverse sectors of the community, including parents and students, have been and will continue to be involved in the design, implementation, and continuous improvement of the project; and

(e) include, as an attachment, a logic model (a graphic representation of the project in chart format) that identifies needs or gaps and connects those needs or gaps with corresponding project goals, objectives, activities, partners' roles, outcomes, and outcome measures for each of the SS/HS elements.

Applications that do not include the preliminary MOA signed by the authorized representatives of each of the required partners (the LEA, local public mental health authority, local law enforcement agency, and local juvenile justice agency) and the logic model would be rejected and not considered for funding.

Proposed Requirement 4: Final Memorandum of Agreement (MOA)

If funded, grant recipients must complete a final MOA. The final MOA must be signed by the SS/HS partners—the authorized representatives for the LEA, the local public mental health authority, the local law enforcement agency, and the local juvenile justice agency. For consortium applicants, the final MOA must be signed by each member LEA and the corresponding required SS/HS partners for each member LEA. The final MOA must also include the following:

(a) Information that supports the selection of each identified SS/HS required partner that has signed the final MOA;

(b) any needed revisions to the statement of support and commitment for each of the required SS/HS partners to implement and sustain the project;

(c) a final roster of the core management team of senior representatives from the required SS/HS partners, that clearly defines how each member of the team will support the project director in the day-to-day management of the project;

(d) any needed revisions to the process for including multiple and diverse sectors of the community in the implementation and continuous improvement of the project;

(e) a final logic model that identifies needs or gaps and connects those needs or gaps with corresponding project goals, objectives, activities, partners' role, outcomes, and outcome measures for each of the SS/HS elements;

(f) a description of each partner's financial responsibility for the services that it will provide along with the conditions and terms of responsibility for those services, including quality, accountability, and coordination of services as they relate to achieving the goals, objectives, and outcomes of the project;

(g) a description of the procedures to be used for referral, treatment, and follow-up for children and adolescents in need of mental health services and an assurance that the local public mental health authority will provide administrative control and/or oversight of the delivery of mental health services; and

(h) any other necessary revisions to information furnished in the preliminary MOA.

Proposed Funding Restrictions

Proposed Funding Restriction 1: We propose that no less than seven percent of a grantee's budget for each year must be used to support costs associated with local evaluation activities.

Proposed Funding Restriction 2: We propose that no more than 10 percent of the total budget for each project year may be used to support costs associated with security equipment, security personnel, and minor remodeling of school facilities to improve school safety.

Discussion of Proposed Selection Criteria

Background

The SS/HS grant program was created to provide Federal financial assistance to school districts and communities to promote ongoing partnerships as a way of enhancing and expanding their existing activities relating to youth violence prevention and healthy child development. Since the original competition in FY 1999, four additional competitions have been held (FY 2001, FY 2002, FY 2004 and FY 2005). Our experience with administering these competitions, including feedback from peer reviewers, applicants, and funded grantees, demonstrates the need to use program-specific selection criteria that will better identify applications for SS/HS funding that are most likely to produce successful SS/HS projects. We believe these refinements will contribute to our on-going efforts to improve the initiative.

Proposed Selection Criteria

We propose the following selection criteria for this program:

1. Community Assessment

(a) The extent to which the applicant describes individual, family, school, and community risk and protective factors that relate to the five SS/HS elements and will be addressed by the project.

(b) The extent to which the applicant describes student problem behaviors as they relate to the five SS/HS elements and how they will be addressed by the project.

(c) The extent to which the applicant identifies, in the project narrative and the logic model, needs and gaps related to the five SS/HS elements that are not addressed by current services and programs.

2. Goals and Objectives

(a) The extent to which the applicant's project narrative and logic model specify one or more goals for each of the five SS/HS elements, and the goals are clearly linked to the needs and gaps identified in the community assessment.

(b) The extent to which the objectives identified in the applicant's project narrative and logic model are measurable and linked to each of the stated goals.

3. Project Design

(a) The extent to which the applicant's project narrative and logic model propose activities, curricula, programs, and services that will address each of the goals and objectives of the proposed project.

(b) The extent to which activities, curricula, programs, and services proposed by the applicant are evidence-based or reflect current research and effective practice, and are appropriate for the age and developmental levels, gender, and cultural diversity of the target population.

4. Evaluation

(a) The extent to which the applicant's project narrative describes a plan for regularly monitoring program implementation, and identifies process measures that the applicant will use to assess the quality and completeness of the activities planned under the grant.

(b) The extent to which the applicant's project narrative and logic model identify outcomes that are clearly linked to the identified objectives and activities for the project, and specify how outcomes will be measured.

5. Management

(a) The extent to which the applicant describes a management plan adequate to achieve objectives of the proposed program on time and within budget, including clearly defined responsibilities of partners, staff, and contracted service providers, and milestones for accomplishing project tasks.

(b) The extent to which the applicant provides, in the project narrative and preliminary MOA, information about any preexisting partnership involving the required SS/HS partners, and that partnership's accomplishments directly related to the five SS/HS elements.

(c) The extent to which the applicant describes, in the project narrative and in the preliminary MOA, a core management team that is appropriate and adequate to achieve the project's objectives and support the project director in day-to-day management of the project.

(d) The extent to which the applicant describes, in the project narrative and in the preliminary MOA, how multiple and diverse sectors of the community, including students and families, have been and will continue to be involved in the design, implementation, and continuous improvement of the project.

(e) The extent to which the applicant describes a plan to develop data systems that will be used to support decision making processes established for the grant, including the use of technology.

6. Budget

The extent to which the proposed budget and budget narrative correspond to the project design and are reasonable in relation to the numbers of students and staff, and the identified objectives to be achieved.

Additional Selection Factor

We propose to consider geographic distribution and diversity of activities addressed by the projects in selecting an application for an award.

Proposed Definitions

Several important terms associated with this competition are not defined in the statute. We propose the following definitions:

1. *Authorized representative*—We propose defining the term *authorized representative* as the official within an organization with the legal authority to give assurances, make commitments, enter into contracts, and execute such documents on behalf of the organization as may be required by the U.S. Department of Education (the Department), including certification that commitments made on grant proposals will be honored and that the applicant agrees to comply with the Department's regulations, guidelines, and policies.

2. *Local juvenile justice agency*—We propose defining the term *local juvenile justice agency* as an agency or entity at the local level that is officially recognized by State or local government to address juvenile justice issues in the communities to be served by the grant. Examples of juvenile justice agencies include: juvenile justice task forces; juvenile justice centers; juvenile or family courts; juvenile probation agencies; and juvenile corrections agencies.

3. *Local law enforcement agency*—We propose defining the term *local law enforcement agency* as the agency (or agencies) that has law enforcement authority for the LEA. Examples of local law enforcement agencies include: municipal, county, and State police; tribal police and councils; and sheriffs' departments.

4. *Local public mental health authority*—We propose defining the term *local public mental health authority* as the entity legally constituted (directly or through contract with the State mental health authority) to provide administrative control or oversight of mental health services delivery within the community.

Executive Order 12866

This notice of proposed priorities, requirements, selection criteria, and definitions has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with this regulatory action are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this regulatory action we have determined that the benefits of the proposed regulatory action justify the costs.

We have also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Paperwork Reduction Act of 1995 (PRA)

Certain sections of the proposed priorities, requirements, and selection criteria for the SS/HS grant program contain information collection requirements already approved by the Office of Management and Budget (OMB) under OMB control number 1865–0004 (1890–0001). The Department does not believe the proposed priorities, requirements, and selection criteria will change the current approved burden for 1865–0004 (1890–0001). However, as required by the PRA, the Department is submitting 1865–0004 (1890–0001) to OMB for a revised information collection clearance concurrently with the publication of this notice of proposed priorities, requirements, selection criteria, and definitions.

The current absolute priority for the SS/HS grant program includes six elements that an applicant's comprehensive plan must address. This notice proposes to reduce the elements from six to five. While this notice proposes two new requirements, it proposes to eliminate a current

requirement that applicants submit a MOA for mental health services. Also, we are proposing fewer program-specific selection criteria. The current approved information collection contains seven selection criteria with a total of 25 sub-criteria to which applicants must respond. We are proposing six selection criteria, with only 15 sub-criteria. All changes to the priorities, requirements and selection criteria are responsive to comments and suggestions we received from previous applicants and grantees.

The proposed changes to the information collection do not change the estimated 26 hours needed to review the instructions, search existing data sources, gather needed data, prepare and review responses. The elimination of one of the elements in the absolute priority and the elimination of 10 sub-criteria provide more than enough time for applicants to respond to new requirements (i.e., signatures on the program-specific assurance and completing a logic model).

In this notice, we are proposing a priority for LEAs that have not previously received a grant or services under the SS/HS Initiative. To receive priority, applicants will be required to submit a program-specific assurance. This new information collection requirement is primarily cosmetic, as the application will include a form requiring the authorized representative's signature for the applicant; for consortium applicants it would require the signatures from the authorized representative from all participating LEAs, but again, the elimination of the sub-criteria more than offsets this.

The current approved information collection requires applicants to submit two different MOAs with the application. We are proposing that applicants be required to submit a single preliminary MOA with the application and a final MOA to be submitted post award. The proposed collection does require submission of a logic model, but this requirement adds little burden as the applicant need only present a subset of the narrative information in a chart format.

If you want to comment on the proposed information collection requirements, send your comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for U.S. Department of Education by e-mail to *OIRA_DOCKET@omb.eop.gov* or by fax to (202) 395–6974. You may also send a copy of these comments to the Department contact named in the addresses section of this notice.

Intergovernmental Review

This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of the proposed Federal financial assistance.

This document provides early notification of our specific plans and action for this program.

Electronic Access to This Document

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(Catalog of Federal Domestic Assistance Number: 84.184L Safe Schools/Healthy Students)

Program Authority: Safe and Drug-Free Schools and Communities Act (20 U.S.C. 7131); Public Health Service Act (42 U.S.C. 290aa); and Juvenile Justice and Delinquency Prevention Act (42 U.S.C. 5614(b)(4)(e) and 5781 *et seq.*).

Dated: February 22, 2007.

Deborah Price,

Assistant Deputy Secretary for Safe and Drug-Free Schools.

[FR Doc. E7–3404 Filed 2–26–07; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Publication of State Plan Pursuant to the Help America Vote Act

AGENCY: U.S. Election Assistance Commission (EAC).

ACTION: Notice.

SUMMARY: Pursuant to sections 254(a)(11)(A) and 255(b) of the Help America Vote Act (HAVA), Pub. L. 107–252, the U.S. Election Assistance Commission (EAC) hereby causes to be published in the **Federal Register** material changes to the HAVA State plan previously submitted by Kentucky.

DATES: This notice is effective upon publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Bryan Whitener, telephone 202–566–3100 or 1–866–747–1471 (toll-free).

SUBMIT COMMENTS: Any comments regarding the plans published herewith should be made in writing to the chief election official of the individual State at the address listed below.

SUPPLEMENTARY INFORMATION: On March 24, 2004, the U.S. Election Assistance Commission published in the **Federal Register** the original HAVA State plans filed by the fifty states, the District of Columbia and the Territories of American Samoa, Guam, Puerto Rico, and the U.S. Virgin Islands. 69 FR 14002. HAVA anticipated that States, Territories and the District of Columbia would change or update their plans from time to time pursuant to HAVA section 254(a)(11) through (13). HAVA sections 254(a)(11)(A) and 255 require EAC to publish such updates. EAC has not previously published an update to the Kentucky State plan.

The submission from Kentucky addresses material changes in the State budget of its previously submitted State plan and, in accordance with HAVA section 254(a)(12), provides information on how the State succeeded in carrying out its previous State plan. the submission addresses material changes to the budget based on the amount of funds actually received by the state and not on the authorized amounts. The revised state plan gives a detailed description of how the State has met the requirements of Title III as supporting documentation for a certification filed with the EAC under HAVA § 251(b)(2)(A).

Upon the expiration of thirty days from February 27, 2007, Kentucky will be eligible to implement the material changes addressed in the plan that is published herein, in accordance with HAVA section 254(a)(11)(C).

EAC notes that the plan published herein has already met the notice and comment requirements of HAVA section 256, as required by HAVA section 254(a)(11)(B). EAC wishes to acknowledge the effort that went into revising this State plan and encourages further public comment, in writing, to the State election official listed below.

Chief State Election Officials

Kentucky

Ms. Sarah Ball Johnson, Executive Director, Kentucky State Board of Elections, 140 Walnut Street, Frankfort,

Kentucky 40601–3240, Phone: (502) 573–7100, Fax: (502) 573–4369, E-mail: *Les.Fugate@ky.gov.*

Thank you for your interest in improving the voting process in America.

Dated: February 16, 2007.

Donetta Davidson,

Chair, U.S. Election Assistance Commission.

BILLING CODE 6820–KF–P

STATE BOARD OF ELECTIONS

Trey Grayson
Chairman
Secretary of State

140 Walnut Street
Frankfort, Kentucky 40601-3240
Phone: (502) 573-7100
Fax: (502) 573-4369
www.elect.ky.gov

Sarah Ball Johnson
Executive Director

Sandy Milburn
Assistant Director

January 16, 2007

The Honorable Donetta Davidson
Chairman
U.S. Election Assistance Commission
1225 New York Ave., NW, Suite 1100
Washington, D.C. 20005

Dear Chairman Davidson:

Please find enclosed Kentucky's Amended State Plan. On January 9, 2007, Kentucky completed the required thirty-day comment period in the state. We submit the Amended State Plan to the Election Assistance Commission for posting in the Federal Register for the required period. Please also find enclosed the certifications required by HAVA §251(b)(2) by Kentucky's chief election official, the Secretary of State.

Thank you for your time and consideration. If you have any questions regarding this matter or require any further information, please feel free to contact me.

Sincerely,

Sarah B. Johnson

Sarah Ball Johnson
Executive Director

Enclosure

Commonwealth of Kentucky

2006 Amended State Plan

As required by Public Law 107-252 Help America Vote Act 2002, Section 253(b)

Trey Grayson
Secretary of State
State Capitol, Suite 152
700 Capital Avenue
Frankfort, KY 40601

Introduction

Element 12, as amended, describes the material changes that Kentucky has made to the State Plan filed in 2003, as required by section 254(a)(12) of HAVA. Specifically, Element 12 contains descriptions of the amended versions of Elements 1-4, 6-11, and 13 and lists the progress that the Commonwealth has made with regard to the State Plan that the Commonwealth filed with the Federal Election Commission on July 31, 2003.

The 2006 Amendments to the State Plan of the Commonwealth of Kentucky were developed in accordance with Section 255 of HAVA and the requirements for public notice and comment prescribed by section 256 of HAVA.

Amended State Plan Required Element

12. **In the case of a State with a State plan in effect under this subtitle during the previous fiscal year, a description of how the plan reflects changes from the State plan for the previous fiscal year and of how the State succeeded in carrying out the State plan for such previous fiscal year.**

The following information contains changes to the 2003 State Plan categorized by the specific state plan required element as listed in the previous plan and a listing of the updated information:

1. **How the State will use the requirements payment to meet the requirements of and, if applicable under section 251(a)(2), to carry out other activities to improve the administration of elections.**

Voting System Standards – updated sections of the charts

Voting System Standards	Sec. 301 (pages 96- 102<line 9>)	
HAVA Requirement	**State of Kentucky's Current Status**	**Action Planned**
Allow voter to change or correct any error on the ballot before casting the vote.	Meets the requirement. Some paper ballots in small precincts, which are used with an optical scan system or placed in a ballot box, are not scanned or counted while voter is still present in the polling site.	A voter education campaign, conducted by the county clerk, has been developed for these precincts.
	Mail-in absentee ballot process.	Instructions on casting a mail-in absentee ballot, included with the ballot, have been updated to include this information.
Prevent or alert voter if he/she over votes on the ballot.	Meets the requirement. Some paper ballots in small precincts, which are used with an optical scan system or placed in a ballot box, are not scanned or counted while voter is still present in the polling site. Mail-in paper absentee ballot process.	A voter education campaign, conducted by the county clerk, has been developed in these precincts. Instructions on casting a mail-in absentee ballot, included with the ballot, have been updated to include this information.
All voting systems must be able to produce a paper audit trail of all votes cast.	Meets the requirement.	No action needed.
Voting systems must be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for privacy and independence as other voters. This requirement may be met by having at least one DRE or other system equipped for individuals with disabilities at each polling site.	Meets the requirement.	No action needed.
A uniform definition of what constitutes a vote for each voting system in use in the state.	Meets the requirement. 31 KAR 6:030 Uniform Definition of a Vote	No action needed.

Provisional Voting and Voting Information Requirements– updated sections of the charts

Provisional Voting and Voting Information Requirements	Sec. 302(pages 102<line 10> - 106<line15>))	
HAVA Requirement	State of Kentucky's Current Status	Action Planned
A provisional voter is to be allowed to vote a paper ballot or an electronic ballot upon the completion of an affidavit. The ballot will be sealed in an envelope or electronically stored separately from the regular votes. The provisional ballot is to be transported to the county board of elections for determination of eligibility and possible counting if voter deemed eligible.	Meets the requirement. 31 KAR 6:020 Provisional Voting	No Action needed.
Each voter who casts a provisional vote shall be given written information on how they can ascertain whether their vote was counted, and if not, why.	Meets the requirement. A voter is given an information sheet at the time his y cast their ballot.	No action needed.
Establish a free access system, such as toll-free phone number or internet website, allowing provisional voters to ascertain whether their vote was counted, and if not why.	Meets the requirement. A link on our website allows provisional voters to ascertain whether their vote was counted, and if not why. A provisional voter may also contact their local county clerk for the same information.	No action needed.
Post information regarding the day of the election and polling hours.	Meets the requirement.	No action needed.
Post instructions on how to vote on the voting system, including how to cast a provisional vote.	Meets the requirement. KRS 117.175 requires the posting of instructions on how to operate the voting machine. 31 KAR 6:020 requires posting of instructions on how to cast a provisional ballot.	No action needed.
Post general information on state and federal voting rights and the right to a provisional vote if they meet the	Meets the requirement. A voter rights and responsibilities poster is posted in each precinct on election day and is	No action needed.

requirements to vote.	also posted on our website.	
Post general information on federal and state laws prohibiting acts of fraud and misrepresentation.	Meets the requirement. KRS 117.030(2) requires conspicuous placement of signs in each precinct stating that vote buying and selling are illegal and the penalties for such acts. KRS 117.030(3) requires conspicuous placement of signs in each precinct informing voters of their right to report any administrative or clerical error they witness to the county board of elections (includes county board contact information). A voter rights and responsibilities poster is posted in each precinct on election day and is also posted on our website.	No action needed. No action needed. No action needed.
Any voter who casts a vote as the result of a federal or state court order extending polling hours, shall do so on a provisional ballot, and it shall be kept separate from other provisional ballots.	Meets the requirement. 31 KAR 6:020	No action needed.

2. **How the State will distribute and monitor the distribution of the requirements payment to units of local government or other entities in the State for carrying out the activities described in paragraph (1), including a description of –**
   - **(A) the criteria to be used to determine the eligibility of such units or entities for receiving the payment; and**
   - **(B) the methods to be used by the State to monitor the performance of the units or entities to whom the payment is distributed, consistent with the performance goals and measures adopted under paragraph (8).**

The State Board of Elections entered into Memoranda of Agreement (MOA) with the 118 county fiscal courts and the two Mayors for the counties with merged county-city governments to meet voting system requirements in HAVA, and upgrade voting systems in the Commonwealth. The counties, per state law, purchased the necessary voting machines and upgrades from the State Board of Election's certified list of approved voting equipment pursuant to local procurement procedures set forth in state law and adopted by the county. The State Board of Elections required each county to send documentation of the purchase of the voting systems or upgrade, which included serial numbers from each component, type of equipment, make and manufacturer of the

voting machine or upgrade. The county was reimbursed within 30 days, per the MOA, once the completed and required documentation was received by the State Board of Elections. All 120 counties were compliant with HAVA voting system requirements by the Commonwealth's first federal election, which was May 16, 2006.

A summary of the MOA elements and the requirements payments paid to the counties follows:

1. $1,160,636.00 to upgrade the Danaher 1242 voting machines, if applicable to the county, in existence in the county as of 1/31/2005 to produce a paper audit trail
2. $16,463,650.00 to purchase, one per precinct, voting machines accessible for individuals with disabilities including the blind and visually impaired, to ensure voting independently and with privacy for each precinct in existence as of 1/31/05
3. $599,520.00 to purchase, one per county, an in-house absentee voting machine accessible to individuals with disabilities including the blind and visually impaired, to ensure voting independently and with privacy
4. $1,187,762.00 to purchase, one per county, an optical scan absentee ballot system for in-house and mail-in absentee voting

The State Board of Elections used approximately $109,508 of the requirements payments to develop an election management tool that connects with our statewide voter registration database to automate the absentee ballot application and post-election report process for all county clerks.

3. **How the State will provide for programs for voter education, election official education and training, and poll worker training which will assist the State in meeting the requirements of title III.**

Voter education: The State Board of Elections continues to pursue the use of television, radio, newspaper, internet, direct mail and other mechanisms to inform citizens on registering to vote and on voting.

Election official education and training: The State Board of Elections decided not to require each county board of elections to designate a county training/education coordinator to work with our training officers and meet twice a year. We regularly train county clerks as described in the 2003 State Plan and provide supplemental training materials on a variety of topics. In light of the training already provided, the county clerk staffing levels and SBE staffing levels, the best plan of action was to train the county clerk and county board of election members.

Poll worker training: The State Board of Elections successfully pursued legislation that added elements o-q to the required training topics for precinct election officers. The State Board of Elections will pursue similar legislation in the future when the need arises to improve the training process for precinct election officers.

Per KRS 117.187, the training provided by the county boards of elections shall include:

a. Operation of the voting machine or ballot cards;
b. Posting of necessary signs and notices at the polling place;
c. Voter assistance;
d. Maintaining precinct rosters;
e. Confirmation of a voter's identity;
f. Challenge of a voter;
g. Completing changes of address or name at the polling place;
h. Qualifications for voting in a primary election;
i. Electioneering and exit polling;
j. Write-in voting procedures;
k. Persons who may be in voting room;
l. Election violations and penalties;
m. Assistance which may be provided by law enforcement officers;
n. Election reports required to be completed;
o. Disability awareness;
p. Provisional voting process; and
q. Election emergency contingency plan.

4. **How the State will adopt voting system guidelines and processes which are consistent with the requirements of section 301.**

Summary of Kentucky Voting Systems In Use (2006 figures)

Election day voting systems	94 counties use Danaher 1242 and Hart Intercivic e-slate equipment 19 counties use MicroVote MV-464 and ES&S Ivotronic equipment 4 counties use only ES&S Ivotronic equipment 2 counties use only Hart Intercivic e-slate equipment 1 county uses Diebold Accuvote-OS and Diebold Accuvote TSX equipment
Mail-in absentee voting systems	120 counties use optical scan equipment
Walk-in absentee voting systems	120 counties use an electronic voting machine and/or optical scan equipment

6. **The State's proposed budget for activities under this part, based on the State's best estimates of the costs of such activities and the amount of funds to be made available, including specific information on (A) the costs of the activities required to be carried out to meet the requirements of; (B) the portion of the requirements payment which will be used to carry out activities to meet such requirements; and (C) the portion of the requirements payment which will be used to carry out other activities.**

As stated in the 2003 State Plan, the Commonwealth expected to receive $44,000,000.00 in federal funding to meet the requirements and other activities. However, the Commonwealth actually received $32,899,292.00 in federal funding. $19,521,076.00 has been spent to meet requirements and the other state plan requirements as detailed in the 2003 State Plan. The chart below contains information on spending the remaining funds as of the date of the 2006 State Plan.

Should Congress decide to fully fund HAVA by appropriating the remaining $11,100,708.00, the funds will be spent to improve the election process. Any HAVA funds distributed by the Election Assistance Commission will be spent to improve the election process. Any unexpended funds remaining in the election funds, as described in the 2003 State Plan, shall be spent to improve the election process.

Activity	Cost Allocation
Voting equipment	$15,831,000.00
Voter education	$200,000.00
Poll worker training	$300,000.00
Enhancement of statewide voter registration system	$267,204.78
TOTAL	$16,598,204.78

7. **How the State, in using the requirements payment, will maintain expenditures of the State for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the State for the fiscal year ending prior to November 2000.**

The Governor's Office of Policy and Management evaluated the budget of the Kentucky State Board of Elections to ensure that the Maintenance of Effort requirement has been met.

8. **How the State will adopt performance goals and measures that will be used by the State to determine its success and the success of units of local government in the State in carrying out the plan, including timetables for meeting each of the elements of the plan, descriptions of the criteria the State will use to measure performance and the process used to develop such criteria, and a description of which official is held responsible for ensuring that each performance goal is met.**

Performance Goals

The State's primary goal is to achieve compliance with HAVA through the successful implementation of the programs outlined in the State Plan. Following is an updated description of the timetable for meeting each element of the Plan and the title of the official responsible for ensuring such element is met:

Element	*Official Responsible*	*Updated Timetable*
Voting Systems	State Board of Elections County Clerk	Meets Title III requirement
Voter Registration	State Board of Elections	Meets Requirement; no HAVA changes necessary
Provisional Voting	State Board of Elections County Board of Elections	Meets requirement
Polling Place Accessibility	County Board of Elections	Ongoing
Voter Education/Outreach	State Board of Elections County Board of Elections	Ongoing
Poll Worker Training	County Board of Elections	Ongoing
Administrative Complaint Procedure	State Board of Elections	Meets requirement

Performance Measures

The Secretary of State/Chairman of the State Board of Elections, in collaboration with local election officials, will establish performance goals and will work closely together to measure performance toward the achievement of these goals. Processes and procedures are constantly under review to maintain efficiency and integrity of the election process.

9. **A description of the uniform, non-discriminatory State-based administrative complaint procedures in effect under section 402.**

The State Board of Elections promulgated 31 KAR 6:010 to place these procedures into the State Administrative Code. In summary, the procedure provides a uniform, nondiscriminatory process for the resolution of any complaint alleging a violation of any provision of HAVA, including a violation that has occurred, is occurring, or is about to occur during a federal election. Any person who believes a violation of any provision of

HAVA Title III has occurred may file a complaint with the State Board of Elections. The complaint must be on a form prescribed by the Board, signed, sworn to and notarized. At the request of the complainant the State Board of Elections will conduct a hearing on the record that will be conducted in accordance with HAVA requirements. The State Board of Elections will provide the appropriate remedy, and a final determination within the timeframes specified in HAVA. The procedure provides for alternative dispute resolution if the State Board of Elections does not make a timely final determination. At this time, no complaints have been received through this process.

10. **If the State received any payment under Title I, a description of how such payment will affect the activities proposed to be carried out under the plan, including the amount of funds available for such activities.**

The Commonwealth received $5,168,452.00 in Title I (Sec 101 and Sec 102) funds.
A portion of Title I Sec 101 funds were used for the following items: prepare/implement the State plan; purchase provisional ballot bags for the counties; establish the web based Voter Information Center; establish the web based Provisional Ballot Information Link; implement the 1-800 Voter Registration Verification System; upgrade voter credit scanning system; and purchase temporary accessibility products for precincts through a grant process. The remaining funds and any interest gained on the funds will be used to improve the election process.

Title I Sec 102 funds were used to replace lever voting equipment with HAVA compliant voting systems in 147 precincts or 9 counties. The Commonwealth requested and was granted a waiver to delay this replacement to the first federal election. All lever voting equipment was replaced by the May 16, 2006 primary election.

11. **How the State will conduct ongoing management of the plan, except that the State may not make any material change in the administration of the plan unless the change (A) is developed and published in the Federal Register in accordance with section 255 in the same manner as the State plan; (B) is subject to public notice and comment in accordance with section 256 in the same manner as the State plan; and (C) takes effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register in accordance with subparagraph (A).**

The State HAVA Committee will continue to meet at least once a year to review the budget and progress of the plan, making changes where necessary. The Chairman of the State Board of Elections will include individuals with disabilities in the implementation of HAVA. The Chairman of the State Board of Elections shall report annually to the Kentucky General Assembly's Task Force on Elections, Constitutional Amendments and Intergovernmental Affairs Committee, which is a sub-committee of

the Interim Joint Committee on State Government, concerning the implementation of HAVA and expending of HAVA funds.

13. **A description of the committee which participated in the development of the State plan in accordance with section 255 and the procedures followed by the committee under such section and section 256.**

Kentucky's HAVA Advisory Committee membership has changed slightly since 2003. The current committee consists of twenty-three (23) members including the Secretary of State, local election officials from the two largest counties in the state, representatives from the Kentucky House and Senate, representatives of the disabled community, chairman of the political parties, and a variety of other election stakeholders.

To amend the State plan, the HAVA Advisory Committee will meet on December 8, 2006. The committee meeting will be open to the public and noticed in accordance with the state's Open Meetings Law.

The 2006 Amended State Plan will be made available for 30 days for public inspection and comment prior to submission of the final plan. The State Board of Elections will publish notice of the availability of the preliminary version of the state plan in the state's two newspapers with the largest circulation. The Secretary of State will have a copy of the preliminary state plan available for inspection in his office, and the preliminary plan will be posted on both the Secretary of State's and the State Board of Elections' web pages. Copies of the preliminary plan will be provided to all 120 county clerks and open to public inspection and comment. All comments are to be made in writing and filed with the Secretary of State by close of business on January 9, 2007.

Commonwealth of Kentucky
HAVA Advisory Committee Members

Committee Member	Title and Group Representing
Hon. Adrian Arnold	Chairman, Kentucky House Elections, Constitutional Amendments, Intergovernmental Affairs Committee
Hon. Donald W. Blevins	Fayette County Clerk
Darrell D Brock, Jr.	Chairman, Republican Party of Kentucky
Raoul Cunningham	National Association for the Advancement of Colored People (NAACP)
David Disponett	Board Member, State Board of Elections
Richard Elsert	Paralyzed Veterans of America
Sharon Fields	Executive Director, Kentucky Disabilities Coalition, Inc.
Hon. Trey Grayson	Secretary of State
Hon. Harland Hatter	Liaison, Kentucky Senate President's Office
Hon. Barbara Holsclaw	Jefferson County Clerk
Hon. Marshall Hughes	Liaison, Governor's Office
Brenda James	Director, Division of Driver's Licensing, Department of Transportation
Hon. Dean Johnson	Laurel County Clerk
Priscilla Johnson	Migrant Worker's Coalition
Hon. Lynn W. Lane	Ballard County Clerk
Hon. James Lewis	Leslie County Clerk
Jerry Lundergan	Chairman, Kentucky Democratic Party
Joan Peoples	Liaison, League of Women Voters
Norb Ryan	Kentucky ADA Coordinator
Hon. Jim Steinfeld	Board Member, Jefferson County Board of Elections
Mark Rutledge	Chief Information Officer, Governor's Office of Technology
Beth Metzger	Protection and Advocacy
Hon. Guy Zeigler	Franklin County Clerk

[FR Doc. 07–865 Filed 2–26–07; 8:45 am]
BILLING CODE 6820–KF–C

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP05–15–002, CP05–16–002, and CP05–17–002]

Caledonia Energy Partners, L.L.C.; Notice of Abbreviated Application of Caledonia Energy Partners, L.L.C., To Amend Certificate of Public Convenience and Necessity Authorizing Construction and Operation of a Natural Gas Storage Facility

February 21, 2007.

Take notice that on February 8, 2007, Caledonia Energy Partners, L.L.C. (Caledonia) filed with the Commission an abbreviated application pursuant to Section 7(c) of the Natural Gas Act (NGA) to amend its Certificates of Public Convenience and Necessity issued by the Commission on April 19, 2005. Caledonia Energy Partners, L.L.C., 111 FERC ¶ 61,095 (2005), as amended on April 12, 2006, Caledonia Energy Partners, L.L.C., 115 FERC 62,060 (2006). The abbreviated application requests authorization for minor modifications to certain of the storage facilities in Lowndes and Monroe Counties, Mississippi, as well as certain modifications to the pro forma tariff approved in the above-captioned dockets.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 8, 2007.

Magalie R. Salas,

Secretary.

[FR Doc. E7–3341 Filed 2–26–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. AC07–63–000]

Cheyenne Light, Fuel and Power Company; Notice of Filing

February 21, 2007.

Take notice that on January 26, 2007, Cheyenne Light, Fuel and Power Company submitted a request for limited waiver of the accountant certification requirement (CPA Certification Statement) under sections 41.10–41.12 of the Commission's regulations. Cheyenne Light, Fuel and Power Company requests waiver of the requirement to file a CPA Certification Statement for its 2005 FERC Form No.1–F.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: March 13, 2007.

Magalie R. Salas,

Secretary.

[FR Doc. E7–3355 Filed 2–26–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. QF90–65–014]

Cogen Technologies Linden Venture, L.P.: East Coast Power Linden Holding, L.L.P; Notice of Filing

February 21, 2007.

Take notice that on February 14, 2007 Cogen Technologies Linden Venture, L.P. and East Coast Power Linden Holding, L.L.P. filed an application for recertification as a qualifying Cogeneration Facility, pursuant to section 292.207(b) of the Commission's regulations.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 1, 2007.

Magalie R. Salas,

Secretary.

[FR Doc. E7–3349 Filed 2–26–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–168–000]

Dominion Transmission, Inc.; Notice of Tariff

February 12, 2007.

Take notice that on February 8, 2007, Dominion Transmission, Inc. (DTI) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Second Revised Sheet No. 153, and Ninth Revised Sheet No. 1400, to become effective March 9, 2007.

DTI states that the purpose of the filing is to revise incorrect numerical references. No substantive changes have been made to the above referenced tariff sheets.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–3352 Filed 2–26–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL06–80–003]

Midwest Independent Transmission System Operator, Inc.; Notice of Filing

February 21, 2007.

Take notice that on February 9, 2007, Midwest Independent Transmission System Operator, Inc. filed a refund report in compliance to the Commission's August 11, 2006 Order on Complaint.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 2, 2007.

Magalie R. Salas,

Secretary.

[FR Doc. E7–3344 Filed 2–26–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–176–126]

Natural Gas Pipeline Company of America; Notice of Tariff Filing and Negotiated Rate

February 21, 2007.

Take notice that on February 16, 2007, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1 (Tariff), the following tariff sheets, to become effective April 1, 2007, and the related Firm Transportation and Storage Negotiated Rate Agreement (Agreement).

Second Revised Sheet Nos. 26W.35 through 26W.40
Original Sheet No. 414A.04

Natural states that copies of the filing are being mailed to all parties set out on the Commission's official service list in Docket No. RP99–176.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of

intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–3354 Filed 2–26–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–416–001]

Northwest Pipeline Corporation; Notice of Compliance Filing

February 21, 2007.

Take notice that on February 12, 2007, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective March 1, 2007:

Sixteenth Revised Sheet No. 7.
Original Sheet No. 7–A.
Seventh Revised Sheet No. 50.
Seventh Revised Sheet No. 51.
Sixth Revised Sheet No. 52.
Third Revised Sheet No. 52–A.
Fifth Revised Sheet No. 53.
First Revised Sheet No. 58.
Fifth Revised Sheet No. 322.
Fifth Revised Sheet No. 325.
Fourth Revised Sheet No. 326.
Original Sheet No. 326–A.
Third Revised Sheet No. 327.
Third Revised Sheet No. 328.
First Revised Sheet No. 329.

Northwest states that the purpose of this filing is to comply with the Commission's February 5, 2007 order issuing a certificate to Northwest in Docket No. CP06–416–000.

Any person desiring to protest this filing must file in accordance with rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 8, 2007.

Magalie R. Salas,

Secretary.

[FR Doc. E7–3343 Filed 2–26–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–200–018]

Rockies Express Pipeline LLC; Notice of Negotiated Rate

February 21, 2007.

Take notice that on February 14, 2007, Rockies Express Pipeline LLC (REX) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to be effective February 15, 2007:

Fourteenth Revised Sheet No. 22
Sixth Revised Sheet No. 24

REX stated that a copy of this filing has been served upon all parties to this proceeding, REX's customers, the Colorado Public Utilities Commission and the Wyoming Public Service Commission.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–3350 Filed 2–26–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–200–019]

Rockies Express Pipeline LLC; Notice of Compliance Filing

February 21, 2007.

Take notice that on February 16, 2007 Rockies Express Pipeline LLC (REX) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Fifteenth Revised Sheet No. 22, to be effective February 17, 2007.

REX stated that a copy of this filing has been served upon all parties to this proceeding, REX's customers, the Colorado Public Utilities Commission and the Wyoming Public Service Commission.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–3351 Filed 2–26–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–312–162]

Tennessee Gas Pipeline Company; Notice of Termination of Negotiated Rate Agreement

February 21, 2007.

Take notice that on February 12, 2007, Tennessee Gas Pipeline Company (Tennessee) tendered for filing a notice of termination of a negotiated rate agreement between Tennessee and Inergy Gas Marketing, LLC (Inergy), effective February 1, 2007.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–3353 Filed 2–26–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–34–002]

Transcontinental Gas Pipe Line Corporation; Notice of Compliance Filing

February 21, 2007.

Take notice that on February 12, 2007, Transcontinental Gas Pipe Line Corporation (Transco) submitted a compliance filing pursuant to Ordering Paragraph (B)(1) of the Commission's Order issued January 11, 2007, in Docket No. CP06–34–001.

Transco states that copies of the filing were served on parties on the official service list in the above-captioned proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 8, 2007.

Magalie R. Salas,

Secretary.

[FR Doc. E7–3342 Filed 2–26–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL07–35–000]

Key-Span Ravenswood, LLC, Complainant v. New York Independent System Operator, Inc., Respondent; Notice of Complaint

February 21, 2007.

Take notice that on February 15, 2007, Key-Span Ravenswood, LLC (Ravenswood) filed a formal complaint against the New York Independent System Operator, Inc. (NYISO) pursuant to Federal Power Act sections 206 and 306, alleging that, under section 5.4 of the NYISO's Services Tariff, Ravenswood is due its full incremental operating costs, including lost opportunity costs, incurred in all hours since May 1, 2006, when Ravenswood responded to fuel security dispatch instructions to switch from natural gas to more expensive fuel oil under Rule I–R3 of the New York State Reliability Council.

Ravenswood certifies that copies of the complaint were served on the contacts for NYISO as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 19, 2007.

Magalie R. Salas,

Secretary.

[FR Doc. E7–3345 Filed 2–26–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

February 21, 2007.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC07–38–000.

Applicants: NorthWestern Corporation.

Description: NorthWestern Corporation submits its response to FERC, Staffs February 2, 2007 Request for Additional Information.

Filed Date: 02/20/2007.

Accession Number: 20070220–5082.

Comment Date: 5 p.m. Eastern Time on Friday, March 2, 2007.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER99–4102–005.

Applicants: Milford Power Company, LLC.

Description: Milford Power Co, LLC submits a supplement to its 1/31/07, tariff filing.

Filed Date: 02/16/2007.

Accession Number: 20070221–0037.

Comment Date: 5 p.m. Eastern Time on Friday, March 9, 2007.

Docket Numbers: ER00–3251–014.

Applicants: Exelon Generating Company, LLC.

Description: Exelon Generation Company, LLC submits modification to, its Market-Based Tariff, Volume 1 to incorporate the Order, 652 change in status reporting requirement.

Filed Date: 02/09/2007.

Accession Number: 20070216–0242.

Comment Date: 5 p.m. Eastern Time on Friday, March 2, 2007.

Docket Numbers: ER03–1159–002.

Applicants: Hershey Chocolate and Confectionary Corporation.

Description: Hershey Chocolate and Confectionary Corporation submits a, First Triennial Market Power Update Report in support of, continued market based rate authority.

Filed Date: 02/20/2007.

Accession Number: 20070220–5042.

Comment Date: 5 p.m. Eastern Time on Tuesday, March 13, 2007.

Docket Numbers: ER05–406–003.

Applicants: Williams Power Company, Inc.

Description: Williams Power Company, Inc. submits a revised, Amendment To Amended Offer Of Settlement of Williams, Power Co.

Filed Date: 01/19/2007.

Accession Number: 20070119–5085.

Comment Date: 5 p.m. Eastern Time on Wednesday, February 28, 2007.

Docket Numbers: ER06–1218–004.

Applicants: PJM Interconnection, LLC.

Description: PJM Interconnection, L.L.C. submits a Compliance Filing, addressing Commission's mandate in LTTR Order requiring, PJM to file administration rules for Section 7.8 of PJM's, LTTR Proposal.

Filed Date: 02/16/2007.

Accession Number: 20070216–5032.

Comment Date: 5 p.m. Eastern Time on Friday, March 9, 2007.

Docket Numbers: ER07–188–004; ER07–189–004; ER07–190–004; ER07–191–004; ER07–192–002.

Applicants: Duke Energy Carolinas, LLC; Duke Energy Indiana, Inc.; Duke Energy Kentucky, Inc.; Duke Energy Ohio, Inc.; Duke Energy Shared Services, Inc.

Description: Duke Energy Corp on behalf of Duke Energy Carolinas, LLC, et al refiles its Duke Carolinas Service Agreement with, Lockhart Power Co *et al.*

Filed Date: 02/06/2007.

Accession Number: 20070208–0143.

Comment Date: 5 p.m. Eastern Time on Tuesday, February 27, 2007.

Docket Numbers: ER07–516–000.

Applicants: Morgan Stanley Capital Group, Inc.

Description: Morgan Stanley Capital Group Inc. submits a response to, FERC Staff's request regarding certain bilateral spot, transactions for which it was the seller in the Western, Electricity Coordinating Council region etc.

Filed Date: 01/26/2007.

Accession Number: 20070212–0004.

Comment Date: 5 p.m. Eastern Time on Friday, March 2, 2007.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES07–21–000.

Applicants: Entergy Nuclear Palisades, LLC.

Description: Entergy Nuclear Palisades, LLC submits an application for Authorization to Issue Securities.

Filed Date: 02/20/2007.

Accession Number: 20070220–5019.

Comment Date: 5 p.m. Eastern Time on Tuesday, March 13, 2007.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*. or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–3359 Filed 2–26–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[P–12514–000, Indiana]

Norway-Oakdale Project; Northern Indiana Public Service Company; Notice of Availability of Final Environmental Assessment

February 16, 2007.

In accordance with the National Environmental Policy Act (NEPA) of 1969, as amended, and Federal Energy Regulatory Commission (Commission) regulations (18 CFR part 380), Commission staff has reviewed the application for license for the Norway-Oakdale Project and have prepared a final environmental assessment (FEA) for the project. The project is located on the Tippecanoe River in Carroll and White counties, Indiana.

In this FEA, Commission staff analyzes the probable environmental effects of implementing the project and conclude that approval of the project, with appropriate staff-recommended environmental measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the FEA are available for review in Public Reference Room 2-A of the Commission's offices at 888 First Street, NE., Washington, DC. The FEA also may be viewed on the Commission's Internet Web site (*http://www.ferc.gov*) using the ''eLibrary'' link. Additional information about the project is available from the Commission's Office of External Affairs at (202) 502–6088, or on the Commission's website using the ''eLibrary'' link. For assistance with eLibrary, contact *FERCOnlineSupport@ferc.gov;* call toll-free at (866) 208–3676; or, for TTY, contact (202) 502–8659.

For further information, please contact Sergiu Serban (202) 502–6211 or at *sergiu.serban@ferc.gov*.

Magalie R. Salas,

Secretary.

[FR Doc. E7–3346 Filed 2–26–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF07–3–000]

Floridian Natural Gas Storage Company, LLC; Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Floridian Natural Gas Storage Project; Request for Comments on Environmental Issues and Notice of a Public Meeting

February 15, 2007.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) is in the process of evaluating the Floridian Natural Gas Storage Project planned by Floridian Natural Gas Storage Company, LLC (FGS). The project would consist of a natural gas storage facility located in Martin County, Florida, north of Indiantown, Florida, and two approximately 4-mile-long natural gas pipelines, extending northwest from the facility to interconnect with the existing interstate pipeline systems of Florida Gas Transmission (FGT) and Gulfstream Natural Gas System, L.L.C. (Gulfstream).

As a part of this evaluation, FERC staff will prepare an environmental impact statement (EIS) that will address the environmental impacts of the project. Comments on the project may be submitted in written form or verbally. Further details on how to submit written comments are provided in the Public Participation section of this NOI. In lieu of sending written comments, we invite you to attend the following public scoping meeting and site visit scheduled as follows: Wednesday, March 7, 2007, 7 p.m., Indiantown Civic Center, 15675 SW Osceola Street, Indiantown FL 34956, (772) 597–2886.

FERC will be conducting a site visit of the proposed project on March 7, 2007, beginning at the Indiantown Civic Center parking lot at 4 p.m. and returning to the lot before 6 p.m. Please note that the applicant will provide a small bus or allow a caravan of private vehicles to the project site. The project pipelines will be viewed from public rights-of-way from the vehicle.

The Commission will use the EIS in its decision-making process to determine whether or not to authorize the project. This Notice of Intent (NOI) explains the scoping process we [1] will use to gather information on the project from the public and interested agencies.

[1] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the FERC's Office of Energy Projects.

Your input will help identify the issues that need to be evaluated in the EIS. Please note that scoping comments are requested by March 19, 2007.

This NOI is being sent to Federal, State, and local government agencies; elected officials; affected landowners; environmental and public interest groups; Indian tribes and regional Native American organizations; commentors and other interested parties; and local libraries and newspapers. We encourage government representatives to notify their constituents of this planned project and encourage them to comment on their areas of concern.

Summary of the Proposed Project

The proposed project will consist of a natural gas storage facility with a capacity of up to 8,000,000 dekatherms per day (dt/d) of sendout capacity. Additional equipment at the facility will include liquefaction facilities, re-vaporization facilities, two 4-mile-long pipelines to connect with existing interstate natural gas pipelines, and metering facilities.

Natural Gas Storage Facility

The Floridian Natural Gas Storage Project will consist of the following:

- Two 190,000 m^3 net capacity full-containment natural gas storage tanks;
- Liquefaction equipment;
- Process equipment;
- Boil-off gas (BOG) compression system;
- Re-vaporization equipment; and
- Electrical, control, and hazard protection system.

Pipelines

The pipelines to interconnect with the interstate natural gas pipelines will consist of the following:

- Two 4-mile-long, 24- and 10-inch-diameter natural gas pipelines (sendout and receiving, respectively) with capacity to deliver up to 8,000,000 dt/d;
- An interconnection with both the FGT and Gulfstream pipeline systems;
- Metering, flow control/pressure control, odorant, and security systems; and
- Pig launching and receiving facilities.

FGS proposes to begin construction of the project in second quarter-2008 with a projected in-service date early in the second quarter of 2011.

A location map depicting FGS' proposed facilities is attached to this NOI as Appendix 1 (Figures 1 and 2).[2]

The EIS Process

The National Environmental Policy Act (''NEPA'') requires the Commission to take into account the environmental impacts that could result from an action when it considers whether or not a natural gas storage facility should be approved. The FERC will use the EIS to consider the environmental impacts that could result if it issues project authorizations to FGS under section 7 of the Natural Gas Act. The NEPA also requires us to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EIS on the important environmental issues. With this NOI, the Commission staff is requesting public comments on the scope of the issues to be addressed in the EIS. All comments received will be considered during preparation of the EIS.

In the EIS we will discuss impacts that could occur as a result of the construction, operation, maintenance, and abandonment of the proposed project under these general headings:

- Geology and Soils.
- Water Resources.
- Aquatic Resources.
- Vegetation and Wildlife.
- Threatened and Endangered Species.
- Land Use, Recreation, and Visual Resources.
- Cultural Resources.
- Socioeconomics.
- Air Quality and Noise.
- Reliability and Safety.
- Cumulative Impacts.

In the EIS, we will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on affected resources.

Our independent analysis of the issues will be included in a draft EIS. The draft EIS will be mailed to federal, state, and local government agencies; elected officials; affected landowners; environmental and public interest groups; Indian tribes and regional Native American organizations; commentors; other interested parties; local libraries and newspapers; and the FERC's official service list for this proceeding. A 45-day comment period will be allotted for review of the draft EIS. We will consider all comments on the draft EIS and revise the document, as necessary, before issuing a final EIS. We will consider all comments on the final EIS before we make our recommendations to the Commission. To ensure that your comments are considered, please follow the instructions in the Public Participation section of this NOI.

Although no formal application has been filed, the FERC staff has already initiated its NEPA review under its pre-filing process. The purpose of the pre-filing process is to encourage early involvement of interested stakeholders and to identify and resolve issues before an application is filed with the FERC.

With this NOI, we are asking Federal, State, and local agencies with jurisdiction and/or special expertise with respect to environmental issues, especially those identified in Appendix 2, to express their interest in becoming cooperating agencies for the preparation of the EIS. These agencies may choose to participate once they have evaluated the proposal relative to their responsibilities. Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided in Appendix 2.

Currently Identified Environmental Issues

We have already identified issues that we think deserve attention based on a preliminary review of the project area, the planned facility information provided by FGS, and the public open house sponsored by FGS and attended by FERC. This preliminary list of issues, which is presented below, may be revised based on your comments and our continuing analyses.

- Potential impacts on residents in the project area, including safety issues at the storage facility, noise, air quality, and visual resources.
- Potential impacts of the construction of the storage facility and the pipeline on property values.
- Potential impacts on threatened and endangered species.
- Potential impacts on wetlands, vegetation, and wildlife habitat.
- Potential impacts on cultural resources.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the planned project. By becoming a commentor, your concerns will be addressed in the EIS and considered by the Commission. Your comments should focus on the potential environmental effects, reasonable alternatives (including alternative

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's Web site (excluding maps) at the ''e-Library'' link or from the Commission's Public Reference Room or call (202) 502–8371. For instructions on connecting to e-Library refer to the end of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

facility sites and pipeline routes), and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please follow these instructions:

• Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.

• Label one copy of your comments for the attention of Gas Branch 2, DG2E.

• Reference Docket No. PF07–3–000 on the original and both copies. Mail your comments so that they will be received in Washington, DC on or before March 19, 2007.

The Commission strongly encourages electronic filing of any comments in response to this NOI. For information on electronically filing comments, please see the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide as well as information in 18 CFR 385.2001(a)(1)(iii). Before you can file comments you will need to create a free account, which can be accomplished on-line.

The public scoping meeting (date, time, and location listed above) are designed to provide another opportunity to offer comments on the proposed project. Interested groups and individuals are encouraged to attend the meetings and to present comments on the environmental issues that they believe should be addressed in the EIS. A transcript of the meeting will be generated so that your comments will be accurately recorded.

Once FGS formally files its application with the Commission, you may want to become an ''intervenor,'' which is an official party to the proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in a Commission proceeding by filing a request to intervene. Instructions for becoming an intervenor are included in the User's Guide under the ''e-filing'' link on the Commission's Web site. Please note that you may not request intervenor status at this time. You must wait until a formal application is filed with the Commission.

Environmental Mailing List

If you wish to remain on the environmental mailing list, please return the attached Mailing List Retention Form (Appendix 3 of this NOI). If you do not return this form, we will remove your name from our mailing list.

To reduce printing and mailing costs, the draft and final EIS will be issued in both compact disk (CD–ROM) and hard copy formats. The FERC strongly encourages the use of CD–ROM format in its publication of large documents. Thus, all recipients will automatically receive the EIS on CD–ROM. If you wish to receive a paper copy of the draft EIS instead of a CD–ROM, you must indicate that choice on the return mailer.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208-FERC (3372) or on the FERC Internet Web site (*http://www.ferc.gov*) using the ''eLibrary link.'' Click on the eLibrary link, select ''General Search'' and enter the project docket number excluding the last three digits (i.e., PF07–3) in the ''Docket Number'' field. Be sure you have selected an appropriate date range. For assistance with eLibrary, the eLibrary helpline can be reached at 1–866–208–3676, TTY (202) 502–8659, or by e-mail at *FercOnlineSupport@ferc.gov*. The eLibrary link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

In addition, the FERC now offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. To register for this service, go to *http://www.ferc.gov/esubscribenow.htm*.

Public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Finally, FGS has established an Internet Web site for this project at *http://www.floridiangasstorage.com*. The Web site includes a project overview, status, answers to frequently asked questions, and links to related documents. You can also request additional information by calling FGS directly at (800) 621–6843.

Magalie R. Salas,

Secretary.

[FR Doc. E7–3348 Filed 2–26–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

February 21, 2007.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Transfer of License.

b. *Project No.:* 2621-005.

c. *Date Filed:* February 2, 2007.

d. *Applicants:* Milliken & Company (Transferor) and Lockhart Power Company (Transferee).

e. *Name and Location of Project:* The Pacolet Project is located on the Pacolet River, in Spartanburg County, South Carolina.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–25(r).

g. *Applicant Contacts:* For Transferor and Transferee: David R. Poe, LeBoeuf, Lamb, Greene & MacRae LLP, 1875 Connecticut Avenue, NW., Suite 1200, Washington, DC 20009, (202) 986–8000.

h. *FERC Contact:* Etta L. Foster (202) 502–8769.

i. *Deadline for filing comments, protests, and motions to intervene:* March 22, 2007.

All documents (original and eight copies) should be filed with Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper, see 18 CFR 385.2001 (a) (1) (iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–2621–005) on any comments, protests, or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing a document with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities

of a particular resource agency, they must also serve a copy of the documents on that resource agency.

j. *Description of Application:* Applicants request approval, under Section 8 of the Federal Power Act, of a transfer of license for the Pacolet Project No. 2621 from Milliken & Company to Lockhart Power Company.

k. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the project number excluding the last three digits (P–2621) in the docket number field to access the document. For online assistance, contact *FERCOnlineSupport@ferc.gov* or call toll-free (866) 208–3676, for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the addresses in item g.

l. Individual desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

m. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

n. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTESTS'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

o. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filling comments, it will be assumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E7–3347 Filed 2–26–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RR06–3–001]

North American Electric Reliability Corporation; Notice of Technical Conference

February 21, 2007.

Take notice that on March 2, 2007, a technical conference will be held at the Federal Energy Regulatory Commission to discuss a rehearing request addressing the North American Electric Reliability Corporation's (NERC) business plan and budget as the Electric Reliability Organization (ERO). This technical conference was established in an Order on Rehearing and Establishing Technical Conference in this docket, issued February 15, 2007.[1] It will be held at the headquarters of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC from 9 a.m.–12 p.m. (EST).

The technical conference will consist of a discussion between Commission staff and representatives of NERC and Western Electricity Coordinating Council (WECC). The primary question to be addressed is whether WECC's reliability coordinator activities should receive mandatory funding through the ERO.

WECC has specifically requested that $6.9 million be included in the ERO budget for its reliability coordinator activities. NERC and WECC will be asked to provide details about WECC's funding request and WECC's reliability coordination function. The details they will be asked to address include, but are not limited to: information about WECC's reliability coordinators' independence from users, owners and operators of the Bulk-Power System; details of ERO oversight; issues related to enforcement and non-compliance; billing and allocation; and WECC's plans for the future.

[1] WECC, Pacific Gas and Electric Company and Southern California Edison Company jointly sought rehearing of FERC's October 24, 2006 order, North American Electric Reliability Corporation 117 FERC ¶ 61,091 (2006).

The conference is open for the public to attend. The conference will not be transcribed and telephone participation will not be available.

The Commission will accept written comments on the discussion at this technical conference no later than 5 p.m. Eastern Time on Monday, March 12, 2007.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–208–1659 (TTY), or send a FAX to 202–208–2106 with the required accommodations.

For more information about this conference, please contact: Sarah McKinley, Office of External Affairs, Federal Energy Regulatory Commission, (202) 502–8004, *sarah.mckinley@ferc.gov.*

Magalie R. Salas,

Secretary.

[FR Doc. E7–3340 Filed 2–26–07; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[AMS–FRL–8281–8]

California State Motor Vehicle Pollution Control Standards; Request for Waiver of Federal Preemption; Opportunity for Public Hearing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of opportunity for public hearing and comment.

SUMMARY: The California Air Resources Board (CARB) has notified EPA that it has adopted ''Malfunction and Diagnostic System Requirements for 2010 and Subsequent Model-Year Heavy-Duty Engines.'' By letter dated September 22, 2006, CARB submitted a request that EPA grant a waiver of preemption under section 209(b) of the Clean Air Act (CAA), 42 U.S.C. 7543(b) for this regulation. This notice announces that EPA has tentatively scheduled a public hearing concerning California's request and that EPA is accepting written comment on the request.

DATES: EPA has tentatively scheduled a public hearing concerning CARB's request on March 29, 2007 beginning at 10 a.m. EPA will hold a hearing only if a party notifies EPA by March 19, 2007, expressing its interest in presenting oral testimony. By March 26, 2007, any

person who plans to attend the hearing should call David Dickinson at (202) 343–9256 to learn if a hearing will be held. If EPA does not receive a request for a public hearing, then EPA will not hold a hearing, and instead consider CARB's request based on written submissions to the docket. Any party may submit written comments by May 8, 2007.

ADDRESSES: EPA will make available for public inspection at the Air and Radiation Docket and Information Center written comments received from interested parties, in addition to any testimony given at the public hearing. The official public docket is the collection of materials that is available for public viewing at the Air and Radiation Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1743. We strongly encourage you to visit the EPA Docket Web site at *http://www.epa.gov/epahome/dockets.htm* in order to receive the last status concerning the Public Reading Room and public access to docket materials. The reference number for this docket is EPA–HQ–OAR–2006–0844. Parties wishing to present oral testimony at the public hearing should provide written notice to David Dickinson at the address noted below. If EPA receives a request for a public hearing, EPA will hold the public hearing at 1310 L St., NW., Washington, DC 20005.

For Obtaining and Submitting Electronic Copies of Documents, or For Further Information: David Dickinson, Compliance and Innovative Strategies Division (6405J), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave, NW, Washington, DC 20460. Telephone: (202) 343–9256, Fax: (202) 343–2804, e-mail address: *Dickinson.David@EPA.GOV*. *EPA* will make available an electronic copy of this Notice on the Office of Transportation and Air Quality's (OTAQ's) homepage (*http://www.epa.gov/otaq/*). Users can find this document by accessing the OTAQ homepage and looking at the path entitled ''Regulations.'' This service is free of charge, except any cost you already incur for Internet connectivity. Users can also get the official **Federal Register** version of the Notice on the day of publication on the primary Web site: (*http://www.epa.gov/docs/fedrgstr/EPA-AIR/*).

Please note that due to differences between the software used to develop the documents and the software into which the documents may be downloaded, changes in format, page length, etc., may occur. Parties wishing to present oral testimony at the public hearing should provide written notice to David Dickinson at: U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., (6405J), Washington, DC 20460. Telephone: (202) 343–9256.

Submit your written comments, identified by Docket ID No. EPA–HQ–OAR–2006–0844, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments. This serves as an electronic docket (edocket).
- E-mail: *dickinson.david@epa.gov.*
- Fax: (202) 343–2804.
- Hand Delivery: EPA Headquarters, Room 6146F, EPA West Building, 1301 Constitution Ave., NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. We strongly encourage you to visit the EPA Docket Web site at *http://www.epa.gov/epahome/dockets.htm* in order to receive the last status concerning the Public Reading Room and public access to docket materials. Instructions: Direct your comments to Docket ID No EPA–HQ–OAR–2006–0844.

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 being CBI or otherwise protected through *http://www.regulations.gov* or e-mail.

The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *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.

SUPPLEMENTARY INFORMATION:

(A) Background and Discussion

Section 209(a) of the Clean Air Act, as amended (''Act''), 42 U.S.C. 7543(a), provides:

> No State or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part. No state shall require certification, inspection or any other approval relating to the control of emissions from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment.

Section 209(b) of the Act requires the Administrator, after notice and opportunity for public hearing, to waive application of the prohibitions of section 209(a) for any state that has adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, if the state determines that the state standards will be, in the aggregate, at least as protective of public health and welfare as applicable federal standards. California is the only state that is qualified to seek and receive a waiver under section 209(b). The Administrator must grant a waiver unless he finds that (A) the determination of the state is arbitrary and capricious, (B) the state does not need the standards to meet compelling and extraordinary conditions, or (C) the state standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act.

CARB's September 22, 2006, letter to the Administrator notified EPA that it had formally adopted Malfunction and Diagnostic System Requirements for 2010 and Subsequent Model-Year Heavy-Duty Engines (also known as On-

Board Diagnostics or OBD) on December 28, 2005. This regulation can be found at title 13, California Code of Regulations (CCR), section 1971.1.

Please provide comment as to whether (a) California's determination that its regulations as referenced in its September 22, 2006, request letter, are at least as protective of public health and welfare as applicable federal standards is arbitrary and capricious, (b) California needs separate standards to meet compelling and extraordinary conditions, and (c) California's standards and accompanying enforcement procedures are consistent with section 202(a) of the Clean Air Act.

Procedures for Public Participation:

In recognition that public hearings are designed to give interested parties an opportunity to participate in this proceeding, there are no adverse parties as such. Statements by participants will not be subject to cross-examination by other participants without special approval by the presiding officer. The presiding officer is authorized to strike from the record statements that he or she deems irrelevant or repetitious and to impose reasonable time limits on the duration of the statement of any participant.

If a hearing is held, the Agency will make a verbatim record of the proceedings. Interested parties may arrange with the reporter at the hearing(s) to obtain a copy of the transcript at their own expense. Regardless of whether a public hearing is held, EPA will keep the record open until May 8, 2007. Upon expiration of the comment period, the Administrator will render a decision on CARB's request based on the record of the public hearing(s), if any, relevant written submissions, and other information that he deems pertinent. All information will be available for inspection at EPA Air Docket. (EPA–HQ–OAR–2006–0844) and in the edocket as noted above.

Persons with comments containing proprietary information must distinguish such information from other comments to the greatest possible extent and label it as ''Confidential Business Information'' (CBI). If a person making comments wants EPA to base its decision in part on a submission labeled CBI, then a nonconfidential version of the document that summarizes the key data or information should be submitted for the public docket. To ensure that proprietary information is not inadvertently placed in the docket, submissions containing such information should be sent directly to the contact person listed above and not to the public docket. Information covered by a claim of confidentiality will be disclosed by EPA only to the extent allowed and by the procedures set forth in 40 CFR Part 2. If no claim of confidentiality accompanies the submission when EPA receives it, EPA will make it available to the public without further notice to the person making comments.

Dated: February 21, 2007.

William L. Wehrum,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. E7–3313 Filed 2–26–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8281–6; Docket ID No. EPA–HQ–ORD–2007–0039]

Draft Toxicological Review of 1,1,1-Trichloroethane: In Support of the Summary Information in the Integrated Risk Information System (IRIS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Peer-Review Workshop and Public Comment Period.

SUMMARY: EPA is announcing that the Oak Ridge Institute of Science and Education (ORISE), under an Interagency agreement between the Department of Energy and EPA, will convene an independent panel of experts and organize and conduct an external peer-review workshop to review the external review draft document titled, Toxicological Review of 1,1,1-Trichloroethane: In Support of Summary Information on the Integrated Risk Information System (IRIS) (NCEA–S–1606). The EPA also is announcing a public comment period for the draft document. EPA intends to consider comments and recommendations from the public and the expert panel meeting when EPA finalizes the draft document.

The public comment period and the external peer-review workshop are separate processes that provide opportunities for all interested parties to comment on the document. In addition to consideration by EPA, all public comments submitted in accordance with this notice will also be forwarded to ORISE for consideration by the external peer-review panel prior to the workshop.

EPA is releasing this draft document solely for the purpose of pre-dissemination peer review under applicable information quality guidelines. This document has not been formally disseminated by EPA. It does not represent and should not be construed to represent any Agency policy or determination.

ORISE invites the public to register to attend this workshop as observers. In addition, ORISE invites the public to give brief oral comments at the workshop regarding the draft document under review. The draft document and EPA's peer-review charge are available via the Internet on NCEA's home page under the Recent Additions and the Data and Publications menus at *http://www.epa.gov/ncea.* When finalizing the draft document, EPA intends to consider ORISE's report of the comments and recommendations from the external peer-review workshop and any public comments that EPA receives in accordance with this notice.

DATES: The peer-review panel workshop will begin on April 20, 2007, at 9 a.m. and end at 3 p.m. The public comment period begins February 27, 2007, and ends April 13, 2007. Technical comments should be in writing and must be received by EPA by April 13, 2007. Comments from the public received by this date will be submitted to the panel prior to the workshop.

ADDRESSES: The peer-review workshop will be held at the Sheraton Crystal City, 1800 Jefferson Davis Highway, Arlington, Virginia 22202. ORISE is organizing, convening, and conducting the peer-review workshop. To attend the workshop, register by April 12, 2007, via the Internet at *http://www.orau.gov/trichloroethane.* You may also register by calling ORISE at 865–576–2922, sending a facsimile to 865–241–3168, or sending an e-mail to Margaret Lyday, *lydaym@orau.gov.* You must register by April 12, 2007, if you wish to provide brief oral comments at the workshop.

The draft Toxicological Review of 1,1,1-Trichloroethane: In Support of Summary Information on the Integrated Risk Information System (IRIS) is available via the Internet on the National Center for Environmental Assessment's (NCEA) home page under the Recent Additions and the Data and Publications menus at *http://www.epa.gov/ncea.* A limited number of paper copies are available from the Technical Information Staff, NCEA–W; telephone: 202–564–3261; facsimile: 202–565–0050. If you are requesting a paper copy, please provide your name, mailing address, and the document title. Copies are not available from ORISE.

Comments may be submitted electronically via *http://www.regulations.gov,* by mail, by facsimile, or by hand delivery/courier. Please follow the detailed instructions

as provided in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: For information on the peer-review workshop, contact Margaret Lyday, ORISE, P.O. Box 117, MS 17, Oak Ridge, TN 37831–0117, 865–576–2922 or 865–241–3168 (facsimile), *lydaym@orau.gov* (e-mail).

For information on the public comment period, contact the Office of Environmental Information Docket; telephone: 202–566–1752; facsimile: 202–566–1753; or e-mail: *ORD.Docket@epa.gov.*

If you have questions about the document, contact Susan Rieth, IRIS Staff, National Center for Environmental Assessment, (8601D), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone: 202–564–1532; facsimile: 202–565–0075; *rieth.susan@epa.gov* (e-mail).

SUPPLEMENTARY INFORMATION:

I. Summary of Information About the Integrated Risk Information System (IRIS)

IRIS is a database that contains potential adverse human health effects information that may result from chronic (or lifetime) exposure to specific chemical substances found in the environment. The database (available on the Internet at *http://www.epa.gov/iris*) contains qualitative and quantitative health effects information for more than 500 chemical substances that may be used to support the first two steps (hazard identification and dose-response evaluation) of a risk assessment process. When supported by available data, the database provides oral reference doses (RfDs) and inhalation reference concentrations (RfCs) for chronic health effects, and oral slope factors and inhalation unit risks for carcinogenic effects. Combined with specific exposure information, government and private entities can use IRIS data to help characterize public health risks of chemical substances in a site-specific situation and thereby support risk management decisions designed to protect public health.

II. Workshop Information

Members of the public may attend the workshop as observers, and there will be a limited time for oral comments from the public. Please let ORISE know if you wish to make comments during the workshop prior to the meeting by registering on the Web site at *http://www.orau.gov/trichloroethane* and indicating your intent to make oral comments. Space is limited, and reservations will be accepted on a first-come, first-served basis.

III. How To Submit Technical Comments to the Docket at www.regulations.gov

Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2007–0039 by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: ORD.Docket@epa.gov.*
- *Fax:* 202–566–1753
- *Mail:* Office of Environmental Information (OEI) Docket (Mail Code: 2822T), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. The phone number is 202–566–1752.
- *Hand Delivery:* The OEI Docket is located in the EPA Headquarters Docket Center, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202–566–1744. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

If you provide comments by e-mail or hand delivery, please submit one unbound original with pages numbered consecutively, and three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2007–0039. Please ensure that your comments are submitted within the specified comment period. Comments received after the closing date will be marked ''late,'' and may only be considered if time permits. It is EPA's policy to include all comments it receives in the public docket without change and to make the comments available online at *www.regulations.gov*, including any personal information provided, unless a 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 *www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the OEI Docket in the EPA Headquarters Docket Center.

Dated: February 20, 2007.

Peter W. Preuss,

Director, National Center for Environmental Assessment.

[FR Doc. E7–3316 Filed 2–26–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2006–0978; FRL–8282–2]

Board of Scientific Counselors Human Health Mid-Cycle Subcommittee Meeting—March 2007

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, the Environmental Protection Agency, Office of Research and Development (ORD), gives notice of a meeting (via teleconference) of the Board of Scientific Counselors (BOSC) Human Health Mid-Cycle Subcommittee.

DATES: A teleconference call will be held on Thursday, March 15, 2007, from 12:30 p.m. to 1:30 p.m. Eastern Standard Time. The meeting may adjourn early if all business is completed. Requests for

the draft agenda or for making oral presentations at the meeting will be accepted up to 1 business day prior to the meeting.

ADDRESSES: The meeting will be by teleconference only—meeting rooms will not be used. Members of the public may obtain the call-in number and access code for the teleconference meeting from Virginia Houk, whose contact information is listed under the **FOR FURTHER INFORMATION CONTACT** section of this notice. Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2006–0978, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail:* Send comments by electronic mail (e-mail) to: *ORD.Docket@epa.gov,* Attention Docket ID No. EPA–HQ–ORD–2006–0978.
- *Fax:* Fax comments to: (202) 566–0224, Attention Docket ID No. EPA–HQ–ORD–2006–0978.
- *Mail:* Send comments by mail to: Board of Scientific Counselors, Human Health Mid-Cycle Subcommittee Meeting—January 2007 Docket, Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC, 20460, Attention Docket ID No. EPA–HQ–ORD–2006–0978.
- *Hand Delivery or Courier.* Deliver comments to: EPA Docket Center (EPA/DC), Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC, Attention Docket ID No. EPA–HQ–ORD–2006–0978.

Note: This is not a mailing address. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2006–0978. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Board of Scientific Counselors, Human Health Mid-Cycle Subcommittee Meeting—January 2007 Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: The Designated Federal Officer via mail at: Virginia Houk, Mail Code B305–02, National Health and Environmental Effects Research Laboratory, Office of Research and Development, Environmental Protection Agency, 109 TW Alexander Drive, Research Triangle Park, NC 27711; via phone/voice mail at: (919) 541–2815; via fax at: (919) 685–3250; or via e-mail at: *houk.virginia@epa.gov.*

SUPPLEMENTARY INFORMATION:

General Information

Any member of the public interested in receiving a draft BOSC agenda or making a presentation at the meeting may contact Virginia Houk, the Designated Federal Officer, via any of the contact methods listed in the **FOR FURTHER INFORMATION CONTACT** section above. In general, each individual making an oral presentation will be limited to a total of three minutes.

The proposed agenda item for the teleconference includes, but is not limited to: Discussion of the first draft letter report of the BOSC Human Health Mid-Cycle Subcommittee. The teleconference is open to the public.

Information on Services for Individuals With Disabilities: For information on access or services for individuals with disabilities, please contact Virginia Houk at (919) 541–2815 or *houk.virginia@epa.gov.* To request accommodation of a disability, please contact Virginia Houk, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: February 20, 2007.

Rebecca Calderon,

Acting Director, Office of Science Policy.

[FR Doc. E7–3315 Filed 2–26–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2006–0979; FRL–8282–1]

Board of Scientific Counselors, Safe Pesticides/Safe Products (SP2) Research Program Subcommittee Meetings—March/April 2007

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meetings.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, the Environmental Protection Agency, Office of Research and Development (ORD), gives notice of two meetings (via teleconference) of the Board of Scientific Counselors (BOSC) SP2 Subcommittee.

DATES: Two conference calls will be held: March 22, 2007 from 12 p.m.–2 p.m. eastern standard time, and April 3, 2007 from 12 p.m.–2 p.m. eastern standard time. The meetings may adjourn early if all business is finished. Comments and requests for the draft agenda or for making an oral presentation at the conference calls will be accepted up to one business day before the conference calls.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2006–0979, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail:* Send comments by electronic mail (e-mail) to

ORD.Docket@epa.gov, Attention Docket ID No. EPA–HQ–ORD–2006–0979.

- *Fax:* Fax comments to: 202–566–0224, Attention Docket ID No. EPA–HQ–ORD–2006–0979
- *Mail:* Send comments by mail to: Board of Scientific Counselors, Safe Pesticides/Safe Products (SP2) Subcommittee Meetings—Winter 2007 Docket, Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–ORD–2006–0979.
- *By Hand Delivery or Courier.* Deliver comments to: EPA Docket Center (EPA/DC), Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC, Attention Docket ID No. EPA–HQ–ORD–2006–0979.

Note: This is not a mailing address. Such deliveries are only accepted during the docket's normal hours of operation and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2006–0979. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Board of Scientific Counselors, Safe Pesticides/Safe Products (SP2) Subcommittee Meetings—Winter 2007 Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Docket is 202–566–1752.

FOR FURTHER INFORMATION CONTACT: Heather Drumm, Designated Federal Officer, via telephone/voice mail at (202) 564–8239, via e-mail at *drumm.heather@epa.gov*, or by mail at Environmental Protection Agency, Office of Research and Development, Mail Code 8104–R, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

General Information

Participation in the conference calls will be by teleconference only—meeting rooms will not be used. Members of the public who wish to obtain the call-in number and access code to participate in a teleconference meeting may contact Heather Drumm, Designated Federal Officer, via telephone/voice mail at (202) 564–8239, via e-mail at *drumm.heather@epa.gov*, or by mail at Environmental Protection Agency, Office of Research and Development, Mail Code 8104–R, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, by four work days prior to each conference call.

Proposed agenda items for the conference calls include, but are not limited to: follow-up from the February 7–9, 2007 face-to-face meeting, and discussion of progress on the draft report. The conference calls are open to the public.

Information on Services for Individuals with Disabilities: For information on access or services for individuals with disabilities, please contact Heather Drumm at (202) 564–8239 or *drumm.heather@epa.gov.* To request accommodation of a disability, please contact Heather Drumm, preferably at least 10 days prior to the meetings, to give EPA as much time as possible to process your request.

Dated: February 20, 2007.

Rebecca Calderon,

Acting Director, Office of Science Policy.

[FR Doc. E7–3319 Filed 2–26–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8281–2]

Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2005

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of document availability and request for comments.

SUMMARY: The Draft Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2005 is available for public review. Annual U.S. emissions for the period of time from 1990 through 2005 are summarized and presented by source category and sector. The inventory contains estimates of carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), hydrofluorocarbons (HFC), perfluorocarbons (PFC), and sulfur hexafluoride (SF_6) emissions. The inventory also includes estimates of carbon fluxes in U.S. agricultural and forest lands. The technical approach used in this report to estimate emissions and sinks for greenhouse gases is consistent with the methodologies recommended by the Intergovernmental Panel on Climate Change (IPCC), and reported in a format consistent with the United Nations Framework Convention on Climate Change (UNFCCC) reporting guidelines. The Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2005 is the latest in a series of annual U.S. submissions to the Secretariat of the UNFCCC.

DATES: To ensure your comments are considered for the final version of the document, please submit your comments within 30 days of the appearance of this notice. However, comments received after that date will still be welcomed and be considered for the next edition of this report.

ADDRESSES: Comments should be submitted to Mr. Leif Hockstad at: Environmental Protection Agency, Climate Change Division (6207J), 1200 Pennsylvania Ave., NW., Washington, DC 20460, Fax: (202) 343–2359. You are welcome and encouraged to send an e-mail with your comments to *hockstad.leif@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Leif Hockstad, Environmental

Protection Agency, Office of Air and Radiation, Office of Atmospheric Programs, Climate Change Division, (202) 343–9432, *hockstad.leif@epa.gov.*

SUPPLEMENTARY INFORMATION: The draft report can be obtained by visiting the U.S. EPA's Climate Change Site at: *http://www.epa.gov/climatechange/emissions/usinventoryreport.html.*

Dated: February 16, 2007.

William Wehrum,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. E7–3317 Filed 2–26–07; 8:45 am]

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Final Comment Request

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final notice of information collection under review; ADEA waivers.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Equal Employment Opportunity Commission (Commission or EEOC) gives notice that it has submitted to the Office of Management and Budget (OMB) a request for an extension without change of the existing collection requirements under 29 CFR 1625.22, Waivers of rights and claims under the Age Discrimination in Employment Act (ADEA). No public comments were received in response to the EEOC's November 20, 2006 60-Day notice soliciting comments on the proposed extension of this collection.

DATES: Written comments on this notice must be submitted on or before March 29, 2007.

ADDRESSES: The Request for Clearance (OMB 83–I), supporting statement, and other documents submitted to OMB for review may be obtained from: Danielle J. Hayot, Attorney-Advisor, Office of Legal Counsel, 1801 L Street, NW., Washington, DC 20507. Comments on this final notice must be submitted to Brenda Aguilar, Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or electronically mailed to *baguilar@omb.eop.gov.* Comments should also be submitted to Stephen Llewellyn, Acting Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 10th Floor, 1801 L Street, NW., Washington, DC 20507. Comments of six or fewer pages in length may be transmitted to the EEOC's Executive Secretariat by facsimile (''FAX'') machine at (202) 663–4114. (This is not a toll-free-number.) This page limitation is necessary to assure access to the equipment. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat staff at (202) 663–4070 (voice) or (202) 663–4074 (TDD). (These are not toll-free telephone numbers.) Copies of comments submitted by the public will be available for review at the Commission's library, Room 6502, 1801 L Street, NW., Washington, DC 20507 between the hours of 9:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, at (202) 663–4640, or Danielle J. Hayot, Attorney-Advisor, at (202) 663–4695, or TTY (202) 663–7026. This notice is also available in the following formats: Large print, braille, audio tape and electronic file on computer disk. Requests for this notice in an alternative format should be made to the Publications Center at 1–800–669–3362.

SUPPLEMENTARY INFORMATION: The EEOC enforces the ADEA of 1967, as amended, 29 U.S.C. 621 *et seq.*, which prohibits discrimination against employees and applicants for employment who are age 40 or older. Congress amended the ADEA by enacting the Older Workers Benefit Protection Act of 1990 (OWBPA), Public Law No. 101–433, 104 Stat. 983 (1990), to clarify the prohibitions against discrimination on the basis of age. In Title II of OWBPA, Congress addressed waivers of rights and claims under the ADEA, amending section 7 of the ADEA by adding a new subsection (f), 29 U.S.C. 626(f). The provisions of Title II of OWBPA require employers to provide certain information to employees (but not to EEOC) in writing. The regulation at 29 CFR 1625.22 reiterates those requirements.

The EEOC seeks extension without change of the information collection requirements contained in this recordkeeping regulation. On November 20, 2006, the Commission published a 60-Day Notice informing the public of its intent to request an extension of the information collection requirements from the Office of Management and Budget. 71 FR 67126–67127, November 20, 2006. No comments were received.

Collection Title: Informational requirements under Title II of the Older Workers Benefit Protection Act of 1990 (OWBPA), 29 CFR part 1625.

Form Number: None.

Frequency of Report: None required.

OMB Control No.: 3046–0042.

Type of Respondent: Business, Federal government, State or local governments, not for profit institutions.

Description of the Affected Public: Any employer with 20 or more employees that seeks waiver agreements in connection with exit incentive or other employment termination programs (hereinafter, ''Programs'').

Responses: 13,998.

Reporting Hours: 20,997.

Number of Forms: None.

Federal Cost: None.

Abstract: This requirement involves providing adequate information in waiver agreements offered to a group or class of persons in connection with a Program, to satisfy the requirements of the OWBPA.

Burden Statement: The paperwork burden involved is the inclusion of the relevant information in waiver agreements under the OWBPA. The rule applies to those employers who have 20 or more employees and who offer waivers to a group or class of employees in connection with a Program.

Dated: February 21, 2007.

For the Commission:

Naomi C. Earp,

Chair.

[FR Doc. E7–3381 Filed 2–26–07; 8:45 am]

BILLING CODE 6570–01–P

FEDERAL MARITIME COMMISSION

Notice of Request for Additional Information

The Commission gives notice that it has formally requested that the parties to the below listed agreement provide additional information pursuant to 46 U.S.C. 40304(d). This action prevents the agreement from becoming effective as originally scheduled.

Agreement No.: 011275–022.

Title: Australia/United States Discussion Agreement.

Parties: A.P. Moller-Maersk A/S, Safmarine Container Lines NV, Hamburg-Südamerikanische Dampfschifffahrtsgesellschaft KG, and Hapag-Lloyd AG.

Dated: February 21, 2007.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. E7–3270 Filed 2–26–07; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 23, 2007.

A. Federal Reserve Bank of New York (Anne McEwen, Financial Specialist) 33 Liberty Street, New York, New York 10045–0001:

1. Amboy Bancorporation Employee Stock Ownership Plan, Old Bridge, New Jersey; to become a bank holding company by acquiring up to 26 percent of the voting shares of Amboy Bancorporation, and thereby indirectly acquire Amboy National Bank, both of Old Bridge, New Jersey.

B. Federal Reserve Bank of Atlanta (David Tatum, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. American United Bancorp, Inc., Lawrenceville, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of American United Bank, Lawrenceville, Georgia.

2. Calusa Financial Corporation, Punta Gorda, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Calusa National Bank, Punta Gorda, Florida (in organization).

C. Federal Reserve Bank of Chicago (Patrick M. Wilder, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. Associated Banc–Corp, Green Bay, Wisconsin; to acquire 100 percent of the voting shares of First National Bank of Hudson, Woodbury, Minnesota.

D. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Pinnacle Bancorp, Inc., Central City, Nebraska; to acquire 100 percent of the voting shares of Farmers and Merchants Bank, Imperial, Nebraska.

Board of Governors of the Federal Reserve System, February 21, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–3245 Filed 2–26–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 23, 2007.

A. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. Central Bancompany, Inc., Jefferson City, Missouri; to acquire 100 percent of the voting shares of Gardner Bancorp, Inc., Gardner, Kansas, and thereby indirectly acquire voting shares of First Kansas Bank and Trust Company, Gardner, Kansas.

B. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Lauritzen Corporation, First National of Nebraska, Inc., and First National of Illinois, Inc., all of Omaha, Nebraska; to acquire 100 percent of the voting shares of First Marengo Financial Corporation, and thereby indirectly acquire voting shares of First National Bank of Marengo, both in Marengo, Illinois.

Board of Governors of the Federal Reserve System, February 22, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–3312 Filed 2–26–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of

Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 13, 2007.

A. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Spalding City Corporation, Omaha, Nebraska; to retain voting shares of Spalding City Insurance Agency, Spalding, Nebraska, and thereby continue to engage in general insurance activities in small towns, pursuant to section 225.28(b)(11)(iii)(A) of Regulation Y.

Board of Governors of the Federal Reserve System, February 21, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc.E7–3246 Filed 2–26–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:30 a.m., Monday, March 5, 2007.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

FOR FURTHER INFORMATION CONTACT: Michelle Smith, Director, or Dave Skidmore, Assistant to the Board, Office of Board Members at 202–452–2955.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at *http://www.federalreserve.gov* for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Board of Governors of the Federal Reserve System, February 23, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 07–906 Filed 2–23–07; 2:51 pm]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office For Civil Rights; Privacy Act of 1974; Amended System of Records

ACTION: Notice of modified or altered System of Records (SOR).

SUMMARY: In accordance with the Privacy Act, we are proposing to modify or alter an existing SOR, ''Program Information Management System (PIMS),'' System No. 09–90–0052, published at 67 FR 57011, September 6, 2002.

First, we propose to add a new authority, the Patient Safety and Quality Improvement Act of 2005 (Patient Safety Act), to those under which OCR collects information. The Secretary of HHS has delegated to OCR the authority to enforce the confidentiality provisions of that statute.

Second, we propose a new routine use which allows referrals of Age Discrimination Act Complaints to the Federal Mediation and Conciliation Service (FMCS), for purposes of mediation.

Third, we give notice of a new routine use permitting disclosure of records to student volunteers, individuals working under a personal services contract, and other individuals performing functions for the Department but technically not having the status of OCR employees, if they need access to the records in order to perform their assigned agency functions. OCR invites interested parties to submit comments on the proposed additional authority and routine uses. See Effective Dates section for comment period.

EFFECTIVE DATES: OCR filed a modified system report with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Homeland Security and Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) February 15, 2007. To ensure that all parties have adequate time in which to comment, the modified SOR, including routine uses, will become effective 40 days from the publication of the notice, or from the date it was submitted to OMB and the Congress, whichever is later, unless OCR receives comments that require alterations to this notice.

ADDRESSES: The public should address comments regarding: FMCS referrals to Richard Lopez, Civil Rights Division, the Patient Safety Act to Linda Sanches, Privacy Division, student volunteers to Sheila D. Marshall, of the Management Operations Division, Office for Civil Rights, Department of Health and Human Services, Room 553E, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201. Comments also may be sent via e-mail to *OCRmail@hhs.gov*. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.–3 p.m., Eastern Standard Time.

FOR FURTHER INFORMATION CONTACT: For further information regarding FMCS referrals contact Richard Lopez, Civil Rights Division, telephone number (202) 260–1602, the Patient Safety Act contact Linda Sanches, Privacy Division, telephone number (202) 260–7106, student volunteers contact Sheila D. Marshall, of the Management Operations Division, telephone number (202) 619–2742, Office for Civil Rights, Department of Health and Human Services, Room 553E, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

SUPPLEMENTARY INFORMATION: The system of records (i.e., PIMS) described in the OCR's September 6, 2002 Privacy Act notice is used by OCR staff and consists of an electronic repository of information and documents, and supplementary paper document files. PIMS effectively combined and replaced OCR's two previous systems of records, (CIMS and the Complaint File and Log), into a single integrated system with enhanced electronic storage, retrieval and tracking capacities. While the types of information collected and stored in PIMS is the same as the information collected in CIMS and the Complaint File and Log, PIMS allows OCR to manage more effectively the information that it does collect.

The Privacy Act permits the OCR to disclose information or records pertaining to an individual without that individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected, 5 U.S.C. 552a (b) (3). Any such disclosure is known as a ''routine use.'' This modified notice identifies two new routine uses for the OCR's system of

records, as described below. The OCR expects that the routine use disclosures will not result in any unwarranted invasion of personal privacy.

The Office for Civil Rights (OCR) is responsible for enforcing Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975 and other statutes which prohibit discrimination by programs or entities that receive Federal financial assistance. OCR also has jurisdiction over Federally conducted programs in cases involving disability-based discrimination under Section 504 of the Rehabilitation Act, over state and local public entities in cases involving disability-based discrimination under Title II of the Americans with Disabilities Act and over health plans, health care clearinghouses and certain health care providers with respect to enforcement of medical privacy obligations under the Health Insurance Portability and Accountability Act. We give notice that OCR now enforces the confidentiality provisions of a new authority, the Patient Safety and Quality Improvement Act of 2005 (Patient Safety Act).

The PIMS system conforms to applicable law and policy governing the privacy and security of Federal automated information systems. These include, but are not limited to: the Privacy Act of 1974, Computer Security Act of 1987, the Paperwork Reduction Act of 1995, the Clinger-Cohen Act of 1996, and OMB Circular A–130, Appendix, III, ''Security of Federal Automated Information Resources.'' OCR has prepared a system security plan as required by OMB Circular A–130, Appendix III. This plan conforms fully to guidance issued by the National Institute for Standards and Technology (NIST) in NIST Special Publication 800–18, ''Guide for Developing Security Plans for Information Technology Systems.'' The plan includes conduct of a risk assessment that addresses the confidentiality and integrity of the data.

Only authorized users whose official duties require the use of such information have regular access to the records in this system.

The routine uses for this system are compatible with the stated purpose of the system. The first routine use for this system, permitting disclosure to a congressional office, allows subject individuals to obtain assistance from their representatives in Congress, should they so desire. Such disclosure would be made only pursuant to the request of the individual. The second routine use allows disclosure to the Department of Justice or a court in the event of litigation. The third routine use allows referral to the appropriate agency, in the event that a System of Records maintained by this agency to carry out its functions indicates a violation or potential violation of law. The fourth routine use allows disclosure of records to contractors for the purpose of processing or refining records in the system. OCR is proposing to add two new routine uses. The fifth and new routine use allows records to be disclosed to student volunteers, individuals working under a personal services contract, and other individuals performing functions for the Department but technically not having the status of agency employees, if they need access to the records in order to perform their assigned agency functions. The new sixth and final routine use allows referrals of Age Discrimination Act Complaints to the Federal Mediation and Conciliation Service (FMCS) for purposes of mediation.

The following amended notice is written in the present, rather than future tense, in order to avoid the unnecessary expenditure of public funds to modify the amended notice after the system has become effective.

Dated: February 13, 2007.

Winston Wilkinson,

Director, Office for Civil Rights.

09–90–0052

SYSTEM NAME:

''Program Information Management System (PIMS), HHS/OS/OCR.''

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

The automated portion of the system is maintained at OCR Headquarters. Paper files are maintained in headquarters and regional offices as noted in Appendix I.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Covered individuals include persons who file complaints alleging discrimination or violation of their rights or other violations under the statutes identified below (Authority for Maintenance) and covered entities (e.g., service providers) that are individuals and not organization or institutions, investigated by OCR as a result of complaints filed or through reviews conducted by OCR. Covered individuals also include persons who submit correspondence to OCR related to other compliance activities, (e.g., outreach and public education) and other correspondence unrelated to a complaint or review and requiring responses by OCR. In addition, OCR employees who use the system to record the status of their work are covered.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system encompasses a variety of records having to do with complaints, reviews, and correspondence. The complaint files and log include complaint allegations, information gathered during the complaint investigation, findings and results of the investigation, and correspondence relating to the investigation, as well as status information for all complaints. This component of PIMS is exempt from the notification, access, correction and amendment provisions of the Privacy Act (see below: Systems Exempted From Certain Provisions of the Act). Equivalent types of information are maintained for reviews and correspondence activities—namely information gathered, findings, results, correspondence and status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title VI of the 1964 Civil Rights Act; Sections 533, 542, 794, 855, 1947 and 1908 of the Public Health Service Act; Sections 504 and 508 of the Rehabilitation Act of 1973: Title II of the Americans with Disabilities Act of 1990; the Age Discrimination Act of 1975; the Equal Employment Opportunity Provisions of the Public Telecommunications Financing Act of 1978; Title VI and Title XVI of the Public Health Service Act (the ''community services obligation'' of facilities funded under the Act); Title IX of the 1972 Education Amendments; Section 407 of the Drug Abuse Office and Treatment Act; Section 321 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970; Section 508 of the Social Security Act, the Family Violence Prevention and Services Act; Low-Income Home Energy Assistance Act of 1981; Section 1808 of the Small Business Job Protection Act of 1996; the Health Insurance Portability and Accountability Act of 1996; and the Patient Safety and Quality Improvement Act of 2005 (Patient Safety Act).

PURPOSE(S) OF THE SYSTEM:

PIMS is used by OCR staff and consists of an electronic repository of information and documents, and supplementary paper document files. PIMS effectively combines and replaces OCR's two previous systems of records, the ''Case Information Management System (CIMS), HHS/OS/OCR, 09–90–0050,'' and the ''Complaint File and Log, HHS/OS/OCR 09–00–0051,'' into a single integrated system with enhanced

electronic storage, retrieval and tracking capacities. While the types of information collected and stored in PIMS is the same as the information collected in CIMS and the Complaint File and Log, PIMS allows OCR to manage more effectively the information that it does collect. The system is designed to allow OCR to integrate all of OCR's various business processes, including all its compliance activities, to allow for real time access and results reporting and other varied information management needs. PIMS provides: (1) A single, central, electronic, repository of all significant OCR documents and information, including investigative files, correspondence, administrative records, policy and procedure manuals and other documents and information developed or maintained by OCR; (2) easy, robust capability to search all the information in OCR's repository; (3) better quality control at the front end with simplified data entry and stronger data validation; (4) tools to help staff work on and manage their casework, and (5) supplementary paper document files. The system has the capacity to generate reports concerning the status of all current and closed complaints, reviews and correspondence, and allows OCR to track outreach, training and other activities and to locate and retrieve information in order to manage more efficiently its work and report results. In addition, PIMS allows for the tracking of work assignments to employees to facilitate workload balancing, timely response to complaints and completion of reviews, and outreach and public education initiatives focused on organizations and individuals.

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

The Privacy Act allows us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such compatible use of data is known as a ''routine use.'' The routine uses in this system meet the compatibility requirement of the Privacy Act. We are establishing the following routine use disclosures of information maintained in the system:

I. The first routine use for this system, permitting disclosure to a congressional office, allows subject individuals to obtain assistance from their representatives in Congress, should they so desire. Such disclosure would be made only pursuant to the request of the individual.

II. The second routine use allows disclosure to the Department of Justice or a court in the event of litigation.

III. The third routine use allows referral to the appropriate agency, in the event that a System of Records maintained by this agency to carry out its functions indicates a violation or potential violation of law.

IV. The fourth routine use allows disclosure of records to contractors for the purpose of processing or refining records in the system.

V. The fifth routine use allows records to be disclosed to student volunteers, individuals working under a personal services contract, and other individuals performing functions for the Department but technically not having the status of agency employees, if they need access to the records in order to perform their assigned agency functions.

VI. The sixth routine use allows referrals of Age Discrimination Act Complaints to the Federal Mediation and Conciliation Service (FMCS) for purposes of mediation.

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

STORAGE:

Automated records are maintained on magnetic disc and tape back-up. Paper records are kept in file folders.

RETRIEVABILITY:

Records are indexed by transaction number, but may be retrieved by name, street address, and other complainant or covered entity characteristic (such as type of entity, city, state and type of service provided) by OCR staff engaged in compliance activities.

SAFEGUARDS:

The PIMS system conforms to applicable law and policy governing the privacy and security of Federal automated information systems. These include but are not limited to: the Privacy Act of 1974, Computer Security Act of 1987, the Paperwork Reduction Act of 1995, the Clinger-Cohen Act of 1996, and OMB Circular A–130, Appendix, III, ''Security of Federal Automated Information Resources.'' OCR has prepared a system security plan as required by OMB Circular A–130, Appendix III. This plan conforms fully to guidance issued by the National Institute for Standards and Technology (NIST) in NIST Special Publication 800–18, ''Guide for Developing Security Plans for Information Technology Systems.'' The plan includes conduct of a risk assessment that addresses the confidentiality and integrity of the data.

Only authorized users have access to the information in the system. Categories of users include: OCR investigators, regional and headquarters managers, team leaders, OCR budget and Government Performance and Results Act planning staff, program and policy staff, and data analysts. Specific access is structured around need and is determined by the person's role in the organization. Access is managed through the use of electronic access control lists, which regulate the ability to read, change and delete information in the system. Each OCR user has read access to designated information in the system, with the ability to modify only their own submissions or those of others within their region or group. Data identified as confidential is so designated and only specified individuals are granted access. The system maintains an audit trail of all actions against the data base.

All electronic data is stored on servers maintained in locked facilities with computerized access control allowing access to only those support personnel with a demonstrated need for access. A database is kept of all individuals granted security card access to the room, and all visitors are escorted while in the room. The server facility has appropriate environmental security controls, including measures to mitigate damage to automated information system resources caused by fire, electricity, water and inadequate climate controls.

Access control to servers, individual computers and databases includes a required user log-on with a password, inactivity lockout to systems based on a specified period of time, legal notices and security warnings at log-on, and remote access security that allows user access for remote users (e.g., while on government travel) under the same terms and conditions as for users within the office. System administrators have appropriate security clearance.

Printed materials are filed in secure cabinets in secure Federal buildings with access based on need as described above for the automated component of the PIMS system.

RETENTION AND DISPOSAL:

Documents related to complaints and reviews are retained at OCR for two years from the date the complaint is closed and then are archived at the National Archives and Records Administration for 15 years. Correspondence is retained for one year following the end of the fiscal year in which processed.

SYSTEM MANAGER AND ADDRESS:

PIMS Project Manager, Resource Management Division, Office for Civil

Rights, 200 Independence Ave. SW., Room 509F, Washington, DC 20201.

NOTIFICATION PROCEDURE:

Contact System Manager (above). Include name and address of complainant, and name of the recipient against which the allegation was filed. The Department is exempting all investigative records from this provision (see below: Records Exempted).

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Requests should be made to the system manager (above). The Department is exempting all investigative records from this provision (see below: Records Exempted).

CONTESTING RECORD PROCEDURE:

Contact the official(s) at the address specified under System Manager, and reasonably identify the record and specify the information to be contested and corrective action sought with supporting justification. (These procedures are in accordance with Department Regulations (45 CFR 5b.7) **Federal Register**, October 8, 1975, page 47411.) The Department is exempting all investigative records from this provision (see below: Records Exempted).

RECORD SOURCE CATEGORIES:

Information is provided by complainants and covered entities.

SYSTEM RECORDS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

OCR investigative records maintained in PIMS, either as paper records or electronic documents are records compiled for law enforcement purposes are exempt under subsection (k)(2) from the notification, access, correction and amendment provisions of the Privacy Act.

APPENDIX NUMBER 1—SYSTEM LOCATIONS:

This system is located at HHS offices in the following cities.

Headquarters, PIMS Project Manager, Resource Management Division, Office for Civil Rights, 200 Independence Ave., SW., Room 509F, Washington, DC 20201.

Region I, Regional Manager, OCR/HHS, J.F. Kennedy Federal Building—Room 1875 Boston, Massachusetts 02203.

Region II, Regional Manager, OCR/HHS, 26 Federal Plaza—Suite 3312, New York, NY 10278.

Region III, Regional Manager, OCR/HHS, 150 S. Independence Mall West, Suite 372, Public Ledger Building, Philadelphia, PA 19106.

Region IV, Regional Manager, OCR/HHS, Atlanta Federal Center, Suite 3B70, 61 Forsyth Street, SW., Atlanta, GA 30303.

Region V, Regional Manager, OCR/HHS, 233 N. Michigan Ave, Suite 240, Chicago, IL 60601.

Region VI, Regional Manager, OCR/HHS, 1301 Young Street, Suite 1169, Dallas, TX 75202.

Region VII, Regional Manager, OCR/HHS, 601 E. 12th Street—Room 248, Kansas City, MO 64106.

Region VIII, Regional Manager, OCR/HHS, Federal Office Building, 1961 Stout Street—Room 1185, Denver, CO 80294.

Region IX, Regional Manager, OCR/HHS, 50 United Nations Plaza—Room 322, San Francisco, CA 94102.

Region X, Regional Manager, OCR/HHS, 2201 Sixth Avenue—Suite 900, Seattle, WA 98121.

[FR Doc. E7–3283 Filed 2–26–07; 8:45 am]

BILLING CODE 4153–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–07–05CZ]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Joan Karr, CDC Acting Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Assessing Diabetes Detection Initiative for Policy Decision—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Type 2 diabetes is a chronic disease that affects more than 18 million Americans, approximately 5 million of whom do not know that they have the disease. As the disease progresses, it often causes severe complications, including heart disease, blindness, lower extremity arterial disease, and kidney failure. American Indians, African Americans, Latino Americans, and some Asian Americans and Pacific Islanders are disproportionately affected by diabetes. Identifying persons who have undiagnosed diabetes and treating them could prevent or delay diabetes complications.

In November 2003 the Diabetes Detection Initiative (DDI) was launched in 10 locations around the U.S. to identify a portion of the estimated 5 million people with undiagnosed Type 2 diabetes, targeting specific areas in each of 10 locales in which residents are likely to be at higher risk for Type 2 diabetes. Implementation of the DDI involved distributing a paper-and-pencil risk test. Individuals whose score indicated that they were at an increased risk for diabetes were advised to see their regular doctor (or to schedule an appointment at one of several clinics that had agreed to participate in the DDI), to receive a finger-stick or other tests to confirm whether or not they have diabetes. Whether or not the DDI should be expanded to other communities depends on the health benefits and costs of the program. The CDC is planning to conduct a study to provide this critical information.

The planned study will assess the resources used, the cost per case detected, and the perceived benefit of the DDI to participants. Data for the economic assessment will be obtained by conducting three separate surveys: (1) A local implementation team survey will be administered to the 10 DDI local implementation leaders to obtain information on resources used by the members of DDI local implementation teams and community based organizations to implement the non-medical service delivery activities for the DDI program; (2) a health clinic

leadership survey will be sent to the clinic directors in each of the 43 clinics that participated in the DDI across the 10 locations to obtain information on the cost of delivering the medical services required in diabetes screening and diagnosis; and (3) a patient survey will be administered to a sample of 600 patients at the 43 participating clinics to obtain information regarding patient out-of-pocket medical and non-medical direct health care costs and the perceived economic benefits of diabetes screening. The results of the study will also provide information needed for conducting a more complete cost-effectiveness analysis of screening for undiagnosed diabetes.

The local implementation team survey will be mailed to the local DDI implementation team leader in each of the 10 regions to collect information regarding the staff time and other resources used to implement the DDI program (including the staff time and resources used by community-based organizations that participated in the DDI implementation). These planning and implementation activities include participating in meetings and conference calls, recruiting clinics and community-based organizations to participate in the DDI, distributing risk tests, organizing health fairs and other community events, and designing media campaigns to promote the DDI.

The health clinic leadership survey will be mailed to the clinic director at each of the 43 clinics across the 10 locations that participated in the DDI implementation. The survey will collect information regarding the costs associated with the clinic's participation in the DDI. These will include the medical costs of providing care to patients who visited the clinic as a result of the DDI, staff time associated with DDI planning and implementation, and any staff time that was devoted to performing finger stick tests at locations other than the health clinic (*e.g.*, health fairs, shopping malls, work sites, housing complexes). Of the 43 clinics to be surveyed, we expect that 30 (70%) will complete the survey.

A computer-assisted in-person patient survey will be administered to a sample of 600 clinic patients at the 43 clinics that participated in the DDI. The survey will collect background information, out-of-pocket medical and non-medical direct health care costs (*e.g.*, co-payments, transportation costs, value of patients' time associated with the clinic visit), and preferred features of a diabetes screening program. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	No. of respondents	No. of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Implementation team members	10	1	2	20
Clinic staff	30	1	1	30
Patients at DDI clinics	600	1	20/60	200
Total				250

Dated: February 22, 2007.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E7–3333 Filed 2–26–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–07–07AJ]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Joan Karr, CDC Acting Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov*.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Racial and Ethnic Approaches to Community Health across the U.S. (REACH US) Management Information System (MIS)—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Racial and Ethnic Approaches to Community Health (REACH) currently funds forty local coalitions to establish community based programs and culturally appropriate interventions to eliminate racial and ethnic health disparities. Communities served by REACH include: African American, American Indian, Hispanic American, Asian American, and Pacific Islander. These communities select among infant mortality, deficits in breast and cervical cancer screening and management, cardiovascular diseases, diabetes, HIV/AIDS, and deficits in childhood and adult immunizations to focus their interventions. Guided by logic models, each community articulates goals, objectives, and related activities; tracks whether goals and objectives are met, ongoing, or revised; and evaluates all program activities. This information will then be entered into the REACH Management Information System (REACH MIS). REACH MIS is a customized internet-based support system that allows REACH grantees to perform remote data entry and retrieval of data. The contract for our current Information Network (REACH IN), OMB

control number 0920–0603, (Expires 02/28/2010) is expected to end and since we will not be renewing the contract CDC is developing its own system.

This support system is designed to create on-demand graphs and reports of grantees' activities and accomplishments, monitor progress toward the achievement of goals and objectives, and share and synthesize information across grantees' activities. Both quantitative and qualitative analyses can be performed.

The REACH Management Information System will collect in electronic format: (a) Data needed to measure progress toward, or achievement of, newly developed performance indicators, (b) information on REACH grantees that is currently being reported in hard-copy documents. An Internet-based management information system will allow CDC to monitor, and report on, grantee activities more efficiently. Data reported to CDC through the REACH management information system will be used by CDC to identify training and technical assistance needs, monitor compliance with cooperative agreement requirements, evaluate the progress made in achieving center-specific goals, and obtain information needed to respond to Congressional and other inquiries regarding program activities and effectiveness.

The annualized estimated burden is based on 40 respondents. It is estimated that they each will use the system four times a year to enter data, each data entry taking about 45 minutes.

There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	No. of respondents	No. of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Grantees	40	4	45/60	120

Dated: February 22, 2007.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E7–3334 Filed 2–26–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Center for Environmental Health/Agency for Toxic Substances and Disease Registry

The Program Peer Review Subcommittee (PPRS) of the Board of Scientific Counselors (BSC), Centers for Disease Control and Prevention (CDC), National Center for Environmental Health/Agency for Toxic Substances and Disease Registry (NCEH/ATSDR): Teleconference.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), CDC, NCEH/ATSDR announces the teleconference meeting of the aforementioned subcommittee:

Time and Date: 8:30 a.m.–10:30 a.m. Eastern Daylight Saving Time, March 19, 2007.

Place: The teleconference will originate at NCEH/ATSDR in Atlanta, Georgia. To participate, dial 877/315–6535 and enter conference code 383520.

Purpose: Under the charge of the BSC, NCEH/ATSDR, the PPRS will provide the BSC, NCEH/ATSDR with advice and recommendations on NCEH/ATSDR program peer review. They will serve the function of organizing, facilitating, and providing a long-term perspective to the conduct of NCEH/ATSDR program peer review.

Matters To Be Discussed: Review and approve previous meeting minutes; report on site-specific activities peer review; a discussion of preparedness and emergency response peer review: breadth and approach of the review, and areas of expertise required for the review; nominations for a PPRS panel member, a chairperson, peer reviewers, and partners and customers.

Agenda items are subject to change as priorities dictate.

SUPPLEMENTARY INFORMATION: This meeting is scheduled to begin at 9 a.m. Eastern Daylight Saving Time. To participate, please dial 877/315–6535 and enter conference code 383520. Public comment period is scheduled for 10 a.m.–10:15 a.m.

FOR MORE INFORMATION CONTACT: Sandra Malcom, Committee Management Specialist, Office of Science, NCEH/ATSDR, M/S E–28, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone 404/498–0622.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and ATSDR.

Elaine L. Baker,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E7–3372 Filed 2–26–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Grant to the National Eligibility Workers Association: Professionals Associated Through Human Services (NEW:PATHS); Office of Family Assistance

AGENCY: Office of Family Assistance, ACF, HHS.

ACTION: Notice to Award a Grant Award.

C.F.D.A Number: 93.086.

SUMMARY: Notice is hereby given that an award is being made to the National Eligibility Workers Association: Professionals Associated Through Human Services of Cavalier, North Dakota, in the amount of $100,000 to develop a best practices handbook for front line social workers. NEW:PATHS is the only national organization dedicated to improving the personal and professional well-being of eligibility professionals and they are uniquely qualified to develop a handbook of best practices. Its members implement Temporary Assistance to Needy Families regulations, network with other eligibility professionals at local, regional, and national conferences and possess exceptional insights concerning Federal programs. NEW:PATHS has the capability of consulting with a national audience and its members are in direct contact with employment agencies to move participants from welfare to work and increase the percentage of families and children living in safe environments.

After the appropriate reviews, it has been determined that this unsolicited proposal qualifies for funding.

The period of this funding will extend from October 1, 2006 through March 31, 2008.

Contact: Paul Maiers, Office of Family Assistance, Administration for Children and Families, 370 L'Enfant Promenade, SW., Washington, DC 20447, Telephone: 202–401–5438, E-mail: *paul.maiers@acf.hhs.gov*.

Dated: February 17, 2007.

Sidonie Squier,

Director, Office of Family Assistance.

[FR Doc. E7–3415 Filed 2–26–07; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Statement of Organization, Functions and Delegation of Authority

Notice is hereby given that I have delegated to the Deputy Director/Commissioner, Office of Child Support Enforcement, the following authority vested in me by the Secretary of Health and Human Services in memoranda dated August 20, 1991, Delegations of Authority for Social Security Act Programs and September 16, 1997, Delegations of Authority for the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104–193).

(a) Authorities Delegated

1. Authority to administer the provisions of the Child Support and Establishment of Paternity Program under Title IV–D of the Social Security Act, and as amended now and hereafter.

2. Authority under section 409(a)(8) of the Social Security Act to make determinations regarding State compliance or performance and technical noncompliance and to impose penalties and the authority under section 410(a) of the Social Security Act to issue notices to States regarding the imposition of such penalties.

(b) Limitations

1. This delegation of authority shall be exercised under the Department's existing policies on delegations and regulations.

2. This delegation of authority does not include the authority to submit reports to Congress and shall be exercised under financial and administrative requirements applicable to all Administration for Children and Families' authorities.

3. The approval or disapproval of grant applications and incentive payments under Title IV–D of the Social Security Act require concurrence of the appropriate Grants Officer. The approval or disapproval of contract proposals and awards are subject to the requirements of the Federal Acquisition Regulations and requires the concurrence of the Contracting Officer.

4. This delegation of authority does not include the authority to disapprove Title IV–D State Plans and amendments.

5. This delegation of authority does not include the authority to appoint Action Officials for Audit Resolution.

6. This delegation of authority does not include the authority to sign and issue notices of grant awards.

7. This delegation of authority does not include the authority to appoint Central Office or Regional Office Grant Officers for the administration of child support enforcement (CSE) related grant programs.

8. This delegation of authority does not include the authority to approve or disapprove State requests for Federal financial participation for the costs of automated data processing equipment and services that affect more than one HHS Operating Division.

9. This delegation of authority does not include the authority to hold hearings.

10. Any redelegation shall be in writing and prompt notification must be provided to all affected managers, supervisors, and other personnel, and requires the concurrence of the Deputy Assistant Secretary for Administration.

(c) Effect on Existing Delegations

As related to this delegation of authority, this delegation supersedes all previous delegations of authority involving the administration of the authorities delegated herein.

(d) Effective Date

This delegation was effective upon the date of signature.

I hereby affirm and ratify any actions taken by the Deputy Director/Commissioner, Office of Child Support and Enforcement, which involved the exercise of the authorities delegated herein prior to the effective date of this delegation.

Dated: February 16, 2007.

Wade F. Horn,

Assistant Secretary for Children and Families.

[FR Doc. E7–3323 Filed 2–26–07; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Statement of Organization, Functions and Delegation of Authority

Notice is hereby given that I have delegated to the Commissioner, Administration on Children, Youth and Families the following authorities vested in me by the Secretary of Health and Human Services in memoranda dated August 20, 1991, Delegations of Authority for Social Security Act Programs; August 20, 1991, Delegations of Authority for Child Abuse Prevention and Treatment, Adoption Opportunities, and Temporary Child Care for Handicapped Children and Crisis Nurseries; August 20, 1991, Delegations of Authority for Children's Bureau, Adoption Information Clearinghouse and Abandoned Infants Assistance; September 28, 1994, Delegation of Authority for Family Preservation and Support Services under Subpart 2, Title IV–B of the Social Security Act; and April 23, 2001, Delegation of Authority Under Section 330F of the Public Health Service Act.

(a) Authorities Delegated

1. Authority to administer the Child Welfare Services Program, including the State Grant Program, the Research and Demonstration Program and the Training program pursuant to Title IV–B of the Social Security Act, and as amended now and hereafter.

2. Authority to administer the Foster Care Program and Adoption Assistance programs including the Independent Living Initiative under Title IV–E of the Social Security Act, and as amended now and hereafter.

3. Authority to administer the provisions of the Child Abuse Prevention and Treatment Act, 42 U.S.C. 5101 *et seq.*, and as amended now and hereafter.

4. Authority to administer the provisions of the Adoption Opportunities Program under Title II of the Child Abuse Prevention and Treatment and Adoption Reform Act, 42 U.S.C. 5111–5115, and as amended now and hereafter.

5. Authorities and functions vested in the Secretary under the Organic Act of the Children's Bureau (Act of April 9, 1912) 42 U.S.C. 191, *et seq.*, and as amended now and hereafter.

6. Authorities that provide for the establishment of A National Adoption Information Clearinghouse under Section 9442 of the Omnibus Budget

Reconciliation Act of 1986, 42 U.S.C. 679a, and as amended now and hereafter.

7. Authorities to administer the Abandoned Infants Assistance Act of 1988, 42 U.S.C. 670 note, and as amended now and hereafter.

8. Authority under Section 13711(a)(2) of the Omnibus Budget Reconciliation Act of 1993, Pub. L. 103–66, for the Family Preservation and Support Services program, subpart 2 of the Title IV–B, Child and Family Services, of the Social Security Act 42 U.S.C. 629, and as amended now and hereafter.

9. Authorities vested in the Secretary of Health and Human Services under Section 330F (other than Section 330F(a)(6)(C)) of the Public Health Service Act (42 U.S.C. 254c–6), as amended, titled ''Certain Services for Pregnant Women.''

(b) Limitations

1. This delegation of authority shall be exercised under the Department's existing policies on delegations and regulations.

2. This delegation excludes the authority to submit reports to Congress and shall be exercised under financial and administrative requirements applicable to all Administration for Children and Families' authorities.

3. The approval or disapproval of grant applications and the making of grant awards require concurrence of the appropriate Grants Officer. The approval or disapproval of contract proposals and awards are subject to the requirements of the Federal Acquisition Regulations and requires the concurrence of the Contracting Officer.

4. This delegation of authority does not include the authority to sign and issue notices of grant awards for Children's Bureau programs.

5. This delegation of authority does not include the authority to appoint Central Office and Regional Office Grant Officers for the administration of Children's Bureau programs.

6. This delegation of authority does not include the authority to appoint Action Officials for Audit Resolution.

7. This delegation of authority does not include the authority to approve or disapprove State requests for Federal financial participation for the costs of automated data processing equipment and services that affect more than one HHS Operating Division.

8. This delegation of authority does not include the authority to conduct hearings.

9. This delegation of authority does not include the authority under section 429 of the Social Security Act.

10. This delegation of authority does not include the authority under section 439 of the Social Security Act, Grants for Programs for Mentoring Children of Prisoners.

11. Any redelegation shall be in writing and prompt notification must be provided to all affected managers, supervisors, and other personnel and requires the concurrence of the Deputy Assistant Secretary for Administration.

(c) Effect on Existing Delegations

As related to the authorities delegated herein, this delegation of authority supersedes all previous delegations of authority.

(d) Effective Date

This delegation was effective upon the date of signature.

I hereby affirm and ratify any actions taken by the Commissioner, Administration on Children, Youth and Families, which involved the exercise of the authorities delegated herein prior to the effective date of this delegation.

Dated: February 16, 2007.

Wade F. Horn,

Assistant Secretary for Children and Families.

[FR Doc. E7–3324 Filed 2–26–07; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Statement of Organization, Functions and Delegation of Authority

Notice is hereby given that I have delegated to the Director, Office of Family Assistance, the following authorities vested in me by the Secretary of Health and Human Services in the memorandum dated August 20, 1991, Delegations of Authority for the Social Security Act Programs and in the memorandum dated August 20, 1991, Delegations of Authority for Title XI of the Social Security Act.

(a) Authorities Delegated

1. Authority to administer the provisions of the Adult Assistance (AA) Programs under Titles I, X, XIV and XVI (Grants to States for Aid to the Aged, Blind and Disabled) of the Social Security Act, and as amended now and hereafter.

2. Authority under Section 1119 of the Social Security Act, and as amended now and hereafter, to approve Federal financial participation in payments for repairs to homes owned by recipients of aid or assistance under Titles I, X, XIV, or XVI.

(b) Limitations

1. This delegation of authority shall be exercised under the Department's existing policies on delegations and regulations.

2. This delegation of authority does not include the authority to submit reports to Congress and shall be exercised under financial and administrative requirements applicable to all Administration for Children and Families' authorities.

3. The approval or disapproval of grant applications and the making of grant awards require concurrence of the appropriate Grants Officer. The approval or disapproval of contract proposals and awards are subject to the requirements of the Federal Acquisition Regulations and requires the concurrence of the Contracting Officer.

4. This delegation of authority does not include the authority to sign and issue notices of grant awards.

5. This delegation of authority does not include the authority to appoint Central Office and Regional Office Grant Officers for the administration of the adult assistance programs.

6. This delegation of authority does not include the authority to appoint Action Officials for Audit Resolution.

7. This delegation of authority does not include the authority to approve or disapprove State requests for Federal financial participation for the costs of automated data processing equipment and services which affect more than one HHS Operating Division.

8. This delegation of authority does not include the authority to make determinations on State appeals concerning audit questions or recommendations by the Department of Health and Human Services (HHS) Audit Agency which involve ACF program practices reviewed under Titles I, X, XI and XVI of the Social Security Act.

9. This delegation of authority does not include the authority to disapprove State Plans and amendments.

10. This delegation of authority does not include the authority to hold hearings.

11. Any redelegation shall be in writing and prompt notification must be provided to all affected managers, supervisors, and other personnel, and requires the concurrence of the Deputy Assistant Secretary for Administration.

(c) Effect on Existing Delegations

This delegation supersedes all previous delegations of authority involving the administration of the

Adult Assistance programs or the program under Section 1119 of the Social Security Act.

(d) Effective Date

This delegation was effective upon the date of signature.

I hereby affirm and ratify any actions taken by the Director, Office of Family Assistance which involved the exercise of the authorities delegated herein prior to the effective date of this delegation.

Dated: February 16, 2007.

Wade F. Horn,

Assistant Secretary for Children and Families.

[FR Doc. E7–3326 Filed 2–26–07; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Statement of Organization, Functions and Delegation of Authority

Notice is hereby given that I have delegated to the Director, Office of Family Assistance, the following authorities vested in me by the Secretary of Health and Human Services in the memoranda dated August 20, 1991, Delegations of Authority for Social Security Act Programs and September 16, 1997, Delegations of Authority for the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104–193).

(a) Authorities Delegated

1. Authority to administer Income and Eligibility Verification Systems (IEVS), as they pertain to the Administration for Children and Families' programs, under the provisions of Title XI, Section 1137 of the Social Security Act, and as amended now and hereafter.

2. Authority to administer the provisions of Title I, Block Grants for Temporary Assistance for Needy Families (TANF) under Sections 101–103, 106–110, 112, 115, and 116 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 1305 note, 42 U.S.C. 601 *et seq.*, and as amended now and hereafter. In addition, in exercising authority under Section 103, ''Section 413, Research, Evaluations, and National Studies,'' of the Social Security Act, the Director, Office of Family Assistance, Administration for Children and Families, is expected to consult with the Department of Health and Human Services, Assistant Secretary for Planning and Evaluation.

(b) Limitations

1. This delegation of authority shall be exercised under the Department's existing policies on delegations and regulations.

2. This delegation of authority does not include the authority to submit reports to Congress and shall be exercised under financial and administrative requirements applicable to all Administration for Children and Families' authorities.

3. The approval or disapproval of grant applications requires concurrence of the appropriate Grants Officer. The approval or disapproval of contract proposals and awards is subject to the requirements of the Federal Acquisition Regulations and requires the concurrence of the Contracting Officer.

4. The authority to approve/disapprove under 45 CFR 205.55(d) State applications to use alternate sources of information for income and eligibility (*i.e.*, IEVS) requires consultation with the Office of the Deputy Assistant Secretary for Administration and with the other programs affected by the request.

5. This delegation of authority does not include the authority to issue annual rankings of States' most and least successful work programs and out-of-wedlock birth ratios under Sections 413(d)(1) and 413(e)(1) of the Social Security Act.

6. This delegation of authority does not include the authority under section 409(a)(8) of the Social Security Act to make determinations regarding State compliance or performance and technical noncompliance and to impose penalties and the authority under section 410(a) of the Social Security Act to issue notices to States regarding the imposition of such penalties.

7. This delegation of authority does not include the authority to sign and issue notices of grant awards for family assistance programs.

8. This delegation of authority does not include the authority to appoint Central Office and Regional Office Grant Officers for the administration of family assistance grant programs.

9. This delegation of authority does not include the authority to appoint Action Officials for Audit Resolution.

10. This delegation of authority does not include the authority to conduct research under sections 413(a), (b), and (h) of the Social Security Act or to review proposals and approve State funding for evaluations of Title IV–A programs under section 413(f) of the Social Security Act.

11. This delegation of authority excludes the authority to hold hearings.

12. Any redelegation shall be in writing and prompt notification must be provided to all affected managers, supervisors, and other personnel, and requires the concurrence of the Deputy Assistant Secretary for Administration.

(c) Effect on Existing Delegations

As related to the authorities delegated herein, this delegation of authority supersedes all previous delegations of authority.

(d) Effective Date

This delegation of authority is effective upon the date of signature.

I hereby affirm and ratify any actions taken by the Director, Office of Family Assistance which involved the exercise of the authorities delegated herein prior to the effective date of this delegation.

Dated: February 16, 2007.

Wade F. Horn,

Assistant Secretary for Children and Families.

[FR Doc. E7–3302 Filed 2–26–07; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Statement of Organization, Functions and Delegation of Authority

Notice is hereby given that I have delegated to the Director, Office of Family Assistance, the following authorities vested in me by the Secretary of Health and Human Services in the memorandum dated August 20, 1991, pertaining to the Head Start Program and the Child Development Associate Scholarship Assistance Grants Program, in the memorandum dated August 20, 1991, pertaining to the Omnibus Budget Reconciliation Act of 1981, in the memorandum dated August 20, 1991, pertaining to the Omnibus Budget Reconciliation Act of 1990 (OBRA 1990, Pub. L. 101–508), and in the memorandum dated September 16, 1997, pertaining to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA, Pub. L. 104–193).

(a) Authorities Delegated

1. Authority to administer the provisions of the Child Development Associate Scholarship Assistance Act, 42 U.S.C. 10901–10905, and as amended now and hereafter.

2. Authority to administer the provisions of Subchapter D—Grants for Planning and Development of Dependent Care Programs and for other

purposes (Chapter 8, Title VI of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, 42 U.S.C. 9871 *et seq.*) and as amended now and hereafter.

3. Authority for the Child Care and Development Block Grants, under Section 5082 of OBRA 1990, (42 U.S.C. 9858 *et seq.*), and as amended now and hereafter.

4. Authority to administer the provisions of the Child Care and Development Block Grant Amendments of 1996, 42 U.S.C. 9801 note, under Sections 601–615 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 1305 note, 42 U.S.C. 601 *et seq.*, and as amended now and hereafter.

(b) Limitations

1. This delegation shall be exercised under the Department's existing policies on delegations and regulations.

2. This delegation does not include the authority to submit reports to Congress and shall be exercised under financial and administrative requirements applicable to all Administration for Children and Families authorities.

3. The approval or disapproval of grant applications and the making of grant awards require concurrence of the appropriate Grants Officer. The approval or disapproval of contract proposals and awards are subject to the requirements of the Federal Acquisition Regulations and requires the concurrence of the Contracting Officer.

4. This delegation of authority does not include the authority to sign and issue notices of grant awards.

5. This delegation of authority does not include the authority to appoint Action Officials for Audit Resolution.

6. This delegation of authority does not include the authority to appoint Central Office or Regional Office Grant Officers for the administration of the child care related programs.

7. This delegation of authority does not include the authority to hold hearings.

8. This delegation of authority does not include the authority to approve or disapprove awards for grants or contracts for research, demonstration, or evaluations relating to child care.

9. Any redelegation shall be in writing and prompt notification must be provided to all affected managers, supervisors, and other personnel, and requires the concurrence of the Deputy Assistant Secretary for Administration.

(c) Effect on Existing Delegations

This delegation supersedes any previous delegation of authority pertaining to authorities delegated herein.

(d) Effective Date

This delegation was effective upon the date of signature.

I hereby affirm and ratify any actions taken by the Director, Office of Family Assistance, which involved the exercise of the authorities delegated herein prior to the effective date of this delegation.

Dated: February 16, 2007.

Wade F. Horn,

Assistant Secretary for Children and Families.

[FR Doc. E7–3306 Filed 2–26–07; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Statement of Organization, Functions and Delegation of Authority

Notice is hereby given that I have delegated to the Director, Office of Family Assistance, the following authorities vested in me by the Secretary of Health and Human Services in the memorandum dated August 20, 1991, pertaining to the Head Start Program and the Child Development Associate Scholarship Assistance Grants Program, in the memorandum dated August 20, 1991, pertaining to the Omnibus Budget Reconciliation Act of 1981, in the memorandum dated August 20, 1991, pertaining to the Omnibus Budget Reconciliation Act of 1990 (OBRA 1990, Pub. L. 101–508), and in the memorandum dated September 16, 1997, pertaining to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA, Pub. L. 104–193).

(a) Authorities Delegated

1. Authority to administer the provisions of the Child Development Associate Scholarship Assistance Act, 42 U.S.C. 10901–10905, and as amended now and hereafter.

2. Authority to administer the provisions of Subchapter D—Grants for Planning and Development of Dependent Care Programs and for other purposes (Chapter 8, Title VI of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, 42 U.S.C. 9871 *et seq.*) and as amended now and hereafter.

3. Authority for the Child Care and Development Block Grants, under Section 5082 of OBRA 1990, (42 U.S.C. 9858 *et seq.*), and as amended now and hereafter.

4. Authority to administer the provisions of the Child Care and Development Block Grant Amendments of 1996, 42 U.S.C. 9801 note, under Sections 601–615 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 1305 note, 42 U.S.C. 601 *et seq.*, and as amended now and hereafter.

(b) Limitations

1. This delegation shall be exercised under the Department's existing policies on delegations and regulations.

2. This delegation does not include the authority to submit reports to Congress and shall be exercised under financial and administrative requirements applicable to all Administration for Children and Families authorities.

3. The approval or disapproval of grant applications and the making of grant awards require concurrence of the appropriate Grants Officer. The approval or disapproval of contract proposals and awards are subject to the requirements of the Federal Acquisition Regulations and requires the concurrence of the Contracting Officer.

4. This delegation of authority does not include the authority to sign and issue notices of grant awards.

5. This delegation of authority does not include the authority to appoint Action Officials for Audit Resolution.

6. This delegation of authority does not include the authority to appoint Central Office or Regional Office Grant Officers for the administration of the child care related programs.

7. This delegation of authority does not include the authority to hold hearings.

8. This delegation of authority does not include the authority to approve or disapprove awards for grants or contracts for research, demonstration, or evaluations relating to child care.

9. Any redelegation shall be in writing and prompt notification must be provided to all affected managers, supervisors, and other personnel, and requires the concurrence of the Deputy Assistant Secretary for Administration.

(c) Effect on Existing Delegations

This delegation supersedes any previous delegation of authority pertaining to authorities delegated herein.

(d) Effective Date

This delegation was effective upon the date of signature.

I hereby affirm and ratify any actions taken by the Director, Office of Family Assistance, which involved the exercise of the authorities delegated herein prior to the effective date of this delegation.

Dated: February 16, 2007.

Wade F. Horn,

Assistant Secretary for Children and Families.

[FR Doc. E7–3325 Filed 2–26–07; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2007N–0053]

Agency Information Collection Activities; Proposed Collection; Comment Request; Food Labeling Regulations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection provisions in FDA's food labeling regulations.

DATES: Submit written or electronic comments on the collection of information by April 30, 2007.

ADDRESSES: Submit electronic comments on the collection of information to: *http://www.fda.gov/dockets/ecomments*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of the Chief Information Officer (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Food Labeling Regulations—21 CFR Parts 101, 102, 104, and 105 (OMB Control Number 0910–0381)—Extension

FDA regulations require food producers to disclose to consumers and others specific information about themselves or their products on the label or labeling of their products. Related regulations require that food producers retain records establishing the basis for the information contained in the label or labeling of their products and provide those records to regulatory officials. Finally, certain regulations provide for the submission of food labeling petitions to FDA. FDA's food labeling regulations under parts 101, 102, 104, and 105 (21 CFR parts 101, 102, 104, and 105) were issued under the authority of sections 4, 5, and 6 of the Fair Packaging and Labeling Act (the FPLA) (15 U.S.C. 1453, 1454, and 1455) and under sections 201, 301, 402, 403, 409, 411, 701, and 721 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321, 331, 342, 343, 348, 350, 371, and 379e). Most of these regulations derive from section 403 of the act, which provides that a food product shall be deemed to be misbranded if, among other things, its label or labeling fails to bear certain required information concerning the food product, is false or misleading in any particular, or bears certain types of unauthorized claims. The disclosure requirements and other collections of information in the regulations in parts 101, 102, 104, and 105 are necessary to ensure that food products produced or sold in the United States are in compliance with the labeling provisions of the act and the FPLA.

Section 101.3 of FDA's food labeling regulations requires that the label of a food product in packaged form bear a statement of identity (i.e., the name of the product), including, as appropriate, the form of the food or the name of the food imitated. Section 101.4 prescribes requirements for the declaration of ingredients on the label or labeling of food products in packaged form. Section 101.5 requires that the label of a food product in packaged form specify the name and place of business of the manufacturer, packer, or distributor and, if the food producer is not the manufacturer of the food product, its connection with the food product. Section 101.9 requires that nutrition information be provided for all food products intended for human consumption and offered for sale, unless an exemption in § 101.9(j) applies to the product. Section 101.9(g)(9) also provides for the submission to FDA of requests for alternative approaches to nutrition labeling. Finally, § 101.9(j)(18) provides for the submission to FDA of notices from firms claiming the small business exemption from nutrition labeling.

Section 101.10 requires that restaurants provide nutrition information, upon request, for any food or meal for which a nutrient content claim or health claim is made. Section 101.12(b) provides the reference amount that is used for determining the serving sizes for specific products, including baking powder, baking soda, and pectin. Section 101.12(e) provides that a manufacturer that adjusts the reference amount customarily consumed (RACC) of an aerated food for the difference in density of the aerated food relative to the density of the appropriate nonaerated reference food must be prepared to show FDA detailed protocols and records of all data that were used to determine the density-adjusted RACC. Section 101.12(g) requires that the label or labeling of a food product disclose the serving size that is the basis for a claim made for the product if the serving size on which the claim is based differs from the RACC. Section 101.12(h) provides for the submission of petitions to FDA to request changes in the reference amounts defined by regulation.

Section 101.13 requires that nutrition information be provided in accordance with § 101.9 for any food product for which a nutrient content claim is made. Under some circumstances, § 101.13 also requires the disclosure of other types of information as a condition for the use of a nutrient content claim. For example, under § 101.13(j), if the claim compares the level of a nutrient in the food with the level of the same nutrient in another ''reference'' food, the claim must also disclose the identity of the reference food, the amount of the nutrient in each food, and the percentage or fractional amount by which the amount of the nutrient in the labeled food differs from the amount of the nutrient in the reference food. It also requires that when this comparison is based on an average of food products, this information must be provided to consumers or regulatory officials upon request. Section 101.13(q)(5) requires that restaurants document and provide to appropriate regulatory officials, upon request, the basis for any nutrient content claims they have made for the foods they sell.

Section 101.14(d)(2) and (d)(3) provides for the disclosure of nutrition information in accordance with § 101.9 and, under some circumstances, certain other information as a condition for making a health claim for a food product. Section 101.15 provides that, if the label of a food product contains any representation in a foreign language, all words, statements, and other information required by or under authority of the act to appear on the label shall appear thereon in both the foreign language and in English. Section 101.22 contains labeling requirements for the disclosure of spices, flavorings, colorings, and chemical preservatives in food products. Section 101.22(i)(4) sets forth reporting and recordkeeping requirements pertaining to certifications for flavors designated as containing no artificial flavor. Section 101.30 specifies the conditions under which a beverage that purports to contain any fruit or vegetable juice must declare the percentage of juice present in the beverage and the manner in which the declaration is to be made. Section 102.33 specifies the common or usual name for beverages that contain fruit or vegetable juice.

Section 101.36 requires that nutrition information be provided for dietary supplements offered for sale, unless an exemption in § 101.36(h) applies. Section 101.36(f)(2) cross-references the provisions in § 101.9(g)(9) for the submission to FDA of requests for alternative approaches to nutrition labeling. Also, § 101.36(h)(2) cross-references the provisions in § 101.9(j)(18) for the submission of small business exemption notices.

Section 101.42 requests that food retailers voluntarily provide nutrition information for raw fruits, vegetables, and fish at the point of purchase, and § 101.45 contains guidelines for providing such information. Also, § 101.45(c) provides for the submission of nutrient data bases and proposed nutrition labeling values for raw fruit, vegetables, and fish to FDA for review and approval.

Sections 101.54, 101.56, 101.60, 101.61, and 101.62 specify information that must be disclosed as a condition for making particular nutrient content claims. Section 101.67 provides for the use of nutrient content claims for butter, and cross-references requirements in other regulations for ingredient declaration (§ 101.4) and disclosure of information concerning performance characteristics (§ 101.13(d)). Section 101.69 provides for the submission of a petition requesting that FDA authorize a particular nutrient content claim by regulation. Section 101.70 provides for the submission of a petition requesting that FDA authorize a particular health claim by regulation. Section 101.77(c)(2)(ii)(D) requires the disclosure of the amount of soluble fiber per serving in the nutrition labeling of a food bearing a health claim about the relationship between soluble fiber and a reduced risk of coronary heart disease. Section 101.79(c)(2)(iv) requires the disclosure of the amount of folate per serving in the nutrition labeling of a food bearing a health claim about the relationship between folate and a reduced risk of neural tube defects.

Section 101.100(d) provides that any agreement that forms the basis for an exemption from the labeling requirements of section 403(c), (e), (g), (h), (i), (k), and (q) of the act be in writing and that a copy of the agreement be made available to FDA upon request. Section 101.100 also contains reporting and disclosure requirements as conditions for claiming certain labeling exemptions (e.g., § 101.100(h)).

Section 101.105 specifies requirements for the declaration of the net quantity of contents on the label of a food in packaged form and prescribes conditions under which a food whose label does not accurately reflect the actual quantity of contents may be sold, with appropriate disclosures, to an institution operated by Federal, State, or local government. Section 101.108 provides for the submission to FDA of a written proposal requesting a temporary exemption from certain requirements of §§ 101.9 and 105.66 for the purpose of conducting food labeling experiments with FDA's authorization.

Regulations in part 102 define the information that must be included as part of the statement of identity for particular foods and prescribe related labeling requirements for some of these foods. For example, § 102.22 requires that the name of a protein hydrolysate shall include the identity of the food source from which the protein was derived.

Part 104, which pertains to nutritional quality guidelines for foods, cross-references several labeling provisions in part 101 but contains no separate information collection requirements.

Part 105 contains special labeling requirements for hypoallergenic foods, infant foods, and certain foods represented as useful in reducing or maintaining body weight.

The disclosure and other information collection requirements in the previously mentioned regulations are placed primarily upon manufacturers, packers, and distributors of food products. Because of the existence of exemptions and exceptions, not all of the requirements apply to all food producers or to all of their products. Some of the regulations affect food retailers, such as supermarkets and restaurants.

The purpose of the food labeling requirements is to allow consumers to be knowledgeable about the foods they purchase. Nutrition labeling provides information for use by consumers in selecting a nutritious diet. Other information enables a consumer to comparison shop. Ingredient information also enables consumers to avoid substances to which they may be sensitive. Petitions or other requests submitted to FDA provide the basis for the agency to permit new labeling statements or to grant exemptions from certain labeling requirements. Recordkeeping requirements enable FDA to monitor the basis upon which certain label statements are made for food products and whether those statements are in compliance with the requirements of the act or the FPLA.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section/Part	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours	Total Operating & Maintenance Costs
101.3, 101.22, part 102, and part 104	25,000	1.03	25,750	.5	12,875	0
101.4, 101.22, 101.100, part 102, part 104, and part 105	25,000	1.03	25,750	1	25,750	0
101.5	25,000	1.03	25,750	0.25	6,438	0
101.9, 101.13(n), 101.14(d)(3), 101.62, and part 104	25,000	1.03	25,750	4	103,000	0
101.9(g)(9) and 101.36(f)(2)	12	1	12	4	48	0
101.9(j)(18) and 101.36(h)(2)	10,000	1	10,000	8	80,000	0
101.10	300,000	1.5	450,000	0.25	112,500	0
101.12(b)	29	2.3	67	1	67	0
101.12(e)	25	1	25	1	25	0
101.12(g)	5,000	1	5,000	1	5,000	0
101.12(h)	5	1	5	80	400	$533,600
101.13(d)(1) and 101.67	200	1	200	1	200	0
101.13(j)(2), 101.13(k), 101.54, 101.56, 101.60, 101.61, and 101.62	5,000	1	5,000	1	5,000	0
101.13(q)(5)	300,000	1.5	450,000	0.75	337,500	0
101.14(d)(2)	300,000	1.5	450,000	0.75	337,500	0
101.15	160	10	1,600	8	12,800	0
101.22(i)(4)	25	1	25	1	25	0
101.30 and 102.33	1,500	5	7,500	1	7,500	0
101.36	300	40	12,000	4	48,000	0
101.42 and 101.45	1,000	1	1,000	0.5	500	0
101.45(c)	5	4	20	4	80	0
101.69	3	1	3	25	75	0
101.70	5	1	5	80	400	$889,332
101.79(c)(2)(ii)(D)	1,000	1	1,000	0.25	250	0
101.79(c)(2)(iv)	100	1	100	0.25	25	0
101.100(d)	1,000	1	1,000	1	1,000	0
101.105 and 101.100(h)	25,000	1.03	25,750	0.5	12,875	0
101.108	0	0	40	0	0	
Total					1,109,833	$1,422,932

[1]There are no capital costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Record-keeping	Total Annual Records	Hours per Record	Total Hours
101.12(e)	25	1	25	1	25

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]—Continued

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Record	Total Hours
101.13(q)(5)	300,000	1.5	450,000	0.75	337,500
101.14(d)(2)	300,000	1.5	450,000	0.75	337,500
101.22(i)(4)	25	1	25	1	25
101.100(d)(2)	1,000	1	1,000	1	1,000
101.105(t)	100	1	100	1	100
Total					676,150

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimated annual reporting and recordkeeping burdens are based on agency communications with industry and FDA's knowledge of and experience with food labeling and the submission of petitions and requests to the agency. Where an agency regulation implements an information collection requirement in the act or the FPLA, only any additional burden attributable to the regulation has been included in FDA's burden estimate.

No burden has been estimated for those requirements where the information to be disclosed is information that has been supplied by FDA. Also, no burden has been estimated for information that is disclosed to third parties as a usual and customary part of a food producer's normal business activities. Under 5 CFR 1320.3(c)(2), the public disclosure of information originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public is not a collection of information. Under 5 CFR 1320.3(b)(2), the time, effort, and financial resources necessary to comply with a collection of information are excluded from the burden estimate if the reporting, recordkeeping, or disclosure activities needed to comply are usual and customary because they would occur in the normal course of activities.

Dated: February 20, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–3257 Filed 2–26–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006N–0427]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Reporting and Recordkeeping Requirements and Availability of Sample Electronic Products for Manufacturers and Distributors of Electronic Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Fax written comments on the collection of information by March 29, 2007.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Jr., Office of the Chief Information Officer (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1472.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance:

Reporting and Recordkeeping Requirements and Availability of Sample Electronic Products for Manufacturers and Distributors of Electronic Products (OMB Control Number 0910–0025)—Extension

Under sections 532 through 542 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360ii through 360ss), FDA has the responsibility to protect the public from unnecessary exposure of radiation from electronic products. The regulations issued under these authorities are listed in the Code of Federal Regulations, title 21, chapter I, subpart J. Specifically, 1410.10 of the FDA Staff Manual Guide delegates administrative authorities to FDA.

Section 532 of the act directs the Secretary of Health and Human Services (the Secretary), to establish and carry out an electronic product radiation control program, including the development, issuance, and administration of performance standards to control the emission of electronic product radiation from electronic products. The program is designed to protect the public health and safety from electronic radiation, and the act authorizes the Secretary to procure (by negotiation or otherwise) electronic products for research and testing purposes and to sell or otherwise dispose of such products.

Section 534(g) of the act directs the Secretary to review and evaluate industry testing programs on a continuing basis; and section 535(e) and (f) of the act directs the Secretary to immediately notify manufacturers of, and ensure correction of, radiation defects or noncompliances with performance standards.

Section 537(b) of the act contains the authority to require manufacturers of electronic products to establish and maintain records (including testing records), make reports, and provide

information to determine whether the manufacturer has acted in compliance.

Parts 1002 through 1010 (21 CFR parts 1002 through 1010) specify reports to be provided by manufacturers and distributors to FDA and records to be maintained in the event of an investigation of a safety concern or a product recall.

FDA conducts laboratory compliance testing of products covered by regulations for product standards in parts 1020, 1030, 1040, and 1050 (21 CFR parts 1020, 1030, 1040, and 1050).

FDA details product-specific performance standards that specify information to be supplied with the product or require specific reports. The information collections are either specifically called for in the act or were developed to aid the agency in performing its obligations under the act. The data reported to FDA and the records maintained are used by FDA and the industry to make decisions and take actions that protect the public from radiation hazards presented by electronic products. This information refers to the identification of, location of, operational characteristics of, quality assurance programs for, and problem identification and correction of electronic products. The data provided to users and others are intended to encourage actions to reduce or eliminate radiation exposures.

FDA uses the following forms to aid respondents in the submission of information for this information collection:

FDA Form 2579 ''Report of Assembly of a Diagnostic X-ray System''

FDA Form 2767 ''Notice of Availability of Sample Electronic Product''

FDA Form 2877 ''Declaration for Imported Electronic Products Subject To Radiation Control Standards''

FDA Form 3649 ''Accidental Radiation Occurrence''

FDA Form 3626 ''A Guide for the Submission of Initial Reports on Diagnostic X-Ray Systems and Their Major Components''

FDA Form 3627 ''Diagnostic X-ray CT Products Radiation Safety Report''

FDA Form 3628 ''General Annual Report (Includes Medical, Analytical, and Industrial X-ray Products Annual Report)''

FDA Form 3629 ''Abbreviated Report''

FDA Form 3630 ''Guide for Preparing Product Reports on Sunlamps and Sunlamp Products''

FDA Form 3631 ''Guide for Preparing Annual Reports on Radiation Safety Testing of Sunlamps and Sunlamp Products''

FDA Form 3632 ''Guide for Preparing Product Reports on Lasers and Products Containing Lasers''

FDA Form 3633 ''General Variance Request''

FDA Form 3634 ''Television Products Annual Report''

FDA Form 3635 ''Laser Light Show Notification''

FDA Form 3636 ''Guide for Preparing Annual Reports on Radiation Safety Testing of Laser and Laser Light Show Products''

FDA Form 3637 ''Laser Original Equipment Manufacturer (OEM) Report''

FDA Form 3638 ''Guide for Filing Annual Reports for X-ray Components and Systems''

FDA Form 3639 ''Guidance for the Submission of Cabinet X-ray System Reports Pursuant to 21 CFR 1020.40''

FDA Form 3640 ''Reporting Guide for Laser Light Shows and Displays''

FDA Form 3147 ''Application for a Variance From 21 CFR 1040.11(c) for a Laser Light Show, Display, or Device''

FDA Form 3641 ''Cabinet X-ray Annual Report''

FDA Form 3642 ''General Correspondence''

FDA Form 3643 ''Microwave Oven Products Annual Report''

FDA Form 3644 ''Guide for Preparing Product Reports for Ultrasonic Therapy Products''

FDA Form 3645 ''Guide for Preparing Annual Reports for Ultrasonic Therapy Products''

FDA Form 3646 ''Mercury Vapor Lamp Products Radiation Safety Report''

FDA Form 3647 ''Guide for Preparing Annual Reports on Radiation Safety Testing of Mercury Vapor Lamps''

In the **Federal Register** of November 3, 2006 (71 FR 64714), FDA published a 60-day notice requesting public comment on the information collection provisions. No comments were received.

The most likely respondents to this information collection will be electronic product and X-ray manufacturers, importers, and assemblers.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	FDA Form Number	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
1002.3		10	1	10	12	120
1002.10	3626—Diagnostic X-ray 3627—CT X-ray 3639—Cabinet X-ray 3632—Laser 3640—Laser Light Show 3630—Sunlamp 3646—Mercury Vapor Lamp 3644—Ultrasonic Therapy	540	1.6	850	24	20,400
1002.11		1,000	1.5	1,500	0.5	750
1002.12	3629—Abbreviated Report	150	1	150	5	750
1002.13	3628—General 3634—TV 3638—Diagnostic X-ray	900	1	900	26	23,400

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]—Continued

21 CFR Section	FDA Form Number	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
	3641—Cabinet X-ray 3643—Microwave Oven 3636—Laser 3631—Sunlamp 3647—Mercury Vapor Lamp 3645—Ultrasonic Therapy					
1002.13		250	2.4	600	0.5	300
1002.20	3649—ARO	40	1	40	2	80
1002.41(a)		1	1	1	1	1
1002.50(a) and 1002.51	3642—General Correspondence	10	1.5	15	1	15
1005.10	2767—Sample Product	145	11.03	1,600	0.09	144
1005.25(b)		1	1	1	1	1
	2877—Imports Declaration	600	32	19,200	0.2	3,840
1010.2 and 1010.3		1	1	1	5	5
1010.4(b)	3633—General Variance Request 3147—Laser Show Variance Request 3635—Laser Show Notification	1	1	1	120	120
1010.5(c) and (d)		2	1	2	22	44
1010.13		1	1	1	10	10
1020.20(c)(4)		1	1	1	1	1
1020.30(d), (d)(1), and (d)(2)	2579—Assembler Report	2,345	8.96	21,000	0.30	6,300
1020.30(g)		200	1.33	265	35	9,275
1020.30(h)(1) through (h)(4) and 1020.32(a)(1) and (g)		200	1.33	265	35	9,275
1020.30(h)(5) and (h)(6) and 1020.32(j)(4)		20	5	100	180	18,000
1020.32(g) and 1020.33(c), (d), and (g)(4)		9	1.00	9	40	360
1020.40(c)(9)(i) and (c)(9)(ii)		8	1.00	8	40	320
1030.10(c)(4)		41	1.61	66	20	1,320
1030.10(c)(5)(i) through (c)(5)(iv)		41	1.61	66	20	1,320
1030.10(c)(6)(iii) and (c)(6)(iv)		1	1	1	1	1
1040.10(a)(3)(i)	3637—OEM Report	83	1	83	3	249
1040.10(h)(1)(i) through (h)(1)(vi)		805	1.00	805	8	6,440
1040.10(h)(2)(i) and (h)(2)(ii)		100	1.00	100	8	800

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]—Continued

21 CFR Section	FDA Form Number	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
1040.11(a)(2)		190	1.00	190	10	1,900
1040.20(d)(1)(ii) through (d)(1)(vi) and (e)(1) and (e)(2)		110	1.00	110	10	1,100
1040.30(c)(1)(ii)		1	1.00	1	1	1
1040.30(c)(2)		7	1.00	7	1	7
1050.10(d)(1) through (d)(4) and (f)(1) through (f)(2)(iii)		10	1.00	10	56	560
Total						107,209

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Record	Total Hours
1002.30 and 1002.31(a)	1,150	1,655.5	1,903,825	198.7	228,505
1002.40 and 1002.41	2,950	49.2	145,140	2.4	7,080
1020.30(g)	22	1	22	0.5	11
1040.10(a)(3)(ii)	83	1	83	1.0	83
Totals					235,679

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

The information collection requirements under OMB control number 0910–0564 and Form FDA 3626, the data collection instrument for this collection, have been consolidated under the information collection activity of OMB control number 0910–0025, thus resulting in an adjustment (increase) in the current burden estimate.

The burden estimates were derived by consultation with FDA and industry personnel and actual data collected from industry. An evaluation of the type and scope of information requested was also used to derive some time estimates. For example, disclosure information primarily requires time only to update and maintain existing manuals. Initial development of manuals has been performed except for new firms entering the industry. When information is generally provided to users, assemblers, or dealers in the same manual, they have been grouped together in the ''Estimated Annual Reporting Burden'' table (table 1 of this document).

The following information collection requirements are not subject to review by OMB because they do not constitute a ''collection of information'' under the PRA: Sections 1002.31(c); 1003.10(a), (b), and (c); 1003.11(a)(3) and (b); 1003.20(a) through (h); 1003.21(a) through (d); 1003.22(a) and (b); 1003.30(a) and (b); 1003.31(a) and (b); 1004.2(a) through (i); 1004.3(a) through (i); 1004.4(a) through (h); 1005.21(a) through (c); and 1005.22(b). These requirements ''apply to the collection of information during the conduct of general investigations or audits'' (5 CFR 1320.4(b)). The following labeling requirements are also not subject to review under the PRA because they are a public disclosure of information originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public (1410.10 of the FDA Staff Manual Guide and §§ 1020.10(c)(4), 1030.10(c)(6), 1040.10(g), 1040.30(c)(1), and 1050.10(d)(1)).

Dated: February 20, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–3258 Filed 2–26–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2007N–0051]

Safety of Fresh Produce; Public Hearings; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public hearings; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is announcing two public hearings concerning the safety of fresh produce. The purpose of the hearings is for FDA to share information about recent outbreaks of foodborne illness associated with microbial contamination of fresh produce, and to solicit comments, data, and other scientific information about current agricultural and manufacturing practices used to produce, harvest, pack, cool, process, and transport fresh produce; risk factors for contamination of fresh produce associated with these practices; and possible measures by FDA to enhance the safety of fresh produce.

DATES: The first public hearing will be held on March 20, 2007, from 9 a.m. to

5 p.m. The second public hearing will be held on April 13, 2007, from 9 a.m. to 5 p.m. See section V of this document for additional dates on how to participate in the hearings. Submit written or electronic comments (i.e., submissions other than notices of participation and the text, comprehensive outline, or summary of an oral presentation) by June 13, 2007.

ADDRESSES: The first public hearing will be held at the Ronald V. Dellums Federal Building, Edward Roybal Auditorium, 1301 Clay St., 3d floor, Oakland, CA 94612. The second public hearing will be held at the Harvey W. Wiley Federal Building, Food and Drug Administration, Center for Food Safety and Applied Nutrition, 5100 Paint Branch Pkwy., College Park, MD, 20740–3835 (Metro stop: College Park on the Green Line).

Submit electronic notices of participation for either hearing to *http://www.cfsan.fda.gov/~comm/register.html*. We encourage you to use this method of registration, if possible. You may also submit oral or written notices of participation by phone, by fax, or by e-mail, or submit the written full text, comprehensive outline, or summary of any oral presentation by fax or by e-mail to Isabelle Howes, U.S. Department of Agriculture Graduate School, 202–314–4713, FAX: 202–479–6801, or e-mail: *Isabelle_Howes@grad.usda.gov*.

Submit written comments 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*.

Instructions: All submissions and comments received must include the agency name and docket number found in brackets in the heading of this document. All submissions and comments received may be posted without change to *http://www.fda.gov/ohrms/dockets/default.htm*, including any personal information provided. For additional information on submitting comments, see section VI in the **SUPPLEMENTARY INFORMATION** section of this document.

Transcripts of the hearings will be available for review at the Division of Dockets Management and on the Internet at *http://www.fda.gov/ohrms/dockets/default.htm* approximately 30 days after the hearing.

FOR FURTHER INFORMATION CONTACT:

To submit an oral or written notice of participation by phone, by fax, or by e-mail, or the written full text, comprehensive outline, or summary of any oral presentation by fax or by e-mail: Isabelle Howes, U.S. Department of Agriculture Graduate School, 202–314–4713, FAX: 202–479–6801, or e-mail: *Isabelle_Howes@grad.usda.gov*. All participants must complete registration. Following registration, you will receive a confirmation notice which also includes hotel and parking information.

For all other questions about the hearings or if you need special accommodations due to a disability: Juanita Yates, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 301–436–1731, e-mail: *Juanita.Yates@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

A. Food Safety and Fresh Produce

FDA is responsible for ensuring the safety of all domestic and imported fresh and fresh-cut fruits and vegetables consumed in the United States. Fresh fruits and vegetables are those that are likely to be sold to consumers in an unprocessed or minimally processed (i.e., raw) form. Fresh fruits and vegetables may be intact and whole, such as whole apples, or cut in the act of harvest, such as heads of lettuce and bunches of broccoli. As used in this document, the term ''fresh-cut produce'' refers to minimally processed fruits and vegetables that have been altered in form by peeling, slicing, chopping, shredding, coring, or trimming, with or without washing or other treatment, prior to being packaged for use by the consumer or retail establishment. Examples of fresh-cut products are shredded lettuce, sliced tomatoes, salad mixes, peeled baby carrots, broccoli florets, and cut melons. Fresh-cut produce does not require additional preparation, processing, or cooking before consumption, with the possible exception of washing or the addition of salad dressing or seasoning. In this document, we use the term ''fresh produce'' to describe all fresh and fresh-cut fruits and vegetables consumed in the United States.

Because most fresh produce is grown in a natural environment, it is vulnerable to contamination with pathogens (i.e., bacteria or other organisms that can cause disease). Factors that may affect the occurrence of such contamination include agricultural and/or processing water quality, the use of manure as fertilizer, the presence of wild or domestic animals in or near fields or packing areas, worker health and hygiene, environmental conditions, production activities, and equipment and facility sanitation. Consequently, the manner in which fresh produce is grown, harvested, packed, processed, transported, distributed, and prepared is crucial to minimizing the risk of microbial contamination. (We use the term ''microbial contamination'' to refer to contamination with any microorganism.)

Data reported to the U.S. Centers for Disease Control and Prevention (CDC) indicate that between 1973 and 1997 reported outbreaks of foodborne illness in the United States associated with fresh produce increased in absolute numbers and as a proportion of all reported foodborne outbreaks (Ref. 1). (By ''outbreak,'' we mean the occurrence of two or more cases of a similar illness resulting from the ingestion of a common food.) Unpublished data compiled by FDA indicate that from 1996 to 2006 there were approximately 72 reported outbreaks of foodborne illness associated with approximately 20 fresh produce commodities. Of this total, 12 outbreaks were associated with tomatoes, 11 outbreaks were associated with melons, and 24 outbreaks were associated with leafy greens such as lettuce and spinach (Ref. 2). These outbreaks involved a number of pathogens, including *Escherichia coli* (*E. coli*) O157:H7 and *Salmonella* species, and both domestic and imported produce. These totals include only those outbreaks in which our investigation has indicated that the contamination of the produce was not a result of exposure to an infected food handler or other unsafe food handling practice at the place of preparation and consumption (i.e., home or restaurant).

When there is an outbreak of foodborne illness, we work with Federal, State, and local agencies to identify the source of the outbreak and minimize the public health impact. For example, on September 14, 2006, we issued a news release alerting consumers about an outbreak of *E. coli* O157:H7 in multiple States and advising the public not to eat bagged fresh spinach because it had been implicated in the outbreak (Ref. 3). We continued to issue updated press releases for approximately four weeks. During the course of the outbreak, approximately 200 illnesses were reported to the CDC, including more than 30 cases of hemolytic uremic syndrome (HUS, a condition occurring mainly in children that can result in kidney failure), more than 100 hospitalizations, and 3 deaths (Ref. 4). In addition to working to identify the food involved in the outbreak, we worked with others to trace the source of the implicated

product to packing, cooling and processing facilities involved and to the farm to identify practices or conditions that may have contributed to the contamination of the produce.

One challenge faced by public health officials during an outbreak is to quickly identify through traceback the sources of contamination. FDA's regulations require the establishment and maintenance of records by persons who manufacture, process, pack, transport, distribute, receive, hold, or import food in the United States (21 CFR 1.326–1.368). Such records allow for the identification of the immediate previous sources and immediate subsequent recipients of food, and thereby help FDA and other authorities determine the source and cause of the event. Farms and restaurants are excluded from these requirements. Traceback can be particularly problematic when fresh produce is involved.

Eating fruits and vegetables is an important part of a healthy diet (Ref. 5). We place a high priority on identifying and implementing measures that can reduce the incidence of foodborne illness associated with fresh produce.

B. Guidance Documents and Letters Issued by FDA to Enhance the Safety of Fresh Produce

In 1998, FDA issued guidance to industry entitled ''Guide to Minimize Microbial Food Safety Hazards for Fresh Fruits and Vegetables'' (GAPs/GMPs Guide) (Ref. 6). This guide recommends good agricultural practices (GAPs) and good manufacturing practices (GMPs) that growers, packers, and shippers can undertake to address common risk factors in their operations and thereby minimize food safety hazards potentially associated with fresh produce. Implementation of risk reduction measures is critical; as the GAPs/GMPs Guide notes, current technologies cannot eliminate all potential food safety hazards associated with fresh produce that will be eaten raw.

On February 5, 2004, FDA issued a letter to firms that grow, pack, or ship fresh lettuce and fresh tomatoes, expressing concern regarding outbreaks of foodborne illness associated with the consumption of fresh lettuce and fresh tomatoes, and recommending actions to enhance the safety of these products (Ref. 7). On November 4, 2005, FDA issued a second letter to firms that grow, pack, process or ship fresh and fresh-cut lettuce, reiterating concerns about continuing outbreaks (Ref. 8). In the November 2005 letter, FDA strongly encouraged applicable firms to review their current operations in light of the GAPs\GMPs Guide, as well as other available information regarding the reduction or elimination of pathogens on fresh produce. FDA encouraged firms to consider modifying their operations to ensure that they were taking the appropriate measures to provide a safe product to the consumer. FDA recommended that firms from the farm level through the distribution level undertake these steps.

On March 1, 2006, FDA issued a draft entitled ''Guide to Minimize Microbial Food Safety Hazards of Fresh-cut Fruits and Vegetables'' (the Fresh-cut Guide) (Ref. 9). The draft Fresh-cut Guide is intended to be used in conjunction with the GAPs/GMPs Guide, which covers stages prior to fresh-cut processing, with the current GMPs in part 110 (21 CFR part 110), which contain food safety practices applicable to processors who manufacture, process, pack, or hold processed food, and with the FDA Food Code (Ref. 10), which focuses on activities at subsequent stages, such as retail. The FDA Food Code gives State and local governments a scientifically sound technical and legal basis for regulating the retail and food service segment of the industry (restaurants and grocery stores and institutions such as nursing homes). State, local, tribal, and Federal regulators use the FDA Food Code as a model to develop or update their own food safety rules and to be consistent with national food regulatory policy. (For more information on the FDA Food Code, see *http://www.cfsan.fda.gov/~dms/foodcode.html*.) FDA is currently working to finalize the Fresh-cut Guide.

C. Produce Safety Action Plan

In October 2004, FDA issued the ''Produce Safety from Production to Consumption: 2004 Action Plan to Minimize Foodborne Illness Associated with Fresh Produce Consumption'' or Produce Safety Action Plan (PSAP) (Ref. 11). The PSAP expands on the areas covered by the GAPs/GMPs Guide for farms and packing, to extend to all parts of the food supply chain from farm through retail or consumer preparation and consumption. The PSAP does not cover frozen fruits and vegetables, fruit and vegetable juices, or other commodities, such as tree nuts, that are neither fruits nor vegetables and not typically regarded as produce. The PSAP has four main objectives which are to: (1) Prevent contamination of fresh produce with pathogens; (2) minimize the public health impact when contamination of fresh produce occurs; (3) improve communication with producers, packers, processors, transporters, distributors, preparers, consumers, and other government entities about the safety of fresh produce; and (4) facilitate and support research relevant to the contamination of fresh produce. For each objective, the PSAP identifies steps or actions that could contribute to the achievement of that objective. The PSAP has measurable goals and outcomes, and several steps outlined in the PSAP are already in progress or have been completed. For example, we issued the draft Fresh-cut Guide as part of the PSAP objective regarding prevention of contamination.

D. Partnerships and Collaborations

Because following the GAPs/GMPs Guide is voluntary, FDA and food safety partners in the public and private sectors have stressed education and outreach to industry to promote adoption of the guidance. Buyer requirements that producers and other suppliers provide self- or third-party audit verification that they are following the GAPs/GMPs Guide have further promoted adoption of the guidance. We have worked with the fresh produce industry since the release of the GAPs/GMPs Guide to promote its recommendations and to advance the scientific knowledge applicable to enhancing the safety of fresh produce. For example, in conjunction with the PSAP, we have provided technical assistance to industry in developing several commodity specific guidelines that cover the entire supply chain. Commodity-specific industry guidelines exist for three foods: Melons, lettuce and leafy greens, and tomatoes (see Refs. 12, 13, and 14). An additional industry guideline on green onions and herbs is in progress. Between 1996 and 2006, these commodities together accounted for approximately 80 percent of the foodborne outbreaks associated with produce (Ref. 2).

In August 2006 we launched the ''Lettuce and Leafy Greens Initiative,'' which involved assessments of practices and conditions at select farms and facilities in California. The initiative, conducted in collaboration with the California Department of Health Services and the California Department of Food and Agriculture, is intended to be a multi-year effort and may be a model for other initiatives in the future.

E. Other Food Safety Measures

The provisions in part 110 (Current Good Manufacturing Practice In Manufacturing, Packing, Or Holding Human Food) establish requirements and recommendations as follows that apply in determining whether a food is adulterated: (1) Within the meaning of

section 402(a)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 341(a)(3)), in that the food has been manufactured under such conditions that it is unfit for food; or (2) within the meaning of section 402(a)(4) of the act, in that the food has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health. Under § 110.19(a), establishments engaged solely in the harvesting, storage, or distribution of one or more raw agricultural commodities (as defined in section 201(r) of the act (21 U.S.C. 321)), are not subject to the requirements of part 110. However, under § 110.19(b), we may issue special regulations if it is necessary to cover these excluded operations. In addition, the GAPs/GMPs Guide recommends that operations excluded from the provisions of part 110 consider implementing the current GMPs required or recommended in part 110 as appropriate.

For foods other than fresh produce, we have issued regulations designed to enhance food safety, including safety related to microbial pathogens (see, e.g., 21 CFR part 113, concerning thermally processed low-acid foods packaged in hermetically sealed containers; 21 CFR part 114, concerning acidified foods; 21 CFR 15.51, concerning refrigeration of shell eggs held for retail distribution; 21 CFR part 120, concerning hazard analysis and critical control point (HACCP) systems for juice; and 21 CFR part 123, concerning HACCP requirements for fish and fishery products). Some FDA regulations to enhance the safety of particular food products (e.g., the HACCP requirements in 21 CFR part 120 for juice and in 21 CFR part 123 for fish and fishery products) contain training and other requirements for performing particular functions. For some food products, we have augmented our regulations with nonbinding guidance to assist industry in complying with the regulations (e.g., FDA's Juice HACCP Hazards and Controls Guidance (available at *http://www.cfsan.fda.gov/~dms/guidance.html*) and Fish And Fisheries Products Hazards And Controls Guidance (available at *http://www.cfsan.fda.gov/~dms/guidance.html*)).

F. Next Steps

We believe that the measures outlined in the PSAP, the GAPs/GMPs Guide, and other public and private sector actions, when implemented, have or can be effective in reducing the risk of microbial contamination of fresh produce. In particular, the GAPs/GMPs Guide has been used as a basis for a number of food safety programs, both in the United States and internationally. However, the fact that outbreaks of foodborne illness associated with fresh produce continue to occur supports a close examination of the extent to which these measures have been implemented; whether they have been effective, if implemented properly; and what additional or different interventions might be appropriate to reduce the risk of future outbreaks. As a next step, we intend to hold two public hearings regarding the safety of fresh produce. The purpose and scope of the hearings, each of which will be governed by part 15 (21 CFR part 15) of FDA's regulations, are described in section II of this document.

II. Purpose and Scope of the Hearings

We want to share information about recent outbreaks of foodborne illness associated with microbial contamination of fresh produce, and to invite comments, data, and other scientific information about: Current agricultural and manufacturing practices used to produce, harvest, pack, cool, process, and transport fresh produce; risk factors for contamination of fresh produce associated with these practices; and possible measures by FDA to enhance the safety of fresh produce.

This notice describes the scope of the hearings. We invite information and comment on the issues and questions in section III of this document. If you are interested in these hearings or this subject, you may address as many of the following questions as you wish. We do not expect you to address all questions. When possible, please provide scientific information and data in support of your comments. In addition, to the extent possible, please provide as specific information as is feasible about the estimated costs and benefits associated with your responses (e.g., the costs and benefits of current practices and/or the cost and benefits of any recommendations you may make).

III. Issues and Questions for Discussion

Issue 1: In the supply chain for fresh produce (e.g., farms, packing houses, cooling facilities, and fresh-cut processing facilities), various factors can contribute to the risk of microbial contamination of fresh produce. We request information to enable us to identify and understand such factors more fully.

Question 1. For each stage in the supply chain, and for each industry sector, what are the risks or practices that could lead to microbial contamination of fresh produce?

Question 2. How can or should current practices be changed to reduce the risk of contamination?

Question 3. For each stage in the supply chain, and for each industry sector, what current practices (including, for example, following the GAPs/GMPs Guide) reduce the risk of microbial contamination of fresh produce? What data are available to support a conclusion that the risk of such contamination is lower than it would be without the practice in place?

Question 4. Is fresh produce, or inputs such as agricultural water, sampled and tested for pathogens or indicator organisms at any stage of the supply chain? If yes, please describe the sampling and testing done.

Issue 2: As described more fully in sections I.B through I.E of this document, we already have implemented several measures to enhance the safety of fresh produce and other foods within FDA's jurisdiction.

Question 5. Beyond the Federal actions described in sections I.B. through I.E, what new Federal actions, if any, are needed to enhance the safety of fresh produce? On what aspects of the produce supply chain should the measures focus?

Question 6. In identifying possible Federal interventions or actions, to what extent can or should we take into account the wide variation within the fresh produce industry with respect to, e.g., the size and type of establishments, the nature of the commodity produced, the practices used in production, and the vulnerability of particular commodities to contamination? To what extent should such measures apply to specific products, sectors of the industry, regions, or businesses? For example, is there a need for special treatment for different commodity groups?

Issue 3: Traceback can be problematic when unpackaged fresh produce is involved in an outbreak, especially for products which may undergo several packing and repacking steps in the supply chain with multiple opportunities for commingling. Even with respect to packaged and labeled products, traceback is difficult if there are insufficient records to identify the specific farm, field, or block of origin; if the records lack sufficient specificity about where the fresh produce went after leaving the packing or processing facility; or if there are discrepancies between records of incoming and outgoing product.

Question 7. What types of records and other information, from what types of

facilities, are or would be most useful in facilitating traceback efforts?

Issue 4: Written food safety plans, sanitation standard operating procedures (SSOPs), and monitoring records can serve as useful tools for both industry and regulators. Such records can assist operators in conducting operations in a manner that could enhance the safety of fresh produce. For growers, an assessment of factors such as the field environment and agricultural inputs could contribute to the development of written food safety plans and SSOPs, and also could help to determine which factors should be monitored and the frequency of monitoring. (In the following questions we use the term ''assessment'' when referring to an evaluation conducted by, or on behalf of, a grower or operator to identify measures to enhance food safety.)

Written food safety plans, SSOPs, and monitoring records also can assist regulators in verifying that certain practices are being followed consistently and properly over time. Onsite inspections, either alone, or in conjunction with records review, are another approach to such verification. (We use the term ''inspection'' when referring to an evaluation conducted by, or on behalf of, a regulator to evaluate compliance and the term ''audit'' to refer to a self- or third-party evaluation of whether operations adhere to, for example, voluntary guidelines or written food safety plans or SSOPs developed by the grower, operator, or buyer.)

Question 8. Are written food safety plans, written SSOPs, periodic assessments, training, and/or the establishment and maintenance of records useful for risk identification and risk mitigation or management purposes? If yes, to what extent are these practices in place, and in what sectors of the industry?

Issue 5: As noted in section II.D of this document, some buyers require that producers and other suppliers provide self- or third-party audit verification that they are following the GAPs/GMPs Guide. However, the extent to which these verifications reflect adherence to the guidance is not well-established.

Question 9. How should adherence to the GAPs/GMPs Guide or new produce safety guidance(s) be measured and verified by the grower or operator, government regulators, or third-party auditors, in the event of any new recommended Federal action or in the event you are not recommending any new Federal action?

Question 10. If you are recommending any new Federal measures, please describe how they might affect certain small businesses, such as roadside stands, farm gate operations, farmers' markets, or other small businesses involved in direct sales.

IV. Notice of Hearings Under 21 CFR Part 15

By delegation from the Commissioner of Food and Drugs (the Commissioner) (Staff Manual Guide 1420.21, section 1(b)), the Associate Commissioner for Policy and Planning finds that it is in the public interest to permit persons to present information and views at a public hearing regarding the safety of fresh produce and is announcing that the public hearings will be held in accordance with part 15. The presiding officer will be the Commissioner or his designee. The presiding officer will be accompanied by a panel of FDA employees with relevant expertise.

Persons who wish to participate in either hearing (either by making a presentation or as a member of the audience) must file a notice of participation (see **ADDRESSES**, **DATES**, **FOR FURTHER INFORMATION CONTACT**, and ''How to Participate in the Hearings'' in section V of this document). By delegation from the Commissioner (Staff Manual Guide 1420.21, section 1(b)), the Associate Commissioner for Policy and Planning has determined under § 15.20(c) that advance submissions of oral presentations are necessary for the panel to formulate useful questions to be posed at the hearings under § 15.30(e), and that the submission of a comprehensive outline or summary is an acceptable alternative to the submission of the full text of the oral presentation. Because we anticipate attendance at the hearings to be high, we request that individuals and organizations with common interests consolidate their requests for oral presentation and request time for a joint presentation through a single representative. After reviewing the notices of participation and accompanying information, we will schedule each oral presentation and notify each participant of the time allotted to the presenter and the approximate time that the presentation is scheduled to begin. If time permits, we may allow interested persons who attend one or both hearings but did not submit a notice of participation in advance to make an oral presentation at the conclusion of one or both hearings. The hearing schedules will be available at the hearings.

After the hearings, the schedules will be placed on file in the Division of Dockets Management (see **ADDRESSES**) under the docket number listed in brackets in the heading of this notice.

To ensure timely handling of any mailed notices of participation, presentations, or comments, any outer envelope should be clearly marked with the docket number listed in brackets in the heading of this notice along with the statement ''Safety of Fresh Produce; Public Hearing.''

Under § 15.30(f), the hearings are informal, and the rules of evidence do not apply. No participant may interrupt the presentation of another participant. Only the presiding officer and panel members may question any person during or at the conclusion of each presentation.

Public hearings under part 15 are subject to FDA's policy and procedures for electronic media coverage of FDA's public administrative proceedings (part 10 (21 CFR part 10, subpart C)). Under § 10.205, representatives of the electronic media may be permitted, subject to the procedures and limitations in § 10.206, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants. The hearings will be transcribed as stipulated in § 15.30(b). The transcript will be available on the Internet at *http://www.fda.gov/ohrms/dockets/default.htm*, and orders for copies of the transcript can be placed at the hearing or through the Division of Dockets Management (see **ADDRESSES**).

Any handicapped persons requiring special accommodations to attend the hearings should direct those needs to the contact person (see **FOR FURTHER INFORMATION CONTACT**).

To the extent that the conditions for the hearings, as described in this notice, conflict with any provisions set out in part 15, this notice acts as a waiver of these provisions as specified in §§ 10.19 and 15.30(h). In particular, § 15.21(a) states that the notice of hearing will provide persons an opportunity to file a written notice of participation with the Division of Dockets Management within a specified period of time. If the public interest requires, e.g., if a hearing is to be conducted within a short period of time, the notice may name a specific FDA employee and telephone number to whom an oral notice of participation may be given. If the public interest requires, the notice may also provide for submitting notices of participation at the time of the hearing. In this document, the conditions for the hearings specify that notices of participation be submitted electronically to an agency Internet site, to a contact person (outside of FDA) who will accept notices of participation

by mail, telephone, fax, or e-mail, or in person on the day of the hearing (as space permits). We are using these procedures for submitting notices of participation, rather than provide for the submission of notices of participation to the Division of Dockets Management, because the hearing is to be conducted within a short period of time and these procedures are more efficient. In addition, these procedures provide more flexibility to persons who wish to participate in the hearings than would be provided if participants were required to submit the notice of participation in writing to the Division of Dockets Management. By delegation from the Commissioner (Staff Manual Guide 1420.21, section 1(f)(2)(i)), the Associate Commissioner for Policy and Planning finds under § 10.19 that no participant will be prejudiced, the ends of justice will thereby be served, and the action is in accordance with law if notices of participation are submitted by the procedures listed in this notice rather than to the Division of Dockets Management.

V. How to Participate in the Hearings

Registration by submission of a notice of participation is necessary to ensure participation and will be accepted on a first-come, first-served basis. The notice of participation may be submitted electronically (see **ADDRESSES**). The notice of participation also may be submitted orally, by fax, or by e-mail (see **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT**). We encourage you to submit your notice of participation electronically. A single copy of any notice of participation is sufficient, except that any person who wishes to participate in both hearings must submit a separate notice of participation for each hearing.

The notice of participation must include your name, title, business affiliation (if applicable), address, telephone number, fax number (if available), and e-mail address (if available). If you wish to request an opportunity to make an oral presentation during the open public comment period of the hearing, your notice of participation also must include the title of your presentation, the sponsor of the oral presentation (e.g., the organization paying travel expenses or fees), if any; and the approximate amount of time requested for the presentation. Presentations will be limited to the questions and subject matter identified in section III of this document, and, depending on the number of requests received, we may be obliged to limit the time allotted for each presentation.

Persons who wish to request an opportunity to make an oral presentation at the March 20, 2007, public hearing must submit a notice of participation (register) by March 2, 2007. All other persons wishing to register to attend the March 20, 2007, public hearing must submit a notice of participation by March 12, 2007. Persons who request an opportunity to make an oral presentation at the March 20, 2007, public hearing also must submit either the full text of the oral presentation, or a comprehensive outline or summary of the oral presentation, by March 12, 2007. Persons requiring special accommodations due to a disability must register by March 6, 2007.

Persons who wish to request an opportunity to make an oral presentation at the April 13, 2007, public hearing must submit a notice of participation by March 23, 2007. All other persons wishing to register to attend the April 13, 2007, public hearing must submit a notice of participation by April 6, 2007. Persons who request an opportunity to make an oral presentation at the second public hearing also must submit either the full text of the oral presentation, or a comprehensive outline or summary of the oral presentation, by April 6, 2007.

Under § 15.20(c), if you request an opportunity to make an oral presentation you must submit your presentation (either as the full text of the presentation, or as a comprehensive outline or summary) by e-mail or by fax. See **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** for information on where to send your presentation.

Individuals who request an opportunity to make an oral presentation will be notified of the scheduled time for their presentation prior to the hearing. Depending on the number of oral presentations, we may need to limit the time allotted for each oral presentation (e.g., 5 minutes each). As stated earlier, we request that interested persons and groups having similar interests consolidate their requests for oral presentation and present them through a single representative. If you need special accommodations due to a disability, please inform us (see **FOR FURTHER INFORMATION CONTACT**).

We will also accept registration onsite; however, space is limited and will be closed when the maximum seating capacity is reached. If space is available, on-site registration will be accepted on a first-come, first-served basis. Requests for an opportunity to make a presentation from individuals or organizations that did not register to make an oral presentation may be granted if time permits.

Persons who registered for the hearing should check in at the on-site registration desk between 8:30 and 9 a.m. Persons who wish to register onsite on the day of the hearing should do so at the registration desk between 8:30 and 9 a.m. We encourage all participants to attend the entire day. Because the hearings will be held in Federal buildings, hearing participants must present photo identification and plan adequate time to pass through the security system.

VI. Request for Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments in response to this document and notice of hearings for consideration at or after the hearings in addition to, or in place of, a request for an opportunity to make an oral presentation (see section V of this document). Submit two paper copies of any written 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. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

FDA is inviting public comment in writing and at the public hearings. These comments are sought to inform FDA decisionmaking about possible regulatory action with respect to the safety of fresh produce. Written or electronic comments (i.e., submissions other than notices of participation and the text, comprehensive outline, or summary of an oral presentation) may be submitted until June 13, 2007. The administrative record of the hearing will remain open until June 13, 2007.

VII. References

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday. (FDA has verified the Web site addresses, but FDA is not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**.

1. Sivapalasingam, S., et al. ''Fresh Produce: A Growing Cause of Outbreaks of Foodborne Illness in the United States, 1973 through 1997,'' *Journal of Food Protection* 67(10): 2342–53, 2004.

2. U.S. Food and Drug Administration, 1996–2006 Produce Outbreaks (unpublished compilation).

3. U.S. Food and Drug Administration, FDA News Release, ''FDA Warning on Serious Foodborne *E. coli* O157:H7

Outbreak,'' P06–131, September 14, 2006, available at *http://www.fda.gov/po/indexes/2006news.html*.

4. U.S. Centers for Disease Control and Prevention, ''Update on Multi-State Outbreak of *E. coli* O157:H7 Infections From Fresh Spinach, October 6, 2006, available at *http://www.cdc.gov/ecoli/2006/september/updates/100606.htm*.

5. U.S. Department of Health and Human Services and U.S. Department of Agriculture, ''Dietary Guidelines for Americans 2005,'' January 2005, available at *http://www.healthierus.gov/dietaryguidelines/*.

6. U.S. Food and Drug Administration, ''Guide to Minimize Microbial Food Safety Hazards for Fresh Fruits and Vegetables,'' October 26, 1998, available at *http://www.cfsan.fda.gov/~dms/prodguid.html*.

7. U.S. Food and Drug Administration, Center for Food Safety and Applied Nutrition, Office of Plant and Dairy Foods, ''Letter to Firms that Grow, Pack, or Ship Fresh Lettuce and Fresh Tomatoes,'' February 5, 2004, available at *http://www.cfsan.fda.gov/~dms/prodltr.html*.

8. U.S. Food and Drug Administration, Center for Food Safety and Applied Nutrition, Office of Plant and Dairy Foods, ''Letter to California Firms that Grow, Pack, Process, or Ship Fresh and Fresh-cut Lettuce,'' November 4, 2005, available at *http://www.cfsan.fda.gov/~dms/prodltr2.html*.

9. U.S. Food and Drug Administration, ''Guide to Minimize Microbial Food Safety Hazards of Fresh-Cut Fruits and Vegetables,'' March 2006, available at *http://www.cfsan.fda.gov/~dms/prodgui2.html*.

10. U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, FDA Food Code, 2005, available at *http://www.cfsan.fda.gov/~dms/foodcode.html*.

11. U.S. Food and Drug Administration, ''Produce Safety from Production to Consumption: 2004 Action Plan to Minimize Foodborne Illness Associated With Fresh Produce Consumption,'' October 2004, available at *http://www.cfsan.fda.gov/~dms/prodpla2.html*.

12. Produce Marketing Association and United Fresh Fruit and Vegetable Association, ''Commodity Specific Food Safety Guidelines for the Melon Supply Chain,'' November 7, 2005, available at *http://www.cfsan.fda.gov/~dms/melonsup.html* or *http://www.cfsan.fda.gov/~acrobat/melonsup.pdf*.

13. International Fresh-Cut Produce Association, Produce Marketing Association, United Fresh Fruit and Vegetable Association, Western Growers Association; Commodity Specific Food Safety Guidelines for the Lettuce and Leafy Greens Supply Chain; April 25, 2006, available at *http://www.cfsan.fda.gov/~dms/lettsup.html* or *http://www.cfsan.fda.gov/~acrobat/lettsup.pdf*.

14. North American Tomato Trade Work Group, ''Commodity Specific Food Safety Guidelines for the Fresh Tomato Supply Chain, May 2006, available at *http://www.cfsan.fda.gov/~dms/tomatsup.html* or *http://www.cfsan.fda.gov/~acrobat/tomatsup.pdf*.

Dated: February 21, 2007.

Randall W. Lutter,

Associate Commissioner for Policy and Planning.

[FR Doc. 07–891 Filed 2–23–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006D–0480]

Draft Guidance for Industry on Complementary and Alternative Medicine Products and Their Regulation by the Food and Drug Administration; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Complementary and Alternative Medicine Products and Their Regulation by the Food and Drug Administration.'' In recent years, the practice of complementary and alternative medicine (CAM) has increased in the United States, and we have seen increased confusion as to whether certain products used in CAM are subject to regulation under the Federal Food, Drug, and Cosmetic Act (the act) or Public Health Service Act (PHS Act). We have also seen an increase in the number of CAM products imported into the United States. Therefore, the draft guidance discusses when a CAM product is subject to the act or the PHS Act.

DATES: Submit written or electronic comments on the draft guidance by April 30, 2007. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, suite 200N Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft 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*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Philip L. Chao, Office of Policy and Planning (HF–23), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0587.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Complementary and Alternative Medicine Products and Their Regulation by the Food and Drug Administration.'' The term ''complementary and alternative medicine'' (CAM) encompasses a wide array of health care practices, products, and therapies that are distinct from practices, products, and therapies used in ''conventional'' or ''allopathic'' medicine.

In the United States, the practice of CAM has risen dramatically in recent years. In 1992, Congress established the Office of Unconventional Therapies, which later became the Office of Alternative Medicine (OAM), to explore ''unconventional medical practices.'' In 1998, OAM became the National Center for Complementary and Alternative Medicine (NCCAM). NCCAM is a center within the National Institutes of Health. The Institute of Medicine, in its book entitled, *Complementary and Alternative Medicine in the United States*, stated that more than one-third of American adults reported using some form of CAM and that visits to CAM providers each year exceed those to primary care physicians (see Institute of Medicine, *Complementary and Alternative Medicine in the United States*, pages 34 through 35 (2005)).

As the practice of CAM has increased in the United States, we have seen increased confusion as to whether certain products used in CAM (which, for convenience, we will refer to as ''CAM products'') are subject to regulation under the act or the PHS Act. We have also seen an increase in the number of CAM products imported into the United States. Therefore, the draft guidance discusses when a CAM product is subject to the act or the PHS Act. (When the draft guidance mentions a particular CAM therapy, practice, or product, it does so in order to provide background information or to serve as an example or illustration; any mention of a particular CAM therapy, practice, or product should not be construed as expressing FDA's support for or endorsement of that particular CAM therapy, practice, or product or, unless specified otherwise, as an agency determination that a particular product

is safe and effective for its intended uses or is safe for use.) The draft guidance makes the following two fundamental points:

- First, depending on the CAM therapy or practice, a product used in a CAM therapy or practice may be subject to regulation as a biological product, cosmetic, drug, device, or food (including food additives and dietary supplements) under the act or the PHS Act.
- Second, neither the act nor the PHS Act exempts CAM products from regulation.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on the regulation of complementary and alternative medicine products by FDA. 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 statutes and regulations.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.fda.gov/ohrms/dockets/default.htm*.

Dated: December 6, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–3259 Filed 2–26–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2007D–0020]

Draft Guidance for Industry and Food and Drug Administration Staff; Class II Special Controls Guidance Document; Oxygen Pressure Regulators and Oxygen Conserving Devices; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry and FDA staff entitled ''Class II Special Controls Guidance Document: Oxygen Pressure Regulators and Oxygen Conserving Devices.'' The draft guidance document is intended to assist manufacturers in complying with minimum performance, testing, and labeling recommendations that are being proposed for these devices. Elsewhere in this issue of the **Federal Register**, FDA is publishing a proposed rule to reclassify pressure regulators for use with medical oxygen into class II, subject to special controls. The proposal would also establish separate identification classifications for both oxygen pressure regulators and oxygen conserving devices, and would make those oxygen conserving devices that incorporate a built-in oxygen pressure regulator subject to special controls. This draft guidance is not final nor is it in effect at this time.

DATES: Submit written or electronic comments on the draft guidance by May 29, 2007.

ADDRESSES: Submit written requests for single copies of the draft guidance document entitled ''Class II Special Controls Guidance Document: Oxygen Pressure Regulators and Oxygen Conserving Devices'' 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 two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 1–800–638–2041. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document. Submit written comments on the draft guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 101, 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: Christy Foreman, Center for Devices and Radiological Health (HFZ–340), Food and Drug Administration, 2094 Gaither Rd., Rockville, MD 20850, 240–276–0120.

SUPPLEMENTARY INFORMATION:

I. Background

This draft guidance provides FDA's recommendations to manufacturers for labeling and for determining ignition sensitivity and fault tolerance for oxygen pressure regulators. These devices are intended to convert medical oxygen pressure from a high variable pressure to a lower, more constant working pressure. The device is affixed to a pressurized container of oxygen and the regulator controls the gas flow. These devices are currently regulated as class I devices. However, FDA has received reports of fires and explosions associated with the use of oxygen pressure regulators resulting in serious injury to a number of equipment operators, including one fatality. The draft guidance, if finalized, would serve as the special control for these devices. FDA believes that conformance with the draft special controls guidance, when combined with the general controls of the Federal Food, Drug, and Cosmetic Act (the act), would address the risks associated with oxygen pressure regulators and provide reasonable assurance of their safety and effectiveness.

The draft guidance would also serve as a special control for oxygen conserving devices with a built-in oxygen pressure regulator; a device type already classified into class II under the generic device type noncontinuous ventilator (21 CFR 868.5905). FDA believes that conformance with the draft special controls guidance, when combined with the general controls of the act, will provide reasonable assurance of the safety and effectiveness of oxygen conserving devices with a built-in oxygen pressure regulator.

In the **Federal Register** of May 27, 2003 (68 FR 30214), FDA announced its intention to reclassify oxygen pressure regulators in its semi-annual regulatory agenda. FDA received one comment supporting the establishment of a proposed rule to reclassify these devices.

II. Significance of the Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on oxygen pressure regulators and oxygen conserving devices with a built-in oxygen pressure regulator. It does not create or confer any rights for or on any person and would 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

Persons interested in obtaining a copy of the draft guidance may do so by using the Internet. To receive ''Class II Special Controls Guidance Document: Pressure Regulators For Use With Medical Oxygen and Oxygen Conserving Devices,'' 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 1227 to identify the guidance you are requesting.

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 draft 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 (the PRA) (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 807, subpart E (premarket notification procedures) have been approved under OMB Control number 0910–0120. The labeling statements that would be required by this regulation are ''public disclosure[s] of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public * * *'' (5 CFR 1320.3(c)(2)). Accordingly, FDA concludes that the labeling requirements in this proposed rule are not subject to review by OMB under the PRA.

V. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**), written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 8, 2007.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. E7–3254 Filed 2–26–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to Office of Management and Budget under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: The Nurse Faculty Loan Program (NFLP): Annual Operating Report (AOR) Form—NEW

Under Title VIII of the Public Health Service Act, as amended by Public Law 107–205, Section 846A, the Secretary of Health and Human Services (HHS) enters into an agreement with a school of nursing to establish and operate the NFLP fund. HHS makes an award to the school in the form of a Federal Capital Contribution (FCC). The award is used to establish a distinct account for the NFLP loan fund at the school or is deposited into an existing NFLP fund. The school of nursing makes loans from the NFLP fund to eligible students enrolled full-time in a master's or doctoral nursing education program that will prepare them to become qualified nursing faculty. Following graduation from the NFLP lending school, loan recipients may receive up to 85 percent NFLP loan cancellation over a consecutive four-year period in exchange for service as full-time faculty at a school of nursing. The NFLP lending school collects any portion of the loan that is not cancelled and any loan in repayment and deposits these monies into the NFLP loan fund to make additional NFLP loans. The school of nursing must keep records of all NFLP loan fund transactions.

The NFLP Annual Operating Report will be used to collect information relating to the NFLP loan fund operations and financial activities for a specified reporting period (July 1 through June 30 of the academic year). Participating schools will complete and submit the AOR annually to provide the Federal Government with current and cumulative information on: (1) The number and amount of loans made, (2) the number of NFLP recipients and graduates, (3) the number and amount of loans collected, (4) the number and amount of loans in repayment, (5) the number of NFLP graduates employed as nurse faculty, (6) NFLP loan fund receipts, disbursements and other related cost. The NFLP loan fund balance is used to determine future awards to the school.

The estimate of burden for this form is as follows:

Form	Number of respondents	Responses per respondent	Total responses	Hours per responses	Total burden hours
Nurse Faculty Loan Program Annual Operating Report (AOR)	150	1	150	8	1200
Total Burden	150	1	150	8	1200

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 10–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: February 21, 2007.

Alexandra Huttinger,

Acting Director, Division of Policy Review and Coordination.

[FR Doc. E7–3406 Filed 2–26–07; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995 Pub. L. 104–13), the Health Resources and Services Administration (HRSA) will publish periodic summaries of proposed projects being developed for submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain the data collection plans, call HRSA Reports Clearance Office on (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Scholarships for Disadvantaged Students Program—(OMB No. 0915–0149) Application—Reinstatement

The Scholarships for Disadvantaged Students (SDS) Program has as its purpose the provision of funds to eligible schools to provide scholarships to full-time, financially needy students from disadvantaged backgrounds enrolled in health professions and nursing programs.

To qualify for participation in the SDS program, a school must be carrying out a program for recruiting and retaining students from disadvantaged backgrounds, including students who are members of racial and ethnic minority groups (section 737(d)(1)(B) of the PHS Act). A school must meet the eligibility criteria to demonstrate that the program has achieved success based on the number and/or percentage of disadvantaged students who graduate from the school. In awarding SDS funds to eligible schools, funding priorities must be given to schools based on the proportion of graduating students going into primary care, the proportion of underrepresented minority students, and the proportion of graduates working in medically underserved communities (section 737(c) of the PHS Act).

The estimated response burden is as follows:

Form	Number of respondents	Responses per respondent	Hours per response	Total hour burden
Application	500	1	20	10,000
Report	500	1	1	1,500
Total	500	1	21	11,500

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 10–33, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Written comments should be received within 60 days of this notice.

Dated: February 21, 2007.

Alexandra Huttinger,

Acting Director, Division of Policy Review and Coordination.

[FR Doc. E7–3407 Filed 2–26–07; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of Availability of Draft Policy Document for Comment

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Notice of availability and solicitation of comments.

SUMMARY: This is a Notice of Availability and request for comments on the draft policy document, ''Emergency Management Program Expectations,'' prepared by HRSA. This document is currently posted on the Internet at *http://bphc.hrsa.gov*. Comments will be reviewed and analyzed, and a summary and general response will be published as soon as possible after the deadline for receipt of comments.

DATES: Comments must be received by April 13, 2007.

ADDRESSES: Please send your comments to the following e-mail address: *DPDgeneral@hrsa.gov.*

Background: HRSA believes that community input is valuable to the development of policies and policy documents related to the implementation of HRSA programs, including the Health Center Program. In the August 29, 2006, **Federal Register**, HRSA announced its plan to periodically, as appropriate, solicit comments on some policies and policy documents via the HRSA Web site. The Emergency Management Program Expectations document is being posted as part of the implementation of this plan.

SUPPLEMENTARY INFORMATION: For additional information on this process, see the HRSA notice in the August 29, 2006, **Federal Register** (71 FR 51200).

Dated: February 16, 2007.

Elizabeth M. Duke,

Administrator.

[FR Doc. E7–3260 Filed 2–26–07; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

HIV/AIDS Bureau Policy Notice 99–02; Correction

AGENCY: Health Resources and Services Administration, HHS

ACTION: Correction of policy effective date.

SUMMARY: The Health Resources and Services Administration published a notice in the **Federal Register** of December 6, 2006, soliciting comments on a proposed amendment to Policy Notice 99–02 which places a cumulative lifetime period of 24 months on short-term and emergency housing assistance under Title XXVI of the Public Health Service Act, as amended by the Ryan White HIV/AIDS Treatment Modernization Act of 2006. The amendment also specifies a requirement that the need for such assistance must be certified or documented by a case manager, social worker, or other licensed health care professional(s). HRSA received over 150 substantive comments from consumers and numerous organizations around the country in response to the December 6, 2006, notice.

Correction

In the **Federal Register** of December 6, 2006, FR Doc. E6–20556, on page 70781, in the second column, first paragraph, last sentence:

Remove the following text: ''This policy becomes effective March 1, 2007'' and insert the following text: ''In order for HRSA to consider all public comments, it will delay the implementation of the proposed policy amendment until further notice.''

Dated: February 22, 2007.

Elizabeth M. Duke,

Administrator.

[FR Doc. 07–882 Filed 2–22–07; 2:09 pm]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Treatment; Amendment of Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of a correction of a Notice of Meeting for the Center for Substance Abuse Treatment (CSAT) National Advisory Council to be held February 28 and March 1, 2007.

Public notice was given in the **Federal Register** on February 8, 2007, Volume 72, Number 26, page 5988 that the CSAT National Advisory Council would meet on February 28 and March 1 at 1 Choke Cherry Road, Sugar Loaf and Seneca Conferences, Rockville, Maryland. The meeting site and meeting dates have changed to: Washington, DC North/Gaithersburg Hilton, 620 Perry Parkway, Gaithersburg, Maryland, March 21, 9 a.m.–4 p.m., and March 22, 9 a.m.–1 p.m. The agenda has also changed to reflect the March Meeting. The contact for additional information remains as announced.

Dated: February 21, 2007.

Toian Vaughn,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. E7–3453 Filed 2–26–07; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

United States Fire Academy; Assistance to Firefighters Program Office, for Comments on a New Information Collection Request General Admissions Application Long and Short Form; Submission For Review; Extension Of Currently Approved Information Collection

AGENCY: United States Fire Academy, Department of Homeland Security.

ACTION: Notice; 30-day notice of information collections under review.

SUMMARY: The Department of Homeland Security (DHS) has submitted the following information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collections were previously published in the **Federal Register** on October 24, 2006, at 71 **Federal Register** 62274–62275 as 1660–0002, allowing for OMB review and a 60-day public comment period.

The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until March 29, 2007. This process is conduced in accordance with 5 CFR 1320.10.

Comments: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Nathan Lesser, Desk Officer, Department of Homeland Security/FEMA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

The Office of Management and Budget is particularly interested in comments which:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated,

electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by calling Nathan Lesser, Desk Officer, Department of Homeland Security/FEMA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION:

Analysis

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

Title: General Admissions Application Long and Short Form.

OMB No.: 1670–0002 (formerly under OMB Number 3067–0024, which OMB, transferred from FEMA to the Department of Homeland, Security effective March 1, 2003).

Frequency: Submitted by applicants when applying for a class.

Affected Public: Individuals in the emergency services in Federal, state, tribal, and local government, volunteer organizations, or private industry.

Estimated Number of Respondents:

FEMA Form 75–5, General Admissions Application—15,000 Responses.

FEMA Form 75–5a, General Admissions Application, Short Form—60,000 Responses.

FEMA Form 75–5 (automated), General Admissions Application—10,000 Responses.

FEMA Form 75–5a (automated), General Admissions Application, Short Form 15,000 Responses.

FEMA Form 75–3 and 75–3a, Student Stipend Agreement and Student Stipend Agreement (Amendment)—8,000 Responses.

FEMA Form 95–22, National Fire Academy—Executive Fire Officer Program Application for Admission 400 Responses.

Estimated Time Per Respondent:

FEMA Form 75–5, General Admissions Application—9 minutes.

FEMA Form 75–5a, General Admissions Application, Short Form—6 minutes.

FEMA Form 75–5 (automated), General Admissions Application—8 minutes.

FEMA Form 75–5a (automated), General Admissions Application, Short Form—5 minutes.

FEMA Form 75–3 and 75–3a, Student Stipend Agreement and Student Stipend Agreement (Amendment)—2 minutes.

FEMA Form 95–22, National Fire Academy—Executive Fire Officer Program Application for Admission—10 minutes.

Total Burden Hours:

FEMA Form 75–5, General Admissions Application—2,250 hours.

FEMA Form 75–5a, General Admissions Application, Short Form—6,000 hours.

FEMA Form 75–5 (automated), General Admissions Application—1,333 hours.

FEMA Form 75–5a (automated), General Admissions Application, Short Form—1,250 hours.

FEMA Form 75–3 and 75–3a, Student Stipend Agreement and Student Stipend Agreement (Amendment)—267 hours.

FEMA Form 95–22, National Fire Academy—Executive Fire Officer Program Application for Admission—67 hours.

Total Burden Cost: $2.73 per respondent, $295,955 annually.

Description: The Federal Emergency Management Agency (FEMA) has submitted the following information collection to the Office of Management and Budget (OMB) for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission describes the nature of the information collection, the categories of respondents, the estimated burden (i.e., the time, effort and resources used by respondents to respond) and cost, and includes the actual data collection instruments FEMA will use.

FEMA plans to follow this emergency request with a request for a 3-year approval. The request will be processed under OMB's normal clearance procedures in accordance with the provisions of OMB regulation 5 CFR 1320.10. To help us with the timely processing of the emergency and normal clearance submissions to OMB, FEMA invites the comments on the proposed information collection.

Charlie Church,

Chief Information Officer, Preparedness Directorate.

[FR Doc. E7–3398 Filed 2–26–07; 8:45 am]

BILLING CODE 6718–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2007–27314]

National Offshore Safety Advisory Committee

AGENCY: Coast Guard, DHS.

ACTION: Notice of meeting.

SUMMARY: The National Offshore Safety Advisory Committee (NOSAC) will meet to discuss various issues relating to offshore safety and security. The meeting will be open to the public.

DATES: NOSAC will meet on Thursday, April 19, 2007, from 9 a.m. to 3 p.m. The meeting may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before April 5, 2007. Requests to have a copy of your material distributed to each member of the committee should reach the Coast Guard on or before April 5, 2007.

ADDRESSES: NOSAC will meet in room 4202 of the Coast Guard Headquarters Bldg., 2100 Second Street, SW., Washington, DC. Send written material and requests to make oral presentations to Commander J.M. Cushing, Commandant (CG–3PSO–2), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001. This notice is available on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Commander J.M. Cushing, Executive Director of NOSAC, or Mr. Jim Magill, Assistant Executive Director, telephone 202–372–1414, fax 202–372–1926.

SUPPLEMENTARY INFORMATION: Notice of the meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of Meeting

The agenda includes the following:

(1) Report on issues concerning the International Maritime Organization (IMO) and the International Organization for Standardization.

(2) SOLAS compliance for foreign operation of U.S. flagged Offshore Support Vessels (OSVs) including Liftboats.

(3) Sandblasting standard for OCS facilities.

(4) Liftboat III Subcommittee on Liftboat Licenses.

(5) Revision of IMO Mobile Offshore Drilling Units (MODU) Code.

(6) Towing vessel rulemaking.

(7) Commercial Diving rulemaking.

(8) Transportation Worker Identification Credential (TWIC) impact on offshore facilities.

(9) Revision of 33 CFR, Subchapter N, Outer Continental Shelf Activities.

Procedural

The meeting is open to the public. Please note that the meeting may close early if all business is finished. At the Chair's discretion, members of the

public may make oral presentations during the meeting. If you would like to make an oral presentation at the meeting, please notify the Executive Director no later than April 5, 2007. Written material for distribution at the meeting should reach the Coast Guard no later than April 5, 2007. If you would like a copy of your material distributed to each member of the committee in advance of the meeting, please submit 25 copies to the Executive Director no later than April 5, 2007.

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, contact the Executive Director as soon as possible.

Dated: February 21, 2007.

J.G. Lantz,

Director of National and International Standards, Assistant Commandant for Protection.

[FR Doc. E7–3328 Filed 2–26–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed revised information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the National Incident Management System (NIMS) Compliance Assistance Support Tool (NIMSCAST), a self-assessment tool for State, territorial, tribal, and local governments to evaluate and report on their jurisdiction's achievement with regards to NIMS implementation activities issued by FEMA's NIMS Integration Center.

SUPPLEMENTARY INFORMATION: Homeland Security Presidential Directive 5 (HSPD–5) Management of Domestic Incidents called for the establishment of a single, comprehensive NIMS. The NIMS is a system that improves response operations through the use of the Incident Command System (ICS) and other standard procedures and preparedness measures. It also promotes development of multi-jurisdictional, statewide and interstate regional mechanisms for coordinating incident management and obtaining assistance during large-scale or complex incidents. HSPD–5 dictated that Federal departments and agencies shall make adoption of the NIMS a requirement for the provision of Federal preparedness assistance funds. HSPD–5 also established and designated the NIMS Integration Center as the lead Federal agency to coordinate NIMS compliance. One of the primary functions of the NIMS Integration Center is to ensure NIMS remains an accurate and effective management tool through refining and adapting compliance requirements to address ongoing preparedness needs. To accomplish this, the NIMS Integration Center relies on input from Federal, State, local, tribal, multi-discipline and private authorities to assure continuity and accuracy of ongoing efforts.

NIMS compliance must be an ongoing effort as new personnel must be trained and plans must be revised to reflect lessons learned. States play an important role in ensuring the effective implementation of the NIMS. They must ensure that the systems and processes are in place to communicate the NIMS requirements to local jurisdictions and support them in implementing the NIMS. The long-term benefit of adopting and implementing the NIMS is that it strengthens our nation's capabilities to prevent, prepare for, respond to, and recover from any incident.

The NIMSCAST is designed to reflect the newly-released FY 2007 implementation activities and metrics and to inform the NIMS Integration Center and the Department of Homeland Security of any given jurisdiction's compliance with the NIMS.

Collection of Information

Title: NIMS Compliance Assistance Support Tool (NIMSCAST).

Type of Information Collection: Revision of a currently approved collection.

OMB Number: 1660–0087.

Form Numbers: None.

Abstract: The NIMSCAST is the tool utilized to (a) Evaluate a State, territory, tribal, and local government's compliance with standards and requirements established in the NIMS and/or NIMS Integration Center, (b) determine eligibility for Federal preparedness assistance, and (c) strengthen incident management programs at the department, agency, or jurisdiction level.

Affected Public: State, local or tribal government.

Estimated Total Annual Burden Hours: 280.

Data collection activity/instrument	Number of respondents	Frequency of responses	Hour burden per response	Annual responses	Total annual hour burden
NIMSCAST: States and Territories	56	1	5	56	280
Total	56	1	5	56	280

Estimated Cost: The annual cost to respondents is calculated based on 280 hours of annual burden completed by state emergency management specialists with a median wage of $22.10 per hour for a total burden of $6,188.

Comments: Written comments are solicited to (a) Evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) 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. Comments must be submitted on or before April 30, 2007.

ADDRESSES: Interested persons should submit written comments to Chief,

Records Management and Privacy, Information Resources Management Branch, Information Technology Services Division, Federal Emergency Management Agency, 500 C Street, SW., Room 609, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Contact Marc Tagliento, NIMS Integration Center's Compliance and Technical Assistance Branch, (202) 646–2687 for additional information. You may contact the Records Management Branch for copies of the proposed collection of information at facsimile number (202) 646–3347 or e-mail address: *FEMA-Information-Collections@dhs.gov*.

Dated: February 16, 2007.

John A. Sharetts-Sullivan,

Chief, Records Management and Privacy, Information Resources Management Branch, Information Technology Services Division, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E7–3282 Filed 2–26–07; 8:45 am]

BILLING CODE 9110–09–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1682–DR]

Washington; 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 Washington (FEMA–1682–DR), dated February 14, 2007, and related determinations.

EFFECTIVE DATE: February 14, 2007.

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 February 14, 2007, 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 Washington resulting from a severe winter storm, landslides, and mudslides during the period of December 14–15, 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 Washington.

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 areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act that you 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, Elizabeth Turner, 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 Washington to have been affected adversely by this declared major disaster:

Chelan, Clallam, Clark, Grant, Grays Harbor, Island, King, Klickitat, Lewis, Mason, Pacific, Pend Oreille, Pierce, San Juan, Skagit, Skamania, Snohomish, Thurston, and Wahkiakum Counties for Public Assistance.

All counties within the State of Washington 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. E7–3281 Filed 2–26–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Revision of a Currently Approved Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review: Form I–612, Application for Waiver of the Foreign Residence Requirement of Section 212(e) of the Immigration and Nationality Act; OMB Control No. 1615–0030.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until April 30, 2007.

Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352, or via e-mail at *rfs.regs@dhs.gov*. When submitting comments by email add the OMB Control Number 1615–0030 in the subject box.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated,

electronic, mechanical, or other technological collection techniques, or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Revision of an existing information collection.

(2) *Title of the Form/Collection:* Application for Waiver of the Foreign Residence Requirement of Section 212(e) of the Immigration and Nationality Act.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–612. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals and households. This form is used by the USCIS to determine eligibility for a waiver.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 1,300 responses at 20 minutes (.333) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 433 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument, please contact USCIS, Chief, Regulatory Management Division, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529, telephone 202–272–8377.

Dated: February 22, 2007.

Stephen Tarragon,

Deputy Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services.

[FR Doc. E7–3338 Filed 2–26–07; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Extension of a Currently Approved Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: Form I–134, Affidavit of Support; OMB Control Number 1615–0014.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on December 19, 2006, at 71 FR 75970, allowing for a 60-day public comment period. USCIS received one comment from the public concerning the burden hour estimate. Accordingly, USCIS increased the burden estimate based on the comment.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until March 29, 2007. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), and to the Office of Management and Budget (OMB) USCIS Desk Officer. Comments may be submitted to: USCIS, Chief, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, Suite 3008, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov*, and to the OMB USCIS Desk Officer via facsimile at 202–395–6974 or via e-mail at *kastrich@omb.eop.gov*.

When submitting comments by e-mail please make sure to add OMB Control Number 1615–0014 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Affidavit of Support.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–134. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as brief abstract: Primary:* Individuals or households. This information collection is used to determine if an applicant for an immigration benefit will become a public charge if admitted to the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 44,000 responses at 90 minutes (1.5 hrs.) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 66,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the information collection instrument, please contact, Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529; 202–272–8377.

Dated: February 16, 2007.

Richard A. Sloan,

Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E7–3339 Filed 2–26–07; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5117–N–21]

Notice of Submission of Proposed Information Collection to OMB; Rural Housing and Economic Development Program Application and Semi-Annual Reporting

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork

Reduction Act. The Department is soliciting public comments on the subject proposal.

Application for Rural Housing and Economic Development program grant funds. Information is required to rate and rank competitive applications and to ensure eligibility of applicants for funding. Semi-annual reporting is required to monitor grant management.

DATES: *Comments Due Date:* March 29, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2506–0169) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; *fax:* 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Lillian_L._Deitzer@HUD.gov* or telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer or from HUD's Web site at *http://hlannwp031.hud.gov/po/i/icbts/collectionsearch.cfm.*

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This 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: Rural Housing and Economic Development Program Application and Semi-Annual Reporting.

OMB Approval Number: 2506–0169.

Form Numbers: SF–424, HUD–40210, HUD–424B, HUD–424C, HUD–424D, HUD–40076, HUD–2880, HUD–2990, HUD–2991, HUD–2992, HUD–2993, HUD–2994, HUD–50070, HUD–50071, SF–269a.

Description of the Need for the Information and its Proposed Use: Application for Rural Housing and Economic Development program grant funds. Information is required to rate and rank competitive applications and to ensure eligibility of applicants for funding. Semi-annual reporting is required to monitor grant management.

Frequency of Submission: On occasion, Semi-annually.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	627	1.66		41.54		43,490

Total Estimated Burden Hours: 43,490.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: February 20, 2007.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E7–3265 Filed 2–26–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Safe Harbor Agreement and Receipt of Application for an Enhancement of Survival Permit Associated With the Restoration of Habitat for Utah Prairie Dogs on Private Land in Piute County, UT

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: Mr. Verl Bagley (Applicant/Cooperator) has applied to the Fish and Wildlife Service (Service) for an Enhancement of Survival Permit (ESP) for the Utah prairie dog (UPD) pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (Act). This permit application includes a Safe Harbor Agreement (SHA) between the Applicant and the Service. The Service requests information, views, and opinions from the public via this notice. Further, the Service is soliciting information regarding the adequacy of the SHA as measured against the Service's Safe Harbor Policy and the regulations that implement it.

DATES: Written comments on the permit application must be received on or before March 29, 2007.

ADDRESSES: Persons wishing to review the SHA and the ESP application may obtain a copy by writing the Service's Mountain-Prairie Regional Office, Denver, Colorado. Documents also will be available for public inspection during normal business hours at the Regional Office, 134 Union Boulevard, Denver, Colorado 80228–1807, or the Utah Field Office, U.S. Fish and Wildlife Service, 2369 West Orton Circle, Suite 50, West Valley City, Utah 84119. Written data or comments concerning the SHA or ESP application should be submitted to the Regional office and must be in writing to be processed. Comments must be submitted in writing to be adequately considered in the Service's decision-making process. Please reference permit number TE131544–0 in your comments, or in the request for the documents discussed herein.

FOR FURTHER INFORMATION CONTACT: Pat Mehlhop, Regional Safe Harbor Coordinator (see Denver address above), telephone 303–236–4215, or Larry Crist, Utah Field Office Supervisor (see West Valley City address above), telephone 801–975–3330.

SUPPLEMENTARY INFORMATION: The UPD is the westernmost member of the genus *Cynomys.* The species' range, which is limited to the southwestern quarter of Utah, is the most restricted of all prairie dog species in the United States. Distribution of the UPD has been greatly reduced due to disease (plague), poisoning, drought, and human-related habitat alteration. Protection of this species and enhancement of its habitat on private land will benefit recovery efforts.

The primary objective of a SHA is to encourage voluntary conservation measures to benefit the species and the landowner. Through this agreement, the

landowner will receive relief from any additional section 9 liability under the Act beyond that which exists at the time the agreement is signed (''regulatory baseline''). The property is currently maintained as fallow land, native rangeland, and irrigated pastureland and is bordered by other private lands and Federal lands owned by the Bureau of Land Management. At the present time, the property supports several active prairie dog burrows that comprise a small colony. Several unoccupied burrows also occur on the property. Foraging habitat and habitat that offers visual surveillance for the prairie dogs will be further enhanced by implementing a prescribed grazing plan, seeding to improve the forage quality for UPD, and installing irrigation improvements. Additionally, reintroduction of UPDs will occur on the property once the vegetation conditions have improved.

Habitat improvements will be occurring throughout the term of the agreement through managed grazing. The Cooperator will receive an ESP that authorizes implementation of the conservation actions and other provisions of this Agreement and authorizes incidental take of the covered species above the Cooperator's baseline responsibilities, as defined in SHA. The proposed SHA would become effective upon signature of the SHA and issuance of the permit, and would remain in effect for 15 years. The requested permit would remain in effect for 35 years. We have made the determination that the proposed activities described in the application and SHA will increase available prairie dog habitat and will potentially expand an existing active colony and allow successful establishment of a reintroduced colony of Utah prairie dogs on the Bagley property. The action is categorically excluded under the National Environmental Policy Act (NEPA). This notice is provided pursuant to section 10 of the Act, and the Service's Safe Harbor Policy (64 FR 32717).

The Service has evaluated the impacts of this action under the NEPA and determined that it warrants categorical exclusion as described in 516 DM 8, 8.5 C. (1). The Service will evaluate whether the issuance of the ESP complies with section 7 of the Act by conducting an intra-Service section 7 consultation on the issuance of the permit. The result of the biological opinion, in combination with the above finding and any public comments, will be used in the final analysis to determine whether or not to issue the requested ESP, pursuant to the regulation that guide issuance of the type of permit.

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: January 11, 2007.

James J. Slack,

Deputy Regional Director, Denver, Colorado.

[FR Doc. E7–3360 Filed 2–26–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Safe Harbor Agreement and Receipt of Application for an Enhancement of Survival Permit Associated With the Restoration of Habitat for Utah Prairie Dogs on Private Land in Piute County, UT

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: Mr. Val Norman (Applicant/Cooperator) has applied to the Fish and Wildlife Service (Service) for an Enhancement of Survival Permit (ESP) for the Utah prairie dog (UPD) pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (Act). This permit application includes a Safe Harbor Agreement (SHA) between the Applicant and the Service. The Service requests information, views, and opinions from the public via this notice. Further, the Service is soliciting information regarding the adequacy of the SHA as measured against the Service's Safe Harbor Policy and the regulations that implement it.

DATES: Written comments on the permit application must be received on or before March 29, 2007.

ADDRESSES: Persons wishing to review the SHA and the ESP application may obtain a copy by writing the Service's Mountain-Prairie Regional Office, Denver, Colorado. Documents also will be available for public inspection during normal business hours at the Regional Office, 134 Union Boulevard, Denver, Colorado 80228–1807, or the Utah Field Office, U.S. Fish and Wildlife Service, 2369 West Orton Circle, Suite 50, West Valley City, Utah 84119. Written data or comments concerning the SHA or ESP application should be submitted to the Regional office and must be in writing to be processed. Comments must be submitted in writing to be adequately considered in the Service's decision-making process. Please reference permit number TE131545–0 in your comments, or in the request for the documents discussed herein.

FOR FURTHER INFORMATION CONTACT: Pat Mehlhop, Regional Safe Harbor Coordinator (see Denver address above), telephone 303–236–4215, or Larry Crist, Utah Field Office Supervisor (see West Valley City address above), telephone 801–975–3330.

SUPPLEMENTARY INFORMATION: The UPD is the westernmost member of the genus *Cynomys.* The species' range, which is limited to the southwestern quarter of Utah, is the most restricted of all prairie dog species in the United States. Distribution of the UPD has been greatly reduced due to disease (plague), poisoning, drought, and human-related habitat alteration. Protection of this species and enhancement of its habitat on private land will benefit recovery efforts.

The primary objective of a SHA is to encourage voluntary conservation measures to benefit the species and the landowner. Through this agreement, the landowner will receive relief from any additional section 9 liability under the Act beyond that which exists at the time the agreement is signed (''regulatory baseline''). There are no buildings or residences on the property; however it is currently used to house hunting dogs in an enclosed area less than 0.4 hectare (1 acre) in size. The rest of the property is unused and is not currently suitable for livestock grazing due to the high density of invasive weeds. The property is bordered on four sides by private lands. At the present time, the property supports an active prairie dog colony with many unoccupied burrows. In addition, active UPD colonies are known to exist on private property east and south of the Norman property. Foraging habitat and habitat that offers visual surveillance for the prairie dogs will be further enhanced by implementing a prescribed grazing plan, seeding to improve the forage quality for UPD, and installing irrigation improvements.

Habitat improvements will occur throughout the term of the agreement through managed grazing. The Cooperator will receive an ESP that authorizes implementation of the conservation actions and other provisions of this Agreement and authorizes incidental take of the covered species above the Cooperator's baseline responsibilities, as defined in the SHA. The proposed SHA would become effective upon signature of the SHA and issuance of the permit, and would remain in effect for 15 years. The requested permit would remain in effect for 35 years. We have made the determination that the proposed activities described in the application

and SHA will increase available prairie dog habitat and will potentially expand an existing active colony of UPDs on the Norman property. The action is categorically excluded under the National Environmental Policy Act (NEPA). This notice is provided pursuant to section 10 of the Act, and the Service's Safe Harbor Policy (64 FR 32717).

The Service has evaluated the impacts of this action under the NEPA and determined that it warrants categorical exclusion as described in 516 DM 8, 8.5 C. (1). The Service will evaluate whether the issuance of the ESP complies with section 7 of the Act by conducting an intra-Service section 7 consultation on the issuance of the permit. The result of the biological opinion, in combination with the above finding and any public comments, will be used in the final analysis to determine whether or not to issue the requested ESP, pursuant to the regulation that guide issuance of the type of permit.

(Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).)

Dated: January 11, 2007.

James J. Slack,

Deputy Regional Director, Denver, Colorado.

[FR Doc. E7–3378 Filed 2–26–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Privacy Act of 1974, as Amended; Establishment of a New System of Records

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of addition of a new system of records.

SUMMARY: The Department of the Interior (DOI), Bureau of Indian Affairs (BIA) is issuing public notice of its intent to add a new Privacy Act system of records to its inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a). This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of records systems maintained by the agency (5 U.S.C. 552a(e)(4)). The new Privacy Act system of records is entitled ''Interior BIA–27: BIA Probate Files.''

DATES: The proposed new system of records will become effective without further notice on April 9, 2007, unless comments received result in a contrary determination. Under 5 U.S.C. 552a(e)(11), the public is provided a 30-day period in which to comment on the agency's intended use of the information in the system of records. The Office of Management and Budget (OMB), in its Circular A–130, requires an additional 10-day period in which OMB may comment (for a total of 40 days in which to make these comments). BIA will publish a subsequent notice if changes are made based on review of comments received.

ADDRESSES: Interested individuals may submit comments on this publication to Director, Special Projects Office, Western Regional Office, Bureau of Indian Affairs, 400 N. 5th Street, 10th Floor, Phoenix, AZ 85004, or fax to (602) 379–4005.

FOR FURTHER INFORMATION CONTACT: For information regarding BIA–27 Probate, contact Bill Titchywy, Director, Special Projects Office, Western Regional Office, Bureau of Indian Affairs, 400 N. 5th Street, 10th Floor, Phoenix, AZ 85004, (602) 379–4002.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to the Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) and is in exercise of authority delegated by the Secretary of the Interior to the Principal Deputy Assistant Secretary—Indian Affairs in 209 DM 8.1. This notice establishes the Privacy Act system of records entitled ''Interior BIA–27: BIA Probate Files.'' The purpose of this system is to provide information on the types of records assembled in BIA for the purpose of processing a probate file and the categories of records associated with the probate program. BIA assembles and maintains these files with regard to any given probate of an estate of a decedent who owned trust or restricted Indian land, then provides the file to the Office of Hearings and Appeals for use in the adjudication process. The records include both hard copy and electronic copy, stored in software called ProTrac. The ProTrac software stores information related to individual Indian estates and allows BIA probate personnel to track information related to each estate and search the information during the probate process. ProTrac allows BIA probate personnel to obtain listings of deaths, obtain the status on any estate, and measure progress, correctness, and timeliness of work done on probate cases.

ProTrac is proposed to interface with both the Trust Asset and Accounting Management System (TAAMS) and the Trust Fund Accounting System (TFAS) to ensure that the information in ProTrac necessary for probate functions is as up-to-date as possible and that information affected by probate in TAAMS and TFAS is updated.

Dated: February 7, 2007.

Michael D. Olsen,

Principal Deputy Assistant Secretary—Indian Affairs.

INTERIOR/BIA–27

SYSTEM NAME:

Bureau of Indian Affairs Probate Files.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

(1) Bureau of Indian Affairs Central Office, 1849 C Street, NW., MS 4641, MIB, Washington, DC 20240, and (2) Bureau of Indian Affairs Regional Offices at: Alaska, Eastern, Eastern Oklahoma, Great Plains, Midwest, Navajo, Northwest, Pacific, Rocky Mountain, Southern Plains, Southwest, and Western. (For a listing of specific locations, contact the System Manager.) These locations have access to the ProTrac software.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are potential heirs, legatees, devisees, creditors, or parties interested in the estate of a decedent owning Indian land in trust or restricted status or who provide information to the BIA on the decedent.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in the system fall into the following categories:

- Originals or copies of all wills, codicils, and revocations, or other evidence that a will may exist;
- Social Security Numbers of the decedent, legatees, and probable heirs or devisees;
- The place(s) of enrollment and the tribal enrollment or census numbers of the decedent and potential heirs, legatees, or devisees;
- Current names and addresses of the decedent's potential heirs, legatees, and devisees;
- Any sworn statements regarding the decedent's family, including any statements of paternity or maternity;
- Any statements renouncing an interest in the estate including identification of the person or entity in whose favor the interest is renounced, if any;
- A list of known claims by creditors of the decedent against the estate and their addresses, including copies of any court judgments;
- Documents, certified if possible, from the appropriate authorities concerning the public record of the

decedent, including but not limited to: (1) Any marriage licenses or divorce decrees of the decedent; (2) adoption and guardianship records concerning the decedent or the decedent's potential heirs, legatees, or devisees; (3) use of other names by the decedent, including copies of name changes by court order; and (4) orders requiring payment of child support;

• The evidence of death of the decedent, such as a death certificate;

• A completed Form OHA–7, ''Data for Heirship Findings and Family History,'' certified by BIA, with the enrollment or other identifying number shown for each potential heir or devisee, if such number has been assigned;

• Information provided by potential heirs, legatees, devisees or the tribes regarding: (1) Whether the heirs, legatees, and devisees meet the definition of ''Indian'' for probate purposes, including enrollment or eligibility for enrollment in a tribe; (2) whether the potential heirs, legatees, or devisees are within two degrees of consanguinity of an ''Indian,'' in accordance with the Indian Land Consolidation Act, 25 U.S.C. 2201 *et seq.*; and (3) whether an individual qualifies as an ''Indian'' because of an ownership interest in trust or restricted land, and if so, identification of the date on which the individual became the owner of the trust or restricted interest;

• A certified inventory of trust or restricted land, including: (1) Accurate and adequate descriptions of all land and appurtenances; (2) all encumbrances on the land, including but not limited to leases, mortgages, and rights of way; (3) identification of any interests that represent less than 5% of the undivided interest in a parcel; and (4) identification of all income generating activity, such as leases or rights of way and any assignments of such income;

• A statement showing the balance of the decedent's individual Indian money (IIM) account on the date of death;

• Quarterly statements showing all distributions to and disbursements from the decedent's IIM account after the date of death;

• A copy of any cover letter that accompanied any wills, codicils or revocations we have returned to the testator;

• Documentation of any payments made on claims made against the estate;

• The record of every tribal or individual request to purchase a trust or restricted land interest at probate;

• The record of any individual request for a consolidation agreement, including a description, such as an Individual/Tribal Interest Report, of any lands not part of the decedent's estate that are proposed for inclusion in the consolidation agreement; and

• An affidavit by the probate staff, if applicable, certifying whether all documents required by the regulation (25 CFR part 15) to process a probate were located, certifying that the Department has complied with 25 U.S.C. 2201 *et seq.* in attempting to locate any missing potential heirs, legatees, and devisees, and identifying the steps that were taken to locate missing documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 551; 25 U.S.C. 2, 9, 372, 373, 373a, 373b, 374, and 2201 *et seq.*; 25 CFR part 15; 43 CFR part 4.

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

The primary purposes of the system are listed below:

(1) To provide a central repository for records related to a given probate estate that can be forwarded to the Office of Hearings and Appeals (OHA) for adjudication and to monitor the progress of an estate through the probate process;

(2) To allow BIA employees to collect and gather information regarding potential heirs, legatees, devisees, and creditors of an estate;

(3) To allow Office of Special Trustee (OST) employees to document the status of decedent IIM accounts; and

(4) To provide OHA with a source of information regarding the estate.

DISCLOSURES OF THESE RECORDS OUTSIDE THE DEPARTMENT OF THE INTERIOR WILL BE LIMITED TO:

(1) A federal, state, local, or tribal agency or contractor where necessary and relevant to the preparation and administration of a probate case and subsequent distribution of estate assets as ordered by the deciding official;

(2)(a) To any of the following entities or individuals, when the circumstances set forth in (b) are met:

(i) The Department of Justice (DOJ);

(ii) a court, adjudicative or other administrative body;

(iii) a party in litigation before a court or adjudicative or administrative body; or

(iv) any DOI employee acting in his or her individual capacity if DOI or DOJ has agreed to represent that employee or pay for private representation of the employee;

(b) When:

(i) One of the following is a party to the proceeding or has an interest in the proceeding:

(A) DOI or any component of DOI;

(B) any DOI employee acting in his or her official capacity;

(C) any DOI employee acting in his or her individual capacity if DOI or DOJ has agreed to represent that employee or pay for private representation of the employee;

(D) the United States, when DOJ determines that DOI is likely to be affected by the proceeding; and

(ii) DOI deems the disclosure to be:

(A) Relevant and necessary to the proceeding; and

(B) Compatible with the purposes for which the records were compiled;

(3) To a congressional office in response to a written inquiry an individual covered by the system has made to the congressional office about him or herself, or a family member when the individual is a guardian or an estate administrator or representative;

(4) To an official of another Federal agency to provide information needed in the performance of official duties related to reconciling or reconstructing data files, in support of the functions for which the records were collected and maintained; and

(5) To representatives of the National Archives and Records Administration to conduct records management inspections under the authority of 44 U.S.C. 2903 and 2904.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), records can be disclosed to consumer reporting agencies as they are defined by the Fair Credit Reporting Act.

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

STORAGE:

Probate file records are maintained in manual form in file folders. Electronic records, including those created from hard copies, are maintained in the BIA probate computer system (ProTrac).

RETRIEVABILITY:

Both manual and electronic records are retrieved by the name, owner identification number, Social Security Number, or account number of the decedent, devisee, heir, or claimant.

SAFEGUARDS:

Manual records are maintained in file cabinets under the control of authorized personnel and comply with minimum DOI safeguard requirements for maintaining Privacy Act system of records under 43 CFR 2.51. Electronic records are safeguarded by permissions set to ''Authenticated Users'' which

require password login, and comply with DOI and National Institute of Standards and Technology cyber security requirements. A Privacy Impact Assessment has been completed for probate files and ProTrac in accordance with the E-Government Act of 2002 and OMB requirements for new and amended information systems.

RETENTION AND DISPOSAL:

Records are retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Special Projects Office, Bureau of Indian Affairs, Western Regional Office, 400 N. 5th Street, 10th Floor, Phoenix, AZ 85004.

NOTIFICATION PROCEDURES:

If you wish to determine if this system of records contains information about you, you may write to the System Manager at the address listed above. Your request must be in writing and signed by you and include contact information, such as a telephone number or address, where you can be reached should additional information be needed from you to confirm your identity. Provide the following information with your request:

(a) Proof of your identity;

(b) List of all of the names by which you have been known, such as maiden name or alias;

(c) Your Social Security Number;

(d) Mailing address;

(e) Tribe, tribal enrollment or census number;

(f) BIA home agency; and

(g) Time period(s) that records belonging to you may have been created or maintained, to the extent known by you.

To ensure proper handling of your request, you should include the words ''PRIVACY ACT INQUIRY'' at the top of the first page of your letter and on the envelope in which you mail the letter. For additional information refer to 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

If you wish to obtain a copy of any records that the system may contain that are about you, you may write to the System Manager at the address listed above. Provide the following information with your request:

(a) Proof of your identity;

(b) List of all of the names by which you have been known, such as maiden name or alias;

(c) Your Social Security Number;

(d) Mailing address;

(e) Tribe, tribal enrollment or census number;

(f) BIA home agency; and

(g) Time period(s) that records belonging to you may have been created or maintained, to the extent known by you.

Your request must be in writing and signed by you. You should state whether you are seeking all of the records about you that may be maintained in the system, or only a specific portion of them. If you are only seeking a portion of them, you should describe those records you are seeking with sufficient detail to enable an individual familiar with the system to locate them with a reasonable amount of effort. To ensure proper handling of your request, you should include the notation, ''PRIVACY ACT REQUEST FOR ACCESS'' at the top of the first page of your letter and on the envelope in which you mail the letter. For additional information, refer to 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

If you wish to request that any specific records that the system may contain that are about you be corrected, you may write to the System Manager at the address listed above. Provide the following information with your request:

(a) Proof of your identity;

(b) List of all of the names by which you have been known, such as maiden name or alias;

(c) Your Social Security Number;

(d) Mailing address;

(e) Tribe, tribal enrollment or census number;

(f) BIA home agency; and

(g) Time period(s) that records belonging to you may have been created or maintained, to the extent known by you.

Your request must be in writing and signed by you. Before you make such a request, you must first have requested access to your records, and have either inspected them or obtained copies of them, as described above. You must also identify which record or portion thereof you are contesting, indicating why you believe that it is not accurate, relevant, timely, or complete, and provide a copy of any documents in your possession that support your claim with your letter. You may also propose specific language to implement the changes sought. To ensure proper handling of your request, you should include the notation ''PRIVACY ACT REQUEST FOR AMENDMENT'' at the top of the first page of your letter and on the envelope in which you mail the letter. For additional information, refer to 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Records in the system contain information submitted by potential heirs, legatees, devisees, creditors, and other parties knowledgeable about the decedent, the decedent's family or the decedent's estate, as well as information from other government entities (e.g., birth and death certificates).

EXEMPTIONS CLAIMED FOR THIS SYSTEM:

None.

[FR Doc. E7–3367 Filed 2–26–07; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Privacy Act of 1974, as Amended; Amendment of an Existing System of Records

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed amendment of an existing system of records.

SUMMARY: Under the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Bureau of Indian Affairs (BIA) is issuing public notice of our intent to change an existing Privacy Act system of records notice entitled Interior BIA–25 ''Integrated Records Management System (IRMS),'' published at 45 FR 45381 (July 3, 1980). BIA proposes to: (1) Update the information on the location of the records; (2) identify new information that will be included in the system of records; (3) clearly state the current routine uses of the records by organizations and individuals outside of the Department of the Interior (DOI); and (4) expand the routine uses of such information to include disclosures to Federal, state, or local agencies regarding the reporting of an investigation of an employee. BIA is accomplishing these changes in part by updating its system of records through conversion to the new application, Trust Asset and Accounting Management System (TAAMS), which has replaced the Land Records Information System (LRIS) and will replace the Integrated Records Management System (IRMS).

DATES: The proposed new system of records will become effective without further notice on April 9, 2007, unless comments received result in a contrary determination. Under 5 U.S.C. 552a(e)(11), the public is provided a 30-day period in which to comment on the agency's intended use of the information in the system of records. The Office of Management and Budget (OMB), in its Circular A–130, requires

an additional 10-day period in which the OMB may comment (for a total of 40 days in which to make these comments). BIA will publish a notice if changes are made based on review of comments received.

ADDRESSES: Any persons interested in commenting on this proposed amendment may do so by submitting comments in writing to the Deputy Director, Office of Trust Services, Bureau of Indian Affairs, 1849 C Street, NW., MS 4513—MIB, Washington, DC 20240, or fax to (202) 208–2549.

FOR FURTHER INFORMATION CONTACT: For information regarding ''Integrated Records Management System (IRMS), BIA–25,'' contact Arch Wells, Deputy Director, Office of Trust Services, Bureau of Indian Affairs, 1849 C Street, NW., MS 4513—MIB, Washington, DC 20240 at (202) 208–5831.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to the Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) and is in exercise of authority delegated by the Secretary of the Interior to the Principal Deputy Assistant Secretary—Indian Affairs in 209 DM 8.1. *This notice amends the Privacy Act System of Records entitled ''BIA–25: Integrated Records Management System (IRMS).''* The purpose of the amendment is to update the information to reflect the modernization of the title and trust systems. IRMS supports the land resource management function and contains information on Indians, leases (e.g., pasture, range, timber, mineral, and mining leases), land ownership, oil and gas royalties, and trust fund accounts. Eventually, this system will be replaced by the TAAMS or another successor system. Until the successor system is fully implemented, the IRMS and the Royalty Distribution and Reporting System (RDRS) will be the official automated systems for income allocations, and will continue to interface with the Trust Fund Accounting System (TFAS). TAAMS, IRMS, and RDRS will include:

(a) A legal land description, chain-of-title history, current ownership, including title and beneficial ownership, and resource management classification for all land held in trust or restricted status by the Federal Government for the benefit of Indian tribes and individual Indians;

(b) Any encumbrances against the title to land;

(c) The name, address, BIA identification number (assigned by the BIA in TAAMS), and Social Security (Federal tax identification) number of each Indian land owner;

(d) The name, address, and Social Security (Federal tax identification) number of each person who has a permit, lease, contract, right-of-way or other legal instrument approved by the Secretary of the Interior that allows such person to use the trust or restricted land, or to extract renewable or non-renewable resources from such land;

(e) The name, address, and Federal taxpayer identification number of any company that has a permit, lease, contract, right-of-way or other legal instrument approved by the Secretary of the Interior that allows such company to use the trust or restricted land, or to extract renewable or non-renewable resources from such land;

(f) The term of the permit, lease, contract, right-of-way or other legal instrument; and

(g) The trust income collected and distributed for such permit, lease, contract, right-of-way or other legal instrument.

Changes to the existing system of records, Integrated Resource Management System—Interior, BIA–25 (July 3, 1980, 45 FR 45381) are summarized here:

* * * * *

System location: Delete ''Division of Systems Operation, Bureau of Indian Affairs, 500 Gold Ave., SW., Albuquerque, New Mexico 87103'' and replace with ''Office of Information Operations, Bureau of Indian Affairs, 625 Herndon Parkway, Herndon, VA 20170'' to reflect new location. Add Indian tribal governments that administer realty programs under Self-Determination or Self-Governance awards as a location.

Categories of individuals covered by the system: Add references to Indian lands held in restricted status; delete reference to holders of assigned interests.

Categories of records in the system: Delete reference to dower and life estate interests. Add current income allocation interests.

* * * * *

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Add that disclosures may be made to other Federal, state, or local agencies regarding the reporting of an investigation of an employee.

Disclosure to consumer reporting agencies: Add a section describing when records will be disclosed to consumer reporting agencies.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

* * * * *

Safeguards: Add specific description of safeguards employed for paper and electronic records.

* * * * *

Retention and Disposal: Delete reference to information being erased as new information is added.

System manager(s) and address: Update identification of system manager and contact information.

Notification procedure: Provide more explicit directions on how to address a request for information on whether the system contains information about you to ensure the proper office receives the request.

Record access procedure: Provide more explicit directions on how to address a request for copies of records in the system to ensure the proper office receives the request.

Contesting record procedure: Provide more explicit directions on how to address a request for corrections or the removal of any specific record contained in the system to ensure the proper office receives the request.

Record source categories: Add more detailed description of record source categories.

* * * * *

A copy of the notice, with changes incorporated, is attached.

Dated: February 7, 2007.

Michael D. Olsen,

Principal Deputy Assistant Secretary—Indian Affairs.

INTERIOR/BIA–25

SYSTEM NAME:

Integrated Records Management System.

SYSTEM CLASSIFICATION:

None.

SYSTEM LOCATION:

(1) Office of Information Operations, Bureau of Indian Affairs, 625 Herndon Parkway, Herndon, VA 20170;

(2) Central, regional, agency and field offices, BIA schools or contractors providing time-share services to BIA;

(3) Those Indian tribal governments that administer realty programs under Self-Determination or Self-Governance awards (for a listing of specific locations, contact the Systems Manager).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual Indian and Indian tribal entities who are owners of land held in trust or restricted status by the Federal Government, individuals or groups that are potential or actual lessees of that property, and individual Indians who have trust fund accounts.

CATEGORIES OF RECORDS IN THE SYSTEM:

Land descriptions, current ownership, current income allocation interests, information on all types of leases or other land uses including grazing, farming, minerals mining, timber and business. Information on individuals including name, address, aliases, sex, date of birth, tribal membership and blood quantums. General ledgers showing deposits and withdrawals from individual Indian money (IIM) accounts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

25 U.S.C. 151, 25 U.S.C. 392, 25 U.S.C. 415, and 25 U.S.C. 163.

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

Integrated Records Management System is a legacy system consisting of eight applications.

• *People*—The ''People'' application maintains information on individuals and tribes. This information is used for providing information such as an address for use with other applications.

• *Per Capita*—The ''Per Capita'' application provides the means to calculate and generate payments to individuals. The payments may be the result of a judgment or tribal per capita distributions.

• *Lease*—The ''Lease'' application manages the leasing function for Indian land.

• *Lease Distribution*—The ''Lease Distribution'' application distributes the income from a lease to the owners of the land.

• *Range*—The ''Range'' application provides additional functionality to manage range leases and permits.

• *IIM*—The ''Individual Indian Monies'' application provides information on the accounts maintained for individuals and shares information needed by other IRMS applications. It is no longer used as the system of record for individuals. That function is performed by TFAS, which updates the IIM application to provide the IRMS applications with up-to-date information.

• *Owner*—The ''Owner'' application manages the ownership of Indian land.

• *RDRS*—The ''Royalty Distribution and Reporting System'' (sometimes referred to as ''Oil & Gas'') manages, receives and distributes the income derived from oil & gas leases.

The primary uses of the records are:

(a) Repository of IIM account information for use by other IRMS applications.

(b) Identification of individual Indians and Indian tribal groups with interest in income producing leases or contracts;

(c) Management of leases on Indian trust and restricted lands, and collection and distribution of lease income;

(d) Invoicing of individual owners or lessees for irrigation;

(e) Determination of eligibility of individuals to participate in, or enjoy benefits from, a tribal group; and

(f) Maintenance of lists of approved enrollees used to distribute funds or income, or as a base to gather demographics or income allocation data for planning purposes.

DISCLOSURES OF THESE RECORDS OUTSIDE THE DEPARTMENT OF THE INTERIOR WILL BE LIMITED TO:

(1) The tribe, band, pueblo or corporation of which the individual to whom a record pertains is a member or a stockholder.

(2)(a) To any of the following entities or individuals, when the circumstances set forth in (b) are met:

(i) The Department of Justice (DOJ);

(ii) a court, adjudicative or other administrative body;

(iii) a party in litigation before a court or adjudicative or administrative body; or

(iv) any DOI employee acting in his or her individual capacity if DOI or DOJ has agreed to represent that employee or pay for private representation of the employee;

(b) When:

(i) One of the following is a party to the proceeding or has an interest in the proceeding:

(A) DOI or any component of DOI;

(B) Any DOI employee acting in his or her official capacity;

(C) Any DOI employee acting in his or her individual capacity if DOI or DOJ has agreed to represent that employee or pay for private representation of the employee;

(D) The United States, when DOJ determines that DOI is likely to be affected by the proceeding; and

(ii) DOI deems the disclosure to be:

(A) Relevant and necessary to the proceeding; and

(B) Compatible with the purposes for which the records were compiled.

(3) To a congressional office in response to a written inquiry an individual covered by the system has made to the congressional office about him or herself or a family member when the individual is the guardian.

(4) To an official of another Federal agency to provide information needed in the performance of official duties related to reconciling or reconstructing data files, in support of the functions for which the records were collected and maintained.

(5) To representatives of the National Archives and Records Administration to conduct records management inspections under the authority of 44 U.S.C. 2903 and 2904.

(6) The appropriate Federal, state, tribal, or local governmental agency that is responsible for investigating, prosecuting, enforcing or implementing a statute, rule, regulation, order or license, when the Department becomes aware of an indication of a violation or potential violation of the statute, rule, regulation, order or license.

(7) Indian tribes entering into a contract or compacts of real estate or title functions under the Indian Self-Determination and Education Assistance Act, as amended.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Under 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 718a(f)), or the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3701(a)(3).

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

STORAGE:

Manual Records: Letter files, computer readable media, input forms and computer printouts.

Electronic Records: Magnetic (mag) tape and disk files.

RETRIEVABILITY:

(a) Indexed by name, Bureau identification numbers, family numbers and tract numbers.

(b) Retrieved by manual search or computer inquiry.

SAFEGUARDS:

During business hours, paper records are maintained in areas accessible only by authorized personnel in a secured office environment and comply with the minimum DOI safeguard requirements for maintaining Privacy Act system of records under 43 CFR 2.51. Electronic records are accessible via a password from terminals located in attended offices and only personnel with approved access may change the data. Electronic records comply with DOI and National Institute of Standards and Technology cyber security requirements. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment. A Privacy Impact Assessment is being completed for IRMS in accordance with the E–Government Act of 2002 and OMB requirements for new and amended information systems.

RETENTION AND DISPOSAL:

Permanent records are retrieved and closed or inactive records are transferred to the Federal Records Center in accordance with the following schedules: NARA Job # N1–075–03–1 (approved January 24, 2003) for the IIM application; NARA Job # N1–075–03–04 (approved February 24, 2004) for the people and per capita applications; and NARA Job # N1–075–03–04 for the remaining applications.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Information Operations, Bureau of Indian Affairs, 625 Herndon Parkway, Herndon, VA 20170.

NOTIFICATION PROCEDURE:

If you wish to determine if the system contains information about you, contact the System Manager at the address above. Provide the following information with your request:

(a) Proof of your identity;

(b) List of all of the names by which you have been known, such as maiden name or alias;

(c) Your Social Security Number;

(d) Mailing address;

(e) Tribe, tribal enrollment or census number;

(f) BIA home agency; and

(g) Time period(s) that records belonging to you may have been created or maintained, to the extent known by you.

The request must be in writing and signed by you. To ensure proper handling of your request, you should include the notation ''PRIVACY ACT INQUIRY'' at the top of the first page of your letter and on the envelope in which you mail the letter. For additional information refer to 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Persons who would like to obtain a copy of their records contained in the system should contact the System Manager at the address above. Provide the following information with your request:

(a) Proof of your identity;

(b) List of all of the names by which you have been known, such as maiden name or alias;

(c) Your Social Security Number;

(d) Mailing address;

(e) Tribe, tribal enrollment or census number;

(f) BIA home agency; and

(g) Time period(s) that records belonging to you may have been created or maintained, to the extent known by you.

The request must be in writing and signed by you. You should state whether you are seeking all of the records about you that may be maintained by the system, or only a specific portion of them. If you are only seeking a portion of them, you should describe those records you are seeking with sufficient detail to enable an individual familiar with the system to locate them with a reasonable amount of effort. To ensure proper handling of your request, you should include the notation ''PRIVACY ACT REQUEST FOR ACCESS'' at the top of the first page of your letter and on the envelope in which you mail the letter. For additional information, refer to 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of any specific record contained in the system, contact the System Manager at the address above. Provide the following information with your request:

(a) Proof of your identity;

(b) List of all of the names by which you have been known, such as maiden name or alias;

(c) Your Social Security Number;

(d) Mailing address;

(e) Tribe, tribal enrollment or census number;

(f) BIA home agency; and

(g) Time period(s) that records belonging to you may have been created or maintained, to the extent known by you.

The request must be in writing and signed by you. Before you make such a request, you must have requested access to your records and have either inspected them or obtained copies of them as described above. You must also identify which record or portion thereof you are contesting, indicating why you believe that it is not accurate, relevant, timely, or complete, and provide a copy of any documents in your possession that support your claim with your letter. You may also propose specific language to implement the changes sought. To ensure proper handling of your request, you should include the notation ''PRIVACY ACT REQUEST FOR AMENDMENT'' at the top of the first page of your letter and on the envelope in which you mail the letter. For additional information, refer to 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

(a) BIA, OST, Minerals Management Service, Bureau of Land Management, Office of Hearings and Appeals, and other appropriate agencies in the Department of the Interior;

(b) Federal, state and local agencies;

(c) Tribal offices if the title or realty function is contracted or compacted under the Indian Self-Determination and Education Assistance Act, Pub. L. 93–638, 86 Stat. 2203, as amended;

(d) Courts of competent jurisdiction, including tribal courts.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E7–3369 Filed 2–26–07; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Privacy Act of 1974, as Amended; Amendment of an Existing System of Records

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed amendment of an existing system of records.

SUMMARY: Under the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Bureau of Indian Affairs (BIA) is issuing public notice of our intent to change an existing Privacy Act system of records notices entitled Interior BIA–04 ''Indian Land Records,'' published at 48 FR 41098 (September 13, 1983). *BIA proposes to:* (1) Update the information on the location of the records and the technology used to store and retrieve records; (2) identify new information that will be included in the system of records; (3) clearly state the current routine uses of the records by organizations and individuals outside of the Department of the Interior (DOI); and (4) expand the routine uses of such information to include the disclosure of names and mailing addresses of owners of trust and restricted lands, among other information, to certain statutorily defined categories of persons.

BIA is accomplishing these changes in part by updating its system of records through conversion to a new application, Trust Asset and Accounting Management System (TAAMS), which has or will replace several BIA legacy systems such as the Land Records Information System (LRIS) and Integrated Records Management System (IRMS).

DATES: The proposed new system of records will become effective without further notice on April 9, 2007, unless comments received result in a contrary determination. Under 5 U.S.C. 552a(e)(11), the public is provided a 30-day period in which to comment on the agency's intended use of the information in the system of records. The Office of Management and Budget (OMB), in its Circular A–130, requires an additional 10-day period in which

the OMB may comment (for a total of 40 days in which to make these comments). BIA will publish a notice if changes are made based on review of comments received.

ADDRESSES: Any persons interested in commenting on this proposed amendment may do so by submitting comments in writing to the Deputy Director, Office of Trust Services, Bureau of Indian Affairs, 1849 C Street, NW., MS 4513–MIB, Washington DC 20240, or fax to (202) 208–2549.

FOR FURTHER INFORMATION CONTACT: For information regarding ''Indian Land Records, BIA–04'' contact Arch Wells, Deputy Director, Office of Trust Services, Bureau of Indian Affairs, 1849 C Street, NW., MS 4513—MIB, Washington DC 20240 at (202) 208–5831.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to the Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) and is in exercise of authority delegated by the Secretary of the Interior to the Principal Deputy Assistant Secretary—Indian Affairs in 209 DM 8.1. *This notice amends the Privacy Act System of Records entitled BIA–04: Indian Land Records.* The purpose of the amendment is to reflect the modernization of the title and trust systems with the development of a new electronic system for managing Indian assets and land records. *TAAMS will replace several legacy systems that were used to manage Indian trust assets:* LRIS, which supports the land title function by providing land title-related information, such as ownership and encumbrances; and IRMS, which supports the land resource management function and contains information on Indians, leases (e.g., pasture, range, timber, mineral, and mining leases), land ownership, oil and gas royalties, and trust fund accounts. TAAMS integrates the two legacy systems to reduce duplication of information and support all land title and resource management functions. TAAMS provides up-to-date legal and beneficial title ownership and encumbrance information for all Indian lands and resources, including automated calculation of fractional interests and automated chain-of-title processes and information. TAAMS users will be allowed to access, create, and modify records in the BIA database for land ownership, contracts and leases, and beneficial owners. Until full implementation of TAAMS, IRMS and the Royalty Distribution and Reporting System (RDRS) will be the official automated systems for income allocations. TAAMS, IRMS, and RDRS will include:

(a) A legal land description, chain-of-title history, current ownership, including title and beneficial ownership, and resource management classification for all land held in trust or restricted status by the Federal Government for the benefit of Indian tribes and individual Indians;

(b) Any encumbrances against the title to land;

(c) The name, address, BIA identification number (assigned by BIA in TAAMS), and Social Security Number (Federal Identification number) of each Indian land owner;

(d) The name, address, and Social Security Number of each person who has a permit, lease, contract, right-of-way or other legal instrument approved by the Secretary of the Interior that allows such person to use the trust or restricted land or to extract renewable or nonrenewable resources from such land;

(e) The name, address, and Federal taxpayer identification number of any company that has a permit, lease, contract, right-of-way or other legal instrument approved by the Secretary of the Interior that allows such company to use the trust or restricted land or to extract renewable or nonrenewable resources from such land;

(f) The term of the permit, lease, contract, right-of-way or other legal instrument; and

(g) The trust income collected and distributed for such permit, lease, contract, right-of-way or other legal instrument.

In addition to expanding the information maintained in the system of records, changes to existing routine uses are made to better clarify instances when the release of information may be made to legal and law enforcement entities. Additionally, changes to existing routine uses authorize the release of names and mailing addresses of individuals owning an interest in trust or restricted land, information on the location of the parcel, and the percentage of undivided interest owned by each individual, upon written request, to the following statutorily defined categories of persons:

(1) Other owners of interests in trust or restricted lands within the same reservation;

(2) The tribe that exercises jurisdiction over the land where the parcel is located or any person who is eligible for membership in that tribe; and

(3) Any person that is leasing, using, or consolidating, or is applying to lease, use, or consolidate, such trust or restricted land, or the interest in trust or restricted lands.

The purpose of these revisions is to enhance the ability of individual Indians to realize economic benefit from their land by simplifying the leasing or contracting process, and to assist and encourage the consolidation of land ownership.

Changes to the existing system of records, Indian Land Records—Interior, BIA–04 (September 13, 1983, 48 FR 41098) are summarized here:

System name: Change name to ''Trust Asset and Accounting Management System (TAAMS)—Interior, BIA–04''

* * * * *

System location: Delete reference to the ''Land Records Improvement Program Liaison Office, Bureau of Indian Affairs, 500 Gold Ave., S.W., Albuquerque, NM 87103'' and insert the ''Division of Real Estate Services, Office of Trust Services.'' Add the three new Regional Offices—Anchorage, Alaska; Muskogee, Oklahoma; and Sacramento, California. Add a new category of system location for offices of those Indian tribal governments that administer realty or title programs under Self-Determination or Self-Governance awards.

Categories of individuals covered by the system: Expand this category to include non-Indians who are owners of land held in trust or restricted status by the Federal Government and individuals, non-Indians and Indians, Indian tribal entities, private businesses and financial institutions that have a permit, lease, contract, right-of-way, or other legal instrument approved by the Secretary of the Interior that allows them to use trust or restricted land or to extract resources from the trust or restricted land.

Categories of records in the system: Add a description of the formats in which records are held. Expand the categories to include title and beneficial ownership, resource management classification for land, encumbrances on title, the name, address, and Federal tax identification number of landowners, persons, and entities with a legal instrument approved by the Secretary of the Interior allowing them to use the trust or restricted land, or extract resources, the term of the legal instrument, and the amount of the trust income collected pursuant to the legal instrument.

Authority for maintenance of this system: Add references to additional statutory and regulatory authority.

Routine uses of records maintained in this system, including categories of users and the purposes of such uses: Change the language of the internal uses to provide more specificity. Expand

disclosures outside of DOI to allow access, upon written request, to statutorily defined categories of persons of: (1) Names and mailing addresses of owners of trust and restricted lands; and (2) information on the location of the parcel and the percentage of undivided interest owned by each individual.

* * * * *

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Add specificity on description of manual storage. Add electronic storage description to reflect use of TAAMS.

Retrievability: Add description of who has authorization to retrieve records. Revise list of means for retrieving records to reflect use of TAAMS.

Safeguards: Add specific description of safeguards employed for paper and electronic records.

Retention and disposal: Add statement regarding location of paper originals, copies and certified copies of Indian land records.

System manager(s) and address: Update title to reflect new office name and a mail stop.

Notification procedure: Provide more explicit directions on how to address a request for information concerning whether the system contains information about you, to ensure the proper office receives the request.

Record access procedure: Provide more explicit directions on how to address a request for copies of records in the system to ensure the proper office receives the request.

Contesting record procedure: Provide more explicit directions on how to address a request for corrections to, or the removal of, any specific record contained in the system to ensure the proper office receives the request.

Record source categories: Provide a more specific description of the sources of legal records.

A copy of the notice, with changes incorporated, is attached.

Dated: February 7, 2007.

Michael D. Olsen,

Principal Deputy Assistant Secretary—Indian Affairs.

INTERIOR/BIA–04

SYSTEM NAME:

Trust Asset and Accounting Management System (TAAMS)—Interior, BIA–04.

SYSTEM CLASSIFICATION:

None.

SYSTEM LOCATION:

Land title records documents are stored and used, and the TAAMS application is used at the:

(1) Division of Real Estate Services, Office of Trust Services, Bureau of Indian Affairs, 1849 C Street, NW., MS 4513 MIB, Washington, DC, 20240;

(2) *Title plants at the following eight regional offices of the BIA:* Aberdeen, South Dakota; Albuquerque, New Mexico; Anadarko, Oklahoma; Anchorage, Alaska; Billings, Montana; Muskogee, Oklahoma; Portland, Oregon; and Sacramento, California;

(3) Central, regional, agency and field offices of the BIA, and

(4) Offices of those Indian tribal governments that administer realty or title programs under Self-Determination or Self-Governance awards. (For a listing of specific locations, contact the System Manager).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals, non-Indians and Indians, and Indian tribal entities who are owners of land held in trust or restricted status by the Federal Government.

Individuals, non-Indians and Indians, Indian tribal entities, private businesses and financial institutions that have a permit, lease, contract, right-of-way, or other legal instrument approved by the Secretary of the Interior that allows them to use trust or restricted land, or to extract resources from the trust or restricted land.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system of records will be in the following forms or formats: Digital, spatial, and electronic data records; hard copy records, individually or in files; maps and plats. *The system of records will include:*

(a) A legal land description, current ownership, probate and history of Indian trust lands, including title and beneficial ownership, and resource management classification for all land held in trust or restricted status by the Federal Government for the benefit of Indian tribes and individual Indians;

(b) Any encumbrances against the title to land;

(c) The name, address, Bureau identification number, and Federal tax identification number of each Indian land owner;

(d) The name, address, and Social Security Number of each person or entity who has a permit, lease, contract, right-of-way, or other legal instrument approved by the Secretary of the Interior that allows such entity to use the trust or restricted land, or to extract renewable or non-renewable resources from such land;

(e) The name, address, and taxpayer identification number of any company that has a permit, lease, contract, right-of-way or other legal instrument approved by the Secretary of the Interior that allows such company to use the trust or restricted land or to extract renewable or nonrenewable resources from such land;

(f) The term of the permit, lease, contract, right-of-way or other legal instrument;

(g) Records concerning individuals which have arisen as a result of that individual's receipt of overpayment(s) relative to land disposal, leases, sales and rentals; and

(h) The trust income collected and distributed for such permit, lease, contract, right-of-way or other legal instrument.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

25 U.S.C. 5, 12, 163, 392, 415; 25 U.S.C. 2201 *et seq.*; 25 U.S.C. 4021 *et seq.*; 25 CFR 150, 152.

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

The purpose of TAAMS is to provide BIA and Indian tribal officials nationwide access to trust asset data (including land title records) and trust asset management tools. The management tools allow TAAMS users to access, create, and modify records in the BIA database for land ownership, contracts and leases, and beneficial owners. TAAMS is replacing the existing legacy system Land Records Information System (LRIS), among other BIA-developed systems. TAAMS interfaces and exchanges data with the DOI system TFAS, and is proposed to interface with ProTrac. TFAS, which is owned by the Office of the Special Trustee for American Indians (OST) through a private contractor, provides TAAMS with files containing names, addresses and other personal data on individuals who receive payments from OST for natural resources, such as gas and oil, produced on their land. TAAMS data are not shared with any system outside DOI or its agents.

DOI, and its agents, including private contractors, and tribes that compact, contract, or enter into cooperative agreements with the Department use the records to:

(a) Identify the ownership interests, including the name of Indian owners and percentage interest in Indian lands held in trust or restricted status;

(b) Record land conveyance and encumbrance and lien transactions;

(c) Determine beneficial rights to the land and resources;

(d) Appropriately manage trust and restricted land and natural resources for the benefit of the Indian landowner;

(e) Provide land statistics in support of budget and management initiatives; and

(f) Answer beneficiary questions regarding land rights.

DISCLOSURES OF THESE RECORDS OUTSIDE THE DEPARTMENT OF THE INTERIOR WILL BE LIMITED TO:

(1) Another Federal agency to enable that agency to respond to an inquiry by the individual to whom the record pertains.

(2)(a) To any of the following entities or individuals, when the circumstances set forth in (b) are met:

(i) The Department of Justice (DOJ);

(ii) a court, adjudicative or other administrative body;

(iii) a party in litigation before a court or adjudicative or administrative body; or

(iv) any DOI employee acting in his or her individual capacity if DOI or DOJ has agreed to represent that employee or pay for private representation of the employee;

(b) When:

(i) One of the following is a party to the proceeding or has an interest in the proceeding:

(A) DOI or any component of DOI;

(B) Any DOI employee acting in his or her official capacity;

(C) Any DOI employee acting in his or her individual capacity if DOI or DOJ has agreed to represent that employee or pay for private representation of the employee;

(D) The United States, when DOJ determines that DOI is likely to be affected by the proceeding; and

(ii) DOI deems the disclosure to be:

(A) Relevant and necessary to the proceeding; and

(B) Compatible with the purposes for which the records were compiled.

(3) To a congressional office in response to a written inquiry an individual covered by the system has made to the congressional office about him or herself.

(4) To an official of another Federal agency to provide information needed in the performance of official duties related to reconciling or reconstructing data files, in support of the functions for which the records were collected and maintained.

(5) To representatives of the National Archives and Records Administration to conduct records management inspections under the authority of 44 U.S.C. 2903 and 2904.

(6) The appropriate Federal, state, tribal, or local governmental agency that is responsible for investigating, prosecuting, enforcing or implementing a statute, rule, regulation, order or license, when DOI becomes aware of an indication of a violation or potential violation of the statute, rule, regulation, order or license.

(7) To any of the following entities or individuals, when the entity or individual makes a written request for names or mailing addresses of owners of any interest in trust or restricted lands, and information on the location of the parcel and the percentage of undivided interest owned by each individual:

(i) Other owners of interests in trust or restricted lands within the same reservation;

(ii) The tribe that exercises jurisdiction over the land where the parcel is located or any person who is eligible for membership in that tribe; and

(iii) Any person that is leasing, using, or consolidating, or is applying to lease, use, or consolidate, such trust or restricted land or the interest in trust or restricted lands.

(8) Indian tribes entering into a contract or compacts of real estate or title functions under the Indian Self-Determination and Education Assistance Act, as amended.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

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

STORAGE:

Manual Records: Original title documents, title document copies, certified copies, and certifiable copies, are maintained at the Land Titles and Records Offices and other Land Titles and Records program offices, together with reports and certified reports of title documents and of land title and ownership and all transaction documents on files in support of the land or title documents.

Electronic Records: Data extracted from such title documents about land owners, ownership, conveyances, encumbrances, valuation and income, are maintained on electronic media (e.g., tape, disk, CD Rom and other digital or electronic media.)

RETRIEVABILITY:

Information may be retrieved primarily by trained individuals possessing appropriate access querying the TAAMS database. *Records are retrieved using either:* (a) An identifier linked to a parcel; (b) an identifier for a property interest owner, such as name, Social Security Number, tribe, tribal enrollment, or census numbers; or (c) identifiers linked to encumbrances on ownership such as mortgages and rights-of-way.

SAFEGUARDS:

During business hours, paper records are maintained in areas accessible only by authorized personnel in a secured office environment and comply with the minimum DOI safeguard requirements for maintaining Privacy Act system of records under 43 CFR 2.51. Electronic records are accessible via a password from terminals located in attended offices and the data in those regards may be changed only by personnel with approved access. Electronic records comply with DOI and National Institute of Standards and Technology cyber security requirements. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment. A Privacy Impact Assessment is being completed for land title records files and TAAMS in accordance with the E-Government Act of 2002 and OMB requirements for new and amended information systems.

RETENTION AND DISPOSAL:

Records are permanently retained for historical index. Originals, copies and certified copies of Indian land records may be located at BIA regional and agency offices or at the archives in Lenexa, Kansas. The Office of Trust Records is currently working with BIA to prepare a schedule for retention and disposal of records in TAAMS.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Office of Trust Services, Bureau of Indian Affairs, 1849 C Street, NW., MS 4513 MIB, Washington, DC 20240.

NOTIFICATION PROCEDURE:

If you wish to determine if the system contains information about you, contact the System Manager at the address above. Provide the following information with your request:

(a) Proof of your identity;

(b) List of all of the names by which you have been known, such as maiden name or alias;

(c) Your Social Security Number;

(d) Mailing address;

(e) Tribe, tribal enrollment or census number;

(f) BIA home agency; and

(g) Time period(s) that records belonging to you may have been created or maintained, to the extent known by you.

The request must be in writing and signed by you. To ensure proper handling of your request, you should include the words ''PRIVACY ACT INQUIRY'' at the top of the first page of your letter and on the envelope in which you mail the letter. For additional information refer to 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

If you wish to obtain a copy of any your records contained in the system, contact the System Manager at the address above. Provide the following information with your request:

(a) Proof of your identity;

(b) List of all of the names by which you have been known, such as maiden name or alias;

(c) Your Social Security Number;

(d) Mailing address;

(e) Tribe, tribal enrollment or census number;

(f) BIA home agency; and

(g) Time period(s) that records belonging to you may have been created or maintained, to the extent known by you.

The request must be in writing and signed by you. You should let us know whether you are seeking all of the records about you that may be maintained by the system, or only a specific portion of them. If you are only seeking a portion of them, you should describe those records you are seeking with sufficient detail to enable an individual familiar with the system to locate them with a reasonable amount of effort. To ensure proper handling of your request, you should include the notation ''PRIVACY ACT REQUEST FOR ACCESS'' at the top of the first page of your letter and on the envelope in which you mail the letter. For additional information, refer to 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of any specific record contained in the system, contact the System Manager at the address above. Provide the following information with your request:

(a) Proof of your identity;

(b) List of all of the names by which you have been known, such as maiden name or alias;

(c) Your Social Security Number;

(d) Mailing address;

(e) Tribe, tribal enrollment or census number;

(f) BIA home agency; and

(g) Time period(s) that records belonging to you may have been created or maintained, to the extent known by you.

The request must be in writing and signed by you. Before you make such a request, you must have requested access to your records and have either impacted them or obtained copies of them as described above. You must also identify which record or portion thereof you are contesting, indicating why you believe that it is not accurate, relevant, timely, or complete, and provide a copy of any documents in your possession that support your claim with your letter. You may also propose specific language to implement the changes sought. To ensure proper handling of your request, you should include the notation ''PRIVACY ACT REQUEST FOR AMENDMENT'' at the top of the first page of your letter and on the envelope in which you mail the letter. For additional information, refer to 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

(a) BIA, OST, Minerals Management Service, Bureau of Land Management, Office of Hearings and Appeals, and other appropriate agencies in DOI;

(b) Other Federal, state, and local agencies;

(c) Tribal offices if the title or realty function is contracted or compacted under the Indian Self-Determination and Education Assistance Act, Pub. L. 93–638, 86 Stat. 2203, as amended;

(d) Courts of competent jurisdiction, including tribal courts; and

(e) Private, financial and business institutions, and entities.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E7–3371 Filed 2–26–07; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–966–1910–BK, Group 25, Maine]

Notice of Filing of Plat of Survey; Maine

The plat of the dependent resurvey and survey of the boundaries of the Passamaquoddy Tribal Reservation lands held in trust by the United States, in Indian Township, Washington County, Maine, will be officially filed in Eastern States, Springfield, Virginia at 7:30 a.m., 30 calendar days from the date of publication in the **Federal Register**.

The survey was requested by the Bureau of Indian Affairs.

All inquiries or protests concerning the technical aspects of the survey must be sent to the Chief Cadastral Surveyor, Eastern States, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153.

Copies of the plat will be made available upon request and prepayment of the reproduction fee of $2.75 per copy.

Dated: February 16, 2007.

Jerry L. Wahl,

(Acting) Chief Cadastral Surveyor.

[FR Doc. E7–3362 Filed 2–26–07; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–960–1420–BJ–TRST]

Group No. 191, Minnesota; Eastern States: Filing of Plat of Survey

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Filing of Plat of Survey; Minnesota.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM-Eastern States, Springfield, Virginia, 30 calendar days from the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153. Attn: Cadastral Survey.

SUPPLEMENTARY INFORMATION: This survey was requested by the Bureau of Indian Affairs.

The lands we surveyed are:

Fifth Principal Meridian, Minnesota

T. 141 N., R. 40 W.

The plat of survey represents the dependent resurvey of a portion of the subdivisional lines; and the dependent resurvey and survey of the subdivision of sections 10, 11, 12, 15, 24 and 36, Township 141 North, Range 40 West, of the Fifth Principal Meridian, in the State of Minnesota, and was accepted February 15, 2007.

We will place a copy of the plat we described in the open files. It will be available to the public as a matter of information.

If BLM receives a protest against this survey, as shown on the plat, prior to the date of the official filing, we will stay the filing pending our consideration of the protest.

We will not officially file the plat until the day after we have accepted or dismissed all protests and they have become final, including decisions on appeals.

Dated: February 15, 2007.

Jerry L. Wahl,

Acting Chief Cadastral Surveyor.

FR Doc. E7–3327 Filed 2–26–07; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–960–1420–BJ]

Group No. 36, Missouri; Eastern States: Filing of Plats of Survey

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Filing of Plat of Survey; Missouri.

SUMMARY: The Bureau of Land Management (BLM) will file the plats of survey of the lands described below in the BLM-Eastern States, Springfield, Virginia, 30 calender days from the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153. Attn: Cadastral Survey.

SUPPLEMENTARY INFORMATION: This survey was requested by the Corps of Engineers.

The lands we surveyed are:

Fifth Principal Meridian, Missouri

T. 27 N., R. 15 W.

The plat of survey represents the dependent resurvey of a portion of U.S. Survey No. 2848 and a portion of the subdivisional lines; and the survey of the Thompson Bend Acquisition Boundary, and was accepted February 6, 2007.

T. 27 N., R. 16 W.

The plat of survey represents the dependent resurvey of a portion of the subdivisional lines; and the survey of the Thompson Bend Acquisition Boundary, and was accepted February 6, 2007.

T. 28 N., R. 16 W.

The plat of survey represents the dependent resurvey of a portion of the township boundaries; and the survey of the Thompson Bend Acquisition Boundary, and was accepted February 6, 2007.

T. 27 N., R. 17 W.

The plat of survey represents the dependent resurvey of a portion of the subdivisional lines; and the survey of the subdivision of Section 5, and the Thompson Bend Acquisition Boundary, and was accepted February 6, 2007.

T. 28 N., R. 17 W.

The plat of survey represents the dependent resurvey of a portion of the South boundary and a portion of the subdivisional lines; and the survey of the Thompson Bend Acquisition Boundary, and was accepted February 6, 2007.

We will place a copy of the plats we described in the open files. They will be available to the public as a matter of information.

If BLM receives a protest against this survey, as shown on the plat, prior to the date of the official filing, we will stay the filing pending our consideration of the protest.

We will not officially file the plat until the day after we have accepted or dismissed all protests and they have become final, including decisions on appeals.

Dated: February 16, 2007.

Jerry L. Wahl,

Acting Chief Cadastral Surveyor.

[FR Doc. E7–3330 Filed 2–26–07; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–932–1430–FQ; AA–86850]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service (U.S. Forest Service), has filed an application with the Bureau of Land Management (BLM) requesting the Secretary of the Interior to withdraw approximately 720 acres of land for the Spencer Glacier Recreation and Mineral Material Site, a part of the Chugach National Forest reservation in Alaska. This notice segregates the land from location and entry under the United States mining laws for 2 years, while various studies and analyses are made to support a final decision on the withdrawal application. The land will remain open to all other uses which can by law be made of National Forest lands, including disposition of materials under the Act of July 31, 1947, as amended.

DATES: Comments and requests for a public meeting must be received by May 29, 2007.

ADDRESSES: Comments and meeting requests should be sent to the Alaska State Director, BLM Alaska State Office, 222 West 7th Avenue, No. 13, Anchorage, Alaska 99513–7504, and to the Regional Forester, U.S. Department of Agriculture, Forest Service, Alaska Region, P.O. Box 21628, Juneau, Alaska 99802–1628.

FOR FURTHER INFORMATION CONTACT: Terrie D. Evarts, BLM Alaska State Office, (907) 271–5630.

SUPPLEMENTARY INFORMATION: The applicant for the above withdrawal is the U.S. Forest Service at the address stated above. Acting on behalf of and with the consent of the Secretary of Agriculture, the applicant requests the Secretary of the Interior, pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714, 43 CFR 2310.1–2(c)(3), to withdraw the following described National Forest System land for a period of 20 years from location and entry under the United States mining laws, subject to valid existing rights:

Seward Meridian

Chugach National Forest

T. 7 N., R. 2 E., unsurveyed.
Sec. 2, S½SE¼;
Sec. 11, N½, N½SW¼, SE¼SW¼, and N½SE¼;
Sec. 12, W½NW¼ and NW¼SW¼.
The area described contains approximately 720 acres.

The use of a right-of-way, an interagency agreement, or a cooperative agreement would not adequately constrain non-discretionary mining locations and related uses.

There are no suitable alternative sites with comparable developed access and suitable quantity and quality of gravel and quarry rock. The purpose of the proposed withdrawal will be to aid in making high quality rock and gravel available for community uses and is also identified for protection of access from the railroad for existing recreational amenities including glacier viewing, rafting, and the trail network development.

No additional water rights would be needed to fulfill the purpose of the requested withdrawal.

The case file, including applicable environmental documents, can be examined by interested persons in the BLM Alaska State Office, at the address stated above.

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 Alaska State Director of the Bureau of Land Management at the address indicated above. Individual respondents may request confidentiality. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to

do so. 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 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 an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the BLM Alaska State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** and a newspaper in the vicinity of the above-described land, at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from February 27, 2007, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date.

The temporary land uses which may be permitted during this segregative period are all public uses consistent with the processing of common variety minerals, access, and recreational utilization of the area.

(Authority: 43 CFR 2310.3–1(b))

Dated: January 23, 2007.

Carolyn J. Spoon,

Chief, Branch of Lands and Realty, Division of Resources, Lands, and Planning.

[FR Doc. E7–3365 Filed 2–26–07; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–923–1430–ET; NMNM 54961]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Oklahoma

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Army Corps of Engineers has filed an application requesting the Secretary of the Interior to withdraw 79.60 acres of public land from surface entry and transfer jurisdiction of the land from the Bureau of Land Management to the U.S. Army Corps of Engineers for 20 years to protect the Eufaula Lake Project. The land, previously withdrawn by Public Land Order (PLO) No. 6622, which expired August 5, 2006, is not subject to the United States mining laws and has been and will remain open to mineral leasing.

DATES: Comments and requests for a public meeting must be received by May 29, 2007.

ADDRESSES: Comments and meeting requests should be sent to the U.S. Army Corps of Engineers, Tulsa District, Attn: Real Estate Division, 1645 South 101st East Avenue, Tulsa, OK 74128–4609.

FOR FURTHER INFORMATION CONTACT: Bob Hinds at the address above or (918) 669–7257 or Ron Dunton, BLM New Mexico State Office, 1474 Rodeo Road, Santa Fe, New Mexico 87502 at (505) 438–7400.

SUPPLEMENTARY INFORMATION: The U.S. Army Corps of Engineers has filed an application with the Bureau of Land Management, pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714, to withdraw the land described below from settlement, sale, location or entry under the general land laws and transfer jurisdiction of the land to the U.S. Corps of Engineers. The land is not subject to the United States mining laws and has been and will remain open to mineral leasing. The proposed withdrawal would replace the withdrawal created by PLO No. 6622 (51 FR 28229) which expired August 5, 2006. The public land proposed for continued withdrawal is described as follows:

Indian Meridian

T. 5 N., R. 16 E.,
Sec. 2, lot 3 and SE¼NW¼.

The area described contains 79.60 acres in Pittsburg County.

The purpose of the proposed withdrawal is to continue protection of the Federal investment in the Eufaula Lake Project.

The withdrawal would not alter the applicability of those public land laws governing the use of the land under lease, license, or permit or governing the disposal of the mineral or vegetative resources.

The use of a right-of-way or interagency or cooperative agreement would not adequately constrain nondiscretionary uses and therefore would not provide adequate protection of the Federal investment in the Eufaula Lake Project.

There are no suitable alternative sites available since the Eufaula Lake Project is already located on the above-described public land.

No additional water rights would be necessary to fulfill the purpose of the requested withdrawal.

Records relating to the proposed withdrawal may be examined by interested parties by contacting Bob Hinds at the address above or (918) 669–7257.

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 U.S. Army Corps of Engineers at the address noted above.

Comments, including names and street addresses of respondents, will be available for public review at the U.S. Army Corps of Engineers at the above address during regular business hours, 7:45 a.m. to 4:30 p.m., Monday through Friday, except holidays. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so. All submissions from organizations 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 an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the U.S. Army Corps of Engineers at the address above within 90 days from the date of publication of this notice. If the authorized officer determines that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting. This withdrawal proposal will be processed in accordance with the applicable regulations set forth in 43 CFR 2310.4.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land described above will remain segregated from surface entry. The segregrative effect of the publication of this notice shall terminate upon denial or cancellation of the subject application, approval of application or on February 27, 2009, whichever occurs first. Licenses, permits, cooperative agreements, or discretionary land use authorizations of a temporary nature which would not significantly impact the project may be allowed with the approval of the authorized officer of the BLM during the segregative period.

(Authority: 43 CFR 2310.3–1(b))

Ron Dunton,

Deputy State Director, Resources.

[FR Doc. E7–3366 Filed 2–26–07; 8:45 am]

BILLING CODE 3710–39–P

DEPARTMENT OF THE INTERIOR

National Park Service

Final Environmental Impact Statement\General Management Plan; Ebey's Landing National Historical Reserve, Island County, Washington; Notice of Approval of Record of Decision

Summary: Pursuant to § 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91–190, as amended) and the implementing regulations promulgated by the Council on Environmental Quality (40 CFR 1505.2), the Department of the Interior, National Park Service, has prepared, and the Regional Director, Pacific West Region, has approved, the Record of Decision for the new General Management Plan for Ebey's Landing National Historical Reserve. The 30-day wait period was officially initiated October 13, 2006, with the U.S. Environmental Protection Agency's **Federal Register** notification of the filing of the Final Environmental Impact Statement (EIS).

Decision: As soon as practicable the Reserve will begin to implement as its new General Management Plan the *Preferred Alternative* (with minor modifications from Alternative B as described in the Draft and Final EIS); this alternative was also deemed to be the ''*environmentally preferred*'' course of action. The selected plan features an overlay of four management zones on the Reserve: (i) Cultural and Natural Preservation Zone, (ii) Visitor Use and Development Zone, (iii) Administrative Zone, and (iv) Special Use Zone—these zones are identified based on resource condition or character, visitor experience and appropriate types of activities or facilities criteria. The new plan enhances existing programs, natural and cultural resource management, and administrative and maintenance operations. An integrated pest management program will be implemented in concert with Reserve landowners and other partners. Visitor services within the Reserve are improved, and information kiosks would be installed along State Route 20 in the Smith Prairie area and at a northern gateway location, and at the Keystone and/or Port Townsend ferry landings. The Trust Board shall continue to be responsible for setting the policies and general actions for the Reserve consistent with the Reserve's enabling legislation, GMP, and relevant NPS policies and guidelines. This includes continuing the NPS's annual appraisal of Reserve management and operations under the enabling legislation. The Trust Board would continue to oversee management and protection of lands (including fee and easements) purchased with federal money, administer programs and technical support, participate in local land use review processes, and advocate for and support the Reserve. The Reserve Manager continues to be employed by and report directly to the Trust Board (in turn, the Trust Board will conduct annual operations and staff performance reviews and submit these to the Deputy Regional Director, Pacific West).

Based upon public comments and refinements desired by the planning team collaborative, the selected plan includes several modifications from the Preferred Alternative as detailed in the Final EIS, including but not limited to: the GMP will incorporate certain historic preservation and land use protection measures which were adopted by Island County after the EIS process was begun; the development of a marine science center by nonprofits will be encouraged; proposed Reserve staff additions over the next 20 years are reduced to five. Also, since release of the draft GMP, Bell Farm was removed from the proposed boundary modification at the owner's request.

The proposed plan and three alternatives were identified and analyzed in the Final EIS, and previously in the Draft EIS (the latter was distributed in August 2005). A broad spectrum of foreseeable environmental consequences was assessed, and appropriate mitigation measures identified, for each alternative. Beginning with early scoping, through the preparation of the Draft and Final EIS, a series of public meetings and open-houses was conducted locally. Overall approximately 40 written scoping comments and 250 written or electronic Draft EIS review comments were received (as noted above, the latter served as the source of several minor adjustments to the final selected plan). Key consultations or other contacts that aided in preparing the EIS involved (but were not limited to) Island County and Town of Coupeville officials, Ebey's Landing Trust Board, Washington State Historic Preservation Office, the Advisory Council on Historic Preservation, U.S. Fish and Wildlife Service, National Marine Fisheries Service, tribal governments, and adjoining land managing agencies. Local community groups and neighbors, farmers and local business owners, and interested organizations were contacted extensively during initial scoping and throughout the GMP planning process.

Copies: Interested parties desiring to review the Record of Decision may obtain a complete copy by contacting the Reserve Manager, Ebey's Landing National Historical Reserve, P.O. Box 774, Coupeville, Washington 98239 as well as via telephone request at (360) 678–6084.

Dated: December 13, 2006.

Patricia L. Neubacher,

Acting Regional Director, Pacific West Region.

[FR Doc. 07–877 Filed 2–26–07; 8:45 am]

BILLING CODE 4312–6W–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of Meeting of Concessions Management Advisory Board.

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App 1, Section 10), notice is hereby given that the Concessions Management Advisory Board (the Board) will hold its 17th meeting March 7–8, 2007, at The Madison Hotel in Washington, DC. The meeting will convene at 8:30 a.m. each day and will conclude at 4:30 p.m.

ADDRESSES: The meeting will be held in the Montpelier Room located at The Madison Hotel, 1155 15th Street, NW., Washington, DC 20005.

SUPPLEMENTARY INFORMATION: The Board was established by Title IV, Section 409 of the National Park Omnibus Management Act of 1998, November 13,

1998 (Pub. L. 105–391). The purpose of the Board is to advise the Secretary and the National Park Service on matters relating to management of concessions in the National Park System.

The Board will meet at 8:30 a.m. for the regular business meeting for continued discussion on the following subjects:

- Leasehold Surrender Interest Tracking Tool.
- Insurance.
- Concession Contracting Status Update.
- Superintendent's Training Project Update.
- Outfitter and Guide.
- Other business.

The meeting will be open to the public, however, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come-first-served basis.

Assistance to Individuals With Disabilities at the Public Meeting

The meeting site is accessible to individuals with disabilities. If you plan to attend and will require an auxiliary aid or service to participate in the meeting (*e.g.*, interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice at least 2 weeks before the scheduled meeting date. Attempts will be made to meet any request(s) we receive after that date, however, we may not be able to make the requested auxiliary aid or service available because of insufficient time to arrange for it.

Anyone may file with the Board a written statement concerning matters to be discussed. The Board may also permit attendees to address the Board, but may restrict the length of the presentations, as necessary to allow the Board to complete its agenda within the allotted time. Such requests should be made to the Director, National Park Service, Attention: Manager, Concession Program, at least 7 days prior to the meeting. Draft minutes of the meeting will be available for public inspection approximately 6 weeks after the meeting, at the Concession Program office located at 1201 Eye Street, NW., 11th Floor, Washington, DC.

FOR FURTHER INFORMATION CONTACT: National Park Service, Concession Program, 1201 Eye Street, NW., Washington, DC 20240, Telephone: 202/513–7151.

Dated: February 9, 2007.

Sue Masica,

Acting Deputy Director, National Park Service.

[FR Doc. 07–876 Filed 2–22–07; 3:54 pm]

BILLING CODE 4312–53–P

DEPARTMENT OF THE INTERIOR

National Park Service

Announcement of Meeting

AGENCY: National Park Service, Interior.

ACTION: Denali National Park Service Subsistence Resource Commission meeting announcement.

SUMMARY: The National Park Service (NPS) announces that the Denali National Park Subsistence Resource Commission (SRC) will conduct a public meeting. The purpose of the meeting is to develop and continue work on subsistence hunting program recommendations and other related subsistence management issues. The meeting will have time allocated for public testimony. The public is welcomed to present written or oral comments to the SRC.

The Denali National Park SRC program is authorized under Title VIII, Section 808, of the Alaska National Interest Lands Conservation Act, Pub. L. 96–487, to operate in accordance with the provisions of the Federal Advisory Committee Act. Draft meeting minutes will be available upon request from each Superintendent for public inspection approximately six weeks after each meeting.

DATES: The Denali National Park SRC will meet on Monday, February 26, 2007, from 8 a.m. to 5 p.m. This will be a one day meeting.

Location: The meeting will be held at the Motel Nord Haven Conference Room located in Healy, Alaska, at mile 249.5 Parks Highway, telephone (907) 683–4500.

FOR FURTHER INFORMATION CONTACT: Phillip Hooge, Deputy Superintendent, telephone: (907) 683–9581, E-mail: *phillip_hooge@nps.gov* or Amy Craver, Subsistence Manager, telephone: (907) 683–9544, and E-mail: *amy_craver@nps.gov.* Draft minutes of the meeting will be available for public inspection approximately four weeks after the meeting.

SUPPLEMENTARY INFORMATION: SRC meeting location and date may need to be changed based on weather or local circumstances. If the meeting date or location is changed, notice of the meeting will be published in local newspapers and announced on local radio stations prior to the meeting date.

The tentative agenda for the meeting includes the following:

1. Call to order (SRC Chair).
2. SRC Roll Call and Confirmation of Quorum.
3. SRC Chair and Superintendent's Welcome and Introductions.
4. Review and Approve Agenda.
5. Review and adopt minutes from last meeting.
6. Status of SRC Membership—If needed, hold elections for SRC Chair and Vice Chair. The SRC charter requires officer elections annually.
7. Public and other agency comments.
8. Old Business
   a. Cantwell Off-Road Vehicle Management Environmental Assessment
   b. Request to evaluate customary and traditional use determination for off-road vehicle use in Kantishna.
   c. Alaska Railroad Herbicide Spraying.
9. New Business
   a. Federal Subsistence Board wildlife and fisheries proposals for 2007–2008.
   b. Alaska Board of Game actions and wildlife proposals.
   c. Wolf harvest in Kantishna.
   d. Moose harvest in Wildlife Management Unit 16B.
   e. Denali Resource Stewardship Strategy.
   f. Cultural and Subsistence Program Updates.
10. Agency and Public Comments.
11. SRC Work Session. Prepare correspondence and hunting program recommendations.
12. Set time and place of next SRC meeting.
13. Adjournment.

Dated: February 1, 2007.

Victor Knox,

Deputy Regional Director, Alaska Region.

[FR Doc. E7–3310 Filed 2–26–07; 8:45 am]

BILLING CODE 4310–PF–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Quarterly Status Report of Water Service, Repayment, and Other Water-Related Contract Negotiations

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given of contractual actions that have been proposed to the Bureau of Reclamation (Reclamation) and were pending through December 31, 2006, and contract actions that have been

completed or discontinued since the last publication of this notice on November 20, 2006. From the date of this publication, future quarterly notices during this calendar year will be limited to new, modified, discontinued, or completed contract actions. This annual notice should be used as a point of reference to identify changes in future notices. This notice is one of a variety of means used to inform the public about proposed contractual actions for capital recovery and management of project resources and facilities consistent with section 9(f) of the Reclamation Project Act of 1939. Additional announcements of individual contract actions may be published in the **Federal Register** and in newspapers of general circulation in the areas determined by Reclamation to be affected by the proposed action.

ADDRESSES: The identity of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the address and telephone number given for each region in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Sandra L. Simons, Manager, Contract Services Office, Bureau of Reclamation, PO Box 25007, Denver, Colorado 80225–0007; telephone 303–445–2902.

SUPPLEMENTARY INFORMATION: Consistent with section 9(f) of the Reclamation Project Act of 1939 and the rules and regulations published in 52 FR 11954, April 13, 1987 (43 CFR 426.22), Reclamation will publish notice of proposed or amendatory contract actions for any contract for the delivery of project water for authorized uses in newspapers of general circulation in the affected area at least 60 days prior to contract execution. Announcements may be in the form of news releases, legal notices, official letters, memorandums, or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. The public participation procedures do not apply to proposed contracts for the sale of surplus or interim irrigation water for a term of 1 year or less. Either of the contracting parties may invite the public to observe contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act. Pursuant to the ''Final Revised Public Participation Procedures'' for water resource-related contract negotiations, published in 47 FR 7763, February 22, 1982, a tabulation is provided of all proposed contractual actions in each of the five Reclamation regions. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary of the Interior, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the regional directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved.

Public participation in and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

1. Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.

2. Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of Reclamation.

3. Written correspondence regarding proposed contracts may be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act, as amended.

4. Written comments on a proposed contract or contract action must be submitted to the appropriate regional officials at the locations and within the time limits set forth in the advance public notices.

5. All written comments received and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.

6. Copies of specific proposed contracts may be obtained from the appropriate regional director or his designated public contact as they become available for review and comment.

7. In the event modifications are made in the form of a proposed contract, the appropriate regional director shall determine whether republication of the notice and/or extension of the comment period is necessary.

Factors considered in making such a determination shall include, but are not limited to (i) the significance of the modification, and (ii) the degree of public interest which has been expressed over the course of the negotiations. At a minimum, the regional director shall furnish revised contracts to all parties who requested the contract in response to the initial public notice.

Definitions of Abbreviations Used in This Document

BCP: Boulder Canyon Project
Reclamation: Bureau of Reclamation
CAP: Central Arizona Project
CVP: Central Valley Project
CRSP: Colorado River Storage Project
FR: Federal Register
IDD: Irrigation and Drainage District
ID: Irrigation District
M&I: Municipal and Industrial
NMISC: New Mexico Interstate Stream Commission
O&M: Operation and Maintenance
P-SMBP: Pick-Sloan Missouri Basin Program
PPR: Present Perfected Right
RRA: Reclamation Reform Act of 1982
SOD: Safety of Dams
SRPA: Small Reclamation Projects Act of 1956
WD: Water District

Pacific Northwest Region: Bureau of Reclamation, 1150 North Curtis Road, Suite 100, Boise, Idaho 83706–1234, telephone 208–378–5344.

1. Irrigation, M&I, and miscellaneous water users; Idaho, Oregon, Washington, Montana, and Wyoming: Temporary or interim water service contracts for irrigation, M&I, or miscellaneous use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

2. Rogue River Basin Water Users, Rogue River Basin Project, Oregon: Water service contracts; $8 per acre-foot per annum.

3. Willamette Basin Water Users, Willamette Basin Project, Oregon: Water service contracts; $8 per acre-foot per annum.

4. Pioneer Ditch Company, Boise Project, Idaho; Clark and Edwards Canal and Irrigation Company, Enterprise Canal Company, Ltd., Lenroot Canal Company, Liberty Park Canal Company, Poplar ID, all in the Minidoka Project, Idaho; Juniper Flat District Improvement Company, Wapinitia Project, Oregon: Amendatory repayment and water service contracts; purpose is to conform to the RRA.

5. Palmer Creek Water District Improvement Company, Willamette Basin Project, Oregon: Irrigation water service contract for approximately 13,000 acre-feet.

6. North Unit ID, Deschutes Project, Oregon: Warren Act contract with cost of service charge to allow for use of project facilities to convey nonproject water.

7. Trendwest Resorts, Yakima Project, Washington: Long-term water exchange contract for assignment of Teanaway River and Big Creek water rights to

Reclamation for instream flow use in exchange for annual use of up to 3,500 acre-feet of water from Cle Elum Reservoir for a proposed resort development.

8. City of Cle Elum, Yakima Project, Washington: Contract for up to 2,170 acre-feet of water for municipal use.

9. Burley ID, Minidoka Project, Idaho-Wyoming: Supplemental and amendatory contract providing for the transfer of O&M of the headworks of the Main South Side Canal and works incidental thereto.

10. Minidoka ID, Minidoka Project, Idaho-Wyoming: Supplemental and amendatory contract providing for the transfer of O&M of the headworks of the Main North Side Canal and works incidental thereto.

11. Queener Irrigation Improvement District, Willamette Basin Project, Oregon: Renewal of long-term water service contract to provide up to 2,150 acre-feet of stored water from the Willamette Basin Project (a Corps of Engineers' project) for the purpose of irrigation within the district's service area.

12. Vale and Warmsprings ID, Vale Project, Oregon: Repayment contract for reimbursable cost of SOD modifications to Warm Springs Dam.

13. West Extension ID, Umatilla Project, Oregon: Contract for long-term boundary expansion to include lands outside of federally recognized district boundaries.

14. Greenberry ID, Willamette Basin Project, Oregon: Irrigation water service contract for approximately 7,500 acre-feet of project water.

15. Twenty-one irrigation districts of the Arrowrock Division, Boise Project, Idaho: Repayment agreements with districts with spaceholder contracts for repayment, per legislation, of reimbursable share of costs to rehabilitate Arrowrock Dam Outlet Gates under the O&M program. Two repayment agreements have been executed.

16. Two irrigation water user entities, Boise Project, Idaho: Long-term renewal and/or conversion of two irrigation water service contracts for supplemental irrigation use of up to 2,218 acre-feet of storage space in Lucky Peak Reservoir, a Corps of Engineers' project on the Boise River, Idaho. Sixteen water service contracts have been converted to repayment contracts for a total of 68,000 acre-feet of storage space.

17. Lake Lowell water users, Boise Project, Idaho-Oregon: Repayment contracts for reimbursable cost of SOD modifications to Deer Flat Dam.

18. Three irrigation water user entities, Boise Project, Idaho: Amendatory repayment contract with New Union Ditch Company to reduce the contract by 500 acre-feet of Lucky Peak storage space and new contracts with Wilderness Ranch Owners' Association for 200 acre-feet and with Osprey Subdivision Project Owners' Association for 300 acre-feet of Lucky Peak Reservoir storage space.

Mid-Pacific Region: Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825–1898, telephone 916–978–5250.

1. Irrigation water districts, individual irrigators, M&I and miscellaneous water users, California, Nevada, and Oregon: Temporary (interim) water service contracts for available project water for irrigation, M&I, or fish and wildlife purposes providing up to 10,000 acre-feet of water annually for terms up to 5 years; temporary Warren Act contracts for use of project facilities for terms up to 1 year; temporary conveyance agreements with the State of California for various purposes; long-term contracts for similar service for up to 1,000 acre-feet annually.

2. Contractors from the American River Division, Cross Valley Canal, Delta Division, San Felipe Division, and West San Joaquin Division, CVP, California: Renewal of 28 long-term water service contracts; water quantities for these contracts total in excess of 2.1M acre-feet. These contract actions will be accomplished through long-term renewal contracts pursuant to Pub. L. 102–575. Prior to completion of negotiation of long-term renewal contracts, existing interim renewal water service contracts may be renewed through successive interim renewal of contracts. Execution of long-term renewal contracts have been completed for the Friant, Shasta, and Trinity River Divisions. Long-term renewal contract execution is continuing for the other contractors.

3. Redwood Valley County WD, SRPA, California: Restructuring the repayment schedule pursuant to Pub. L. 100–516.

4. El Dorado County Water Agency, CVP, California: M&I water service contract to supplement existing water supply: 15,000 acre-feet for El Dorado County Water Agency authorized by Pub. L. 101–514.

5. Sutter Extension WD, Delano-Earlimart ID, and the State of California Department of Water Resources; CVP; California: Pursuant to Pub. L. 102–575, cooperative agreements with non-Federal entities for the purpose of providing funding for CVP refuge water wheeling facility improvements to provide water for refuge and private wetlands.

6. CVP Service Area, California: Temporary water purchase agreements for acquisition of 20,000 to 200,000 acre-feet of water for fish and wildlife purposes as authorized by the Central Valley Project Improvement Act for terms of up to 3 years.

7. Sacramento Municipal Utility District, CVP, California: Amendment of existing water service contract to allow for additional points of diversion and assignment of up to 30,000 acre-feet of project water to the Sacramento County Water Agency. The amended contract will conform to current Reclamation law.

8. El Dorado ID, CVP, California: Execution of long-term Warren Act contracts for conveyance of nonproject water (one contract for Weber Reservoir and pre-1914 ditch rights in the amount of 3,344 acre-feet, and one contract for Project 184 water in the amount of 11,000 acre-feet). The contracts will allow CVP facilities to be used to deliver nonproject water to El Dorado ID for use within its service area.

9. Horsefly, Klamath, Langell Valley, and Tulelake IDs; Klamath Project; Oregon: Repayment contracts for SOD work on Clear Lake Dam. These districts will share in repayment of costs, and each district will have a separate contract. Initial contract should be ready by April 2007.

10. Casitas Municipal WD, Ventura Project, California: Repayment contract for SOD work on Casitas Dam.

11. Warren Act Contracts, CVP, California: Execution of long-term Warren Act contracts (up to 25 years) with various entities for conveyance of nonproject water in Delta Division, Friant Division, and San Luis Unit facilities.

12. Tuolumne Utilities District (formerly Tuolumne Regional WD), CVP, California: Long-term water service contract for up to 9,000 acre-feet from New Melones Reservoir, and possibly long-term contract for storage of nonproject water in New Melones Reservoir.

13. Banta Carbona ID, CVP, California: Long-term Warren Act contract for conveyance of nonproject water in the Delta-Mendota Canal.

14. Byron-Bethany ID, CVP, California: Long-term Warren Act contract for conveyance of nonproject water in the Delta-Mendota Canal.

15. Sacramento Area Flood Control Agency, CVP, California: Execution of a long-term operations agreement for flood control operations of Folsom Dam and Reservoir to allow for recovery of costs associated with operating a variable flood control pool of 400,000 to 670,000 acre-feet of water during the

flood control season. This agreement is to conform to Federal law.

16. Madera-Chowchilla Water and Power Authority, CVP, California: Agreement to transfer the operation, maintenance, and replacement and certain financial and administrative activities related to the Madera Canal and associated works.

17. Carpinteria WD, Cachuma Project, California: Contract to transfer title of the distribution system to the district. Title transfer authorized by Pub. L. 108–315 ''Carpinteria and Montecito Water Distribution Conveyance Act of 2004.''

18. Montecito WD, Cachuma Project, California: Contract to transfer title of the distribution system to the district. Title transfer authorized by Pub. L. 108–315 ''Carpinteria and Montecito Water Distribution Conveyance Act of 2004.''

19. Sacramento Suburban WD, CVP, California: Execution of long-term Warren Act contract for conveyance of nonproject water. The contract will allow CVP facilities to be used to deliver nonproject water provided from the Placer County Water Agency to the Sacramento Suburban WD for use within its service area.

20. Truckee Meadows Water Authority, Town of Fernley, State of California, City of Reno, City of Sparks, Washoe County, State of Nevada, Truckee-Carson ID, and any other local interest or Native American Tribal Interest, who may have negotiated rights under Pub. L. 101–618; Nevada and California: Contract for the storage of non-Federal water in Truckee River reservoirs as authorized by Pub. L. 101–618 and the Preliminary Settlement Agreement. The contracts shall be consistent with the Truckee River Water Quality Settlement Agreement and the terms and conditions of the proposed Truckee River Operating Agreement.

21. Sacramento River Settlement Contracts, CVP, California: Five contracts remain to be executed out of a total of 145 contracts; water quantities for these contracts total 2.2M acre-feet. These contracts will be renewed for a period of 40 years. The contracts reflect agreements to settle disputes over water rights' claims on the Sacramento River.

22. San Joaquin Valley National Cemetery, U.S. Department of Veteran Affairs; Delta Division, CVP; California: Renewal of the long-term water service contract for up to 850 acre-feet. Contract executed February 28, 2005. The wheeling agreement for conveyance through the California State Aqueduct is pending.

23. A Canal Fish Screens, Klamath Project, Oregon: Negotiation of an O&M contract for the A Canal Fish Screen with Klamath, ID.

24. Ady Canal Headgates, Klamath Project, Oregon: Transfer of operational control to Klamath Drainage District of the headgates located at the railroad. Reclamation does not own the land at the headgates, only operational control pursuant to a railroad agreement.

25. Orland Unit Water Users Association, Orland Project, California: Repayment contract for the SOD costs assigned to the irrigation purposes of Stony Gorge Dam.

26. Delta Lands Reclamation District No. 770, CVP, California: Long-term Warren Act contract for conveying nonproject flood flows.

27. Pershing County Water Conservation District, Pershing County, Lander County, and the State of Nevada; Humboldt Project; Nevada: Title transfer to lands and features of the Humboldt Project.

28. PacifiCorp, Klamath Basin Area Office, Klamath Project, Oregon: Execution of long-term agreement for lease of power privilege and the O&M of Link River Dam. This agreement will provide for operations of Link River Dam, coordinated operations with the non-Federal Keno Dam, and provision of power by PacifiCorp for Klamath Project purposes to ensure project water deliveries and to meet Endangered Species Act requirements.

29. Cachuma Operation and Maintenance Board, Cachuma Project, California: Repayment for SOD work on Lauro Dam.

30. Broadview WD, CVP, California: Proposed assignment of 27,000 acre-feet of Broadview WD's entire CVP supply to Westlands WD for irrigation and M&I use.

31. Mendota Wildlife Area, CVP, California: Reimbursement agreement between California Department of Fish and Game and Reclamation for conveyance service costs to deliver Level 2 water to the Mendota Wildlife Area during infrequent periods when the Mendota Pool is down due to unexpected but needed maintenance. This action is taken pursuant to Pub. L. 102–575, Title 34, Section 3406(d)(1), to meet full Level 2 water needs of the Mendota Wildlife Area.

32. Mercy Springs WD, CVP, California: Proposed partial assignment of 2,825 acre-feet of Mercy Springs WD's CVP supply to San Luis WD for irrigation and M&I use.

33. Oro Loma WD, CVP, California: Proposed partial assignment of 4,000 acre-feet of Oro Loma WD's CVP supply to Westlands WD for irrigation and M&I use.

34. San Luis WD, CVP, California: Proposed partial assignment of 2,400 acre-feet of San Luis WD's CVP supply to Santa Nella County WD for M&I use.

35. Placer County Water Agency, CVP, California: Proposed exchange agreement under Section 14 of the Reclamation Project Act of 1939 of up to 74,000 acre-feet.

36. Eighteen contractors in the Klamath Project, Oregon: Amendment of 18 repayment contracts or negotiation of new contracts to allow for recovery of additional capital costs to the Klamath Project. These contract actions will be accomplished through amendments to the existing repayment contracts or negotiation of new contracts.

37. Gray Lodge Wildlife Area Deep Well Pumping Reimbursement Agreement, Central Valley Project Improvement Act, California: Amendment to extend termination date for 1 more year will be executed by December 2007.

38. Elk Creek Community Services District, California, CVP: Interim renewal contract for up to 3 years to continue project M&I water service while the Operations Criteria and Plan consultations continue.

39. City of Tracy, Sacramento Municipal Utility District, Santa Clara Valley WD, and San Benito County Water Agency; all CVP; California: Amend existing water service contracts to conform to current Reclamation law.

40. San Luis WD and Marvin Meyers/Meyers Farm, San Luis/Delta Division, CVP, California: Negotiation of a long-term exchange contract.

41. Cawelo WD and Lindsay-Strathmore ID, CVP, California: Long-term Warren Act contract for conveying nonproject water for a non-CVP contractor.

42. Elk Creek Community Services District, CVP, California: Renewal of long-term water service contract for up to 100 acre-feet for a period of 40 years.

43. Westlands WD, CVP, California: Interim renewal of water service contract (Case No. CV–79–106–EDP) for an initial period of 3 years, with subsequent interim renewal contracts of 2 years pursuant to section 3404(c) of the CVPIA.

44. Westlands WD, CVP, California: Interim renewal of water service contract (No. 14–06–200–495A) for an initial period of 3 years, with subsequent interim renewal contracts of 2 years pursuant to section 3404(c) of the CVPIA.

The following actions have been reported as completed since the last publication of this notice on November 20, 2006:

1. (7) City of Roseville, CVP, California: Execution of long-term Warren Act contract for conveyance of

nonproject water provided from the Placer County Water Agency. The contract will allow CVP facilities to be used to deliver nonproject water to the City of Roseville for use within its service area. Contract executed November 22, 2006.

2. (17) Colusa County WD, CVP, California: Proposed long-term Warren Act contract for conveyance of up to 4,500 acre-feet of ground water through the Tehama-Colusa Canal. Contract executed March 15, 2006.

3. (19) Carpinteria WD, Cachuma Project, California: Contract to transfer title of distribution system to the district. Title transfer authorized by Pub. L. 108–315 ''Carpinteria and Montecito Water Distribution Conveyance Act of 2004.'' Contract executed November 7, 2006.

4. (31) Cachuma Operation and Maintenance Board, Cachuma Project, California: Repayment for SOD work on Lauro Dam. Contract executed December 21, 2006.

Lower Colorado Region: Bureau of Reclamation, PO Box 61470 (Nevada Highway and Park Street), Boulder City, Nevada 89006–1470, telephone 702–293–8192.

1. Milton and Jean Phillips, BCP, Arizona: Colorado River water delivery contract for 60 acre-feet of Colorado River water per year as recommended by the Arizona Department of Water Resources.

2. John J. Peach, BCP, Arizona: Colorado River water delivery contracts for 456 acre-feet of Colorado River water per year as recommended by the Arizona Department of Water Resources.

3. Brooke Water Co., BCP, Arizona: Amend contract for an additional 120 acre-feet per year of Colorado River water for domestic uses, as recommended by the Arizona Department of Water Resources.

4. Maricopa-Stanfield IDD, CAP, Arizona: Amend distribution system repayment contract No. 4–07–30–W0047 to reschedule repayment pursuant to June 28, 1996, agreement.

5. Indian and non-Indian agricultural and M&I water users, CAP, Arizona: New and amendatory contracts for repayment of Federal expenditures for construction of distribution systems.

6. Central Arizona IDD, CAP, Arizona: Amend distribution system repayment contract No. 4–07–30–W0048 to modify repayment terms pursuant to final order issued by U.S. Bankruptcy Court, District of Arizona.

7. Coachella Valley WD and/or The Metropolitan WD of Southern California, BCP, California: Contract to fund the Department of the Interior's expenses to conserve seepage water from the Coachella Branch of the All-American Canal in accordance with Title II of the San Luis Rey Indian Water Rights Settlement Act, dated November 17, 1988.

8. Salt River Pima-Maricopa Indian Community, CAP, Arizona: O&M contract for its CAP water distribution system.

9. Miscellaneous PPR No. 38, BCP, California: Assign Schroeder's portion of the PPR to Murphy Broadcasting.

10. Gila Project Works, Gila Project, Arizona: Title transfer of facilities and certain lands in the Wellton-Mohawk Division from the United States to Wellton-Mohawk IDD.

11. North Gila Valley IDD, Yuma ID, and Yuma Mesa IDD; Yuma Mesa Division, Gila Project; Arizona: Administrative action to amend each district's Colorado River water delivery contract to effectuate a change from a ''pooled'' water entitlement for the Division to a quantified entitlement for each district.

12. Indian and/or non-Indian M&I users, CAP, Arizona: New or amendatory water service contracts or subcontracts in accordance with an anticipated final record of decision for reallocation of CAP water, as discussed in the Secretary of the Interior's notice published on page 41456 of the FR on July 30, 1999.

13. Litchfield Park Service Company, CAP, Arizona: Proposed partial assignments of subcontract for 5,590 acre-feet of CAP M&I water to the Central Arizona Water Conservation District, which is exercising its authority as the Central Arizona Groundwater Replenishment District, and to the cities of Avondale, Carefree, and Goodyear.

14. Shepard Water Company, Inc., BCP, Arizona: Contract for the annual delivery of 50 acre-feet of fourth priority water per year for domestic use.

15. Jessen Family Limited Partnership, BCP, Arizona: Contract for delivery of 1,080 acre-feet of Colorado River water for agricultural purposes.

16. Various irrigation districts, CAP, Arizona: Amend distribution system repayment contracts to provide for partial assumption of debt by the Central Arizona Water Conservation District and the United States upon enactment of Federal legislation providing for resolution of CAP issues.

17. Mohave County Water Authority, BCP, Arizona: Amendatory Colorado River water delivery contract to include the delivery of 3,500 acre-feet per year of fourth priority water and to delete the delivery of 3,500 acre-feet per year of fifth or sixth priority water.

18. All-American Canal, BCP, California: Agreement among Reclamation, Imperial ID, Metropolitan WD, and Coachella Valley WD for the federally funded construction of a reservoir(s) and associated facilities that will improve the regulation and management of Colorado River water.

19. Sunrise Water Company, CAP, Arizona: Proposed assignment of subcontract for 944 acre-feet of CAP M&I water per year to the Central Arizona Water Conservation District, which is exercising its authority as the Central Arizona Groundwater Replenishment District.

20. West End Water Company, CAP, Arizona: Proposed assignment of subcontract for 157 acre-feet of CAP M&I water per year to the Central Arizona Water Conservation District, which is exercising its authority as the Central Arizona Groundwater Replenishment District.

21. New River Utilities Company, CAP, Arizona: Proposed assignment of subcontract for 1,885 acre-feet of CAP M&I water to the Central Arizona Water Conservation District, which is exercising its authority as the Central Arizona Groundwater Replenishment District.

22. Metropolitan WD and others, BCP, Arizona and California: Contract to provide for the recovery by Metropolitan WD of interstate underground storage credits previously placed in underground storage in Arizona by the Central Arizona Water Conservation District under agreements executed in 1992 and 1994, and to document the Arizona Water Banking Authority's responsibility in agreeing to Arizona's forbearance in the use of Colorado River water to permit the Secretary of the Interior to release that quantity of water for diversion and use by Metropolitan WD.

23. Wellton-Mohawk IDD, BCP, Arizona: Amend contract No. 1–07–30–W0021 to revise the acre-foot amount for delivery of domestic use water to 12,000 acre-feet per calendar year, within the district's current overall Colorado River water entitlement.

24. Forbearance agreements, BCP, Arizona and California: Develop and execute short-term agreements to implement a demonstration forbearance program to evaluate the feasibility of acquiring water through a voluntary land fallowing program, to replace drainage water currently being bypassed to the Cienega de Santa Clara.

25. Arizona Water Settlements Act, CAP, Arizona: Implementation of the contracting requirements of Title I Central Arizona Project Settlement Act of 2004, Title II Gila River Indian

Community Water Rights Settlement, Title III Southern Arizona Water Rights Settlement, and Title IV San Carlos Apache Tribe Water Rights Settlement.

26. Cibola Valley IDD, BCP, Arizona: Assign 396 acre-feet per year of the district's entitlement to fourth, fifth, and sixth priority water to The Conservation Fund.

27. Mohave County Water Authority, BCP, Arizona: Amend contract No. 04–XX–30–W0431 to provide for a change of type and place of use of water.

28. Chacha AZ, LLC, BCP, Arizona: Contract for 2,100 acre-feet per year of fourth-priority Arizona water for agricultural purposes.

29. City of Yuma, BCP, Arizona: Supplemental and amendatory contract to provide for additional point of delivery for a new pump station to be constructed on the Gila Gravity Main Canal, with initial intake capacity of 20 million gallons per day, building up to 40 million gallons per day at full design capacity.

30. City of Needles and The Metropolitan WD of Southern California, Lower Colorado Water Supply Project, California: Contract for acquisition and delivery of Lower Colorado Water Supply Project water.

31. City of Needles, BCP, California: Amendment to contract No. 05–XX–30–W0445 to include PPR No. 44 for an annual diversion of 1,260 acre-feet or the annual consumptive use of 273 acre-feet, whichever is less.

The following actions have been reported as completed since the last publication of this notice on November 20, 2006:

1. (14) Gila River Indian Community, CAP, Arizona: Amend CAP water delivery contract and distribution system repayment and operation, maintenance, and replacement contract pursuant to the Arizona Water Settlements Act, Pub. L. 108–451, enacted December 10, 2004. Contract executed May 11, 2006.

2. (30) Fisher's Landing Water and Sewer Works, LLC, BCP, Arizona: Contract for 53 acre-feet annually of Colorado River water to be used to account for domestic water use on residential properties located within the Castle Dome area of Martinez Lake. Contract executed December 21, 2006.

3. (32) Miscellaneous PPR No. 43, BCP, California: Contract with the City of Needles for 1,500 acre-feet diversion and 950 acre-feet consumptive use. Contract executed April 3, 2006.

4. (43) Cibola Resources, LLC, BCP, Arizona: Assign contract No. 06–XX–30–W0449 to B&F Investment, LLC, transfer the 60-acre-foot entitlement to B&F under that contract, and enter into a new contract with B&F to change the type and place of use. Contract executed September 25, 2006.

5. (44) Rudy J. Leon and Helen V. Thomas, BCP, California: Enter into a contract for their entitlement of PPR No. 38 for 1.7086 acre-feet of water per year. Contract executed December 1, 2006.

Upper Colorado Region: Bureau of Reclamation, 125 South State Street, Room 6107, Salt Lake City, Utah 84138–1102, telephone 801–524–3864.

1. Individual irrigators, M&I, and miscellaneous water users; Initial Units, CRSP; Utah, Wyoming, Colorado, and New Mexico: Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10, 000 acre-feet of water annually for terms up to 10 years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

(a) Oxbow Mining, LLC, Aspinall Storage Unit, CRSP: Oxbow Mining, LLC has requested a 40-year water service contract for 242 acre-feet of M&I water out of Blue Mesa Reservoir, which requires that an augmentation plan be presented to the Division 4 Water Court.

2. San Juan-Chama Project, New Mexico: The United States is holding the remaining 2,990 acre-feet of project water for potential use in Indian water rights settlements in New Mexico.

3. Various Contractors, San Juan-Chama Project, New Mexico: The United States proposes to lease water from various contractors to stabilize flows in a critical reach of the Rio Grande in order to meet the needs of irrigators and preserve habitat for the silvery minnow.

4. Uncompahgre Valley Water Users Association, Upper Gunnison River Water Conservancy District, and the Colorado River Water Conservation District; Uncompahgre Project; Colorado: Water management agreement for water stored at Taylor Park Reservoir and the Wayne N. Aspinall Storage Unit to improve water management.

5. Southern Ute Indian Tribe, Florida Project, Colorado: Supplement to contract No. 14–06–400–3038, dated May 7, 1963, for an additional 181 acre-feet of project water, plus 563 acre-feet of project water pursuant to the 1986 Colorado Ute Indian Water Rights Final Settlement Agreement.

6. Individual irrigators, Carlsbad Project, New Mexico: The United States proposes to enter into long-term forbearance lease agreements with individuals who have privately held water rights to divert nonproject water either directly from the Pecos River or from shallow/artesian wells in the Pecos River Watershed. This action will result in additional water in the Pecos River to make up for the water depletions caused by changes in operations at Summer Dam which were made to improve conditions for a threatened species, the Pecos bluntnose shiner.

7. La Plata Conservancy District, Animas-La Plata Project, Colorado and New Mexico: Cost-sharing/repayment contract for up to 1,560 acre-feet per year of M&I water; contract terms to be consistent with the Colorado Ute Settlement Act Amendments of 2000 (Title III of Pub. L. 106–554).

8. LeChee Chapter of the Navajo Nation, Glen Canyon Unit, CRSP, Arizona: Long-term contract for 950 acre-feet of water for municipal purposes.

9. Pine River ID, Pine River Project, Colorado: Contract to allow the district to use a limited amount of project irrigation water for municipal, domestic, and industrial uses.

10. City of Page, Arizona, Glen Canyon Unit, CRSP, Arizona: Long-term contract for 975 acre-feet of water for municipal purposes.

11. El Paso County Water Improvement District No. 1 and Isleta del Sur Pueblo, Rio Grande Project, Texas: Contract to convert up to 1,000 acre-feet of the Pueblo's project irrigation water to use for traditional and religious purposes.

12. Project Operator, Colorado; Animas-La Plata Project; Colorado and New Mexico: Contract to transfer the operation, maintenance, and replacement responsibilities of most project facilities to the project operator, pursuant to Section 6 of the Reclamation Act of June 17, 1902, and other Reclamation laws.

13. Project Operations Committee, Animas-La Plata Project, Colorado and New Mexico: Agreement among the United States and the Project Sponsors to coordinate and oversee the necessary operations, maintenance, and replacement activities of the project works.

14. Southern Ute Indian Tribe, Animas-La Plata Project, Colorado and New Mexico: Water delivery contract for 33,519 acre-feet of M&I water; contract terms to be consistent with the Colorado Ute Settlement Act Amendments of 2000 (Title III of Pub. L. 106–554).

15. Ute Mountain Ute Tribe, Animas-La Plata Project, Colorado and New Mexico: Water delivery contract for 33,519 acre-feet of M&I water; contract terms to be consistent with the Colorado Ute Settlement Act Amendments of 2000 (Title III of Pub. L. 106–554).

16. Navajo Nation, Animas-La Plata Project, Colorado and New Mexico: Water delivery contract for 4,680 acre-feet of M&I water; contract terms to be

consistent with the Colorado Ute Settlement Act Amendments of 2000 (Title III of Pub. L. 106–554).

17. State of Colorado, Animas-La Plata Project, Colorado and New Mexico: Cost-sharing/repayment contract for up to 10,440 acre-feet per year of M&I water; contract terms to be consistent with the Colorado Ute Settlement Act Amendments of 2000 (Title III of Pub. L. 106–554).

18. Carlsbad ID and the NMISC, Carlsbad Project, New Mexico: Contract for storage and delivery of water produced by the NMISC's River Augmentation Program, among Reclamation, Carlsbad ID, and the NMISC. This will allow for storage of NMISC water in project facilities resulting in additional project water supply.

19. Public Service Company of New Mexico, Reclamation, and the U.S. Fish and Wildlife Service; San Juan River Basin Recovery Implementation Program: The agreement identifies that Reclamation may provide cost-share funding for the recovery monitoring and research, and O&M of the constructed fish passage at the Public Service Company's site pursuant to Pub. L. 106–392, dated October 30, 2000, 114 Stat. 1602.

20. The Grand Valley Water Users Association, Reclamation, and the U.S. Fish and Wildlife Service: Construction and O&M of a fish passage and fish screen facilities at the Grand Valley Diversion Dam and Government Highline Canal facilities to facilitate recovery of endangered fish species in the Colorado River Basin (October 30, 2000, 114 Stat. 1602, Pub. L. 106–392).

21. Carbon Water Conservancy District, Scofield Project, Utah: Contract providing for the district to repay to the United States 15 percent of the cost of SOD modifications to the spillway at Scofield Dam.

22. Weber River Water Users Association, Weber River Project, Utah: Contract providing for the association to repay to the United States 15 percent of the cost of SOD modifications at Echo Dam.

23. Central Utah Project, Utah: Petition for project water among the United States, the Central Utah Water Conservancy District, and the Duchesne County Water Conservancy District for use of 2,500 acre-feet of irrigation water from the Bonneville Unit of the Central Utah Project.

24. Navajo Nation, San Juan River Dineh Water Users, Reclamation, and the U.S. Fish and Wildlife Service; San Juan River Basin Recovery Implementation Program: The agreement identifies that Reclamation may provide cost-share funding for the recovery monitoring and research, and O&M of the constructed fish passage at the Hogback Diversion Dam pursuant to Pub. L. 106–392, dated October 30, 2000, 114 Stat. 1602.

25. Jensen Unit, Central Utah Project, Utah: The Uintah Water Conservancy District has requested a contract with provision to prepay at a discounted rate, for the remaining 3,300 acre-feet of unmarketed project M&I water.

26. Emery County Project, Utah: The Huntington Cleveland Irrigation Company has requested a contract for carriage of up to 14,074 acre-feet of nonproject water; utilizing Huntington North Reservoir as a regulating feature associated with their Salinity Control Project.

27. North Fork Water Conservancy District and Ragged Mountain Water Users Association, Paonia Project, Colorado: North Fork and Ragged Mountain have requested a contract for supplemental water from the Paonia Project. This contract is for municipal uses.

28. North Fork Water Conservancy District and Ragged Mountain Water Users Association, Paonia Project, Colorado: North Fork and Ragged Mountain have requested a contract for supplemental water from the Paonia Project. Their contract expired on December 31, 2005, and the amended contract was executed on January 27, 2006. There is a need to amend this contract to include reference to the M&I contract waiting to be executed.

29. Strawberry Valley Project, Utah: Contract to allow conversions of project irrigation water to municipal, domestic, and industrial uses.

The following actions have been reported as completed since the last publication of this notice on November 20, 2006:

1. (1)(b) National Park Service, Aspinall Storage Unit, CRSP: The National Park Service has requested a 40-year water service contract for 3 acre-feet of water out of Blue Mesa Reservoir. Contract executed September 15, 2006.

2. (1)(g) Arlo Cox, Aspinall Storage Unit, CRSP: Mr. Cox has requested a 40-year water service contract for 1 acre-foot of water out of Blue Mesa Reservoir. He has submitted his augmentation plan to Water District 4, case number pending. Contract executed November 8, 2006.

3. (1)(h) Michael and Nancy Courtney Schell, Aspinall Storage Unit, CRSP: The Schells have requested a 40-year water service contract for 1 acre-foot of water out of Blue Mesa Reservoir. An augmentation plan is not required for their direct withdrawal of water from the reservoir. Contract executed September 5, 2006.

4. (1)(i) Michael Watts, Aspinall Storage Unit, CRSP: Mr. Watts has requested a 40-year water service contract for 1 acre-foot of M&I water out of Blue Mesa Reservoir. He submitted his augmentation plan to Division 4 Water Court, case No. 06–CW–120. Contract executed December 12, 2006.

5. (1)(j) Equivest Limited Partnership, Aspinall Storage Unit, CRSP: Equivest has requested a 40-year water service contract for 1 acre-foot of M&I water out of Blue Mesa Reservoir. They have submitted their augmentation plan to Division 4 Water Court, case No. 06–CW–260. Contract executed December 12, 2006.

6. (13) Carlsbad ID and the NMISC, Carlsbad Project, New Mexico: Contract to convert irrigation water appurtenant to up to 6,000 acres of land within the project for use by the NMISC for delivery to Texas to meet New Mexico's Pecos River Compact obligation. Contract executed November 21, 2006.

7. (19) Various contractors including the Town of Mancos and the Mancos Rural Water Company, Mancos Project, Colorado: Small or short-term contracts to carry nonproject water through project facilities for municipal purposes under authority of Pub. L. 106–549. Contract executed September 12, 2006.

8. (24) Mancos Rural Water Company, Mancos Project, Colorado: Contract to allow the Mancos Rural Water Company to convert an additional 300 acre-feet of project irrigation water to municipal, domestic, and industrial uses. Contract executed September 8, 2006.

9. (28) San Juan-Chama Project, Albuquerque Area Office: Proposed conversion of six water service contracts to repayment contracts. Contractors requesting such conversions are the City of Santa Fe, Santa Fe County, County of Los Alamos, City of Espanola, Town of Taos, Village of Taos Ski Valley, and Town of Los Lunas. Contracts executed as follows: Village Los Lunas, July 18, 2006; Village of Taos Ski Valley, August 2, 2006; Town of Taos, August 15, 2006; County of Los Alamos, September 27, 2006; and City of Santa Fe, Santa Fe County, and City of Espanola, October 19, 2006.

Great Plains Region: Bureau of Reclamation, PO Box 36900, Federal Building, 316 North 26th Street, Billings, Montana 59101, telephone 406–247–7752.

1. Individual irrigators, M&I, and miscellaneous water users; Colorado, Kansas, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming: Temporary (interim) water service contracts for the sale,

conveyance, storage, and exchange of surplus project water and nonproject water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for a term of up to 1 year.

2. Green Mountain Reservoir, Colorado-Big Thompson Project, Colorado: Water service contracts for irrigation and M&I; contracts for sale of water from the marketable yield to water users within the Colorado River Basin of western Colorado.

3. Ruedi Reservoir, Fryingpan-Arkansas Project, Colorado: Second round water sales from the regulatory capacity of Ruedi Reservoir. Water service and repayment contracts for up to 17,000 acre-feet annually for M&I use.

4. Garrison Diversion Unit, P–SMBP, North Dakota: Renegotiation of the master repayment contract with Garrison Diversion Conservancy District to conform with the Dakota Water Resources Act of 2000; negotiation of repayment contracts with irrigators and M&I users.

5. City of Rapid City, Rapid Valley Unit, P–SMBP, South Dakota: Contract renewal for storage capacity in Pactola Reservoir. A temporary (1 year not to exceed 10,000 acre-feet) water service contract has been executed with the City of Rapid City, Rapid Valley Unit, for use of water from Pactola Reservoir. A long-term storage contract is being negotiated for water stored in Pactola Reservoir.

6. Mid-Dakota Rural Water System, Inc., South Dakota: Pursuant to the Reclamation Projects Authorization and Adjustment Act of 1992, the Secretary of the Interior is authorized to make grants and loans to Mid-Dakota Rural Water System, Inc., a non-profit corporation for the planning and construction of a rural water supply system.

7. City of Berthoud, Colorado-Big Thompson Project, Colorado: Long-term contract for conveyance of nonproject M&I water through Colorado-Big Thompson Project facilities.

8. Highland-Hanover ID, Hanover-Bluff Unit, P–SMBP, Wyoming: Negotiate long-term water service contract.

9. Upper Bluff ID, Hanover-Bluff Unit, P–SMBP, Wyoming: Negotiate long-term water service contract.

10. Fort Clark ID, P–SMBP, North Dakota: Negotiation of water service contract to continue delivery of project water to the district.

11. Dickinson-Heart River Mutual Aid Corporation, Dickinson Unit, P–SMBP, North Dakota: Negotiate renewal of water service contract for irrigation of lands below Dickinson Dam in western North Dakota.

12. Savage ID, P–SMBP, Montana: The district is currently seeking title transfer. The contract is subject to renewal pending outcome of the title transfer process. A 5-year interim contract was executed May 7, 2003, to ensure a continuous water supply.

13. City of Fort Collins, Colorado-Big Thompson Project, Colorado: Long-term contracts for conveyance and storage of nonproject M&I water through Colorado-Big Thompson Project facilities.

14. Standing Rock Sioux Tribe, P–SMBP, North Dakota: Negotiate a long-term water service contract with the Standing Rock Sioux Tribe in North Dakota for irrigation of up to 2,380 acres of land within the reservation.

15. Dickinson Parks and Recreation District, Dickinson Unit, P–SMBP, North Dakota: A temporary contract has been negotiated with the district for minor amounts of water from Dickinson Reservoir. Negotiate a long-term water service contract for minor amounts of water from Dickinson Dam.

16. Fryingpan-Arkansas Project, Colorado: Consideration of excess capacity contracts in the Fryingpan-Arkansas Project.

17. Fryingpan-Arkansas Project, Colorado: Consideration of requests for long-term contracts for the use of excess capacity in the Fryingpan-Arkansas Project from the Southeastern Colorado Water Conservancy District, the City of Aurora, and the Colorado Springs Utilities.

18. Individual irrigators, Heart Butte Unit, P–SMBP, North Dakota: Renew long-term water service contracts for minor amounts of less than 1,000 acre-feet of irrigation water annually from the Heart River below Heart Butte Dam.

19. Municipal Subdistrict of the Northern Colorado Water Conservancy District, Colorado-Big Thompson Project, Colorado: Consideration of a new long-term contract or amendment of contract No. 4–07–70–W0107 with the Municipal Subdistrict and the Northern Colorado Water Conservancy District for the proposed Windy Gap Firming Project.

20. Northern Integrated Supply Project, Colorado-Big Thompson Project, Colorado: Consideration of a new long-term contract with approximately 14 regional water suppliers and the Northern Colorado Water Conservancy District for the Northern Integrated Supply Project.

21. Stutsman County Park Board, Jamestown Unit, P–SMBP, North Dakota: The Board is requesting a contract for minor amounts of water under a long-term contract to serve domestic needs for cabin owners at Jamestown Reservoir, North Dakota.

22. Garrison Diversion Unit, P–SMBP, North Dakota: Contracts to provide for project use pumping power or project use pumping power and supplemental irrigation water with various irrigation districts in North Dakota, covering a combined maximum 28,000 acres within the boundaries and limits set by the Dakota Water Resources Act of 2000.

23. Security Water and Sanitation District, Fryingpan-Arkansas Project, Colorado: Consideration of a request for a long-term contract for the use of excess capacity in the Fryingpan-Arkansas Project.

24. City of Fountain, Fryingpan-Arkansas Project, Colorado: Consideration of a request for a long-term contract for the use of excess capacity in the Fryingpan-Arkansas Project.

25. Colorado Springs Utilities, Colorado-Big Thompson Project, Colorado Springs, Colorado: Consideration of a request for a long-term agreement for water substitution and power interference in the Colorado-Big Thompson Project.

26. Pueblo West Metropolitan District, Pueblo West, Fryingpan-Arkansas Project, Colorado: Consideration of a request for a 5- to 10-year contract for the use of excess capacity in the Fryingpan-Arkansas Project.

27. LeClair ID, Boysen Unit, P–SMBP, Wyoming: Contract renewal of long-term water service contract.

28. Riverton Valley ID, Boysen Unit, P–SMBP, Wyoming: Contract renewal of long-term water service contract.

29. Buford-Trenton ID, Buford-Trenton Project, P–SMBP, North Dakota: Enter into a new repayment contract and power contract for additional project use pumping power for project purposes in irrigating bench lands existing within the district.

30. ExxonMobil Corporation, Ruedi Reservoir, Fryingpan-Arkansas Project, Colorado: Consideration of ExxonMobil Corporation's request to amend its Ruedi Round I contract to include additional uses for the water.

31. Ainsworth ID, Ainsworth Unit, Sandhills Division, P–SMBP, Ainsworth, Nebraska: Contract renewal for a long-term water service contract.

32. Pueblo West Metropolitan District, Pueblo West, Fryingpan-Arkansas Project, Colorado: Consideration of a request for a long-term contract for the use of excess capacity in the Fryingpan-Arkansas Project.

33. Individual developer with Angostura Unit, P–SMBP, South Dakota: Negotiate M&I water service contract with developer for up to ten, 10-acre tracts of land within the Angostura ID.

34. City of Golden, Colorado-Big Thompson Project, Colorado: Consideration of a request for a long-

term agreement for power interference in the Colorado-Big Thompson Project.

35. Frenchman-Cambridge ID; Meeker-Driftwood, Red Willow, and Cambridge Units; Frenchman Division; P–SMBP; Cambridge, Nebraska: Amend the repayment contract for equalization of the construction obligation payments over the remaining years of the water supply repayment obligation period, and to delay the increase in the reserve fund payments pursuant to Pub. L. 109–386, which was enacted on December 12, 2006.

36. Kansas-Bostwick ID No. 2; Courtland Unit, Bostwick Division, P–SMBP; Courtland, Kansas: Amend the repayment contract for equalization of the construction obligation payments over the remaining years of the water supply repayment obligation period, and to delay the increase in the reserve fund payments pursuant to Pub. L. 109–386, which was enacted on December 12, 2006.

37. Bostwick ID in Nebraska; Superior-Courtland and Franklin Units, Bostwick Division, P–SMBP; Red Cloud, Nebraska: Amend the repayment contract for equalization of the construction obligation payments over the remaining years of the water supply repayment obligation period, and to delay the increase in the reserve fund payments pursuant to Pub. L. 109–386, which was enacted on December 12, 2006.

38. Webster ID; Webster Unit, Solomon Division, P-SMBP; Gaylord, Kansas: Amend the repayment contract for equalization of the construction obligation payments over the remaining years of the water supply repayment obligation period, and to delay the increase in the reserve fund payments pursuant to Pub. L. 109–386, which was enacted on December 12, 2006.

39. City of Grand Junction, City of Fruita, and Town of Palisade (Municipal Recreation Agreement), Colorado-Big Thompson Project; Colorado: Negotiation of renewal of the Municipal Recreation Agreement to provide historic users pool surplus water from Green Mountain Reservoir for nonconsumptive municipal recreation uses.

40. Colorado River Water Conservation District, Ruedi Reservoir, Fryingpan-Arkansas Project, Colorado: Consideration of a request for a second round water sales or repayment contract from the regulatory capacity of Ruedi Reservoir for up to 5,000 acre-feet annually for M&I uses and also providing water to the endangered fish and supplementing in-stream flows.

41. Colorado River Water Conservation District, Colorado-Big Thompson Project, Colorado: Long-term exchange, conveyance, and storage contract to implement the Exhibit B Agreement of the Settlement Agreement on Operating Procedures for Green Mountain Reservoir Concerning Operating Limitations and in Resolution of the Petition Filed August 7, 2003, in Case No. 49–CV–2782 (*The United States* v *Northern Colorado Water Conservancy District, et al.*, U.S. District Court for the District of Colorado, Case No. 2782 and Consolidated Case Nos. 5016 and 5017).

42. Colorado River Water Conservation District, Colorado-Big Thompson Project, Colorado: Consideration of a request for a long-term contract for the use of excess capacity for storage and exchange in Green Mountain Reservoir in the Colorado-Big Thompson Project.

43. Greenfields ID, Sun River Project, Montana: Modification of Gibson Dam will be required depending on the outcome of the Corrective Action Study, and will require a contract for repayment of allocable SOD costs.

44. Glendo Unit, P–SMBP, Wyoming: Contract renewal for long-term water service contracts with Burbank Ditch, New Grattan Ditch Company, Torrington ID, Lucernce Canal and Power Company, and Wright and Murphy Ditch Company.

45. Glendo Unit, P–SMBP, Nebraska: Contract renewal for long-term water service contracts with Bridgeport, Enterprise, and Mitchell IDs, and Central Nebraska Public Power and ID.

46. Glendo Unit, P–SMBP, Wyoming: Contract renewal for long-term water storage contract with Pacificorp.

47. Roger W. Evans (Individual), Boysen Unit, P–SMBP, Wyoming: Renewal of long-term water service contracts.

48. City of Beloit, P–SMBP, Kansas: Execution of a contract amendment to the original contract to add a renewal provision in accordance with Section 1 of the Act of June 21, 1963.

The following actions have been reported as completed since the last publication of this notice on November 20, 2006:

1. (19) Clark Canyon Water Supply Company, East Bench Unit, P–SMBP, Montana: Negotiating renewal of contract No. 14–06–600–3592 which was amended to expire December 31, 2006. Current contract may be amended again to extend the term not to exceed an additional 1 year pursuant to Section 208 of the 2005 Consolidated Appropriations Act if necessary and agreed to by both parties. Contract executed November 9, 2006.

2. (20) East Bench ID, East Bench Unit, P–SMBP, Montana: Negotiating renewal of contract No. 14–06–600–3593 which was amended to expire December 31, 2006. Current contract may be amended again to extend the term not to exceed an additional 1 year pursuant to Section 208 of the 2005 Consolidated Appropriations Act if necessary and agreed to by both parties. Contract executed November 9, 2006.

Dated: January 26, 2007.

Roseann Gonzales,

Director, Office of Program and Policy Services.

[FR Doc. E7–3376 Filed 2–26–07; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection for 1029–0039

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request renewed approval for the collection of information on 30 CFR Part 784, Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plans.

DATES: Comments on the proposed information collection must be received by April 30, 2007, to be assured of consideration.

ADDRESSES: Comments may be mailed to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Room 202—SIB, Washington, DC 20240. Comments may also be submitted electronically to *jtrelease@osmre.gov*.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request and explanatory information, contact John A. Trelease, at (202) 208–2783, or electronically at *jtrelease@osmre.gov*.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities

(see 5 CFR 1320.8(d)). This notice identifies information collections that OSM will be submitting to OMB for extension. These collections are contained in 30 CFR part 784.

OSM has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on reestimates of burden or respondents and costs. OSM will request a 3-year term of approval for this information collection activity.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSM's submission of the information collection request to OMB.

This notice provides the public with 60 days in which to comment on the following information collection activity:

Title: 30 CFR Part 784, Underground Mining Permit Applications—Minimum requirements for Reclamation and Operation Plans.

OMB Control Number: 1029–0039.

Summary: Sections 507(b), 508(a) and 516(b) of Public Law 95–87 require underground coal mine permit applicants to submit an operations and reclamation plan and establish performance standards for the mining operation. Information submitted is used by the regulatory authority to determine if the applicant can comply with the applicable performance and environmental standards required by the law.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: 63 underground coal mining permit applicants and 24 State regulatory authorities.

Total Annual Responses: 790.

Total Annual Burden Hours: 65,159.

Total Annual Cost Burden: $537,105.

Dated: February 21, 2007.

John R. Craynon,

Chief, Division of Regulatory Support.

[FR Doc. 07–871 Filed 2–26–07; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–559]

In the Matter of Certain Digital Processors and Digital Processing Systems, Components Thereof, and Products Containing Same; Notice of Commission Decision Not To Review an Initial Determination Granting Complainant's Motion To Amend the Complaint and Notice of 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'') (Order No. 19) issued by the presiding administrative law judge (''ALJ'') granting complainant's motion to amend the complaint and notice of investigation.

FOR FURTHER INFORMATION CONTACT: Michelle Walters, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708–5468. Copies of non-confidential 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 at *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: This investigation was instituted on January 9, 2006, based on a complaint filed by Biax Corporation (''Biax'') of Boulder, Colorado. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain digital processors or digital processing systems, components thereof, or products containing the same by reason of infringement of various claims of United States Patent Nos. 5,021,945 (''the '945 patent''), 5,517,628 (''the '628 patent''), and 6,253,313 (''the '313 patent''). The complaint originally named four respondents: Philips Semiconductors B.V. of the Netherlands; Philips Consumer Electronics Services B.V. of the Netherlands; Philips Consumer Electronics North America Corp. of Atlanta, Georgia; and 2Wire, Inc. of San Jose, California. Biax previously amended the complaint and notice of investigation to remove Philips Consumer Electronics North America Corp. and Philips Consumer Electronics Services B.V. and to add Philips Electronics North America Corp., Philips Semiconductors, Inc., and Philips Consumer Electronics B.V. as respondents.

On January 23, 2007, Biax moved to amend the complaint and notice of investigation to remove respondent Philips Semiconductors B.V. and to add NXP B.V. of the Netherlands as a respondent. Biax stated that it had recently learned that Philips Semiconductors B.V. was spun off into a new business entity NXP B.V. Biax also moved to withdraw claims 3, 4, 8, and 12 of the '945 patent and all of the asserted claims of the '628 patent and the '313 patent from the investigation to reduce the number of issues. None of the current respondents or the Commission investigative attorney opposed Biax's motion.

On February 2, 2007, the ALJ issued an ID (Order No. 19) granting Biax's motion to amend the complaint and notice of investigation. The ALJ found that, pursuant to Commission Rule 210.14(b)(1) (19 CFR 210.14(b)(1)), there was good cause to remove respondent Philips Semiconductors B.V. and to add NXP B.V. as a respondent and to withdraw claims 3, 4, 8, and 12 of the '945 patent and the asserted claims of the '628 patent and the '313 patent from the investigation. No petitions for review of the ID were filed.

Having examined the record of this investigation, the Commission has determined not to review the ALJ's 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 section 210.42 of the Commission's Rules of Practice and Procedure (19 CFR 210.42).

By order of the Commission.

Issued: February 22, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–3386 Filed 2–26–07; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–572]

In the Matter of Certain Insulin Delivery Devices Including Cartridges Having Adaptor Tops and Components Thereof; Notice of a Commission Determination Not To Review an Initial Determination Terminating the Investigation in Its Entirety Based Upon Withdrawal of the Complaint

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'') in the above-captioned investigation terminating the above-captioned investigation as to all respondents based on withdrawal of the complaint.

FOR FURTHER INFORMATION CONTACT: Michael K. Haldenstein, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3041. Copies of the public version of the ALJ's 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. 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 June 9, 2006, based on a complaint filed by Novo Nordisk A/S of Denmark, Novo Nordisk Inc., of New Jersey and Novo Nordisk Pharmaceuticals Industries, Inc. of North Carolina. 71 FR 33484 (June 9, 2006). The complaint, as supplemented, alleged 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 insulin delivery devices, including cartridges having adaptor tops, and components thereof, by reason of infringement of claims 1–3, 5–7, 11, 18, and 19 of U.S. Patent 5,693,027. The complaint further alleged that an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337. The complainants requested that the Commission issue a limited exclusion order and cease and desist order. The Commission named three companies as respondents: Sanofi-Aventis Deutschland GmbH of Germany, Sanofi-Aventis of France, and Aventis Pharmaceuticals, Inc. of New Jersey. The ALJ set August 23, 2007 as the target date for completion of the investigation.

On October 5, 2006, complainants filed a motion to withdraw the complaint and terminate the investigation as to all parties. The three respondents filed a response to the motion on October 13, 2006, arguing that while they did not oppose termination of the investigation, sanctions and termination with prejudice were appropriate. The Commission investigative attorney supported the motion for termination of the investigation and opposed imposition of sanctions and termination of the investigation with prejudice.

On January 29, 2007, the ALJ issued the subject ID (Order No. 6) granting complainants' motion to terminate the investigation without prejudice based upon withdrawal of the complaint. No petitions for review of the ID were filed. The Commission has determined not to review this ID.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and Commission rules 210.21 and 210.42, 19 CFR 210.21 and 210.42.

By order of the Commission.

Issued: February 21, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–3393 Filed 2–26–07; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–594]

In the Matter of Certain Lighting Products, Components Thereof, and Products Containing the Same; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on January 23, 2007, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Cooper Lighting, Inc. of Peachtree City, GA. A supplement to the complaint was filed on February 9, 2007. The complaint, as supplemented, 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 lighting products, components thereof, and products containing the same by reason of infringement of certain claims of U.S. Patent Nos. 6,082,878 and 5,662,413. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and a permanent cease and desist order.

ADDRESSES: The complaint and supplement, except for any confidential information contained therein, are 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., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *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.*

FOR FURTHER INFORMATION CONTACT: Bryan F. Moore, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2767.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2006).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on February 21, 2007, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain lighting products, components thereof, and products containing the same by reason of infringement of one or more of claims 23, 26, and 27 of U.S. Patent No. 6,082,878, and claims 1 and 7 of U.S. Patent No. 5,662,413, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Cooper Lighting, Inc., 1121 Highway 74 South, Peachtree City, GA 30269.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Cordelia Lighting, Inc., 20101 South Santa Fe Avenue, Rancho Dominguez, CA 90221.

Jimway, Inc., 20101 South Santa Fe Avenue, Rancho Dominguez, CA 90221.

(c) The Commission investigative attorney, party to this investigation, is Bryan F. Moore, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Room 401–I, Washington, DC 20436; and

(3) For the investigation so instituted, the Honorable Charles E. Bullock is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or cease and desist order or both directed against the respondent.

Issued: February 21, 2007.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–3364 Filed 2–26–07; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–550]

In the Matter of Certain Modified Vaccinia Ankara (''MVA'') Viruses and Vaccines and Pharmaceutical Compositions Based Thereon; Notice of Commission Decision to Remand the Final Initial Determination Finding No Violation of Section 337 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 remand the final initial determination (''final ID'') of the presiding administrative law judge (''ALJ'') finding no violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''section 337''), in the above-captioned investigation and to extend the target date for completion of the investigation to October 19, 2007.

FOR FURTHER INFORMATION CONTACT: James A. Worth, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3065. Copies of non-confidential 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: This investigation was instituted on September 23, 2005, based on a complaint filed by Bavarian Nordic A/S of Denmark (''Bavarian Nordic''). The complaint alleged 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 Modified Vaccinia Ankara (''MVA'') viruses and vaccines and pharmaceutical compositions based thereon by reason of infringement of various claims of United States Patent Nos. 6,761,893 and 6,913,752. The complaint also alleged violations of section 337 in the importation of certain MVA viruses and vaccines and pharmaceutical compositions based thereon or in the sale of such articles by reason of misappropriation of trade secrets, the threat or effect of which is to destroy or substantially injure an industry in the United States. The complaint named a single respondent, Acambis PLC (''Acambis'') of the United Kingdom. Only the patent allegations remain in this investigation.

After a hearing and post-hearing briefing, the ALJ issued a final initial determination (''final ID'') on September 6, 2006, finding no violation of section 337. The ALJ held that the patents were infringed but invalid.

Bavarian Nordic, Acambis, and the Commission investigative attorney filed petitions for review of the final ID. By notice of November 22, 2006, the Commission determined to review the final ID in its entirety, as well as Order No. 10, and to ask the parties for briefing on the issues on review and on remedy, public interest and bonding. The parties submitted their initial and reply briefs on December 12 and December 22, 2006, respectively.

By notice of January 19, 2007, the Commission requested briefing on whether this investigation has become or will shortly become moot, and if so, whether the investigation should be terminated. The parties submitted briefing on January 26, 2007.

The Commission has determined to remand the final ID to the ALJ and to extend the target date for completion of the investigation by eight months to October 19, 2007.

This action is taken under the authority of section 337 of the Tariff Act

of 1930, as amended (19 U.S.C. 1337), and in sections 210.45(c), 210.51(a) of the Commission's Rules of Practice and Procedure (19 CFR 210.45(c), 210.51(a)).

By order of the Commission.

Issued: February 21, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–3390 Filed 2–26–07; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated October 6, 2006, and published in the **Federal Register** on October 18, 2006, (71 FR 61510), Boehringer Ingelheim Chemicals Inc., 2820 N. Normandy Drive, Petersburg, Virginia 23805, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedules I and II:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Amphetamine (1100)	II
Methylphenidate (1724)	II
Methadone (9250)	II
Methadone Intermediate (9254)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Fentanyl(9801)	II

The company plans to manufacture the listed controlled substances in bulk for sale to its customers for formulation into finished pharmaceuticals.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Boehringer Ingelheim Chemicals Inc. to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Boehringer Ingelheim Chemicals Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: February 16, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control Drug Enforcement, Administration.

[FR Doc. E7–3296 Filed 2–26–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated November 21, 2006 and published in the **Federal Register** on December 1, 2006, (71 FR 69591–69592), Johnson Matthey, Inc., Pharmaceutical Materials, 2003 Nolte Drive, West Deptford, New Jersey 08066–1742, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed in schedule II:

Drug	Schedule
Phenylacetone (8501)	II
Raw Opium (9600)	II
Concentrate of Poppy Straw (9670)	II

The company plans to import the listed controlled substances as raw materials for use in the manufacture of bulk controlled substances for distribution to its customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Johnson Matthey Inc to import the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Johnson Matthey Inc to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and § 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic classes of controlled substances listed.

Dated: February 16, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–3299 Filed 2–26–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated November 8, 2006 and published in the **Federal Register** on November 17, 2006, (71 FR 66974), Kenco VPI, Division of Kenco Group Inc., 350 Corporate Place, Chattanooga, Tennessee 37419, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Nabilone (7379), a basic class of controlled substance listed in schedule II.

The company plans to import the listed controlled substance for distribution to its customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Kenco VPI to import the basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Kenco VPI to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic class of controlled substance listed.

Dated: February 16, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–3298 Filed 2–26–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application

Pursuant to 21 U.S.C. 958(i), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in schedule I or II and prior to issuing a regulation under 21 U.S.C. 952(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with 21 CFR 1301.34(a), this is notice that on January 9, 2007, Sigma Aldrich Manufacturing LLC., Subsidiary of Sigma-Aldrich Company, 3500 Dekalb Street, St. Louis, Missouri 63118, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed in schedule I and II:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
Aminorex (1585)	I
Gamma Hydroxybutyric Acid (2010)	I
Methaqualone (2565)	I
Ibogaine (7260)	I
Lysergic acid diethylamide (7315)	I
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
4-Bromo-2,5-dimethoxyamphetamine (7391)	I
4-Bromo-2,5-dimethoxyphenethylamine (7392)	I
4-Methyl-2,5-dimethoxyamphetamine (7395)	I
2,5-Dimethoxyamphetamine (7396)	I
3,4-Methylenedioxyamphetamine (7400)	I
N-Hydroxy-3,4-methylenedioxyamphetamine (7402)	I
3,4-Methylenedioxy-N-ethylamphetamine (7404)	I
3,4-Methylenedioxymethamphetamine (MDMA) (7405)	I
4-Methoxyamphetamine (7411)	I
Bufotenine (7433)	I
Diethyltryptamine (7434)	I
Dimethyltryptamine (7435)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
N-Ethyl-1-phenylcyclohexylamine (7455)	I
N-Benzylpiperazine (BZP) (7493)	I
Trifluoromethylphenyl Piperazine (7494)	I
Heroin (9200)	I
Normorphine (9313)	I
Etonitazene (9624)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Glutethimide (2550)	II
Nabilone (7379)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Diprenorphine (9058)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Ecgonine (9180)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Methadone (9250)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273)	II
Morphine (9300)	II
Thebaine (9333)	II
Opium powdered (9639)	II
Oxymorphone (9652)	II
Fentanyl (9801)	II

The company plans to import the listed controlled substances for sale to research facilities for drug testing and analysis.

Any bulk manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic classes of controlled substances may file comments or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR 1301.43 and in such form as prescribed by 21 CFR 1316.47.

Any such written comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Washington, D.C. 20537, Attention: DEA Federal Register Representative/ODL; or any being sent via express mail should be sent to DEA Headquarters, Attention: DEA Federal Register Representative/ODL, 2401 Jefferson-Davis Highway, Alexandria, Virginia 22301; and must be filed no later than March 29, 2007.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e) and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975, (40 FR 43745–46), all applicants for registration to import a basic classes of any controlled substances listed in schedule I or II are, and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(b), (c), (d), (e) and (f) are satisfied.

Dated: February 16, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–3297 Filed 2–26–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–60,837]

Bright Horizons/MSX/Norfolk Assembly Plant, a/k/a Ford Family Service & Learning Center, Norfolk, VA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 26, 2007, in response to a worker petition filed on behalf of workers at Bright Horizons/MSX/Norfolk Assembly Plant, Norfolk, Virginia.

The petitioners have requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 15th day of February, 2007.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–3277 Filed 2–26–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the

period of January 12 through January 16, 2007.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. The country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) the workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (i.e., conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W–60,557; Burley Design, LLC, Bicycles, Eugene, OR: December 6, 2005.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) of the Trade Act have been met.

TA–W–60,909; Kree Technologies USA, Plattsburgh, NY: February 5, 2006.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) of the Trade Act have been met.

None.

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–60,755; Illinois Tool Workers (ITW) Paslode, Nail Unit, Portage, WI: January 11, 2006.

TA–W–60,762; Specialty Filaments, Inc., A Subsidiary of Capital Resource Partners, Middlebury, VT: January 11, 2006.

TA–W–60,773; Klaussner Furniture Industries, Inc., Plant #3—220 Business South, Asheboro, NC: January 16, 2006.

TA–W–60,828; Stimson Lumber Company, Libby Fingerjoint Plant, Libby, MT: January 24, 2006.

TA–W–60,672; Affordable Upholstery LLC, Maynardville, TN: December 24, 2005.

TA–W–60,709; Carauster Custom Packaging Group, Inc., Austell, GA: December 20, 2005.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–60,557C; Burley Design, LLC, Sewn Products, Eugene, OR: December 6, 2005.

TA–W–60,819; Enhanced Manufacturing Solutions, Formerly Known as Viking New Castle, LLC, New Castle, IN: January 15, 2006.

TA–W–60,820; Spencerville Metal Systems, Formerly Trim Trends Co Ohio, Inc., Spencerville, OH: January 9, 2006.

TA–W–60,861; Elastic Corporation of America, Inc., Columbiana, AL: August 20, 2006.

TA–W–60,896; Merck and Company, Flint River Plant, Albany, GA: February 1, 2006.

TA–W–60,915; Hanes Menswear, Hanes Menswear—Ponce Division, Ponce, PR: January 29, 2006.

TA–W–60,699; Filtronic Comtek, Inc., Salisbury, MD: January 3, 2006.

TA–W–60,927; IMI Cornelius, Inc., Mason City, IA: February 7, 2006.

TA–W–60,932; North Star Yachts, LLC, North Sea Yachts, Express Personnel Service, Anderson, Kalama, WA: February 6, 2006.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–60,556; Hitachi Electronic Devices (USA), Inc., Action Staffing, Greenville, SC: November 25, 2006.

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

None.

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

The Department has determined that criterion (1) of Section 246 has not been met. Workers at the firm are 50 years of age or older.

TA–W–60,557; Burley Design, LLC, Bicycles, Eugene, OR: December 6, 2005.

TA–W–60,909; Kree Technologies USA, Plattsburgh, NY: February 5, 2006.

The Department has determined that criterion (2) of Section 246 has not been met. Workers at the firm possess skills that are easily transferable.

None.

The Department has determined that criterion (3) of Section 246 has not been met. Competition conditions within the workers' industry are not adverse.

None.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.A.) and (a)(2)(B)(II.A.) (employment decline) have not been met.

TA–W–60,557A; Burley Design, LLC, Bicycle Trailers, Eugene, OR.

TA–W–60,557B; Burley Design, LLC, Jog Strollers, Eugene, OR.

The investigation revealed that criteria (a)(2)(A)(I.B.) (Sales or production, or both, did not decline) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–60,822; Shiloh Industries, Parma, OH.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–60,715; Conair Group, Inc. (The), International Plastics Equipment Group, Inc., Franklin, PA.

TA–W–60,740; Classic Picture Company, Inc., Dallas, TX.

TA–W–60,393; R R Donnelley Premedia Technologies, Warsaw Premedia Center, Warsaw, IN.

TA–W–60,760; Ahlstrom Corp., LLC, Mt. Holly Springs, PA.

The investigation revealed that the predominate cause of worker separations is unrelated to criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.C) (shift in production to a foreign country under a free trade agreement or a beneficiary country under a preferential trade agreement, or there has been or is likely to be an increase in imports).

None.

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–60,753; Cerf Brothers Bag Company, Earth City, MO.

TA–W–60,920; Allied Systems, Ltd., Chesapeake, VA.

TA–W–60,938; Plastron Industries, Bensenville, IL.

The investigation revealed that criteria of Section 222(b)(2) has not been met. The workers' firm (or subdivision) is not a supplier to or a downstream producer for a firm whose workers were certified eligible to apply for TAA.

None.

I hereby certify that the aforementioned determinations were issued during the period of January 12 through January 16, 2007. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: February 21, 2007.

Ralph DiBattista,

Director, Division of Trade Adjustment Assistance.

[FR Doc. E7–3275 Filed 2–26–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–60,786]

Hanes Brands, Inc., a/k/a Hanes Menswear, Ponce, PR; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on January 18, 2007 in response to a worker petition filed by a company official on behalf of workers at Hanes Menswear, a/k/a Hanes Brands, Inc., Ponce, Puerto Rico.

The petitioning group of workers is covered by an active certification, (TA–W–60,915), which expires on February 13, 2009. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 13th day of February, 2007.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–3276 Filed 2–26–07; 8:45 am]

BILLING CODE 4510–FN–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 March 9, 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 March 9, 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 15th day of February 2007.

Ralph Dibattista,

Director, Division of Trade Adjustment Assistance.

APPENDIX—TAA

[Petitions instituted between 2/5/07 and 2/9/07]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
60896	Merck and Company (Wkrs)	Albany, GA	02/05/07	02/01/07
60897	ADN Corporation (Wkrs)	Chicago, IL	02/05/07	01/02/07
60898	Thyssen Krupp Grankshafts Machining (Wkrs)	Danville, IL	02/05/07	01/08/07
60899	CCL Label St. Louis (Wkrs)	St. Charles, MO	02/05/07	01/30/07
60900	Martinrea Industries (Wkrs)	Clare, MI	02/05/07	02/02/07
60901	Perfect Fit Glove Co., LLC (Comp)	Buffalo, NY	02/05/07	02/01/07
60902	Tenet Healthcare (State)	Anaheim, CA	02/05/07	02/02/07
60903	Clarion Technologies, Inc. (Comp)	Ames, IA	02/05/07	01/30/07
60904	Reed Manufacturing Company, Inc. (Comp)	Tupelo, MS	02/05/07	02/02/07
60905	General Motors (UAW)	Janesville, WI	02/05/07	02/02/07
60906	Weyerhauser Company (UBCJA)	Eugene, OR	02/05/07	02/02/07
60907	Ski Country Imports, Inc. (Comp)	Denver, CO	02/05/07	02/02/07
60908	Georgia Pacific (Wkrs)	Muskogee, OK	02/05/07	02/02/07
60909	Kree Technologies, USA Inc. (Wkrs)	Plattsburg, NY	02/06/07	02/05/07
60910	HRU, Inc. (Comp)	Lansing, MI	02/06/07	01/31/07
60911	Truth Hardware (Wkrs)	West Hazleton, PA	02/06/07	02/05/07
60912	Quebecor World-Lincoln (State)	Lincoln, NE	02/07/07	02/02/07
60913	Reed Sportswear Manufacturing Co. (Wkrs)	Detroit, MI	02/07/07	12/15/06
60914	Martinrea-Reed City Tool and Die Division (Comp)	Reed City, MI	02/07/07	02/06/07
60915	Hanes-Ponce (Comp)	Ponce, PR	02/07/07	01/29/07
60916	AVX Corporation (Comp)	Raleigh, NC	02/07/07	01/26/07
60917	Kasper, Ltd (UNITE)	New York, NY	02/07/07	02/05/07
60918	Bosal Industries (Comp)	Columbia, TN	02/08/07	02/05/07
60919	Eaton Corporation (Comp)	Mantua, OH	02/08/07	02/07/07
60920	Allied Systems, Ltd. (Comp)	Chesapeake, VA	02/08/07	02/07/07
60921	Weyerhaeuser Company (Comp)	Springfield, OR	02/08/07	02/01/07
60922	RB and W Manufacturing, LL (Union)	Kent, OH	02/08/07	02/05/07
60923	Noutex Corporation (Comp)	Adams, MA	02/08/07	02/07/07
60924	Martco Limited Partnership/ROMEX WTC (State)	Alexandria, LA	02/08/07	02/05/07
60925	Westinghouse Electric Company Nuclear Automation (State).	New Britain, CT	02/08/07	02/07/07
60926	Verizon Business (Wkrs)	Cedar Rapids, IA	02/08/07	01/27/07
60927	IMI Cornelius Inc. (Comp)	Mason City, IA	02/08/07	02/07/07
60928	Florence Design Group (Comp)	Florence, AL	02/08/07	02/06/07
60929	Compuspar USA, Inc. (Wkrs)	Allentown, PA	02/09/07	02/07/07
60930	Helikon Furniture (State)	Taftville, CT	02/09/07	02/08/07
60931	Renfro Charleston, LLC (Comp)	Fort Payne, AL	02/09/07	02/07/07
60932	North Seas Yachts dba North Star Yachts (Comp)	Kalama, WA	02/09/07	02/06/07
60933	Gerson and Gerson Inc. (Comp)	Middlesex, NC	02/09/07	02/08/07
60934	Golden Manufacturing Co. (Wkrs)	Marietta, MS	02/09/07	01/29/07

[FR Doc. E7–3274 Filed 2–26–07; 8:45 am]
BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–60,862]

Springs Global, Hartwell Weaving and Yarn, Hartwell, GA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 31, 2007 in response to a petition filed by a company official on behalf of workers at Springs Global, Hartwell Weaving and Yarn, Hartwell, Georgia.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 13th day of February 2007.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–3273 Filed 2–26–07; 8:45 am]
BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL1–88]

MET Laboratories, Inc.; Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: This notice announces the Occupational Safety and Health Administration's final decision expanding the recognition of MET Laboratories, Inc., (MET) as a Nationally Recognized Testing Laboratory under 29 CFR 1910.7.

DATES: The expansion of recognition becomes effective on February 27, 2007.

FOR FURTHER INFORMATION CONTACT: MaryAnn Garrahan, Director, Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–3655, Washington, DC 20210, or phone (202) 693–2110.

SUPPLEMENTARY INFORMATION:

Notice of Final Decision

The Occupational Safety and Health Administration (OSHA) hereby gives notice of the expansion of recognition of MET Laboratories, Inc., (MET) as a Nationally Recognized Testing Laboratory (NRTL). MET's expansion covers the use of additional test standards. OSHA's current scope of recognition for MET may be found in the following informational Web page: *http://www.osha.gov/dts/otpca/nrtl/met.html.*

OSHA recognition of an NRTL signifies that the organization has met the legal requirements in Section 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products properly approved by the NRTL to meet OSHA standards that require testing and certification.

The Agency processes applications by an NRTL for initial recognition or for expansion or renewal of this recognition following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding and, in the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. We maintain an informational Web page for each NRTL that details its scope of recognition. These pages can be accessed from our Web site at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

MET submitted an application, dated August 23, 2005, (see Exhibit 39–1) to expand its recognition to include 10 additional test standards. MET later amended its application through a follow-up request to add 10 more test standards (see Exhibit 39–2). The NRTL Program staff determined that each of these standards is an ''appropriate test standard'' within the meaning of 29 CFR 1910.7(c). However, one of these standards is already included in MET's scope. Therefore, OSHA is approving 19 test standards for the expansion. In connection with this request, OSHA did not perform an on-site review of MET's NRTL testing facilities. However, NRTL Program assessment staff reviewed information pertinent to the request and recommended that MET's recognition be expanded to include the 19 additional test standards listed below (see Exhibit 39–3).

The preliminary notice announcing the expansion application was published in the **Federal Register** on August 17, 2006 (71 FR 47532). Comments were requested by September 1, but no comments were received in response to this notice.

The most recent application processed by OSHA specifically related to MET's recognition granted an expansion, and the final notice for this expansion was published on December 5, 2005 (70 FR 72470).

You may obtain or review copies of all public documents pertaining to the MET application by contacting the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–2625, Washington, DC, 20210. Docket No. NRTL1–88 contains all materials in the record concerning MET's recognition.

The current address of the MET facility already recognized by OSHA is: MET Laboratories, Inc., 914 West Patapsco Avenue, Baltimore, MD 21230.

Final Decision and Order

NRTL Program staff has examined the application, the assessor's recommendation, and other pertinent information. Based upon this examination and the assessor's recommendation, OSHA finds that MET has met the requirements of 29 CFR 1910.7 for expansion of its recognition, subject to the limitation and conditions listed below. Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the recognition of MET, subject to the following limitation and conditions.

Limitation

OSHA limits the expansion of MET's recognition to testing and certification of products for demonstration of conformance to the test standards listed below. OSHA has determined that each of these standards meets the requirements for an appropriate test standard, within the meaning of 29 CFR 1910.7(c).

UL 82	Electric Gardening Appliances.
UL 234	Low Voltage Lighting Fixtures for Use in Recreational Vehicles.
UL 298	Portable Electric Hand Lamps.
UL 588	Seasonal and Holiday Decorative Products.
UL 867	Electrostatic Air Cleaners.
UL 917	Clock-Operated Switches.
UL 987	Stationary and Fixed Electric Tools.
UL 1081	Swimming Pool Pumps, Filters, and Chlorinators.
UL 1090	Electric Snow Movers.
UL 1363	Relocatable Power Taps.
UL 1447	Electric Lawn Mowers.
UL 1448	Electric Hedge Trimmers.

UL 1450	Motor-Operated Air Compressors, Vacuum Pumps, and Painting Equipment.
UL 1559	Insect-Control Equipment—Electrocution Type.
UL 1563	Electric Spas, Equipment Assemblies, and Associated Equipment.
UL 1662	Electric Chain Saws.
UL 1776	High-Pressure Cleaning Machines.
UL 1994	Luminous Egress Path Marking Systems.
UL 2089	Vehicle Battery Adapters

The designation and title of the above test standards were current at the time of the preparation of the notice of the preliminary finding.

OSHA's recognition of MET, or any NRTL, for a particular test standard is limited to equipment or materials (i.e., products) for which OSHA standards require third-party testing and certification before use in the workplace. Consequently, if a test standard also covers any product(s) for which OSHA does not require such testing and certification, an NRTL's scope of recognition does not include that product(s).

Many UL test standards also are approved as American National Standards by the American National Standards Institute (ANSI). However, for convenience, we use the designation of the standards developing organization for the standard as opposed to the ANSI designation. Under our procedures, any NRTL recognized for an ANSI-approved test standard may use either the latest proprietary version of the test standard or the latest ANSI version of that standard. You may contact ANSI to find out whether or not a test standard is currently ANSI-approved.

Conditions

MET must also abide by the following conditions of the recognition, in addition to those already required by 29 CFR 1910.7:

OSHA must be allowed access to MET's facilities and records for purposes of ascertaining continuing compliance with the terms of its recognition and to investigate as OSHA deems necessary;

If MET has reason to doubt the efficacy of any test standard it is using under this program, it must promptly inform the test standard developing organization of this fact and provide that organization with appropriate relevant information upon which its concerns are based;

MET must not engage in or permit others to engage in any misrepresentation of the scope or conditions of its recognition. As part of this condition, MET agrees that it will allow no representation that it is either a recognized or an accredited Nationally Recognized Testing Laboratory (NRTL) without clearly indicating the specific equipment or material to which this recognition is tied, or that its recognition is limited to certain products;

MET must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major changes in its operations as an NRTL, including details;

MET will meet all the terms of its recognition and will always comply with all OSHA policies pertaining to this recognition; and

MET will continue to meet the requirements for recognition in all areas where it has been recognized.

Signed at Washington, DC, this 15th day of February, 2007.

Edwin G. Foulke, Jr.,

Assistant Secretary of Labor.

[FR Doc. E7–3294 Filed 2–26–07; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Extension of a Currently Approved Information Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until March 29, 2007.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below:

Clearance Officer: Mr. Neil McNamara, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–837–2861, E-mail: *OCIOmail@ncua.gov.*

OMB Reviewer: NCUA Desk Officer, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the information collection request, should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428 or at (703) 518–6444.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

OMB Number: 3133–0155.

Form Numbers: CLF–8700 CLF–8705 CLF–8706 NCUA–7005 CLF–10.

Type of Review: Extension of a currently approved collection.

Title: Central Liquidity Facility group/agent membership and loan activity forms.

Description: Forms used in conjunction with agent member's request for facility advances, to request agent membership in the Central Liquidity Facility and/or to establish terms of relationship between credit unions, agent members and agent group representatives.

Respondents: Credit unions.

Estimated No. of Respondents/Recordkeepers: 151.

Estimated Burden Hours per Response: 36.55 minutes.

Frequency of Response: Reporting and other (once).

Estimated Total Annual Burden Hours: 92.

Estimated Total Annual Cost: none.

By the National Credit Union Administration Board on February 20, 2007.

Mary Rupp,

Secretary of the Board.

[FR Doc. E7–3375 Filed 2–26–07; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until March 29, 2007.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer listed below:

Clearance Officer: Mr. Neil McNamara, National Credit Union

Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–837–2861, E-mail: *mcnamara@ncua.gov*.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the information collection request, should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

Title: Application of a State Chartered Credit Union for Insurance of Accounts.

OMB Number: 3133–0011.

Form Number: NCUA 9600.

Type of Review: Reinstatement, without change, of a previously approved collection.

Description: Section 201 of the Federal Credit Union Act (12 U.S.C. 1781) requires state-chartered credit unions desiring federal insurance to submit an application. The requirement also applies to federal credit unions converting to state charters and desiring federal insurance.

Respondents: State chartered credit unions and federal credit unions converting to state charter that desire federal insurance of member accounts.

Estimated No. of Respondents/ Recordkeepers: 15.

Estimated Burden Hours per Response: 3.6 hours.

Frequency of Response: Reporting. Upon application for federal insurance.

Estimated Total Annual Burden Hours: 54 hours.

Estimated Total Annual Cost: N/A.

By the National Credit Union Administration Board on February 20, 2007.

Mary Rupp,

Secretary of the Board.

[FR Doc. E7–3379 Filed 2–26–07; 8:45 am]

BILLING CODE 7535–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Sunshine Act Meetings

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATES: Weeks of February 26; March 5, 12, 19, 26; April 2, 2007.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of February 26, 2007

Monday, February 26, 2007

1:05 p.m.
Affirmation Session (Public Meeting) (Tentative).
a. Exelon Generation Company, LLC (Early Site Permit for Clinton ESP) (Tentative).

Tuesday, February 27, 2007

1:30 p.m.
Discussion of Security Issues (Closed—Ex. 1) (Tentative).

Wednesday, February 28, 2007.

9:30 a.m.
Periodic Briefing on New Reactor Issues (Public Meeting) (Contact: Donna Williams, 301 415–1322).

This meeting will be webcast live at the Web address— *http://www.nrc.gov*.

Week of March 5, 2007—Tentative

Monday, March, 5, 2007

1 p.m.
Meeting with Department of Energy on New Reactor Issues (Public Meeting).

This meeting will be webcast live at the Web address— *http://www.nrc.gov*.

Wednesday, March 7, 2007

9:30 a.m.
Briefing on Office of Nuclear Security and Incident Response (NSIR) Programs, Performance, and Plans (Public Meeting) (Contact: Miriam Cohen, 301 415–0260).

This meeting will be webcast live at the Web address— *http://www.nrc.gov*.

1 p.m.
Discussion of Security Issues (Closed—Ex. 1 and 3).

Thursday, March 8, 2007

10 a.m.
Briefing on Office of Nuclear Materials Safety and Safeguards (NMSS) Programs, Performance, and Plans (Public Meeting) (Contact: Gene Peters, 301 415–5248).

This meeting will be webcast live at the Web address— *http://www.nrc.gov*.

1 p.m.
Briefing on Office of Nuclear Reactor Regulation (NRR) Programs, Performance, and Plans (Public Meeting) (Contact: Reginald Mitchell, 301 415–1275).

This meeting will be webcast live at the Web address— *http://www.nrc.gov*.

Week of March 12, 2007—Tentative

There are no meetings scheduled for the Week of March 12, 2007.

Week of March 19, 2007—Tentative

Tuesday, March 20, 2007

1:30 p.m.
Briefing on Office of Information Services (OIS) Programs, Performance, and Plans (Public Meeting) (Contact: Edward Baker, 301 415–8700).

This meeting will be webcast live at the Web address—*http://www.nrc.gov*.

Week of March 26, 2007—Tentative

Thursday, March 29, 2007

9:30 a.m.
Discussion of Management Issues (Closed—Ex. 2).

1:30 p.m.
Discussion of Security Issues (Closed—Ex. 1, 3, & 9).

Week of April 2, 2007—Tentative

There are no meetings scheduled for the Week of April 2, 2007.

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Michelle Schroll, (301) 415–1662.

Additional Information

The Discussion of Management Issues (Closed—Ex. 2) previously scheduled on Tuesday, March 6, 2007, at 1 p.m. has been rescheduled on Thursday, March 29, 2007, at 9:30 a.m. The Briefing on Office of Federal and State Materials and Environmental Management (FSME) Programs, Performance, and Plans (Public Meeting) (Tentative) previously scheduled on Thursday, March 29, 2007, at 9:30 a.m. has been postponed and will be rescheduled.

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/what-we-do/policy-making/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g., braille, large print), please notify the NRC's Disability Program Coordinator, Deborah Chan, at 301–415–7041, TDD: 301–415–2100, or by e-mail at *DLC@nrc.gov*. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary,

Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: February 22, 2007.

R. Michelle Schroll,

Office of the Secretary.

[FR Doc. 07–896 Filed 2–23–07; 12:03 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Sunshine Act Meetings

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATES: Weeks of February 26, 2007.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

ADDITIONAL MATTERS TO BE CONSIDERED:

Week of February 26, 2007—Tentative

Monday, February 26, 2007.

1:05 p.m.

Affirmation Session (Public Meeting) (Tentative).

a. Exelon Generation Company, LLC (Early Site Permit for Clinton ESP) (Tentative).

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Michelle Schroll, (301) 415–1662.

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/what-we-do/policy-making/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify the NRC's Disability Program Coordinator, Deborah Chan, at 301–415–7041, TDD: 301–415–2100, or by e-mail at *DLC@nrc.gov*. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: February 16, 2007.

Michelle Schroll,

Office of the Secretary.

[FR Doc. 07–897 Filed 2–23–07; 12:03 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. The Act requires the Commission publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from February 2, 2007 through February 14, 2007. The last biweekly notice was published on February 13, 2007 (72 FR 6780).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner/requestor intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner/requestor intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff; (3) E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, *HearingDocket@nrc.gov;* or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at (301) 415–1101, verification number is (301) 415–1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and it is requested that copies be transmitted either by means of facsimile transmission to (301) 415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to the attorney for the licensee.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(i)–(viii).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov.*

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: August 2, 2006.

Description of amendment request: The proposed amendment will modify the statistical summation error term ''Z'' and one of the allowable values for certain steam generator water level trip setpoints used in the Reactor Trip System and Engineered Safety Feature Actuation System instrumentation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change to revise the statistical summation error term ''Z'' and one of the allowable values for certain steam generator water level (SGWL) reactor protection and engineered safety feature actuation functions continues to follow the current setpoint methodology previously approved for HNP [Shearon Harris Nuclear Power Plant, Unit 1] while addressing newly identified level uncertainty considerations. The proposed change does not alter the installed plant configuration for the affected instrumentation or the associated equipment system interfaces. The proposed change continues to maintain the assumptions for the specified instrument loops used in the Final Safety Analysis Report (FSAR) for HNP, and the channel statistical allowances (CSA) or calculated total loop uncertainties remain bounded by the total allowance (TA) values presented in the HNP Technical Specifications (TS). The proposed change does not alter the accident analyses or the causes for any accident described in the FSAR that credit the SGWL setpoint actuations. The proposed amendment will not modify, degrade, prevent actions or alter any assumptions previously made in evaluating the radiological consequences of an accident described in the FSAR.

Therefore, this amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change to revise the statistical summation error term ''Z'' and one of the allowable values for certain SGWL reactor protection and engineered safety feature actuation functions addresses newly identified level uncertainty considerations. The proposed change does not implement any physical changes to the systems, structures, or components for the affected instrumentation loops or to the associated equipment system interfaces. No new or different accident initiators or sequences are created by the proposed change. The proposed change continues to maintain the safety analysis limits used in the safety analyses that credit the specified actuation functions.

Therefore, this amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change to revise the statistical summation error term ''Z'' and one of the allowable values for certain SGWL reactor protection and engineered safety feature actuation functions addresses newly identified level uncertainty considerations and does not involve a reduction in the margin of safety for plant operation. Consistent with the requirements of the HNP FSAR, the proposed change has been evaluated to ensure that the assumptions for the specified instrument loops used in the FSAR continue to be maintained and that the CSA or calculated total loop uncertainties remain bounded by the TA values presented in the HNP TS. The proposed change continues to follow the current setpoint methodology previously approved for HNP, and the revised uncertainty analysis results in acceptable calculational margin.

Therefore, this amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: David T. Conley, Associate General Counsel II—Legal Department, Progress Energy Service Company, LLC, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Acting Branch Chief: Margaret H. Chernoff.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: December 20, 2006.

Description of amendment request: The amendment will revise Technical Specification (TS) 6.12 ''High Radiation Area.'' Specifically, the proposed amendment would align the requirements with the revised 10 CFR 20 as described in Regulatory Guide 8.38, Revision 1, ''Control of Access to High and Very High Radiation Areas in Nuclear Power Plants.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The changes are administrative and affect personnel access control requirements for high radiation areas. The changes do not affect the operation, physical configuration, or function of plant equipment or systems. The changes do not impact the initiators or assumptions of analyzed events; nor do they impact the mitigation of accidents or transient events. Therefore, these changes do not increase the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new of [or] different kind of accident from any accident previously evaluated?

Response: No.

The changes are administrative and affect personnel access control requirements for high radiation areas. The changes do not alter plant configuration, require installation of new equipment, alter assumptions about previously analyzed accidents, or impact the operation or function of plant equipment or systems. Therefore, these changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The changes are administrative and affect personnel access control requirements for high radiation areas. The changes do not impact any safety assumptions; nor do the changes have the potential to reduce any margin of safety as described in the HNP [Shearon Harris Nuclear Power Plant, Unit 1] TS Bases. The proposed changes maintain an equivalent level of protection for radiation workers and, thereby, provide reasonable assurance that individuals will not exceed regulatory dose limits. The proposed changes are consistent with: (1) The guidance of Regulatory Guide (RG) 8.38, ''Control of Access to High and Very High Radiation Areas in Nuclear Power Plants,'' Section C, Regulatory Position 2.4, Alternative Methods for Access Control, with the exception that ''should'' has been changed to ''shall''; and (2) other nuclear plants' existing TSs such as those at Brunswick Steam Electric Plant Units 1 & 2. Based on this evaluation, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: David T. Conley, Associate General Counsel II—Legal Department, Progress Energy Service Company, LLC, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Acting Branch Chief: Margaret H. Chernoff.

Duke Power Company LLC, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of amendment request: January 4, 2007.

Description of amendment request: The proposed amendments would remove gaseous radioactivity monitoring from the Technical Specifications (TSs) as an acceptable option for reactor coolant leakage detection.

Basis for proposed no significant hazards consideration determination:

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Pursuant to 10 CFR 50.91, Duke has made the determination that this amendment request does not involve a significant hazards consideration by applying the standards established by the NRC regulations in 10 CFR 50.92. This ensures that operation of the facility in accordance with the proposed amendment would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The removal of the gaseous containment atmosphere radioactivity monitor from [the] TS as an acceptable alternative to the particulate containment atmosphere radioactivity monitor will not reduce the number of operable leak detection channels which the Technical Specification LCO [limiting condition for operation] currently provides. The gaseous monitor which is being removed from [the] Technical Specifications is the least sensitive and has the highest response time of the three available leakage monitors currently in the Technical Specification. The remaining particulate radioactivity monitor will provide greater leak detection capability by comparison. Therefore, removal of the gaseous radioactivity monitor from the Technical Specification LCO cannot increase the probability or consequence of an accident.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated.

RCS [reactor coolant system] leakage detection instrumentation functions to provide control room operators with information which is indicative of a degraded RCS pressure boundary. Removal of RIA 49 from [the] TS will, in effect, remove the ''weakest link'' in the leakage detection system requirements of the LCO. It is important to note that RIA 49 will remain available. The change only removes it from the LCO, not from the plant. So, the result will be an enhanced capability for detecting RCS leakage in a timely manner. This enhancement, although small, could enable the operator to identify a precursor to a LOCA [loss-of-coolant accident] and take actions to safely shutdown the plant for repairs prior to actually experiencing a significant transient (LOCA). While the leakage detection system cannot prevent all LOCAs, these are accidents which have been evaluated in the UFSAR [updated final safety analysis report]. In no case would this enhancement be capable of creating a new or different kind of accident than previously evaluated.

(3) Involve a significant reduction in a margin of safety.

The proposed change does not reduce the number of instrument channels required by the LCO for the leakage detection system. The LCO will still ensure that both a normal sump level instrument and a containment atmosphere radioactivity instrument are operable as before. It only removes one available option for satisfying the requirement for a containment atmosphere radioactivity monitor. The remaining containment atmosphere radioactivity monitor has greater sensitivity and faster response time than the monitor that is being removed from the Technical Specification. No other plant equipment is affected by the proposed change. Thus, there is no adverse impact on the capability to detect an RCS leak. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Lisa F. Vaughn, Associate General Counsel and Managing Attorney, Duke Energy Carolinas, LLC, 526 South Church Street, EC07H, Charlotte, NC 28202.

NRC Branch Chief: Evangelos C. Marinos.

Energy Northwest, Docket No. 50–397, Columbia Generating Station, Benton County, Washington

Date of amendment request: May 31, 2005, as supplemented by letters dated February 8, 2006, and January 5, 2007.

Description of amendment request: The proposed amendment modifies Technical Specification (TS) Sections 3.8.1, ''AC [Alternating Current] Sources—Operating,'' 3.8.4, ''DC [Direct Current] Sources—Operating,'' 3.8.5, ''DC Sources—Shutdown,'' 3.8.6, ''Battery Cell Parameters,'' and 5.5, ''Programs and Manuals.'' The proposed change incorporates clarifying requirements in surveillance testing of diesel generators and new actions for an inoperable battery charger. The proposed change includes a revision to the Administrative Program to be consistent with Institute of Electrical and Electronics Engineers Standard 450–2002, and changes consistent with TS Task Force (TSTF) Traveler TSTF–360, Revision 1, ''DC Electrical Rewrite,'' and TSTF–283, Revision 3, ''Modify Section 3.8 Mode Restriction Notes.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The emergency diesel generators (DGs) and their associated emergency loads are accident-mitigating features. As such, testing of the DGs themselves is not associated with any potential accident initiating mechanism. Each DG is dedicated to a specific vital bus and these buses and DGs are independent of each other. There is no common mode failure provided by the testing changes proposed in this license amendment request (LAR) that would cause multiple bus failures. Therefore, there will be no significant impact on any accident probabilities by the approval of the requested amendment.

SR [surveillance requirement] changes that are consistent with Industry/Technical Specification Task Force (TSTF) Standard Technical Specification (STS) change TSTF–283, Revision 3 have been approved by the NRC and the online tests allowed by the TSTF are only to be performed for the purpose of establishing operability. Performance of these SRs during normally restricted modes will require an assessment to assure plant safety is maintained or enhanced.

The proposed changes restructure the TS for the direct current (DC) electrical power system, consistent with TSTF–360, Revision 1. The proposed changes add actions to specifically address battery and battery charger inoperability. The DC electrical power system, including associated battery chargers, is not an initiator of any accident sequence analyzed in the Final Safety Analysis Report (FSAR). Operation in accordance with the proposed TS ensures that the DC electrical power system is capable of performing its function as described in the FSAR. Therefore, the mitigating functions supported by the DC electrical power system will continue to provide the protection assumed by the analysis.

The relocation of preventive maintenance surveillances, and certain operating limits and actions, to a newly-created licensee-controlled Battery Monitoring and Maintenance Program will not challenge the ability of the DC electrical power system to perform its design function. Appropriate monitoring and maintenance, consistent with industry standards, will continue to be performed. In addition, the DC electrical power system is within the scope of 10 CFR 50.65, ''Requirements for monitoring the effectiveness of maintenance at nuclear power plants,'' which will ensure the control of maintenance activities associated with the DC electrical power system.

The integrity of fission product barriers, plant configuration, and operating procedures as described in the FSAR will not be affected by the proposed changes. Therefore, the consequences of previously analyzed accidents will not increase by implementing these changes.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes involve restructuring the TS for the DC electrical power system. The DC electrical power system, including associated battery chargers, is not an initiator to any accident sequence analyzed in the FSAR. Rather, the DC electrical power system is used to supply equipment used to mitigate an accident.

The proposed change would create no new accidents since no changes are being made to the plant that would introduce any new accident causal mechanisms. Diesel Generators will be operated in the same configuration currently allowed by other DG SRs that allow testing in plant Modes 1 and 2 and 3. This license amendment request does not impact any plant systems that are accident initiators or adversely impact any accident mitigating systems.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change does not involve a significant reduction in the margin of safety. The margin of safety is related to the ability of the fission product barriers to perform their design functions during and following an accident situation. These barriers include the fuel cladding, the reactor coolant system, and the containment system. The proposed changes to the testing requirements for the plant DGs do not affect the operability requirements for the DGs, as verification of such operability will continue to be performed as required. Continued verification of operability supports the capability of the DGs to perform their required function of providing emergency power to plant equipment that supports or constitutes the fission product barriers. Consequently, the performance of these fission product barriers will not be impacted by implementation of this proposed amendment.

In addition, the margin of safety is established through equipment design, operating parameters, and the setpoints at which automatic actions are initiated. The proposed changes will not adversely affect operation of plant equipment. These changes will not result in a change to the setpoints at which protective actions are initiated. Sufficient AC and DC capacity to support operation of mitigation equipment is ensured. The changes associated with the new battery maintenance and monitoring program will ensure that the station batteries are maintained in a highly reliable manner. The equipment fed by the DC electrical sources will continue to provide adequate power to safety related loads in accordance with analysis assumptions.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William A. Horin, Esq., Winston & Strawn, 1700 K Street, NW., Washington, DC 20006–3817.

NRC Branch Chief: David Terao.

Nuclear Management Company, LLC, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: September 25, 2006.

Description of amendment request: The proposed amendment would revise the Palisades Nuclear Plant (PNP) licensing bases to adopt the alternative source term (AST) as described in Title 10 of the Code of Federal Regulations (CFR) Section 50.67 following the guidance provided in Regulatory Guide (RG) 1.183. This application includes an amendment to the Technical Specifications, Definition 1.1, Dose Equivalent I–131.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Response: No.

Alternative source term calculations have been performed for PNP that demonstrate the dose consequences remain below limits specified in NRC Regulatory Guide 1.183 and 10 CFR 50.67. The proposed change does not modify the design or operation of the plant. The use of an AST changes only the regulatory assumptions regarding the analytical treatment of the design basis accidents and has no direct effect on the probability of any accident.

The AST has been utilized in the analysis of the limiting design basis accidents listed above [Loss-of-Coolant Accident, Main Steam Line Break, Steam Generator Tube Rupture, Small Line Break Outside Containment, Control Rod Ejection, Fuel Handling Accident, and Spent Fuel Cask Drop]. The results of the analyses, which include the proposed changes to the Technical Specifications, demonstrate that the dose consequences of these limiting events are all within the regulatory limits.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Response: No.

The proposed change does not affect any plant structures, systems, or components. The proposed operation of plant systems and equipment affected by this change does not create the possibility of a new or different kind of accident previously evaluated. The proposed modifications and post-modification testing are intended to enhance the capability of the plant to comply with the revised post accident dose results presented in this submittal. Since the alternative source term is a revised methodology used to estimate resulting accident doses, it is not an accident initiator.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

Response: No.

The proposed implementation of the alternative source term methodology is consistent with NRC Regulatory Guide 1.183. Conservative methodologies, per the guidance of RG 1.183, have been used in performing the accident analyses. The radiological consequences of these accidents are all within the regulatory acceptance criteria associated with use of the alternative source term methodology.

The proposed changes continue to ensure that the doses at the exclusion area and low population zone boundaries and in the control room are within the corresponding regulatory limits of RG 1.183 and 10 CFR 50.67. The margin of safety for the radiological consequences of these accidents is considered to be that provided by meeting the applicable regulatory limits, which are set at or below the 10 CFR 50.67 limits. An acceptable margin of safety is inherent in these limits.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jonathan Rogoff, Esquire, Vice President, Counsel & Secretary, Nuclear Management Company, LLC, 700 First Street, Hudson, WI 54016.

NRC Acting Branch Chief: Patrick D. Milano.

Nuclear Management Company, LLC, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Units 1 and 2, Goodhue County, Minnesota

Date of amendment request: December 14, 2006.

Description of amendment request: The proposed amendments would revise the reference to ''trash racks and screens'' in Technical Specification (TS) 3.5.2, ''ECCS [Emergency Core Cooling System]—Operating'', Surveillance Requirement (SR) 3.5.2.8 and revise the

required Refueling Water Storage Tank (RWST) level in TS 3.5.4, ''Refueling Water Storage Tank (RWST).'' This License Amendment Request (LAR) fulfills the commitment made in the supplement to Nuclear Management Company Response to Generic Letter 2004–02, ''Potential Impact of Debris Blockage on Emergency Recirculation During Design Basis Accidents at Pressurized-Water Reactors,'' to submit an LAR to revise SR 3.5.2.8 by December 31, 2006.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

This license amendment request proposes to revise the Technical Specifications by changing the containment sump inlet debris interceptor description in Surveillance Requirement 3.5.2.8 and increasing the Refueling Water Storage Tank level in Surveillance Requirement 3.5.4.1 to 265,000 gallons which corresponds to approximately 90% indicated instrumentation level. These changes support resolution of containment sump blockage issues raised in Nuclear Regulatory Commission Bulletin 2003–01, ''Potential Impact Of Debris Blockage On Emergency Sump Recirculation At Pressurized-Water Reactors'' and Generic Letter 2004–02, ''Potential Impact Of Debris Blockage On Emergency Recirculation During Design Basis Accidents At Pressurized-Water Reactors.''

The containment sump inlet debris interceptor is a plant design feature which mitigates accidents and does not initiate accidents. Therefore, the proposed change does not involve a significant increase in the probability of an accident. The new sump strainers for use as debris interceptors have been evaluated to withstand the applicable post accident loads without trash racks and thus the description change in Surveillance Requirement 3.5.2.8 does not involve a significant increase in the consequences of an accident previously evaluated.

The Refueling Water Storage Tank is required for accident mitigation and is not an accident initiator, thus requiring additional water volume in the tank does not involve a significant increase in the probability of an accident previously evaluated. Since the proposed change increases the water volume in the Refueling Water Storage Tank available for accident mitigation, this change may decrease the consequences of an accident.

Thus, the changes proposed in this license amendment request do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

This license amendment request proposes to revise the Technical Specifications by changing the containment sump inlet debris interceptor description in Surveillance Requirement 3.5.2.8 and increasing the Refueling Water Storage Tank level in Surveillance Requirement 3.5.4.1 to 265,000 gallons which corresponds to approximately 90% indicated instrumentation level. These changes support resolution of containment sump blockage issues raised in Nuclear Regulatory Commission Bulletin 2003–01, ''Potential Impact Of Debris Blockage On Emergency Sump Recirculation At Pressurized-Water Reactors'' and Generic Letter 2004–02, ''Potential Impact Of Debris Blockage On Emergency Recirculation During Design Basis Accidents At Pressurized-Water Reactors.''

The proposed Technical Specification containment sump suction inlet debris interceptor description revision does not create the possibility of a new or different kind of accident. There are no new failure modes or mechanisms created by the new strainers and there are no new accident precursors generated due to this change. The new strainers do not change the way in which the plant is operated.

The proposed Technical Specification Refueling Water Storage Tank level increase does not involve a change in system operation or the use of the Refueling Water Storage Tank. It does increase the quantity of water in the Refueling Water Storage Tank available for accident mitigation. There are no new failure modes or mechanisms created by the availability or use of an additional water volume in the Refueling Water Storage Tank as proposed by this Technical Specification change. There are no new accident precursors generated with the storage of additional water in the Refueling Water Storage Tank.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

This license amendment request proposes to revise the Technical Specifications by changing the containment sump inlet debris interceptor description in Surveillance Requirement 3.5.2.8 and increasing the Refueling Water Storage Tank level in Surveillance Requirement 3.5.4.1 to 265,000 gallons which corresponds to approximately 90% indicated instrumentation level. These changes support resolution of containment sump blockage issues raised in Nuclear Regulatory Commission Bulletin 2003–01, ''Potential Impact Of Debris Blockage On Emergency Sump Recirculation At Pressurized-Water Reactors'' and Generic Letter 2004–02, ''Potential Impact Of Debris Blockage On Emergency Recirculation During Design Basis Accidents At Pressurized-Water Reactors.''

The proposed Technical Specification containment sump debris interceptor description revision does not involve a significant reduction in a margin of safety. The new sump strainers for use as debris interceptors have been evaluated to withstand the applicable post accident loads without trash racks and thus do not involve a significant reduction in a margin of safety. The new strainers provide additional debris interceptor flow area to the sump and thus may improve plant margins of safety.

The proposed change will increase the required water volume to be stored in the Refueling Water Storage Tank which means additional water will be available to mitigate accidents. This change does not involve a decrease in the margin of safety, but may involve an increase in the margin of safety.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Jonathan Rogoff, Esquire, Vice President, Counsel & Secretary, Nuclear Management Company, LLC, 700 First Street, Hudson, WI 54016.

NRC Acting Branch Chief: P. Milano.

TXU Generation Company LP, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Units 1 and 2, Somervell County, Texas

Date of amendment request: February 21, 2006.

Brief description of amendments: The amendments revise the Technical Specification (TS) 1.1, ''Definitions,'' and TS 3.4.16, ''RCS [Reactor Coolant System] Specific Activity,'' by removing the current TS 3.4.16 limits on RCS gross-specific activity with a new dose equivalent XE–133 definition that would replace the current E-bar average disintegration energy definition. In addition, the current dose equivalent I–131 definition would be revised to allow the use of alternate, NRC-approved thyroid dose conversion factors.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes to add new thyroid dose conversion factor reference[s] to the definition of DOSE EQUIVALENT I–131, eliminate the definition of Ē—AVERAGE DISINTEGRATION ENERGY, add a new

definition of DOSE EQUIVALENT XE–133, replace the Technical Specification (TS) 3.4.16 limit on reactor coolant system (RCS) gross specific activity with a limit on noble gas specific activity in the form of a Limiting Condition for Operation (LCO) on DOSE EQUIVALENT XE–133, replace TS Figure 3.4.16–1 with a maximum limit on DOSE EQUIVALENT I–131, extend the Applicability of LCO 3.4.16, and make corresponding changes to TS 3.4.16 to reflect all of the above are not accident initiators and have no impact on the probability of occurrence for any design basis accidents.

The proposed changes will have no impact on the consequences of a design basis accident because they will limit the RCS noble gas specific activity to be consistent with the values assumed in the radiological consequence analyses. The changes will also limit the potential RCS iodine concentration excursion to the value currently associated with full power operation, which is more restrictive on plant operation than the existing allowable RCS iodine specific activity at lower power levels.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not alter any physical part of the plant nor do they affect any plant operating parameters besides the allowable specific activity in the RCS. The changes which impact the allowable specific activity in the RCS are consistent with the assumptions assumed in the current radiological consequence analyses.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

The acceptance criteria related to the proposed changes involve the allowable Control Room and offsite radiological consequences following a design basis accident. The proposed changes will have no impact on the radiological consequences of a design basis accident because they will limit the RCS noble gas specific activity to be consistent with the values assumed in the radiological consequence analyses. The changes will also limit the potential RCS iodine specific activity excursion to the value currently associated with full power operation, which is more restrictive on plant operation than the existing allowable RCS iodine specific activity at lower power levels.

Therefore the proposed change does not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: George L. Edgar, Esq., Morgan, Lewis and Bockius, 1800 M Street, NW., Washington, DC 20036.

NRC Branch Chief: David Terao.

Virginia Electric and Power Company, Docket Nos. 50–280 and 50–281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment request: January 31, 2007.

Description of amendment request: The proposed change revises the Technical Specification (TS) surveillance requirements (SR) for addressing a missed surveillance, and is consistent with the Nuclear Regulatory Commission (NRC) approved Revision 6 of Technical Specification Task Force (TSTF) Standard Technical Specifications (STS) Change Traveler TSTF–358, ''Missed Surveillance Requirements.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change to incorporate the requirements of improved STS SR 3.0.1 and SR 3.0.3 into corresponding Surry TS SR 4.0.1 and SR 4.0.3, respectively, does not affect the design or operation of the plant. The proposed change involves revising the existing Surry custom TS to be consistent with NUREG–1431, Revision 3, to facilitate the incorporation of TSTF–358 into the TS. The proposed change involves no technical changes to the existing TS as it merely clarifies how SRs are met. As such, these changes are administrative in nature and do not affect initiators of analyzed events or assumed mitigation of accident or transient events. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change to incorporate the requirements of improved STS SR 3.0.1 and SR 3.0.3 into corresponding Surry TS SR 4.0.1 and SR 4.0.3, respectively, does not involve a physical alteration to the plant (no new or different type of equipment will be installed) or changes in methods governing normal plant operation. The proposed change revises the existing Surry TS to be consistent with NUREG–1431, Revision 3, to clarify how SRs are met and facilitates the incorporation of TSTF–358 for addressing missed surveillances. As such, the proposed change will not impose any new or different requirements or eliminate any existing requirements. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

The proposed change to incorporate the requirements of improved STS SR 3.0.1 and SR 3.0.3 into corresponding Surry TS SR 4.0.1 and SR 4.0.3, respectively, does not affect plant operation or safety analysis assumptions in any way. The change provides additional clarification on how a surveillance is met and facilitates the incorporation of TSTF–358 for addressing missed surveillances. The change is administrative in nature and does not affect the operation of safety-related systems, structures, or components. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Counsel, Dominion Resources Services, Inc., Millstone Power Station, Building 475, 5th Floor, Rope Ferry Road, Rt. 156, Waterford, Connecticut 06385.

NRC Branch Chief: Evangelos C. Marinos.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Carolina Power & Light, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: January 19, 2007.

Brief description of amendment request: The proposed amendment would modify Technical Specification

(TS) 5.5.9 to add steam generator (SG) alternate repair criteria and TS 5.6.8 to add additional SG reporting requirements.

Date of publication of individual notice in ***Federal Register***: January 30, 2007 (72 FR 4300).

Expiration date of individual notice: April 2, 2007.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) The applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov*.

Dominion Nuclear Connecticut, Inc., Docket No. 50–336, Millstone Power Station, Unit No. 2, New London County, Connecticut

Date of application for amendment: February 7, 2006, as supplemented by letters dated August 14 and November 16, 2006.

Brief description of amendment: The amendment revised the Millstone Power Station, Unit No. 2 Technical Specifications to permit an increase in the allowed outage time from 72 hours to 7 days for the inoperability of the steam supply to the turbine-driven auxiliary feedwater (AFW) pump or the inoperability of the turbine-driven AFW pump under certain operating mode restrictions.

Date of issuance: January 31, 2007.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment No.: 297.

Facility Operating License No. DPR–65: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register***: April 11, 2006 (71 FR 18372). The supplements dated August 14, and November 16, 2006, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 31, 2007.

No significant hazards consideration comments received: No.

Energy Northwest, Docket No. 50–397, Columbia Generating Station, Benton County, Washington

Date of application for amendment: April 17, 2006.

Brief description of amendment: This amendment changed the method for calculating fuel pool decay heat load from the original licensing basis methodology of ORIGEN to ORIGEN-ARP.

Date of issuance: February 8, 2007.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment No.: 200.

Facility Operating License No. NPF–21: The amendment revised the Final Safety Analysis Report.

Date of initial notice in ***Federal Register****:* May 23, 2006 (71 FR 29674). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 8, 2007.

No significant hazards consideration comments received: No.

Energy Northwest, Docket No. 50–397, Columbia Generating Station, Benton County, Washington

Date of application for amendment: April 18, 2006.

Brief description of amendment: The amendment revised Technical Specification (TS) Surveillance Requirement (SR) 3.6.1.1.2 by changing the test frequency of the drywell-to-suppression chamber bypass leakage test from 24 months to 120 months. The amendment also added new TS SRs 3.6.1.1.3 and 3.6.1.1.4, to test the suppression chamber-to-drywell vacuum breakers on a 24-month frequency.

Date of issuance: February 9, 2007.

Effective date: As of its date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment No.: 201.

Facility Operating License No. NPF–21: The amendment revised the Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register:*** May 23, 2006 (71 FR 29674). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 9, 2007.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: June 14, 2006, as supplemented by letter dated November 7, 2006.

Brief description of amendment: The amendment approved the removal of Surveillance Requirement 4.8.1.1.2.f from the Waterford Steam Electric Station, Unit 3, Technical Specifications. Entergy Operations, Inc. has committed to relocate this surveillance requirement, which is associated with vendor recommended inspections of the emergency diesel generators, to the Technical Requirements Manual.

Date of issuance: February 6, 2007.

Effective date: As of the date of issuance and shall be implemented 60 days from the date of issuance.

Amendment No.: 211.

Facility Operating License No. NPF–38: The amendment revised the Operating License and the Technical Specifications.

Date of initial notice in ***Federal Register***: August 15, 2006 (71 FR

46931). The November 7, 2006, supplemental letter provided additional clarifying information, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 6, 2007.

No significant hazards consideration comments received: No.

FPL Energy Duane Arnold, LLC, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: March 1, 2006, as supplemented by letter dated August 17, 2006.

Brief description of amendment: The amendment modifies Special Operations Limiting Condition for Operation (LCO) 3.10.1, ''System Leakage and Hydrostatic Testing Operation,'' to allow more efficient testing during a refueling outage. Specifically, the LCO 3.10.1 allowance for operation with the average reactor coolant temperature greater than 212 °F (while considering operational conditions to be in Mode 4), is extended to include operations where temperature exceeds 212 °F: (1) As a consequence of maintaining adequate reactor pressure for a system leakage or hydrostatic test; or (2) as a consequence of maintaining adequate reactor pressure for control rod scram time testing initiated in conjunction with a system leakage or hydrostatic test. This change is based on the NRC-approved Technical Specification Task Force (TSTF) standard TS change TSTF–484, Revision 0.

Date of issuance: February 5, 2007.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 264

Facility Operating License No. DPR–49: The amendment revises the TSs.

Date of initial notice in ***Federal Register****:* (71 FR 70560) December 5, 2006. The supplement provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination, as published in the **Federal Register** on December 5, 2006 (71 FR 70560).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 5, 2007.

No significant hazards consideration comments received: No.

GPU Nuclear, Inc., Docket No. 50–320, Three Mile Island Nuclear Station, Unit 2, Dauphin County, Pennsylvania

Date of amendment request: October 10, 2006.

Brief description of amendment: The amendment revises Technical Specification Surveillance Requirement 4.1.1.3 to extend the containment airlock surveillance frequency from once per year to once every five years.

Date of issuance: February 7, 2007.

Effective date: February 7, 2007.

Amendment No.: 61.

Possession Only License No. DPR–73: The amendment revises the Technical Specifications.

Date of initial notice in ***Federal Register****:* December 5, 2006 (71 FR 70560). The Commission's related evaluation of the amendment is contained in a Safety Evaluation Report, dated February 7, 2007.

No significant hazards consideration comments received: No.

Nuclear Management Company, Docket No. 50–263, Monticello Nuclear Generating Plant (MNGP), Wright County, Minnesota

Date of application for amendment: November 14, 2006, as supplemented on December 28, 2006.

Brief description of amendment: The amendment revised Table 3.3.5.1–1, ''Emergency Core Cooling System Instrumentation,'' of the MNGP Technical Specifications, to permit a one-time extension of the quarterly surveillance interval (*i.e.*, from 92 days to 140 days), for three low pressure coolant injection loop select logic functions.

Date of issuance: January 18, 2007.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment No: 149.

Renewed Facility Operating License No. DPR–22: Amendment revised the Renewed Facility Operating License and Technical Specifications.

The supplemental letter contained clarifying information and did not change the initial no significant hazards consideration determination, and did not expand the scope of the original **Federal Register** notice.

Date of initial notice in ***Federal Register****:* December 19, 2006 (71 FR 75995). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 18, 2007.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket No. 50–259 Browns Ferry Nuclear Plant, Unit 1, Limestone County, Alabama

Date of application for amendment: November 9, 2006 (TS–458).

Brief description of amendment: The amendment deleted the Technical Specification (TS) Surveillance Requirement to verify the position of a low pressure coolant injection crosstie valve.

Date of issuance: February 6, 2007.

Effective date: Effective as of the date of issuance, to be implemented within 30 days.

Amendment No.: 268.

Renewed Facility Operating License No. DPR–33: Amendment revised the TSs.

Date of initial notice in ***Federal Register****:* November 20, 2006 (71 FR 671600). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated: February 6, 2007.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 15th day of February 2007.

For the Nuclear Regulatory Commission.

John W. Lubinski,

Acting Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E7–3199 Filed 2–26–07; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP): Import Statistics Relating to Competitive Need Limitations (CNLs); Invitation for Public Comment on CNL Waivers Subject to Potential Revocation Based on New Statutory Thresholds, Possible *De Minimis* Waivers, and Product Redesignations

AGENCY: Office of the United States Trade Representative (USTR).

ACTION: Notice.

SUMMARY: This notice is to inform the public of the availability of full 2006 calendar year import statistics relating to competitive need limitations (CNLs) under the Generalized System of Preferences (GSP) program. Public comments are invited by 5 p.m., Friday, March 16, 2007, regarding possible *de minimis* CNL waivers with respect to particular articles and possible redesignations under the GSP program of articles currently not eligible for GSP benefits because they previously exceeded the CNLs. Additionally,

public comments are invited by 5 p.m., Friday, March 23, 2007, regarding the potential revocation of CNL waivers that meet the new statutory thresholds set forth by section 503(d)(4)(B)(ii) of the Trade Act of 1974 (19 U.S.C. 2463(d)(4)(B)(ii)), as amended by Public Law 109–432.

FOR FURTHER INFORMATION CONTACT: The GSP Subcommittee of the Trade Policy Staff Committee, Office of the United States Trade Representative, 1724 F Street, NW., Room F–220, Washington, DC 20508. The telephone number is (202) 395–6971.

SUPPLEMENTARY INFORMATION:

I. Competitive Need Limitations

The GSP program provides for the duty-free importation of designated articles when imported from designated beneficiary developing countries (BDCs). The GSP program is authorized by title V of the Trade Act of 1974 (19 U.S.C. 2461, *et seq.*), as amended (the ''1974 Act''), and is implemented in accordance with Executive Order 11888 of November 24, 1975, as modified by subsequent Executive Orders and Presidential Proclamations.

Section 503(c)(2)(A) of the 1974 Act sets out the two CNLs. When the President determines that a BDC exported to the United States during a calendar year either (1) a quantity of a GSP-eligible article having a value in excess of the applicable amount for that year ($125 million for 2006), or (2) a quantity of a GSP-eligible article having a value equal to or greater than 50 percent of the value of total U.S. imports of the article from all countries (the ''50 percent CNL''), the President must terminate GSP duty-free treatment for that article from that BDC by no later than July 1 of the next calendar year.

De minimis waivers. Under section 503(c)(2)(F) of the 1974 Act, the President may waive the 50 percent CNL with respect to an eligible article imported from a BDC if the value of total imports of that article from all countries during the calendar year did not exceed the applicable *de minimis* amount for that year ($18 million for 2006).

Redesignations. Under section 503(c)(2)(C) of the 1974 Act, if imports of an eligible article from a BDC ceased to receive duty-free treatment due to exceeding a CNL in a prior year, the President may, subject to the considerations in sections 501 and 502 of the 1974 Act, redesignate such an article for duty-free treatment if imports in the most recently completed calendar year did not exceed the CNLs.

CNL waiver revocation. Under Section 503(d)(5) of the 1974 Act, a CNL waiver remains in effect until the President determines that it is no longer warranted due to changed circumstances. Section 503(d)(4)(B)(ii) of the 1974 Act, as amended by Public Law 109–432, also provides that, ''[n]ot later than July 1 of each year, the President should revoke any waiver that has then been in effect with respect to an article for 5 years or more if the beneficiary developing country has exported to the United States (directly or indirectly) during the preceding calendar year a quantity of the article (I)—having an appraised value in excess of 1.5 times the applicable amount set forth in subsection (c)(2)(A)(ii) for that calendar year [$187.5 million in 2006]; or (II) exceeding 75 percent of the appraised value of the total imports of that article into the United States during that calendar year.''

II. Implementation of Competitive Need Limitations, Waivers, and Redesignations

Exclusions from GSP duty-free treatment where CNLs have been exceeded will be effective July 1, 2007, unless granted a waiver by the President. Any CNL-based exclusions, CNL waiver revocations, and decisions with respect to *de minimis* waivers and redesignations will be based on full 2006 calendar year import data.

III. 2006 Import Statistics

In order to provide notice of articles that have exceeded the CNLs for 2006, and to afford an opportunity for comment regarding potential *de minimis* waivers, redesignations, and the potential revocation of waivers that are subject to the new CNL waiver thresholds provided by section 503(d)(4)(B)(ii) of the 1974 Act, as amended by Public Law 109–432, import data for 2006 are available at *http://www.ustr.gov/Trade_Development/Preference_Programs/GSP/Section_Index.html*). Full 2006 calendar year data for individual tariff subheadings may be viewed on the Web site of the U.S. International Trade Commission at *http://dataweb.usitc.gov/*.

The lists available on the USTR Web site contain, for each article, the Harmonized Tariff Schedule of the United States (HTSUS) subheading and BDC country of origin, the value of imports of the article for the 2006 calendar year, and the percentage of total imports of that article from all countries. The annotations on the lists indicate, among other things, the status of GSP eligibility.

The computer-generated lists published on the USTR Web site are for informational purposes only. They may not include all articles to which the GSP CNLs may apply. All determinations and decisions regarding the CNLs of the GSP program will be based on full 2006 calendar year import data with respect to each GSP-eligible article. Each interested party is advised to conduct its own review of 2006 import data with respect to the possible application of the GSP CNL provisions.

List I on the USTR Web site shows: (a) Articles from BDCs that became ineligible for GSP treatment on or before July 1, 2006; and (b) GSP-eligible articles from BDCs that exceeded the CNL by having been exported in excess of $125 million, or by an amount greater than 50% of the total U.S. import value in 2006. Petitions to grant CNL waivers for those articles that received GSP benefits during 2006 but stand to lose GSP duty-free treatment on July 1, 2007, must have been previously submitted in the 2006 GSP Annual Review.

List II identifies GSP-eligible articles from BDCs that are above the 50 percent CNL, but that are eligible for a *de minimis* waiver of the 50 percent CNL. Articles eligible for *de minimis* waivers are automatically considered in the GSP annual review process, without petitions, and public comments are invited.

List III shows GSP-eligible articles from certain BDCs that are currently not receiving GSP duty-free treatment, but that may be considered for GSP redesignation based on 2006 trade data and consideration of certain statutory factors, as set forth above. Recommendations to the President on redesignations are normally made as part of the GSP annual review process, and public comments are invited.

List IV shows articles subject to the new CNL waiver thresholds of section 503(d)(4)(B)(ii) of the 1974 Act, as amended by Pub. L. 109–432. Recommendations to the President on revocation of these waivers will be made as part of the 2006 GSP annual review process, and public comments are invited.

IV. Public Comments

Requirements for Submissions

All submissions must conform to the GSP regulations set forth at 15 CFR part 2007, except as modified below. Furthermore, each party providing comments should indicate on the first page of the submission its name, the relevant HTSUS subheading(s), the BDC of interest, and the type of action (*e.g.*, new statutory criteria, *de minimis*

waiver or redesignation) in which the party is interested.

Comments must be submitted, in English, to the Chairman of the GSP Subcommittee of the Trade Policy Staff Committee (TPSC) as soon as possible, but no later than 5 p.m., Friday, March 16, 2007, for comments regarding *de minimis* waivers or redesignations, and no later than 5 p.m., March 23, 2007, for comments on the potential revocation of CNL waivers that meet the new statutory thresholds.

To facilitate prompt consideration of submissions, USTR will only accept electronic e-mail submissions in response to this notice. Hand-delivered submissions either by mail or other delivery options will not be accepted. Submissions should be single-copy transmissions in English with the total submission not to exceed 20 single-spaced standard letter-size pages, including attachments, and three megabytes as a digital file attached to an e-mail transmission. The e-mail transmission must use either one of the two following subject lines, based on the subject of the comment being submitted: ''Comments on 2006 GSP Redesignation and *De minimis* Waiver Review,'' or ''Comments on 2006 CNL Waiver Threshold Review,'' followed by the BDC country of origin and HTSUS subheading number as set out in the appropriate list. Documents must be submitted as either MSWord (''.doc''), Word Perfect (''.wpd''), Adobe (''.pdf'') or text (''.txt'') files. Documents submitted as electronic image files or containing imbedded images (for example, ''.jpg'', ''.tif'', ''.bmp'', or ''.gif'' files) will not be accepted. Spreadsheets submitted as supporting documentation are acceptable as Excel, pre-formatted for printing on 8½ x 11 inch paper. To the extent possible, any data attachments to the submission should be included in the same file as the submission itself, and not as separate files.

If the submission contains business confidential information, pursuant to 15 CFR 2003.6, a non-confidential version of the submission must also be submitted that indicates where confidential information was redacted by inserting asterisks where material was deleted. In addition, the confidential version must be clearly marked ''BUSINESS CONFIDENTIAL'' at the top and bottom of each page of the document. The non-confidential version must be clearly marked ''PUBLIC'' or ''NON-CONFIDENTIAL'' at the top and bottom of each page. Documents that are submitted without any marking may not be accepted or will be considered public documents.

For any document containing business confidential information submitted as an electronic attached file to an e-mail transmission, the file name of the business confidential version should begin with the characters ''BC-'', and the file name of the public version should begin with the character ''P-''. The ''BC-'' or ''-''should be followed by the name of the party (government, company, union, association, etc.) which is submitting the comments.

E-mail submissions should not include separate cover letters or messages in the message area of the e-mail; information that might appear in any cover letter should be included directly in the attached file containing the submission itself, including the sender's identifying information with telephone number, fax number, and e-mail address. The e-mail address for submissions to the 2006 GSP Redesignation and *De minimis* Waiver Review is *FR0441@USTR.EOP.GOV*. The e-mail address for the 2006 CNL Waiver Threshold Review is *FR0618@USTR.EOP.GOV*. Documents not submitted in accordance with these instructions may not be considered in this review. If unable to provide submissions by e-mail, please contact the GSP Subcommittee to arrange for an alternative method of transmission.

Public versions of all documents relating to this review will be available for public review approximately two weeks after the due date by appointment in the USTR Public Reading Room, 1724 F Street NW., Washington, DC. Availability of documents may be ascertained, and appointments may be made from 9:30 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday, by calling 202–395–6186.

Marideth J. Sandler,

Executive Director, Generalized System of Preferences (GSP) Program, and Chair, GSP Subcommittee, Office of the U.S. Trade Representative.

[FR Doc. E7–3394 Filed 2–26–07; 8:45 am]

BILLING CODE 3190–W7–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–27703; 812–13337]

Rydex ETF Trust, et al.; Notice of Application

February 20, 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 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 24(d) of the Act and rule 22c–1 under the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act.

APPLICANTS: Rydex ETF Trust (''Trust''), PADCO Advisors II, Inc. (''Advisor''), and Rydex Distributors, Inc. (''Distributor'').

SUMMARY OF APPLICATION: Applicants request an order that would permit: (a) series of an open-end management investment company to issue shares of limited redeemability; (b) secondary market transactions in the shares of the series to occur at negotiated prices on a national securities exchange, as defined in section 2(a)(26) of the Act, such as the New York Stock Exchange LLC (''NYSE''), The NASDAQ Stock Market, Inc. (''Nasdaq'') and the American Stock Exchange LLC (''Amex'') (each, an ''Exchange''); (c) dealers to sell shares of the series of the Trust to purchasers in the secondary market unaccompanied by a prospectus, when prospectus delivery is not required by the Securities Act of 1933 (the ''Securities Act''); and (d) certain affiliated persons of a series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of aggregations of the series' shares.[1]

FILING DATES: The application was filed on October 27, 2006. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 19, 2007, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

[1] The Trust currently operates pursuant to an order that grants such relief to offer series that match the performance of equity securities indices. In the Matter of Rydex ETF Trust, *et al.*, Investment Company Act Release Nos. 25948 (Feb. 27, 2003) (notice) and 25970 (Mar. 25, 2003) (order), amended by Investment Company Act Release Nos. 27183 (Dec. 8, 2005) (notice) and 27202 (Jan. 4, 2006) (order), (''Prior Order'').

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090. Applicants: Rydex ETF Trust; PADCO Advisors II, Inc.; and Rydex Distributors, Inc., 9601 Blackwell Road, Suite 500, Rockville, MD 20850.

FOR FURTHER INFORMATION CONTACT: Laura L. Solomon, Senior Counsel, at (202) 551–6915, or Julia Kim Gilmer, Branch Chief, at (202) 551–6871 (Division of Investment Management, Office of Investment Company Regulation).

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 Desk, 100 F Street, NE., Washington, DC 20549–0102 (tel. 202–551–5850).

Applicants' Representations

1. The Trust is an open-end management investment company registered under the Act and organized as a Delaware statutory trust. The Trust is authorized to offer an unlimited number of series (the ''Funds''). The Advisor is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''). Each Fund will be advised by the Advisor or an entity controlled by or under common control with the Advisor. The Advisor may enter into subadvisory agreements with additional investment advisers to act as subadviser to the Trust and any of its Funds. Any subadviser to the Trust or a Fund will be registered under the Advisers Act. The Distributor is registered as a broker-dealer under the Securities Exchange Act of 1934 (''Exchange Act'') and will act as the distributor and principal underwriter for each Fund's shares (''Shares'').

2. The Trust currently offers eight series that seek to match the performance of equity securities indices pursuant to the Prior Order. Applicants seek relief to offer additional series with different types of investment objectives (each such series, a ''New Fund''). The New Funds will seek daily investment results that correspond, before fees and expenses, to: (a) 125%, 150% or 200% of the return of equity securities indices (''Leveraged Funds''); or (b) move in the opposite direction of the performance of equity securities indices in multiples of 100%, 125%, 150% or 200% (''Inverse Funds''). Applicants propose to initially offer ninety-six New Funds.[2]

3. In addition to equity securities, the New Funds may invest in short-term debt instruments that meet the definition of ''Eligible Security'' in rule 2a-7 under the Act (''Money Market Instruments''), and in futures contracts, options, equity caps, collars and floors, swap agreements, forward contracts, and reverse repurchase agreements (collectively, ''Financial Instruments'') in order to meet their investment objectives. Leveraged Funds will invest 80% or more of their total assets in equity securities contained in the relevant Underlying Index and up to 20% of their total assets in Financial Instruments and Money Market Instruments. The Inverse Funds will only invest in Financial Instruments and Money Market Instruments; they will not invest in equity securities.

4. The Advisor will seek to achieve the investment objectives of the New Funds by using a mathematical model that takes into account a variety of specified criteria, the most important of which are: (a) The net assets in each New Fund's portfolio at the end of each trading day; (b) the amount of required exposure to the Underlying Index; and (c) the positions in equity securities, Financial Instruments and Money Market Instruments at the beginning of each trading day. On each day that a New Fund is open for business (''Business Day''), including as required by section 22(e) of the Act, the full portfolio holdings of each New Fund will be disclosed on the Web site of the Trust and/or the Exchange where the Shares are primarily listed (''Primary Listing Exchange''). The portfolio holdings information disclosed each Business Day will form the basis for that New Fund's net asset value (''NAV'') calculation as of 4 p.m. that day and will reflect portfolio trades made on the immediately preceding Business Day. Intra-day values of each Underlying Index will be disseminated every 15 seconds throughout the trading day.

5. For the New Funds, applicants expect a daily tracking error of less than 5% (excluding the impact of expenses and interest, if any) to the specified multiple, inverse or inverse multiple, respectively, of the performance of the relevant Underlying Index.

6. Each New Fund will issue Shares in aggregations of 25,000 to 100,000 Shares (each, a ''Creation Unit''). Applicants expect the price of a Creation Unit to be a minimum of $1 million. Creation Units may be purchased only by or through the Distributor or a party that has entered into a participant agreement with the Distributor (an ''Authorized Participant''). An Authorized Participant must be either (a) a broker-dealer or other participant in the continuous net settlement system of the National Securities Clearing Corporation, a clearing agency that is registered with the Commission, or (b) a participant in the Depository Trust Company (''DTC'') system.

7. Creation Units of Leveraged Funds generally will be purchased and redeemed in exchange for an ''in-kind'' transfer of securities and cash (''In-Kind Payment''). Inverse Funds will generally be purchased and redeemed entirely for cash because of the limited transferability of Financial Instruments.[3] An investor making an In-Kind Payment will be required to transfer to the Trust a ''Deposit Basket'' consisting of: (a) A basket of equity securities consisting of some or all of the securities in the relevant Underlying Index or equivalent equity securities selected by the Advisor to correspond to the performance of the Underlying Index (the ''Deposit List'');[4] and (b) a cash amount equal to the differential, if any, between the market value of the equity securities in the Deposit Basket and the NAV per Creation Unit (''Balancing Amount'').[5] An investor purchasing a Creation Unit from a New Fund will be charged a fee (''Transaction Fee'') to prevent the dilution of the interests of the remaining shareholders resulting from the New Fund incurring costs in connection with the purchase of the Creation Units.[6] The

[2] The underlying indices for these New Funds (each, an ''Underlying Index'') are identified in the application.

[3] The Trust may also accept and deliver all-cash payments for the purchase and redemption of Creation Units of any New Fund in certain limited circumstances.

[4] The New Funds must comply with the federal securities laws in accepting Deposit Securities and satisfying redemptions with securities on the Redemption List (defined below), including that such securities are sold in transactions that would be exempt from registration under the Securities Act of 1933.

[5] On each Business Day, prior to the opening of trading on the NYSE, the Trust's index receipt agent will make available the list of the names and the required number of shares of each equity security included in the current Deposit Basket and the Balancing Amount for each New Fund. Such Deposit Basket will apply to all purchases of Creation Units until a new Deposit Basket for a New Fund is announced. The Primary Listing Exchange will disseminate every 15 seconds during regular trading hours, through the facilities of the Consolidated Tape Association, an amount representing on a per share basis the sum of the current value of the securities on the Deposit List, and the estimated amount of cash and Money Market Instruments held in the portfolio of a Leveraged Fund. If such New Funds hold Financial Instruments, the amount would also include, on a per share basis, the marked-to-market gains or losses of the Financial Instruments held by the Leveraged Fund. For Inverse Funds, the Primary Listing Exchange will disseminate an amount representing, on a per share basis, the estimated amount of cash and Money Market Instruments, and the marked-to-market gains or losses of the Inverse Fund's Financial Instruments.

[6] A purchaser permitted to substitute cash for certain securities on the Deposit List may be

Continued

maximum Transaction Fee and any variations or waivers of the Transaction Fee will be disclosed in the current prospectus (''Prospectus'') and the method of determining the Transaction Fees will be disclosed in the Prospectus and/or statement of additional information (''SAI'').

8. All orders to purchase Creation Units must be placed on a Business Day with the Distributor. The Distributor also will be responsible for delivering the Prospectus to those persons purchasing Creation Units and for maintaining records of the orders and acknowledgements of acceptance for orders.

9. Persons purchasing Creation Units from a New Fund may hold the Shares or sell some or all of them in the secondary market. Shares of the New Funds will be listed on an Exchange and trade in the secondary market in the same manner as other exchange-traded funds. It is expected that one or more Exchange members will act as a specialist or market maker and maintain a market on the listing Exchange for Shares.[7] The price of Shares traded on an Exchange will be based on a current bid/offer market. The initial trading price for each Share of each New Fund will fall in the range of $50 to $250. Transactions involving the sale of Shares in the secondary market will be subject to customary brokerage commissions and charges.

10. Applicants expect that purchasers of Creation Units will include institutional and retail investors, arbitrageurs, traders, financial advisors, portfolio managers and other market participants.[8] An Exchange specialist or market maker, in providing for a fair and orderly secondary market for Shares, also may purchase or redeem Creation Units for use in its market-making activities. Applicants expect that the market price of Shares will be disciplined by arbitrage opportunities created by the ability to purchase or redeem Creation Units at their NAV, which should ensure that the market price of Shares at or close to 4 p.m. stays close to the NAV on that Business Day.

11. Shares will not be individually redeemable. Shares will only be redeemable in Creation Units through the Distributor, which will act as the Trust's agent for redemption. To redeem, an investor must accumulate enough Shares to constitute a Creation Unit. An investor redeeming a Creation Unit of a Leveraged Fund generally will receive an ''in-kind'' payment comprised of equity securities published by the Trust's index receipt agent (the ''Redemption List'') plus a Balancing Amount equal to the difference between the market value of the equity securities on the Redemption List and the NAV of the Shares being redeemed. Redemptions of Creation Units for Inverse Funds will occur entirely in cash. A redeeming investor will pay a Transaction Fee to offset the transactional expenses associated with redeeming Creation Units.

12. Applicants state that neither the Trust nor any New Fund will be advertised, marketed or otherwise held out as a ''mutual fund.'' The term ''mutual fund'' will not be used in the Prospectus except to compare and contrast the Trust or a New Fund with conventional mutual funds. In all marketing materials where the features or methods of obtaining, buying, or selling Creation Units are described or where there is reference to redeemability, applicants will include a prominent statement to the effect that individual Shares are not redeemable except in Creation Units. The same approach will be followed in connection with reports and other communications to shareholders, as well as any other investor education materials issued or circulated in connection with Shares. The Trust will provide copies of its annual and semi-annual shareholder reports to DTC participants for distribution to beneficial holders of Shares.

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act granting an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 24(d) of the Act and rule 22c–1 under the Act, and under sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1) and 17(a)(2) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an ''open-end company'' as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order that would permit the Trust, which is registered as an open-end management investment company, to issue Shares of New Funds that are redeemable in Creation Units only. Applicants state that investors may always redeem Shares in Creation Units from the Trust. Applicants further state that because the market price of Shares will be disciplined by arbitrage opportunities, investors should be able to sell Shares in the secondary market at or close to 4 p.m. on a Business Day at prices that do not vary substantially from the NAV on that Business Day.

Section 22(d) of the Act and Rule 22c–1 Under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security, which is currently being offered to the public by or through a principal underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming, or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in the Prospectus as required by section 22(d) of the Act, and not at a price based on NAV as required by rule 22c–1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been intended to (a) prevent dilution caused by certain riskless-

assessed a higher Transaction Fee to cover the cost of purchasing such securities, including operational processing and brokerage costs, and part or all of the spread between the expected bid and offer side of the market relating to such securities.

[7] The listing requirements established by Nasdaq require that at least two market makers be registered in Shares in order for the Shares to maintain a listing. Registered market makers must make a continuous two-sided market in a listing or face regulatory sanctions.

[8] Shares will be registered in book-entry form only. DTC or its nominee will be the record or registered owner of all outstanding Shares. DTC or its participants will maintain records reflecting the beneficial owners of Shares.

trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers, and (c) ensure an orderly distribution of shares by eliminating price competition from dealers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in Shares does not involve the Trust's assets and cannot result in dilution of an investment in Shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand, not as a result of unjust or discriminatory manipulation. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the proposed distribution system will be orderly because competitive forces in the marketplace will ensure that the difference between the market price of Shares and their NAV remains narrow.

Section 24(d) of the Act

7. Section 24(d) of the Act provides, in relevant part, that the prospectus delivery exemption provided to dealer transactions by section 4(3) of the Securities Act does not apply to any transaction in a redeemable security issued by an open-end investment company. Applicants request an exemption from section 24(d) to permit dealers selling Shares to rely on the prospectus delivery exemption provided by section 4(3) of the Securities Act.[9]

8. Applicants state that secondary market investors will regard Shares in a manner similar to other securities, including closed-end fund shares that are listed, bought and sold on an Exchange. Applicants note that shares of closed-end fund investment companies are sold in the secondary market unaccompanied by a prospectus.

9. Applicants contend that Shares, as a listed security, merit a reduction in the compliance costs and regulatory burdens resulting from the imposition of prospectus delivery obligations in the secondary market. Because Shares will be exchange-listed, prospective investors will have access to several types of market information about Shares. Applicants state that information regarding market price and volume will be continually available on a real-time basis throughout the day from the relevant Exchange, automated quotation systems, published or other public sources or on-line information services. Applicants expect that the previous day's closing price and volume information for Shares also will be published daily in the financial section of newspapers. In addition, the Trust expects to maintain a website that includes quantitative information updated on a daily basis, including, for each New Fund, daily trading volume, the NAV and the reported closing price (or in the alternative, the mid-point of the bid-ask spread at the time of calculation of such NAV (the ''Bid/Ask Price'')).[10] The Web site will also include, for each New Fund, closing price (or Bid/Ask Price) and data in chart format displaying the frequency distribution of discounts and premiums of the closing price (or Bid/Ask Price) against the NAV, within appropriate ranges, for each of the four previous calendar quarters.

10. Investors also will receive a product description (''Product Description'') describing the Trust, the New Funds and the Shares. Applicants state that, while not intended as a substitute for a Prospectus, the Product Description will contain information about Shares that is tailored to meet the needs of investors purchasing Shares in the secondary market.

Sections 17(a)(1) and (2) of the Act

11. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines ''affiliated person'' to include any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person and any person directly or indirectly controlling, controlled by, or under common control with, the other person. Section 2(a)(9) of the Act provides that a control relationship will be presumed where one person owns 25% or more of another person's voting securities. Applicants state that one or more holders of Creation Units could own more than 5% of a New Fund, or in excess of 25% of that New Fund, and could be deemed affiliated with the Trust or such New Fund under section 2(a)(3)(A) or 2(a)(3)(C) of the Act. Also, an Exchange specialist or market maker for Shares of any New Fund might accumulate, from time to time, more than 5% or in excess of 25% of that New Fund's Shares. Applicants request an exemption from section 17(a) of the Act under sections 6(c) and 17(b) of the Act, to permit persons that are affiliated persons of the New Funds solely by virtue of a 5% or 25% ownership interest (or affiliated persons of such affiliated persons that are not otherwise affiliated with the New Fund) to purchase and redeem Creation Units through ''in-kind'' transactions.

12. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Applicants contend that no useful purpose would be served by prohibiting the affiliated persons of a New Fund described above from purchasing or redeeming Creation Units through ''in-kind'' transactions. The deposit and redemption procedures for ''in-kind'' purchases and redemptions of Creations Units will be effected in exactly the same manner for all purchases and redemptions. The securities contained in the ''in-kind'' transactions will be valued in the same manner and according to the same standards as the securities held by the

[9] Applicants do not seek relief from the prospectus delivery requirement for non-secondary market transactions, such as transactions in which an investor purchases Shares in Creation Units from the issuer or an underwriter. Applicants state that persons purchasing Creation Units will be cautioned in the Prospectus that some activities on their part may, depending on the circumstances, result in their being deemed statutory underwriters and subject them to the prospectus delivery and liability provisions of the Securities Act. The Prospectus will state that whether a person is an underwriter depends upon all the facts and circumstances pertaining to that person's activities. For example, a broker-dealer firm and/or its client may be deemed a statutory underwriter if it takes Creation Units after placing an order with the Distributor, breaks them down into the constituent Shares, and sells Shares directly to its customers, or if it chooses to couple the purchase of a supply of new Shares with an active selling effort involving solicitation of secondary market demand for Shares. The Prospectus also will state that dealers who are not ''underwriters'' but are participating in a distribution (as contrasted to ordinary secondary market trading transactions), and thus dealing with Shares that are part of an ''unsold allotment'' within the meaning of section 4(3)(C) of the Securities Act, would be unable to take advantage of the prospectus delivery exemption provided by section 4(3) of the Securities Act.

[10] The Bid/Ask Price of a New Fund is determined using the highest bid and the lowest offer on the Primary Listing Exchange as of the time of calculation of such new Fund's NAV.

relevant New Fund. Therefore, applicants state that ''in-kind'' purchases and redemptions will afford no opportunity for the affiliated persons described above to effect a transaction detrimental to the other holders of its Shares. Applicants also believe that ''in-kind'' purchases and redemptions will not result in abusive self-dealing or overreaching by affiliated persons of the New Funds.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Applicants will not register a series of the Trust not identified in the application, by means of filing a post-effective amendment to the Trust's registration statement or by any other means, unless applicants have requested and received with respect to such series, either (a) exemptive relief from the Commission, or (b) a no-action letter from the Division of Investment Management of the Commission.

2. The Prospectus and the Product Description will clearly disclose that, for purposes of the Act, Shares are issued by the New Funds and that the acquisition of Shares by investment companies is subject to the restrictions of section 12(d)(1) of the Act, except as permitted by an exemptive order that permits registered investment companies to invest in a New Fund beyond the limits in section 12(d)(1), subject to certain terms and conditions, including that the registered investment company enter into an agreement with the New Fund regarding the terms of the investment.

3. As long as the Trust operates in reliance on the requested order, the Shares will be listed on an Exchange.

4. Neither the Trust nor any New Fund will be advertised or marketed as an open-end fund or a mutual fund. The Prospectus will prominently disclose that Shares are not individually redeemable shares and will disclose that the owners of the Shares may acquire those Shares from the Trust and tender those Shares for redemption to the Trust in Creation Units only. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that Shares are not individually redeemable and that owners of Shares may acquire those Shares from the Trust and tender those Shares for redemption to the Trust in Creation Units only.

5. Before a New Fund may rely on the order, the Commission will have approved, pursuant to rule 19b–4 under the Exchange Act, an Exchange rule or an amendment thereto, requiring Exchange members and member organizations effecting transactions in Shares to deliver a Product Description to purchasers of Shares.

6. The Web site for the Trust, which will be publicly accessible at no charge, will contain the following information, on a per Share basis, for each New Fund: (a) The prior Business Day's NAV and the closing price (or the mid-point of the bid-ask spread at the time of calculation of such NAV (the Bid/Ask Price)), and a calculation of the premium or discount of such closing price (or Bid/Ask Price) against such NAV; and (b) data in chart format displaying the frequency distribution of discounts and premiums of the closing price (or Bid/Ask Price) against the NAV, within appropriate ranges, for each of the four previous calendar quarters (or the life of the New Fund, if shorter). In addition, the Product Description for each New Fund will state that the website for the Trust has information about the premiums and discounts at which the Shares have been traded.

7. The Prospectus and annual report for each New Fund will also include: (a) The information listed in condition 6(b), (i) in the case of the Prospectus, for the most recently completed year (and the most recently completed quarter or quarters, as applicable), and (ii) in the case of the annual report, for the immediately preceding five years (or the life of the New Fund, if shorter); and (b) the following data, calculated on a per Share basis for one, five and ten year periods (or life of the New Fund, if shorter), (i) the cumulative total return and the average annual total return based on NAV and closing price (or Bid/Ask Price), and (ii) the cumulative total return of the relevant Underlying Index.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–3284 Filed 2–26–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55296; File No. SR–Amex–2007–14]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Options Fee Schedule

February 14, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 30, 2007, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Amex. The Amex has filed the proposal pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its options fee schedule (the ''Fee Schedule'') to (i) reduce the daily maximum aggregate fee charged for all dividend strategies, merger spreads and short stock interest spreads to $100, (ii) reduce the monthly maximum aggregate fee charged for such trades to $12,500, (iii) replace the term ''dividend spread'' with ''dividend strategies,'' (iv) extend the fee cap pilot program until February 1, 2008, and (v) increase the licensing fee for the Russell Index and Russell ETF Options (together the ''Russell Index Options'') from $0.10 to $0.15 per contract side The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.amex.com*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2).

rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex 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

Fee Cap Program

Currently, specialists, registered options traders, non-member market makers, firms, and member and non-member broker-dealers option transaction, comparison and floor brokerage fees are limited to an aggregate fee of $1,000 for all dividend spreads,[5] merger spreads and short stock interest spreads executed on the same trading day in the same option class.[6] In addition, such fees are also limited to $50,000 per month per initiating firm. In order to attract additional order flow to the Exchange, this proposal seeks to reduce the daily aggregate to $100 and the monthly aggregate to $12,500. The Exchange submits that the reduced fees may increase the trading opportunities for its members as well as enable the Exchange to attract new business.

This proposal will also amend the Fee Schedule to expand dividend spreads to ''dividend strategies.'' Dividend strategies are transactions done to achieve a dividend arbitrage involving the purchase, sale and exercise of in-the-money options of the same class, executed prior to the date on which the underlying stock goes ex-dividend. The proposed amendment is similar to the definition currently used by the Chicago Board Options Exchange (''CBOE'') as well as other exchanges.[7]

The fee cap program is currently operated on a six (6) month pilot basis. The proposal seeks to extend the pilot for an additional year, through February 1, 2008. To date, the Exchange believes that the fee cap program has been beneficial, and submits, that a one (1) year extension is warranted.

Russell Index Option License Fee

The proposal also seeks to increase the licensing fees for the Russell Index Options. Currently, the licensing fees for the Russell Index Options are $0.10 per contract side. The Exchange proposes to increase this fee to $0.15 per contract side as a result of an increase in the license agreement for the Russell Index Options.

As detailed in the original filing regarding license fees for Russell Index Options,[8] the Exchange typically pays an index license fee to a third party as a condition to the listing and trading of such index options. In many cases, the Exchange is required to pay a significant licensing fee to the index provider that may not be reimbursed. In an effort to recoup the costs associated with certain index licenses, the Exchange has established a per contract licensing fee for the orders of specialists, registered options traders, firms, non-member market makers and broker-dealers, that is collected on every option transaction in designated products in which such market participant is a party.[9]

The purpose of the proposal is to charge a licensing fee of $0.15 per contract side for Russell Index Options for specialist, registered options trader, firm, non-member market maker and broker-dealer orders executed on the Exchange. In all cases, the fees are charged only to Exchange members through whom the orders are placed.

The proposal will allow the Exchange to recoup its costs in connection with the index license fee for the trading of Russell Index Options. The Exchange notes that the Amex in recent years has revised a number of fees to better align Exchange fees with the actual cost of delivering services and reduce Exchange subsidies of such services. Implementation of this proposal is consistent with the reduction and/or elimination of these subsidies.

The Exchange asserts that the proposal is equitable as required by Section 6(b)(4) of the Act.[10] Further, the Exchange believes that charging an options licensing fee, where applicable, to all market participant orders except for customer orders is reasonable given the competitive pressures in the industry.

2. Statutory Basis

The Exchange asserts that the proposal is equitable as required by Section 6(b)(4) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change is subject to Section 19(b)(3)(A)(ii) of the Act[11] and subparagraph (f)(2) of Rule 19b–4 thereunder[12] because it establishes or changes a due, fee, or other charge applicable only to a member imposed by the self-regulatory organization. Accordingly, the proposal is effective upon the Commission's receipt of the filing. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–Amex–2007–14 on the subject line.

Paper Comments

• Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

[5] A ''dividend spread'' is any trade done within a defined time frame in which a dividend arbitrage can be achieved between any two (2) deep-in-the-money options.

[6] These fees are charged only to Exchange members.

[7] *See* CBOE Fee Schedule and Philadelphia Stock Exchange Fee Schedule.

[8] *See* Securities Exchange Act Release No. 53968 (June 9, 2006), 71 FR 34971 (June 16, 2006) (SR–Amex–2006–56).

[9] *See* Securities Exchange Act Release No. 52493 (September 22, 2005), 70 FR 56941 (September 29, 2005) (SR–Amex–2005–087).

[10] 15 U.S.C. 78f(b)(4). Section 6(b)(4) of the Act states that the rules of a national securities exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

[11] 15 U.S.C. 78s(b)(3)(A)(ii).

[12] 17 CFR 240.19b–4(f)(2).

All submissions should refer to File Number SR–Amex–2007–14. 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 the filing also will be available for inspection and copying at the principal office of the Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Amex–2007–14 and should be submitted on or before March 20, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–3285 Filed 2–26–07; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55326; File No. SR–CBOE–2006–107]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval to Proposed Rule Change Regarding a Permit Program for CBSX

February 21, 2007.

I. Introduction

On December 18, 2006, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to establish a permit program for CBSX, the Exchange's proposed stock-trading facility (''Permit Program''). The proposed rule change was published for comment in the **Federal Register** on December 29, 2006.[3] The Commission received no comments regarding the proposal. This order approves the proposed rule change.

II. Description of the Proposal

CBSX will be a facility of the Exchange and will serve as the Exchange's vehicle for trading non-option securities. The Exchange proposed to modify its Constitution and Rules to establish the Permit Program and thereby allow non-CBOE seat holders access to CBSX. The Exchange noted that expanding access to CBSX beyond CBOE's options user base would enhance liquidity on CBSX and make it a more attractive stock trading venue. The principal features of the Permit Program are as follows:

- The permits may only be used for trading stock on CBSX. A Permit does not entitle the holder to trade options on CBOE or to physically enter an option trading post on the trading floor;
- Up to 100 permits may be issued;
- The Permit Program could be terminated by the Exchange pursuant to a rule filing approved by the Commission. This provision is incorporated in the Exchange's Constitution to allow the CBSX Permit Program to be terminated without a corresponding membership vote (*i.e.*, the Exchange's membership has already approved the notion that a future termination of the Permit Program could occur without another membership vote);
- Permit holders would be deemed statutory members of CBOE. Accordingly, they would have the same petition and voting rights as regular members except for matters relating to Exchange ownership (specifically, matters relating to demutualization, mergers, consolidations, dissolution, liquidation, transfer, or conversion of assets of the Exchange), and except for matters relating the Chicago Board of Trade exercise right;
- Permit holders would have no interest in the assets or property of CBOE and would have no right to share in any distribution by the Exchange;
- Permit holders (or an executive officer of a Permit holder) would be eligible to run for an at-large director position and a Nominating Committee position;
- Permit holders would have to be registered broker-dealers;
- Permits would not be transferable; and
- All Permits would expire every October and would be eligible for renewal.

If there are fewer available CBSX Permits than qualified applicants, the Exchange will determine which of the applicants to approve by lot. Applicants that are affiliated will be deemed one applicant in cases where there are fewer available CBSX Permits than qualified applicants.

A Permit holder and its associated persons must comply with and be subject to CBOE Rules to the same extent that Exchange members and their associated persons are obligated to comply with and are subject to Exchange Rules. A Permit holder and its associated persons shall also be subject to the disciplinary, appeals, and arbitration jurisdiction and rules of the Exchange and entitled to the procedural rights under those rules to the same extent that Exchange members and their associated persons are subject to such jurisdiction and rules and entitled to such procedural rights.

III. Discussion

The Commission finds that the Exchange's proposal relating to CBSX Permits is consistent with Section 6(b)(3) of the Act,[4] which requires that the rules of the exchange assure a fair representation of its members in the selection of its directors and administration of its affairs and provide that one or more directors shall be representative of issuers and investors and not be associated with a member of the exchange, broker, or dealer. The Commission notes that, for purposes of the Act, Permit holders would be considered members of CBOE. Permit holders would be eligible to be nominated for an at-large position on CBOE's Board of Directors and to serve on the Exchange's Nominating Committee and would have the same petition and voting rights as CBOE members except for matters relating to Exchange ownership (specifically, matters relating to demutualization, mergers, consolidations, dissolution, liquidation, transfer, or conversion of assets of the Exchange), and except for matters relating to the Chicago Board of Trade exercise right.[5]

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 54987 (December 20, 2006), 71 FR 78481.

[4] 15 U.S.C. 78f(b)(3).

[5] Further, the Exchange has represented that Permit holders would be eligible to sit on disciplinary panels and on any committee(s) that

The Commission also finds that the Exchange's proposal relating to the Permit Program is consistent with Section 6(b)(5) of the Act,[6] which requires that the rules of the exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange has imposed various requirements and limitations in connection with the issuance of CBSX Permits. In this regard, the Commission notes that although the number of Permits to be issued is limited to a maximum of 100 Permits, the Exchange will allocate Permits by lot if demand for them exceeds 100 Permits.[7]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (SR–CBOE–2006–107) is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–3373 Filed 2–26–07; 8:45 am]

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develop trading rules. Telephone conversation between Angelo Evangelou, Assistant General Counsel, CBOE and David Michehl, Special Counsel, Commission, Division of Market Regulation, on February 16, 2007.

[6] 15 U.S.C. 78f(b)(5).

[7] In approving this proposed rule change the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55319; File No. SR–CHX–2007–01]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto Relating to the Use of a ''SOLD'' Indicator

February 20, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 30, 2007, the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. The CHX has filed this proposal pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(5) thereunder,[4] which renders it effective upon filing with the Commission. On February 20, 2007, the Exchange filed Amendment No. 1 to the proposed rule change.[5] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules to specify that a ''SOLD'' indicator must only be affixed to a trade to the extent required by applicable intermarket trade reporting plans.

The text of the proposed rule change is available on the CHX's Web site at *http://www.chx.com*, the Exchange's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CHX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CHX 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange's institutional brokers may execute transactions in the Exchange's Matching System or may report transactions through the Exchange's Brokerplex system.[6] Under Article 17, Rule 3(e) of the Exchange's rules, if institutional brokers use the Brokerplex system's trade reporting functionality, these brokers are required to use their best efforts to report transactions within 10 seconds after execution. A ''SOLD'' indicator must be affixed to the trade if this 10-second window is exceeded.[7]

The CHX had established this 10-second time frame for affixing the ''SOLD'' indicator as part of its new trading model rules in the belief that the CTA Plan would be amended to contain a similar provision. At this point, however, the CTA Plan has not been amended to reflect this shorter time frame.[8]

This proposal would change the Exchange's rules to specify that the ''SOLD'' indicator must only be affixed to a trade to the extent that the indicator is required by an intermarket trade reporting plan, such as the CTA Plan.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act[9] in general and furthers the objectives of Section 6(b)(5)[10] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(5).

[5] *See* Form 19b–4 dated February 20, 2007 (''Amendment No. 1'').

[6] The Exchange's Brokerplex system currently can be used by CHX institutional brokers to receive and enter orders, manage their orders, route orders to the Exchange's Matching System and other destinations for execution and report executed trades.

[7] A ''SOLD'' indicator is used, when reporting trades in Tape A and B securities, to identify trades that are being reported late (*i.e.*, after some delay from the time of execution) and out of sequence. The Consolidated Tape Association Plan (the ''CTA Plan''), which governs trade reporting in Tape A and B securities, provides that a market should ''designate as 'late' any last sale price not collected and reported'' within 90 seconds after the execution occurs.

[8] The CTA Plan and specifications currently provide that the indicator must be placed on trades reported more than 90 seconds after they are executed.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) have the effect of limiting the access to or availability of an existing order entry or trading system of the Exchange, the foregoing rule change has become effective immediately pursuant to Section 19(b)(3)(A)(iii) of the Act[11] and Rule 19b–4(f)(5)[12] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in the furtherance of the purposes of the Act.[13]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CHX–2007–01 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CHX–2007–01. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal offices of CHX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CHX–2007–01 and should be submitted on or before March 20, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–3290 Filed 2–26–07; 8:45 am]

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[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(5).

[13] For the purposes of calculating the 60-day abrogation period, the Commission considers the proposed rule change to have been filed on February 20, 2007, when Amendment No. 1 was filed.

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55323; File No. SR–NASDAQ–2007–009]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Intermarket Sweep Orders

February 21, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 16, 2007, the NASDAQ Stock Market LLC (''Nasdaq'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II, below, which Items have been substantially prepared by Nasdaq. Nasdaq has designated the proposed rule change as constituting a ''non-controversial'' rule change under Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

Nasdaq is proposing to modify Rule 4759 to permit Nasdaq members to submit Intermarket Sweep Orders (''ISOs'') to Nasdaq if they have simultaneously sent an ISO (or comparable order) for the full displayed size of the top of the book of every other ITS participant displaying a better-priced quotation. The text of the proposed rule change is available at Nasdaq, the Commission's Public Reference Room, and *http://nasdaq.complinet.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq 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

As part of its rollout of its new Single Book execution system, Nasdaq is preparing to launch additional features of its compliance with Regulation NMS (''Reg. NMS''). Specifically, Nasdaq is preparing to accept ISOs. Like other markets, Nasdaq is proposing to accept ISOs prior to the Trading Phase Date, currently March 5, 2007, in order to ensure a smooth transition to the Single Book System functionality for compliance with Reg. NMS.

Like other markets that have received approval to accept ISOs prior to the Trading Phase Date,[5] Nasdaq seeks to

[5] *See, e.g.*, Securities Exchange Act Release No. 55210 (January 31, 2007), 72 FR 5777 (February 7, 2007) (SR–NYSE–2007–08). Nasdaq notes that its proposed rule change is identical to the New York Stock Exchange LLC's rule change.

amend its rules to require member organizations that send ISOs to Nasdaq prior to the Trading Phase Date of Reg. NMS to simultaneously send an ISO (or comparable order) for the full displayed size of the top of the book of every other ITS participant displaying a better-priced quotation. The proposed temporary rule is intended to mirror the requirement, which will be operative after the Trading Phase Date, that all incoming ISOs meet the requirements as described in Rule 600(b)(30) of Reg. NMS,[6] and is designed to ensure that member organizations honor better-priced quotes of other ITS participants when submitting ISOs to Nasdaq prior to the Trading Phase Date. Nasdaq expects that this temporary rule will be in effect only until the Trading Phase Date, at which time it will be deleted from its rulebook. Nasdaq represents that, during the applicability of this rule, Nasdaq will conduct surveillance to assure that its Participants are in compliance with its rules on the use of ISOs.

In addition, Nasdaq notes that it has requested an exemption from certain provisions of the Intermarket Trading System Plan and Nasdaq Rules 4756 and 4759 to allow Nasdaq to implement the Reg. NMS compliance aspects of the Single Book rollout prior to the Trading Phase Date.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[7] in general, and with Section 6(b)(5) of the Act,[8] in particular, in that the proposal 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change is designed to permit Nasdaq to implement functionality required for compliance with Regulation NMS in an orderly fashion and to permit Nasdaq members to gain experience with that functionality prior to its full implementation.

[6] 17 CFR 242.600(b)(30).

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [9] and Rule 19b–4(f)(6) thereunder [10] because the proposal does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.[11] Nasdaq has requested that the Commission waive the 30-day operative delay and designate the proposed rule change to be operative upon filing with the Commission. The Commission hereby grants the request.[12] The Commission believes that such waiver is consistent with the protection of investors and the public interest because immediate effectiveness of the proposed rule change will assist Nasdaq in its efforts to ensure that its member organizations honor better-priced quotations of other ITS participants when they send ISOs to Nasdaq for execution and also will allow Nasdaq members to gain experience with the new ISO order type and functionality prior to its full implementation on the Trading Phase date. In addition, the Commission notes that the Nasdaq's proposal is based upon a proposed rule change recently adopted by the New York Stock Exchange LLC.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[14]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2007–009 in the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2007–009. 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 Room. Copies of the filing also will be available for inspection and copying at the principal office of Nasdaq. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] Rule 19b–4(f)(6)(iii) under the Act requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. Nasdaq has satisfied the pre-filing requirement.

[12] For purposes only of waiving the 30-day operative delay of the proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] *See supra* note 5 (citing to SR–NYSE–2007–08).

[14] *See* 15 U.S.C. 78s(b)(3)(C).

information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2007–009 and should be submitted on or before March 20, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–3293 Filed 2–26–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55325; File No. SR–NASD–2007–011]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to a New NASD Trade Reporting Facility Established in Conjunction with NYSE Market, Inc.

February 21, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on February 1, 2007, the National Association of Securities Dealers, Inc. (''NASD'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared substantially by the NASD. The NASD has filed the proposal pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b-4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD proposes to adopt rules relating to a new Trade Reporting Facility (the ''NASD/NYSE TRF'') to be established by the NASD in conjunction with NYSE Market, Inc. (''NYSE''),[5] that will provide members with an additional mechanism for reporting trades in exchange-listed securities effected otherwise than on an exchange. The proposed NASD/NYSE TRF functionality and rules are substantially similar to the functionality and rules of the Trade Reporting Facilities established by the NASD and the Nasdaq Stock Market, Inc. (the ''NASD/Nasdaq TRF''), the NASD and the National Stock Exchange, Inc. (the ''NASD/NSX TRF''), and the NASD and the Boston Stock Exchange, Inc. (the ''NASD/BSE TRF'') (collectively, the ''Approved NASD Trade Reporting Facilities''), which were subject to notice and comment and approved by the Commission.[6] The text of the proposed rule change is available at the NASD, in the Commission's Public Reference Room, and at *http://www.nasd.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD 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 proposed rule change would establish the new NASD/NYSE TRF on substantially the same terms as the Approved NASD Trade Reporting Facilities. The NASD/NYSE TRF will provide members with an additional mechanism, which has been developed by the NYSE, for reporting locked-in transactions in exchange-listed securities executed otherwise than on an exchange. Members will match and/or execute orders internally or through proprietary systems and submit these trades to the NASD/NYSE TRF with the appropriate information and modifiers. All trades submitted to the NASD/NYSE TRF must be locked-in prior to entry into the system and the NASD/NYSE TRF will have no trade comparison functionality. Participants wishing to report to the NASD/NYSE TRF on behalf of another NASD member may do so only pursuant to a valid give-up agreement, as specified in the proposed rules.

The NASD/NYSE TRF will report the trades to the appropriate exclusive securities information processor (''SIP'').[7] As with trades reported to the Approved NASD Trade Reporting Facilities, NASD/NYSE TRF transactions disseminated to the media will include a modifier indicating the source of such transactions that would distinguish them from transactions executed on or through the NYSE or another NASD Trade Reporting Facility. In addition, the NASD/NYSE TRF will provide the NASD with a real-time copy of each trade report for regulatory review purposes. Unlike the Approved NASD Trade Reporting Facilities, the NASD/NYSE TRF will not at this time submit transactions to clearing.

Like the Approved NASD Trade Reporting Facilities, the NASD/NYSE TRF will be a facility of the NASD, subject to regulation by the NASD and the NASD's registration as a national securities association. It will not be a service ''for the purpose of effecting or reporting a transaction'' on the NYSE; rather, it will be a service for the purpose of reporting over-the-counter (''OTC'') transactions in exchange-listed securities to the NASD.[8] Thus, members that meet all applicable requirements will have the option of reporting transactions in exchange-listed securities executed otherwise than on an exchange to the NASD/NYSE TRF, one of the Approved NASD Trade Reporting Facilities, the NASD's Alternative Display Facility (''ADF''),[9] or the NASD's Intermarket Trading

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] NYSE Market, Inc. is the entity to which the New York Stock Exchange LLC, a self-regulatory organization, has delegated all non-regulatory functions involved in conducting the activities of a national securities exchange, including the trading functions, the listings functions, and market data.

[6] *See* Securities Exchange Act Release Nos. 54084 (June 30, 2006), 71 FR 38935 (July 10, 2006) (order approving File No. SR–NASD–2005–087) (the ''NASD/Nasdaq TRF Approval Order''); 54715 (November 6, 2006), 71 FR 66354 (November 14, 2006) (order approving File No. SR–NASD–2006–108); and 54931 (December 13, 2006), 71 FR 76409 (December 20, 2006) (order approving File No. SR–NASD–2006–115). *See also* Securities Exchange Act Release No. 54798 (November 21, 2006), 71 FR 69156 (November 29, 2006) (order approving File No. SR–NASD–2006–104) (the ''Phase II Approval Order'').

[7] The NASD/NYSE TRF will have controls in place to ensure that transactions that are reported to the NASD/NYSE TRF, but that are priced significantly away from the current market, will not be submitted to the SIP. The NASD represents that this is consistent with current practice, in that neither the NASD's Alternative Display Facility nor the Approved NASD Trade Reporting Facilities currently submit such trades to the SIP. According to the NASD, this practice is designed to preserve the integrity of the tape.

[8] *See* NASD/Nasdaq TRF Approval Order, *supra* note 6.

[9] The Commission approved a proposed rule change that expanded the ADF's functionality to all exchange-listed securities. *See* Securities Exchange Act Release No. 54537 (September 28, 2006), 71 FR 59173 (October 6, 2006) (order approving File No. SR–NASD–2006–091).

System/Computer Assisted Execution System (''NASD ITS/CAES System'').[10]

The NYSE has developed the system that participants will use to access the NASD/NYSE TRF. Technical specifications to connect to the NASD/NYSE TRF system are available upon request to NASD and will be accessible through NASD's web site at a later date.

NASD/NYSE TRF Limited Liability Company Agreement

The NASD and the NYSE propose to enter into a Limited Liability Company Agreement of the NASD/NYSE Trade Reporting Facility LLC (''the NASD/NYSE LLC Agreement''). The terms of the NASD/NYSE LLC Agreement are substantially similar to the terms of the LLC agreements relating to the Approved NASD Trade Reporting Facilities.

The NASD will have sole regulatory responsibility for the NASD/NYSE TRF, while the NYSE agrees to pay the cost of regulation and will provide systems to enable members to report trades to the NASD/NYSE TRF. The NYSE will be entitled to the profits and losses, if any, derived from the operation of the NASD/NYSE TRF. The provisions of the NASD/NYSE LLC Agreement regarding the management of the NASD/NYSE TRF, and the respective rights and responsibilities of the NASD, the ''SRO Member,'' and the NYSE, the ''Business Member,'' are identical to the terms of the LLC agreements relating to the Approved NASD Trade Reporting Facilities.

The termination provisions of the NASD/NYSE LLC Agreement are identical to the termination provisions of the LLC agreements relating to the NASD/NSX TRF and the NASD/BSE TRF. In the event of termination of the NASD/NYSE TRF arrangement, the NASD represents that it will be able to fulfill all of its regulatory obligations with respect to OTC trade reporting through its other facilities.

The NASD/NYSE LLC Agreement includes a provision relating to Capital Accounts that is not included in the LLC Agreements relating to the Approved NASD Trade Reporting Facilities. This provision was added for tax purposes only.

NASD/NYSE Trade Reporting Facility Rules

Members will report locked-in trades in exchange-listed securities effected otherwise than on an exchange to the NASD/NYSE TRF pursuant to NASD rules. As such, the NASD is proposing the new NASD Rule 4000E and Rule 6000E Series relating to the use and operation of the NASD/NYSE TRF. The proposed rules are substantially similar to the rules approved by the Commission relating to the Approved NASD Trade Reporting Facilities.[11] Discussed below are the differences between the proposed rules and the rules that the Commission has approved for one or more of the Approved NASD Trade Reporting Facilities.[12]

First, similar to the NASD/BSE TRF, participants will be able to use three-party reports for reporting trades to the NASD/NYSE TRF. However, pursuant to proposed NASD Rule 4632E(d), Reporting ECNs, as defined in proposed NASD Rule 6110E, are required to use the three-party trade report when submitting trades to the NASD/NYSE TRF. The NASD/BSE TRF rules permit, but do not require, Reporting ECNs to use three-party trade reports.

Second, unlike the Approved NASD Trade Reporting Facilities, the NASD/NYSE TRF will not submit any trades to clearing. Pursuant to proposed NASD Rules 6130E(a) and 6140E, where appropriate, participants must have a valid Qualified Service Representative (''QSR'') agreement with the National Securities Clearing Corporation or similar arrangement to clear trades submitted to the NASD/NYSE TRF (*e.g.*, trades with customers generally do not need to be sent to clearing). Accordingly, references to ''clearing only'' reports that appear in the rules relating to the Approved NASD Trade Reporting Facilities have been omitted from the proposed rules (*see* proposed NASD Rules 4632E(e)(3)(B) and 6130E(f)). Additionally, proposed NASD Rule 6130E(a) provides that the NASD/NYSE TRF will accept trades reported as other than regular way settlement (*i.e.*, Cash, Next-Day, Seller's Option); however, the NASD/NYSE TRF will not compare or submit these trades to clearing.

The NASD notes that the proposed rule change does not include any proposed rules relating to fees, assessments, and credits specifically related to the NASD/NYSE TRF. Fees, assessments, and credits, if any, with respect to the NASD/NYSE TRF will be the subject of a future rule filing with the Commission.

The NASD has filed the proposed rule change for immediate effectiveness. The NASD proposes that the operative date of the proposed rule change will be the date upon which the NASD/NYSE TRF commences operation, which is currently anticipated to be in the first quarter of 2007.[13] The NASD will provide notice of that date upon successful completion of system testing and certification.

2. Statutory Basis

The proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[14] which requires, among other things, that NASD rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The NASD believes that establishment of the NASD/NYSE TRF is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets because it will provide members with another mechanism to report transactions in exchange-listed securities effected otherwise than on an exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not result in any burden on competition that

[10] As part of File No. SR–NASD–2006–104, the NASD proposed rule changes providing for the operation of the NASD ITS/CAES System, which includes the ability to report OTC transactions in non-Nasdaq exchange-listed securities. *See* Phase II Approval Order, *supra* note 6. The NASD represents that it will have an integrated audit trail of all TRF, ADF, and ITS/CAES System transactions, as applicable in a particular security, and will have integrated surveillance capabilities. The NASD expects that comprehensive audit trail and surveillance integration on an automated basis will be completed by the end of the first quarter of 2007. Prior to that time, the NASD represents that its staff will be able to create an integrated audit trail on a manual basis as needed for regulatory purposes.

[11] *See* the NASD Rule 4000 and Rule 6100 Series relating to the NASD/Nasdaq TRF; the NASD Rule 4000C and 6000C Series relating to the NASD/NSX TRF; and the NASD Rule 4000D and 6000D Series relating to the NASD/BSE TRF.

[12] The NASD will submit a separate filing proposing amendments to the transaction reporting rules relating to the NASD/NYSE TRF consistent with the new requirements of Regulation NMS. The NASD intends that such amendments will be substantially similar to the amendments the NASD proposed for the NASD/Nasdaq TRF and the ADF in File Nos. SR–NASD–2007–002 and SR–NASD–2007–001, respectively. *See* Securities Exchange Act Release Nos. 55101 (January 12, 2007), 72 FR 2568 (January 19, 2007) (notice of filing and immediate effectiveness of File No. SR–NASD–2007–002); and 55088 (January 11, 2007), 72 FR 2573 (January 19, 2007) (notice of filing and immediate effectiveness of File No. SR–NASD–2007–001).

[13] As noted below, a proposed rule change filed pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder does not become operative for 30 days from the date on which the proposal was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The NASD has not asked the Commission to waive the 30-day operative delay for the proposal. Accordingly, the proposal will become operative 30 days from the date on which it was filed.

[14] 15 U.S.C. 78o–3(b)(6).

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 were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [15] and Rule 19b-4(f)(6) thereunder.[16] As required by Rule 19b-4(f)(6)(iii),[17] the NASD provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NASD–2007–011 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASD–2007–011. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASD–2007–011 and should be submitted on or before March 20, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–3295 Filed 2–26–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55315; File No. SR–NSCC–2006–19]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify Its Fee Schedule

February 20, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on December 29, 2006, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by NSCC. NSCC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [2] whereby the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change revises NSCC's fee schedule for certain services provided by NSCC.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Pursuant to the proposed rule change, NSCC is reducing fees in Continuous Net Settlement Services, Automated Customer Account Transfer Services (ACATS), and Mutual Fund Networking to align the fees with NSCC's costs of providing services. In addition, NSCC is introducing new fees for dividend and interest payment processing and related research, which should help to standardize and simplify fees between NSCC and DTC. Additionally, NSCC is introducing a new fee for CNS fails to deliver to encourage members to address aged fails.

The revised fee schedule was filed as an attachment to the proposed rule change and may be found on NSCC's Web site at *http://www.nscc.com.* Except as otherwise noted on Exhibit 5, the proposed fee changes became effective on January 2, 2007.

The proposed rule change is consistent with the requirements of the

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 240.19b–4(f)(6)(iii).

[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78s(b)(3)(A)(ii).

[3] The Commission has modified parts of these statements.

Act and the rules and regulations thereunder because it updates NSCC's fee schedule. As such, it provides for the equitable allocation of fees among its participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have any impact or impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change changes fees charged clearing members by NSCC, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [4] and Rule 19b–4(f)(2) [5] thereunder. At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NSCC–2006–19 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NSCC–2006–19. 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 Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of NSCC and on NSCC's Web site at *http://www.nscc.com.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NSCC–2006–19 and should be submitted on or before March 20, 2007.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–3288 Filed 2–26–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55314; File No. SR–NYSE–2007–17]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Provide That There Be No Initial Listing Fee Payable for Any Equity Security, Structured Product or Closed-End Management Investment Company That Transfers From Another National Securities Exchange

February 20, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 15, 2007, the New York Stock Exchange LLC (''Exchange'' or ''NYSE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Exchange has designated this proposal as non-controversial under Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Section 902.02 of its Listed Company Manual (the ''Manual'') to provide that there shall be no initial listing fee payable in connection with the transfer of any equity securities, structured product, or closed-end management investment company listed on another national securities exchange to the Exchange. This fee waiver will not be applicable to the transfer of any class of securities if the issuer's primary class of common stock remains listed on another national securities exchange.

The text of the proposed rule change is available on the Exchange's Web site (*http://www.nyse.com*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Section 902.02 of the Manual to provide

[4] 15 U.S.C. 78s(b)(3)(A)(ii).

[5] 17 CFR 240.19b–4(f)(2).

[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

that there shall be no initial listing fee applicable to the transfer of any equity securities, structured product (defined as securities listed under Sections 703.18, 703.19 and 703.21) or closed-end management investment company listed on another national securities exchange. This fee waiver will not be applicable to the transfer of any class of securities if the issuer's primary class of common stock remains listed on another national securities exchange.

Section 902.03 of the Manual currently provides that issuers transferring the listing of their primary class of common shares from any other national securities exchange are not required in connection with such transfer to pay (i) initial listing fees or (ii) a one-time special charge of $37,500 payable in connection with the listing of any new class of common shares. In addition, Section 902.03 provides that issuers transferring the listing of their primary class of common shares from NYSE Arca to the Exchange are not required to pay Annual Fees with respect to that primary class of common shares for the remainder of the calendar year in which the transfer occurs. The proposed rule change will move this text from Section 902.03 to Section 902.02 and extend the application of waivers of the initial listing fee and one-time special charge to any other classes of equity securities (*i.e.*, preferred stock, warrants, units including equity securities, and additional classes of common stock) transferred from another national securities exchange, as well as to transfers of closed-end management investment companies and structured products.

Issuers of securities that qualify for the proposed waiver of initial listing fees will be subject to the same level of annual fees and listing of additional shares fees as other NYSE issuers. The proposed rule change will not affect the Exchange's commitment of resources to its regulatory oversight of the listing process or its regulatory programs. Specifically, companies that benefit from the waiver will be reviewed for compliance with Exchange listing standards in the same manner as any other company that applies to be listed on the Exchange. The Exchange will conduct a full and independent review of each issuer's compliance with the Exchange's listing standards.

The Exchange believes that the elimination of such fees in the case of securities transferring from other national securities exchanges is justified on several grounds. An issuer that already paid initial listing fees to another national securities exchange when it became a publicly traded company is reluctant to pay a second initial listing fee to another listing venue, even if it concludes that the Exchange offers the issuer and its investors superior services and market quality. Even if an issuer concludes that the Exchange would provide a superior market for its stock, the benefits of the transfer must currently be weighed against the cost of initial inclusion. Since the expected benefits of the transfer would be diffused among the issuers' investors and realized over time, but the initial listing fees must be paid by the issuer immediately, the Exchange is concerned that issuers that stand to benefit may nevertheless opt to forgo a transfer. As such, the Exchange believes that assessing the initial fees against issuers that have already paid fees to list on another market imposes a burden on the competition between exchange markets and markets other than exchange markets, a competition that the Exchange believes is one of the central goals of the national market system. This concern is particularly great in light of the fact that the Commission has approved the waiver of initial listing fees by Nasdaq with respect to the listing of any security being transferred from another national securities exchange.[5]

The Exchange understands that the effect of this proposed rule change will be to impose a lower level of listing fees on issuers that transfer from another national securities exchange than on some other issuers. In light of the fact that the Exchange will collect the same level of annual fees and listing of additional shares fees from such issuers, however, the Exchange believes that the difference does not constitute an inequitable allocation of fees. In light of a transferring issuer's prior payment to another market and the generally lower burdens associated with reviewing a transferring issuer's eligibility, the Exchange believes that eliminating initial fees for transferring issuers is entirely consistent with an equitable allocation of listing fees.

The Exchange does not expect the financial impact of this proposed rule change to be material, either in terms of increased levels of annual fees from transferring issuers or in terms of diminished initial listing fee revenues. Quite simply, even with the proposed rule change in place, the Exchange understands that a change in listing venue is a major step for an issuer, and therefore the Exchange does not expect that the number of issuers that transfer to the NYSE in a given time frame will be sufficient to have a material effect on financial resources.

2. Statutory Basis

The bases under the Act for this proposed rule change are: (i) The requirement under Section 6(b)(4)[6] that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities, and (ii) the requirement under Section 6(b)(5)[7] of the Act that an exchange have rules that are designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, and are not designed to permit unfair discrimination between issuers. In light of a transferring issuer's prior payment to another market, the Exchange believes that the proposed fee waiver does not render the allocation of its listing fees inequitable or unfairly discriminatory. The Exchange believes that the fee waiver will increase competition among listing markets and will remove a competitive disadvantage the Exchange currently has vis-à-vis Nasdaq, and is therefore designed to perfect the mechanism of a free and open market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[8] and subparagraph (f)(6) of Rule 19b–4 thereunder.[9] Because the Exchange has designated the foregoing proposed rule change as one that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days from the date on

[5] *See* Securities Exchange Act Release No. 51004 (January 10, 1005), 70 FR 2917 (January 18, 2005) (order approving SR–NASD–2004–140).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[10]

The Exchange requests that the Commission waive the 30-day operative delay specified in Rule 19b–4(f)(6)(iii).[11] The Exchange believes that the proposed amendment does not affect investors as it simply waives a fee that is applicable to companies listing on the Exchange. Moreover, Nasdaq has already instituted such a waiver and the Exchange is at a competitive disadvantage as long as Nasdaq can list transferring companies without the payment of original listing fees and the Exchange cannot. Therefore, the Exchange believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.

The Commission has determined to waive the 30-day delay and allow the proposed rule change to become operative immediately.[12] The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The proposed rule is substantially similar to provisions in Nasdaq's Rules 4510(a) and 4520(a), which were previously approved by the Commission.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–NYSE–2007–17 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2007–17. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the 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 Number SR–NYSE–2007–17 and should be submitted on or before March 20, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–3287 Filed 2–26–07; 8:45 am]

BILLING CODE 8010–01–P

[10] The Exchange provided written notice to the Commission of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to filing, as required by Rule 19b–4(f)(6)(iii).

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] For purposes only of waiving the operative delay of this proposal, 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).

[13] *See supra* note 5.

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55316; File No. SR–NYSE–2007–14]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto Relating to Rule 70 (Bids and Offers)

February 20, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 7, 2007, the New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the self-regulatory organization. On February 16, 2007, the Exchange filed Amendment No. 1 to the proposed rule change. NYSE filed the proposed rule change pursuant to Section 19(b)(3) of the Act [3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend Exchange Rule 70.30 which sets forth the definition of Crowd. The text of the proposed rule change is available on the Exchange's Web site (*http://www.nyse.com*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C.78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange's Hybrid Market SM (''Hybrid Market'') integrates the auction market with automated trading. Essential to the auction market is the interaction among members on the Floor and between Floor brokers and orders in the Display Book ® System that creates opportunities for price improvement, provides information about changing market conditions and serves as a catalyst to trading. Exchange Rule 70.30 [5] defines a Crowd as '' * * * the specific identifiable areas on the Floor where Floor brokers generally are able to see and hear the business conducted at each post/panel within the Crowd.'' Each designated area served to delineate the boundaries of the Crowd. In order to identify the specific boundaries of the Crowd, the Exchange divided each trading room of the Floor into specific areas which were identified on the Floor by colored tiles.

Exchange Rule 70.30 further requires that Floor brokers be in the Crowd in order to represent orders that the Floor broker has in his or her agency interest files (*i.e.*, in order to ''e-Quote''). Pursuant to Rule 70.30 a Floor broker may only have agency interest files or e-Quote in one Crowd at a time.

As the Exchange continues its implementation of the Hybrid Market, it has gained experience operating in the Hybrid Market environment. Based on this experience, the Exchange seeks to amend the definition of Crowd in order to better facilitate the critical interaction among members on the Floor.

In practice, the current definition of the Crowd proved difficult and confusing. Individuals that were unable to easily discern Crowd boundaries and those with color blindness must rely on charts that list the post/panels that are designated areas that make up the specified Crowd, adding a level of inefficiency to their ability to trade.

In addition, as announced on October 31, 2006,[6] the Exchange is in the process of consolidating its trading operations from five rooms to four over an 18-month period. The trading floor consolidation plan calls for the closing of the trading room that currently occupies 30 Broad Street and the relocation of the specialist firm and the 33 floor brokerage firms from that facility to the Exchange's other trading rooms.

Given the practical difficulties with the current definition of a Crowd and the current consolidation of the Floor, the Exchange proposes to amend the definition of the Crowd in order to reflect more accurately the areas which most efficiently facilitate the beneficial interaction among the members on the Floor. The Exchange believes that this is best reflected in defining the Crowd as encompassing the trading Floor in each remaining trading room.

The Exchange will divide the Floor into three trading zones. Each trading zone will represent a specific identifiable Crowd. As a result, the current Main Room and Garage will each constitute two separate Crowds. The third Crowd will include the current Blue Room and Extended Blue Room.

As is the case today, once in a Crowd, a Floor broker is able to e-Quote in all securities located in that Crowd. If the Floor broker leaves one Crowd in order to work in another, the Floor broker is required to withdraw his or her agency interest from the Crowd he or she is leaving. However, a Floor Broker may obtain ''market looks'' in a securities located in other Crowds without canceling his or her e-Quotes. The Exchange intends that the proposed rule change will be operative on February 20, 2007.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act [8] 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.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) by its terms, become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act [9] and Rule 19b–4(f)(6) thereunder.[10]

A proposed rule change filed under Rule 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii)[11] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the five-day pre-filing notice requirement and the 30-day operative delay. The Commission believes that waiver of the five-day pre-filing notice requirement and the 30-day operative delay is consistent with the protection of investors and the public interest. Specifically, the Commission believes that the proposal could more accurately reflect the areas which most efficiently facilitate the beneficial interaction among the Floor brokers and allow the exchange to implement the proposal immediately.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such proposed rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[13]

[5] *See* Securities Exchange Act Release No. 54427 (September 12, 2006), 71 FR 54862 (September 19, 2006) (SR–NYSE–2006–58).

[6] NYSE Announces Floor Consolidation Plan, NYSE Group Newsletter, October 31, 2006, available at *http://www.nyse.com/about/publication/1164799108193.html.*

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C), the Commission considers the period to commence on

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2007–14 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2007–14. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the 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 Number SR–NYSE–2007–14 and should be submitted on or before March 20, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–3289 Filed 2–26–07; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55312; File No. SR–NYSEArca-2007–16]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Size-Quote Pilot Program

February 16, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 14, 2007, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items substantially have been prepared substantially by NYSE Arca. NYSE Arca has designated the proposed rule change as one constituting a non-controversial rule change under Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NYSE Arca, Inc. is proposing to amend its rules in order to restore certain rule text to Rule 6.47 regarding the Size Quote Pilot Program (''Pilot Program'') and to extend the Pilot Program, for a one-year period ending February 15, 2008. The text of the proposed rule change is available at (*http://www.nyse.com*), NYSE Arca, and the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NYSE Arca included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NYSE Arca has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposal is to restore rule text that was inadvertently deleted from NYSEArca Rule 6.47(f) and to extend, for a one year period, the Exchange's Size Quote Pilot Program. The Pilot Program was initially established when the Exchange filed SR–PCX–2005–35.[5] The Pilot Program was extended when the Exchange filed PCX–06–09,[6] and was set to expire on February 15, 2007.

The rule text relating to the Size-Quote Pilot Program was mistakenly deleted from the Rules of NYSE Arca when the Exchange proposed, and subsequently received approval for SR–NYSEArca 2006–13.[7] Due to an oversight on behalf of Exchange staff, certain sections of established rule text, that the Exchange intended to keep in the Rules, were inadvertently deleted by the filing. The Exchange now proposes to restore the rule text covering the Pilot Program.

The Exchange has represented that at the completion of the Pilot Program, NYSE Arca would provide to the Commission a report summarizing the effectiveness of the Size Quote program. While the Exchange believes that the Size Quote Mechanism can be an effective tool for Floor Brokers to use while executing large size orders in

February 16, 2007, the date NYSE filed Amendment No. 1 to the proposed rule change.

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] See Securities Exchange Act Release No. 51576 (April 19, 2005), 70 FR 21488 (April 26, 2005).

[6] *See* Securities Exchange Act Release No. 53315 (February 15, 2006), 71 FR 9406 (February 23, 2006).

[7] *See* Securities Exchange Act Release No. 54238 (July 28, 2006), 71 FR 44758 (August 7, 2006) (SR–NYSEArca-2006–13) (approval of OX trading rules).

See also telephone conversation between Glenn Gsell, Director, NYSE Arca, Ira Brandriss, Special Counsel, Division of Market Regulation (''Division''), Commission, and Jennifer Dodd, Special Counsel, Division, Commission, on February 15, 2007.

open outcry, the mechanism has not been used frequently enough to supply sufficient evidence to evaluate the effectiveness of the Pilot Program. In order to allow for additional time to compile sufficient evidence as to the effectiveness of the Pilot Program, NYSE Arca proposes to extend the Pilot Program for an additional one-year period ending February 15, 2008. At the end of the extended Pilot Program, the Exchange believes it will be able supply the Commission with a report summarizing the effectiveness of the program.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5),[9] in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6) thereunder.[11]

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). Rule 19b–4(f)(6) also requires the self-regulatory organization to give the Commission notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. NYSE Arca has satisfied the five-day pre-filing requirement.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

NYSE Arca has requested that the Commission waive the 30-day operative delay. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal raises no new regulatory issues and will merely allow the Exchange more time to assess the effectiveness of the Pilot Program. Accordingly, the Commission designates the proposal to be effective and operative upon filing with the Commission.[12]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2007–16 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2007–16. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of NYSE Arca. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2007–16 and should be submitted on or before March 20, 2007.

[12] For purposes only of waiving the 30-day operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–3286 Filed 2–26–07; 8:45 am]

BILLING CODE 8010–01–P

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55320; File No. SR–NYSEArca–2007–15]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change To Trade Shares of the CurrencyShares℠ Japanese Yen Trust Pursuant to Unlisted Trading Privileges

February 21, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 12, 2007, NYSE Arca, Inc. (the ''Exchange''), through its wholly-owned subsidiary, NYSE Arca Equities, Inc. (''NYSE Arca Equities''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. This Order provides notice of the proposed rule change and approves the proposed rule change on an accelerated basis.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange, through NYSE Arca Equities, proposes to trade shares (the ''Shares'') of the CurrencyShares SM Japanese Yen Trust (the ''Trust'') pursuant to unlisted trading privileges (''UTP''). The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item 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

Pursuant to NYSE Arca Equities Rule 8.202, which permits the listing and trading of ''Currency Trust Shares,'' [3] the Exchange proposes to trade pursuant to UTP the Shares of the Trust. The Commission has recently approved the listing and trading of the Shares on the New York Stock Exchange LLC (''NYSE'').[4] The Exchange currently trades Shares of the Euro Currency Trust, CurrencyShares SM Australian Dollar Trust, CurrencyShares SM British Pound Sterling Trust, CurrencyShares SM Canadian Dollar Trust, CurrencyShares SM Mexican Peso Trust, CurrencyShares SM Swedish Krona Trust, and CurrencyShares SM Swiss Franc Trust (the ''CurrencyShares Trusts'').[5]

The Shares issued by the Trust represent units of fractional, undivided, and beneficial interests in, and ownership of, the Trust. The Exchange states that the investment objective of the Trust is for the Shares to reflect the price of the Japanese Yen. A detailed discussion of the Trust, its assets and expenses, the creation and redemption of the Shares, the valuation of the Japanese Yen, the calculation methodology of the IIV (as defined herein), and distributions, among others, can be found in the NYSE Order.

The Trust's Web site (*http://www.currencyshares.com*) provides information on: (1) The spot price for the Japanese Yen, including the bid and offer and the midpoint between the bid and offer for the Japanese Yen spot price; (2) an intraday indicative value (''IIV'') per Share, updated at least every 15 seconds;[6] (3) a delayed indicative value (subject to a 20-minute delay), used for calculating premium/discount information; (4) premium/discount information, calculated on a 20-minute delayed basis; (5) the net asset value (''NAV'') of the Trust, calculated each business day; (6) accrued interest per Share; (7) the daily Federal Reserve Bank of New York Noon Buying Rate; (8) the Basket Amount;[7] and (9) the last sale price of the Shares as traded in the U.S. market, subject to a 20-minute delay. The Trust's Web site disseminates the foreign currency spot price for the Japanese Yen and the IIV per Share at least every 15 seconds during NYSE Arca Marketplace's opening and late trading sessions, as well as during its core trading session.[8]

The Exchange states that currently, the Consolidated Tape Plan does not provide for dissemination of the spot price of a foreign currency over the Consolidated Tape System (''CTS''). However, the last sale price for the Shares is disseminated through the CTS, as is the case for all equity securities traded on the Exchange (including exchange-traded funds). Currency price and market information on the Japanese Yen and other foreign currencies is available on a 24-hour basis through public Web sites, major market data vendors, and professional and subscription services. Foreign currency futures and options prices, including information on current and past trading sessions, are also available on a real-time and delayed basis from various financial information sources. In addition, the Exchange states that current foreign currency spot prices are also generally available with bid/ask spreads from foreign currency dealers.

The Exchange represents that it will cease trading the Shares if the original listing market stops trading the Shares due a regulatory halt or such listing market delists the Shares.[9] UTP trading in the Shares would be governed by the trading halt provisions of NYSE Arca Equities Rule 7.34 relating to temporary interruptions in the calculation or wide dissemination of the IIV or the value (spot price) of the underlying currency.[10] Additionally, the Exchange may cease trading the Shares if such other event shall occur or condition exists, which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable.[11]

The Exchange states that the Shares would trade as equity securities, and therefore, the Exchange's rules governing the trading of equity securities would govern the trading of such Shares. The Shares would trade on the NYSE Arca Marketplace from 4 a.m. ET until 8 p.m. ET. The Exchange represents that its equity trading rules would govern transactions in the Shares during all trading sessions. The Shares would be deemed ''Eligible Listed Securities,'' as defined in NYSE Arca Equities Rule 7.55, for purposes of the Intermarket Trading System Plan, and therefore would be subject to the trade-

[3] Currency Trust Shares are securities issued by a trust that represent investors' discrete, identifiable, and undivided beneficial ownership interest in the non-U.S. currency deposited into the trust. *See* Securities Exchange Act Release No. 53253 (February 8, 2006), 71 FR 8029 (February 15, 2006) (SR–PCX–2005–123) (granting the Exchange accelerated approval of its proposed listing and trading standards for Currency Trust Shares and approving the UTP trading of shares of the Euro Currency Trust).

[4] *See* Securities Exchange Act Release No. 55268 (February 9, 2007), 72 FR 7793 (February 20, 2007) (SR–NYSE–2007–03) (''NYSE Order'').

[5] *See supra* note 3. *See also* Securities Exchange Act Release No. 54043 (June 26, 2006), 71 FR 37967, (July 3, 2006) (SR–NYSEArca–2006–26) (granting accelerated approval for the Exchange to trade shares of six of the CurrencyShares Trusts pursuant to UTP); Securities Exchange Act Release No. 54020 (June 20, 2006), 71 FR 36579 (June 27, 2006) (SR–NYSE–2006–35) (granting approval for the original listing and trading of six of the CurrencyShares Trusts on NYSE).

[6] The IIV is analogous to the intraday optimized portfolio value (sometimes referred to as the IOPV) and the indicative portfolio value associated with the trading of exchange-traded funds.

[7] The Basket Amount is the amount required to be deposited for the purchase of a Basket of Shares. A Basket of Shares consists of a block of 50,000 Shares.

[8] Pursuant to NYSE Arca Equities Rule 7.34(a), the NYSE Arca Marketplace trading hours for exchange-traded funds are as follows: (1) 4 a.m. to 9:30 a.m. Eastern Time (''ET'') (opening trading session); (2) 9:30 a.m. to 4:15 p.m. ET (core trading session); and (3) 4:15 p.m. to 8 p.m. ET (late trading session). The Exchange states that the currency spot price is available on the Trust's Web site without interruption 24 hours a day, seven days a week.

[9] E-mail from Timothy J. Malinowski, Director, NYSE Group, Inc., to Edward Cho, Special Counsel, Division of Market Regulation, Commission, dated February 20, 2007 (clarifying when the Exchange will halt trading of the Shares).

[10] The Exchange represents that the provisions of NYSE Arca Equities Rule 7.34(a), which address, in part, interruptions in the calculation or wide dissemination of the value of an underlying index, shall also apply to interruptions in the calculation or wide dissemination of the value (spot price) of an underlying currency. For purposes of trading the Shares pursuant to UTP, the applicable value would be the Japanese Yen spot price.

[11] *See, e.g.*, NYSE Arca Equities Rule 7.12 (Trading Halts Due to Extraordinary Market Volatility).

through restrictions of NYSE Arca Equities Rule 7.56.

The Exchange intends to utilize its existing surveillance procedures applicable to derivative products to monitor trading in the Shares. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules. The Exchange is able to obtain information regarding trading in the Shares and options and futures on the Japanese Yen through proprietary or customer trades which ETP Holders [12] effect on any relevant market. In addition, the Exchange may obtain trading information via the Intermarket Surveillance Group from other exchanges who are members or affiliates thereof. The Exchange states that its general policy prohibits the distribution of material, non-public information by its employees.[13]

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 Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares; (2) NYSE Arca Equities Rule 9.2(a), 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; (3) how information regarding the IIV and the Japanese Yen is disseminated; (4) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (5) other relevant information.

2. Statutory Basis

The proposal is consistent with Section 6(b) of the Act [14] in general and Section 6(b)(5) of the Act [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 remove impediments to, and perfect the mechanism of a free and open market, and in general to protect investors and the public interest. In addition, the proposal is consistent with Rule 12f–5 under the Act [16] because the Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing 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 result in any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2007–15 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2007–15. 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 Number SR–NYSEArca–2007–15 and should be submitted on or before March 20, 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. The Commission believes that this proposal should benefit investors by increasing competition among markets that trade the Shares. The Commission notes that it previously approved the original listing and trading of the Shares on NYSE.[19]

In addition, the Commission finds that the proposal is consistent with Section 12(f) of the Act,[20] which permits an exchange to trade, pursuant to UTP, a security that is listed and registered on another exchange.[21] The Commission notes that it previously approved for

[12] An ETP Holder is a registered broker or dealer that has been issued an Equity Trading Permit (ETP) by NYSE Arca Equities.

[13] The Exchange further states that the Sponsor (Rydex Specialized Products LLC), the Trustee (The Bank of New York), the Depository (JPMorgan Chase Bank, N.A., London Branch), and the Distributor (Rydex Distributors, Inc.) are not affiliated with the Exchange or one another, with the exception that the Sponsor and Distributor are affiliated.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] 17 CFR 240.12f–5.

[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] *See supra* note 4.

[20] 15 U.S.C. 78*l*(f).

[21] Section 12(a) of the Act, 15 U.S.C. 78l(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.

trading pursuant to UTP on the Exchange the shares issued by the CurrencyShares Trusts, which are similar to the Shares issued by the Trust.[22] The Commission finds that the proposal is consistent with Rule 12f-5 under the Act,[23] 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. The Exchange has represented that it meets this requirement because it deems the Shares to be equity securities, thus rendering trading in the 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. The last sale price of the Shares is available through CTS. Although the CTS does not provide for dissemination of the spot price of the Japanese Yen, the Trust's Web site disseminates the spot price every five to ten seconds, as well as the IIV per Share at least every 15 seconds, the NAV once daily, the Basket Amount, and the last sale price of the Shares. In addition, currency prices and market information on the Japanese Yen, including futures and options prices, are available through various major market data vendors, financial information sources, and professional and subscription services. If the listing market halts trading in the Shares, or the IIV or the value of the underlying currency is not being calculated or disseminated, the Exchange would halt trading in the Shares.

The Commission notes that, if the Shares should be delisted by the listing exchange, the Exchange would no longer have authority to trade the Shares pursuant to this Order.

In support of this proposal, the Exchange has made the following representations:

(1) The Exchange's surveillance procedures are adequate to address any concerns associated with the trading of the Shares on a UTP basis.

(2) The Exchange would inform its members in an Information Bulletin of the special characteristics and risks associated with trading the Shares, including suitability recommendation requirements.

(3) The Exchange would require its members to deliver a prospectus or product description to investors purchasing Shares prior to or concurrently with a transaction in such Shares and will note this prospectus delivery requirement in the Information Bulletin.

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 above, the Commission previously approved the original listing and trading of the Shares on NYSE and the trading of shares issued by the CurrencyShares Trusts, which are similar to the Shares issued by the Trust, pursuant to UTP on the Exchange. The Commission presently is not aware of any regulatory issue that should cause it to revisit those findings or would preclude the trading of the Shares on the Exchange pursuant to UTP. Accelerating approval of this proposal should benefit investors by creating, without undue delay, additional competition in the market for such Shares.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[25] that the proposed rule change (SR–NYSEArca–2007–15) be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[26]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–3291 Filed 2–26–07; 8:45 am]

BILLING CODE 8010–01–P

[22] *See supra* note 5.

[23] 17 CFR 240.12f–5.

[24] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[25] 15 U.S.C. 78s(b)(2).

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55321; File No. SR–Phlx–2006–85]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Accelerated Approval of Proposed Rule Change Relating To Listing Standards for Basket Linked Notes

February 21, 2007.

I. Introduction

On December 12, 2006, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposal to amend Phlx Rule 803—Criteria for Listing—Tier 1, to increase the number of underlying securities that may be linked to a Basket Linked Note (''BLN''). The proposed rule change was published for comment in the **Federal Register** on January 31, 2007 for a 15-day comment period.[3] The Commission received no comments regarding the proposal. This order approves the proposed rule change on an accelerated basis.

II. Description of the Proposal

A BLN is non-convertible debt of an issuer whose value is based, at least in part, on the performance of highly capitalized, actively traded common stock, or non-convertible preferred stock of other issuers.[4] Rule 803(k) currently permits the Exchange to list and trade BLNs linked to more than one equity security but no more than 20.[5] Phlx proposes to amend Rule 803(k) to increase the number of underlying securities that may be linked to a BLN from no more than 20 to no more than 30.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 55173 (January 25, 2007), 72 FR 4552.

[4] Phlx Rule 803(k)(3) currently requires, among other things, that each of the underlying securities linked to a BLN either: (i) Have a minimum market capitalization of $3 billion and during the 12 months preceding listing are shown to have traded at least 2.5 million shares; (ii) have a minimum market capitalization of $1.5 billion and during the 12 months preceding listing are shown to have traded at least 10 million shares; or (iii) have a minimum market capitalization of $500 million and during the 12 months preceding listing are shown to have traded at least 15 million shares.

[5] *See* Securities Exchange Act Release No. 43690 (December 7, 2000), 65 FR 78523 (December 15, 2000) (SR–Phlx–2000–90).

III. Discussion

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[6] and, in particular, the requirements of Section 6 of the Act.[7] Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[8] which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that expanding the basket of equity securities that may be linked to a BLN may enhance competition and benefit investors and the marketplace through additional product choices and alternatives. The Commission does not believe that there would be investor protection concerns with expanding the number of equity securities that may be linked to a BLN from more than one common stock to up to thirty common stocks. The Commission notes that the proposed rule change to Phlx's listing standards for BLNs, specifically Phlx Rule 803(k), is substantially similar to the listing standards of the American Stock Exchange LLC regarding equity linked term notes, which are substantially similar investment products.[9]

The Commission finds good cause to grant accelerated approval of the proposed rule change because it will enable the Exchange to immediately consider listing and trading a BLN consistent with the rules of other national securities exchanges and does not raise any new regulatory issues. Accordingly, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the notice is published for comment in the **Federal Register** pursuant to Section 19(b)(2) of the Act.[10]

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (SR–Phlx–2006–85) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–3292 Filed 2–26–07; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

National Advisory Council Public Meeting

The U.S. Small Business Administration (SBA) National Advisory Council public meeting originally scheduled for Tuesday, February 27, 2007, will be cancelled and rescheduled to Wednesday, February 28, 2007 at 2 p.m. The meeting will take place using an audio/web conference system. To participate, please call our toll free conferencing service at 1–866–740–1260 and enter access code 3711001 at the prompt. The purpose of the meeting is to provide and discuss recent updates pertaining to the delivery of the Agency's programs and services. Information will be presented by the staff of the SBA, members of the council or interested others. Anyone wishing to attend or to make a presentation must contact Mina Wales in writing, phone or e-mail in order to be put on the agenda. Mina Wales, NAC Designated Federal Officer, SBA Headquarters, 409 3rd Street SW., Washington, DC 20416, phone (202) 205–8414, e-mail: *mina.wales@sba.gov.* For more information about the National Advisory Council, see our Web site at *http://www.sba.gov/nac/index.html.*

Matthew Teague,

Committee Management Officer.

[FR Doc. E7–3268 Filed 2–26–07; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 5693]

Notice of Proposal To Extend the Memorandum of Understanding Between the Government of the United States of America and the Government of the Republic of Guatemala Concerning the Imposition of Import Restrictions on Archaeological Objects and Materials from the Pre-Columbian Cultures of Guatemala

The Government of the Republic of Guatemala has informed the Government of the United States of its interest in an extension of the Memorandum of Understanding Between the Government of the United States of America and the Government of the Republic of Guatemala Concerning the Imposition of Import Restrictions on Archaeological Objects and Materials from the Pre-Columbian Cultures of Guatemala which entered into force on September 29, 1997, and was extended on September 29, 2002.

Pursuant to the authority vested in the Assistant Secretary for Educational and Cultural Affairs, and pursuant to the requirement under 19 U.S.C. 2602(f)(1), an extension of this Memorandum of Understanding is hereby proposed.

Pursuant to 19 U.S.C. 2602(f)(2), the views and recommendations of the Cultural Property Advisory Committee regarding this proposal will be requested.

A copy of the Memorandum of Understanding, the designated list of restricted categories of material, and related information can be found at the following Web site: *http://exchanges.state.gov/culprop.*

Dina Habib Powell,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E7–3384 Filed 2–26–07; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 5694]

Notice of Proposal To Extend the Memorandum of Understanding Between the Government of the United States of America and the Government of the Republic of Mali Concerning the Imposition of Import Restrictions on Archaeological Material From the Region of the Niger River Valley and the Bandiagara Escarpment (Cliff)

The Government of the Republic of Mali has informed the Government of the United States of its interest in an extension of the Memorandum of

[6] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(5).

[9] *See* Amex Company Guide Section 107B; and Securities Exchange Act Release No. 47055 (December 19, 2002), 67 FR 79669 (December 30, 2002) (SR–Amex–2002–110).

[10] 15 U.S.C. 78s(b)(2).

[11] 15 U.S.C. 78s(b)(2).

[12] CFR 200.30–3(a)(12).

Understanding between the Government of the United States of America and the Government of the Republic of Mali Concerning the Imposition of Import Restrictions on Archaeological Material from the Region of the Niger River Valley and the Bandiagara Escarpment (Cliff) which entered into force on September 19, 1997, and was extended on September 19, 2002.

Pursuant to the authority vested in the Assistant Secretary for Educational and Cultural Affairs, and pursuant to the requirement under 19 U.S.C. 2602(f)(1), an extension of this Memorandum of Understanding is hereby proposed.

Pursuant to 19 U.S.C. 2602(f)(2), the views and recommendations of the Cultural Property Advisory Committee regarding this proposal will be requested.

A copy of this Memorandum of Understanding, the designated list of restricted categories of material, and related information can be found at the following Web site: *http://exchanges.state.gov/culprop.*

Dina Habib Powell,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E7–3377 Filed 2–26–07; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 5695]

Notice of Meeting of the Cultural Property Advisory Committee

There will be a meeting of the Cultural Property Advisory Committee on Thursday, March 15, 2007, from approximately 8:30 a.m. to 5 p.m., and on Friday, March 16, from approximately 8:30 a.m. to 3 p.m., at the Department of State, Annex 44, Room 840, 301 4th St., SW., Washington, DC. During its meeting the Committee will review a proposal to extend the Memorandum of Understanding Between the Government of the United States of America and the Government of the Republic of Guatemala Concerning the Imposition of Import Restrictions on Archaeological Objects and Materials from the Pre-Hispanic Cultures of Guatemala, and a proposal to extend the Memorandum of Understanding Between the Government of the United States of America and the Government of the Republic of Mali Concerning the Imposition of Import Restrictions on Archaeological Material from the Region of the Niger River Valley and the Bandiagara Escarpment (Cliff). The concerned Governments have each notified the Government of the United States of America of their interest in extending the respective MOU.

The Committee's responsibilities are carried out in accordance with provisions of the Convention on Cultural Property Implementation Act (19 U.S.C. 2601 *et seq.*). The text of the Act and subject Memoranda of Understanding, as well as related information, may be found at *http://exchanges.state.gov/culprop.* Portions of the meeting on March 15 and 16 will be closed pursuant to 5 U.S.C. 552b(c)(9)(B) and 19 U.S.C. 2605(h). However, on March 15, the Committee will hold an open session from approximately 9:30 a.m. to 11 a.m., to receive oral public comment on the proposals to extend. Persons wishing to attend this open session should notify the Cultural Heritage Center of the Department of State at (202) 453–8800 no later than March 7, 2007, 5 p.m. (EST) to arrange for admission. Seating is limited.

Anyone wishing to make an oral presentation at the public session must request to be scheduled, must state which MOU—Mali or Guatemala—the presentation will address, and must submit a written text of the oral comments by March 7, 2007, to allow time for distribution to Committee members prior to the meeting. Oral comments will be limited to allow time for questions from members of the Committee and must specifically relate to the determinations under Section 303(a)(1) of the Convention on Cultural Property Implementation Act, 19 U.S.C. 2602, pursuant to which the Committee must make findings. This citation for the determinations can be found at the Web site noted above.

The Committee also invites written comments and asks that they be submitted no later than March 7, 2007, to allow time for distribution to Committee members prior to the meeting. All written materials, including the written texts of oral statements, may be faxed to (202) 453–8803. If more than three (3) pages, 20 duplicates of written materials must be sent by express mail to: Cultural Heritage Center, Department of State, Annex 44, 301 4th Street, SW., Washington, DC 20547; tel: (202) 453–8800.

Dina Habib Powell,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E7–3368 Filed 2–26–07; 8:45 am]

BILLING CODE 4710–05–P

SUSQUEHANNA RIVER BASIN COMMISSION

Notice of Public Hearing and Commission Meeting

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice of Public Hearing and Commission Meeting.

SUMMARY: The Susquehanna River Basin Commission will hold a public hearing to consider approval of certain water resources projects identified in the Supplementary Information section as part of its regular business meeting to be held at 1 p.m. on March 14, 2007 in Altoona, Pa. At the public hearing, the Commission will also consider the rescission of three docket approvals and an enforcement action involving one project, all of which are identified in the Supplementary Information section.

DATES: March 14, 2007.

ADDRESSES: Ramada Conference Center Altoona, 1 Sheraton Drive, Altoona, PA. See Supplementary Information section for mailing and electronic mailing addresses for submission of written comments.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, *telephone:* (717) 238–0423; ext. 306; *fax:* (717) 238–2436; *e-mail: rcairo@src.net* or Deborah J. Dickey, Secretary to the Commission, *telephone:* (717) 238–0423, ext. 301; *fax:* (717) 238–2436; *e-mail: ddickey@srbc.net.*

SUPPLEMENTARY INFORMATION: In addition to the public hearing and its related action items identified below, the business meeting also includes the following items on the agenda: (1) A panel session on water resources management issues in the Morrison Cove Watershed, Juniata Subbasin, of the Susquehanna River Basin; (2) a report on hydrologic conditions in the basin; (3) adoption of the 2007 Water Resources Program; (4) revisions to the FY 2008 budget; (5) approval/ratification of grants and contracts; (6) presentation of SRBC's Frederick Zimmerman and William Jeannes Awards; and (7) recognition of former Maryland Member Kendl Philbrick.

Public Hearing—Projects Scheduled for Action:

1. *Project Sponsor & Facility:* Osram Sylvania Products, Inc., Towanda Borough, Bradford County, Pa. Modification of consumptive water use approval (Docket No. 19970502).

2. *Project Sponsor & Facility:* Conyngham Borough Authority, Conyngham Borough, Luzerne County, Pa. Application for groundwater withdrawal of up to 0.216 mgd.

3. *Project Sponsor:* The County of Lycoming. *Project Facility:* Lycoming County Resource Management Services, Brady Township, Lycoming County, Pa. Application for consumptive water use of up to 0.105 mgd.

4. *Project Sponsor & Facility:* Mount Union Municipal Authority, Wayne Township, Mifflin County, Pa. Application for groundwater withdrawal of up to 0.432 mgd.

5. *Project Sponsor & Facility:* Commonwealth Environmental Systems, L.P., Foster Township, Schuylkill County, Pa. Application for consumptive water use of up to 0.030 mgd.

6. *Project Sponsor & Facility:* Shippensburg Borough Authority, Southampton Township, Cumberland County, Pa. Application for groundwater withdrawal of up to 2.000 mgd.

7. *Project Sponsor:* Lancaster County Solid Waste Management Authority. *Project Facility:* Frey Farm and Creswell Landfills, Manor Township, Lancaster County, Pa. Modification of consumptive water use approval (Docket No. 20061208).

8. *Project Sponsor:* Delta Borough. *Project Facility:* Delta Ridge Subdivision, Peach Bottom Township, York County, Pa. Application for groundwater withdrawal of up to 0.032 mgd.

Public Hearing—Projects Scheduled for Rescission Action:

1. *Project Sponsor & Facility:* Frito-Lay, Inc. (Docket No. 20020201), Johnson City, Broome County, NY.

2. *Project Sponsor:* Corning Incorporated. *Project Facility:* Erwin Park Photonics (Docket No. 20031002), Town of Erwin, Steuben County, NY.

3. *Project Sponsor & Facility:* Union Township Municipal Authority (Docket No. 19920701), Union Township, Clearfield County, Pa.

Public Hearing—Projects Scheduled for Enforcement Action:

1. *Project Sponsor:* South Slope Development Corporation (Docket No. 19991103). *Project Facility:* Song Mountain Ski Resort, Town of Preble, Cortland County, NY.

Opportunity to Appear and Comment: Interested parties may appear at the above hearing to offer written or oral comments to the Commission on any matter on the hearing agenda, or at the business meeting to offer written or oral comments on other matters scheduled for consideration at the business meeting. The chair of the Commission reserves the right to limit oral statements in the interest of time and to otherwise control the course of the hearing and business meeting. Written comments may also be mailed to the Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, Pennsylvania 17102–2391, or submitted electronically to Richard A. Cairo, General Counsel, *e-mail: rcairo@src.net* or Deborah J. Dickey, Secretary to the Commission, *e-mail: ddickey@srbc.net*. Comments mailed or electronically submitted must be received prior to March 14, 2007 to be considered.

Authority: Pub. L. 91–575, 84 Stat. 1509 *et seq.*, 18 CFR Parts 803, 804, and 805.

Dated: February 16, 2007.

Thomas W. Beauduy,

Deputy Director.

[FR Doc. E7–3370 Filed 2–26–07; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular 120–XX, Damage Tolerance Inspections for Repairs and Alterations

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Availability of Proposed Advisory Circular (AC) 120–XX, and Request for Comments

SUMMARY: This notice announces the availability of and requests comments on a proposed advisory circular (AC) which provides guidance to type certificate holders and supplemental type certificate holders for developing damage tolerance data that will support operator compliance with certain airworthiness standards. This proposed AC complements revisions to the airworthiness standards that are being proposed by a separate notice. This notice is necessary to give all interested persons an opportunity to present their views on the proposed AC.

DATES: We must receive your comments by April 20, 2007.

ADDRESSES: You must mail two copies of your comments on the proposed AC to: Federal Aviation Administration, Attention: Greg Schneider, Airframe and Cabin Safety Branch, ANM–115, FAA, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, WA 98057–3356. You can inspect comments at the above address between 7:30 a.m. and 4 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kenna Sinclair, Transport Standards Staff, at the address above, telephone (425) 227–1556.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested people to comment on the proposed AC by sending written data, views, or arguments. You should identify AC 120–XX and send two copies of your comments to the address specified above. We will consider all communications received by the closing date for comments. We will consider comments received late if it is possible to do so without incurring expense or delay. The proposed AC can be found and downloaded from the Internet at *http://www.faa.gov/aircraft/draft_docs*. A paper copy of the proposed AC may be obtained by contacting the person named above under the caption **FOR FURTHER INFORMATION CONTACT**.

Discussion

This proposed AC provides guidance material to support Type Certificate (TC) and Supplemental Type Certificate (STC) Holder compliance with proposed rulemaking title 14 Code of Federal Regulations (14 CFR) 25.1823, Supplemental Structural Inspections, Holders of type certificates—Repairs; 14 CFR 25.1825, Supplemental Structural Inspections, Holders of type certificates—Alterations and repairs to alterations; 14 CFR 25.1827, Supplemental Structural Inspections, Holders of and applicants for a Supplemental type certificate—Alterations and repairs to alterations. These proposed regulations would require TC Holders and STC Holders to develop damage tolerance data that would support operator compliance with 14 CFR 121.1109 and 14 CFR 129.109, the Aging Airplane Safety Final Rule (AASFR) (currently found at §§ 121.370(a) and 129.16) with respect to repairs and alterations. Sections 121.370(a) and 129.16 require operators of certain transport airplane models to incorporate into their maintenance program damage tolerance-based inspections and procedures for structure susceptible to fatigue cracking that could contribute to a catastrophic failure. The proposed AC refers to that type of structure as fatigue critical structure. The proposed AC is applicable to repairs and alterations that affect fatigue critical structure.

The proposed AC also provides guidance for new and existing repairs and alterations made to the original, as delivered, airplane structural configuration, as well as repairs to alterations. For compliance with § 121.1109 and § 129.109, operators will need to demonstrate that new and existing repairs and alterations will have an evaluation and damage

tolerance-based inspections or other procedures implemented, if needed.

Following the guidance in this proposed AC is one means, but not the only means, of complying with the part 25 revisions proposed in Notice No. 05–11 entitled Damage Tolerance Data for Repairs and Alterations, which was published in the **Federal Register** on April 21, 2006 (71 FR 20574). Issuance of AC 120–XX is contingent on final adoption of the proposed revisions to part 25.

Issued in Washington, DC, on February 20, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

Dave Cann,

Manager, Aircraft Maintenance Division, Flight Standards Service.

[FR Doc. E7–3329 Filed 2–26–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 668]

Surface Transportation Board—2007 Office Relocation Business Plan

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice.

SUMMARY: The Surface Transportation Board is scheduled to relocate over the period of February 28-March 4, 2007. The Board is giving notice of pre-relocation and post-relocation procedures. The Board's new address will be: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.

EFFECTIVE DATE: February 28, 2007.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565–1609 [after March 4, 2007, (202) 245–0395]. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at: (800) 877–8339.]

SUPPLEMENTARY INFORMATION: The Board is issuing this notice to advise the public of its new location, effective March 5, 2007. The Board is scheduled to relocate its offices beginning at 5 p.m. on Wednesday, February 28, 2007. STB offices will be closed on March 1 and March 2, 2007, and will reopen for normal business operations at the new location beginning March 5, 2007. Its new address will be: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, the Board is also giving the public advance notice that normal service to the public, including normal case intake and processing, will not occur during the immediate relocation dates of February 28, 2007, through March 4, 2007, due to necessary equipment relocation and other disruptions anticipated during the relocation.

Therefore, by this notice, the Board is announcing that mail will not be received and decisions will not be served on Thursday, March 1, 2007, and Friday, March 2, 2007. In particular, the Board will not: accept case filings or recordations; receive general mail; process cases; or issue decisions on these 2 days. Mail delivery and acceptance of filings and recordations will resume on March 5 at the new location. The Board will, for the duration of the period between March 1 and March 4, toll the time period for calculating the effective date of all Board decisions and notices that would otherwise be scheduled to take effect between March 1 and March 4, 2007. Because of the number of time-sensitive matters handled by the Board, the Board is providing advance notice that case filings that would begin a proceeding and trigger a deadline for processing or for effectiveness will not be accepted during the days needed to accomplish the agency's relocation. Likewise, the STB will suspend its processing of recordations during the days involved in its relocation. The effectiveness of previously issued decisions, or previously filed self-executing notices that would otherwise be scheduled to take effect between March 1 and March 4, 2007, will be delayed one day for every calendar day during the March 1–4 interval. This should alleviate any problems that could otherwise be presented for those persons who wish to seek a stay of effectiveness or problems that might otherwise occur in connection with processing of offers of financial assistance to continue rail service following Board approval of a rail line abandonment or discontinuance.

The Board's libraries will operate under the following schedule. The main library will be inaccessible from February 23 through March 5, 2007. The microfiche unit will be inaccessible from noon on February 28 through March 5, 2007. The tariff library will be inaccessible from February 28 through March 5, 2007. Recordations indexes will be inaccessible from February 23 through March 5, 2007. All Board library resources will reopen at the new location at the start of business on Tuesday, March 6, 2007.

Following the Board's move, the agency's information line will be 202–245–0245. To access the agency's new direct dial telephone numbers, either: (1) Dial any agency phone number now in use to listen to a recording advising of the new phone number replacing it; or (2) access the Board's Web site, at *http://www.stb.dot.gov*; click ''Contact Us'' at the bottom of the home page; then, when the new page appears, click either the ''Key Contacts List'' or the ''Ready Reference List'' found at the bottom of the new page.

On March 1 and 2, 2007, should an emergency situation arise, an STB staff member will monitor calls placed to the agency at 202–565–1573 and 202–565–9011 (fax). In addition, the STB's Office of Compliance and Consumer Assistance will monitor messages left at its toll free line 1–866–254–1792. Routine calls placed to the agency during its move will be returned beginning at the start of business at the new location on Monday, March 5, 2007.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Decided: February 21, 2007.

By the Board, Chairman Nottingham. Vice Chairman Buttrey, and Commissioner Mulvey.

Vernon A. Williams,

Secretary.

[FR Doc. E7–3332 Filed 2–26–07; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. The OCC is soliciting comment concerning its information collection titled, ''Notice Regarding Unauthorized

Access to Customer Information.'' The OCC is also giving notice that it has sent the information collection to OMB for review.

DATES: You should submit comments by March 29, 2007.

ADDRESSES: Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 1–5, Attention: 1557–0227, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874–4448, or by electronic mail to *regs.comments@occ.treas.gov*. You can inspect and photocopy the comments at the OCC's Public Information Room, 250 E Street, SW., Washington, DC 20219. You can make an appointment to inspect the comments by calling (202) 874–5043.

Additionally, you should send a copy of your comments to OCC Desk Officer, 1557–0227, by mail to U.S. Office of Management and Budget, 725 17th Street, NW., #10235, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: You can request additional information or a copy of the collection from Mary Gottlieb, OCC Clearance Officer, or Camille Dickerson, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC is proposing to extend, without revision, the approval of the following information collection:

Title: Notice Regarding Unauthorized Access to Customer Information.

OMB Number: 1557–0227.

Description: Section 501(b) of the Gramm-Leach-Bliley Act (15 U.S.C. 6901) requires the OCC to establish standards for national banks relating to administrative, technical, and physical safeguards to: (1) Insure the security and confidentiality of customer records and information; (2) protect against any anticipated threats or hazards to the security or integrity of such records; and (3) protect against unauthorized access to or use of such records or information that could result in substantial harm or inconvenience to any customer.

The Interagency Guidelines Establishing Information Security Standards, 12 CFR Part 30, Appendix B (Security Guidelines) implementing section 501(b) require each bank to consider and adopt a response program, if appropriate, that specifies actions to be taken when the bank suspects or detects that unauthorized individuals have gained access to customer information.

The Interagency Guidance on Response Programs for Unauthorized Customer Information and Customer Notice (Breach Notice Guidance), which interprets the Security Guidelines states that, at a minimum, a bank's response program should contain procedures for the following:

(1) Assessing the nature and scope of an incident, and identifying what customer information systems and types of customer information have been accessed or misused;

(2) Notifying its primary Federal regulator as soon as possible when the bank becomes aware of an incident involving unauthorized access to or use of sensitive customer information;

(3) Consistent with the OCC's Suspicious Activity Report regulations, notifying appropriate law enforcement authorities, in addition to filing a timely SAR in situations involving Federal criminal violations requiring immediate attention, such as when a reportable violation is ongoing;

(4) Taking appropriate steps to contain and control the incident to prevent further unauthorized access to or use of customer information, for example, by monitoring, freezing, or closing affected accounts, while preserving records and other evidence; and

(5) Notifying customers when warranted.

This collection of information covers the notice provisions in the Breach Notice Guidance.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals; Businesses or other for-profit.

Estimated Number of Respondents: 2,200.

Estimated Total Annual Responses: 2,244.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 53,844 hours.

A 60-day notice requesting comment was published on November 20, 2006 (71 FR 67204). No comments were received. Comments continued to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology;

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information; and

(f) Whether the estimates need to be adjusted based upon banks' experience regarding the number of actual security breaches that occur.

Dated: February 21, 2007.

Stuart Feldstein,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

[FR Doc. E7–3266 Filed 2–26–07; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0376]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 29, 2007.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov;* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0376'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005G2), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565–8374, fax (202) 565–7870 or e-mail *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0376.''

SUPPLEMENTARY INFORMATION:

Title: Agent Orange Registry Code Sheet, VA Form 10–9009.

OMB Control Number: 2900–0376.

Type of Review: Extension of a currently approved collection.

Abstract: VA in an on-going effort to maintain an Agent Orange Registry (AOR) developed a reporting format to facilitate the collection of information obtained from veterans during the Agent Orange registry examination process. VA is required to organize and update the information contained in AOR to be able to notify Vietnam era veterans who served in the Republic of Vietnam of any increased health risks resulting from exposure to dioxin or other toxic agents. VA may also provide, upon request, a health examination, consultation, and counseling veterans who are eligible for listing or inclusion in any health-related registry administrated by VA that is similar to the Persian Gulf War Veterans Health Registry. Registry examinations are provided to veterans who served in Korea in 1968 or 1969, and/or any U.S. veteran who may have been exposed to dioxin, or other toxic substance in a herbicide or defoliant, during the conduct of, or as a result of, the testing, transporting, or spraying of herbicides, and who requests an Agent Orange Registry examination. VA will enter the information obtained from the veteran during the interview on VA Form 10–9009, Agent Orange Registry Code Sheet. The registry will provide a mechanism that will catalogue prominent symptoms, reproductive health, and diagnoses and to communicate with Agent Orange veterans. VA will inform the veterans on research finding or new compensation policies through periodic newsletters. The registry is not designed or intended to be a research tool and therefore the results cannot be generalized to represent all Agent Orange veterans.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on December 6, 2006 at pages 70847–70848.

Affected Public: Individuals or Households.

Estimated Total Annual Burden: 7000 hours.

Estimated Average Burden Per Respondent: 20 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 21,000.

Dated: February 14, 2007.

By direction of the Secretary:

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–3380 Filed 2–26–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0012]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to determine a claimant's eligibility for a loan or cash surrender value on his or her Government Life Insurance policy.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before April 30, 2007.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov;* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; or e-mail: *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0012'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–21), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles:

a. Application for Cash Surrender, Government Life Insurance, VA Form 29–1546.

b. Application for Policy Loan, Government Life Insurance, 29–1546–1.

OMB Control Number: 2900–0012.

Type of Review: Extension of a currently approved collection.

Abstract: Claimants complete VA Forms 29–1546 and 29–1546–1 to request a cash surrender or policy loan on his or her Government Life Insurance.

Affected Public: Individuals or households.

Estimated Annual Burden: 4,939 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 29,636.

Dated: February 12, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–3382 Filed 2–26–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0117]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Office of Human Resources and Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Office of Human Resources and Administration (HRA), Department of Veterans Affairs (VA), is

announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to determine an applicant's suitability and qualifications for employment.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before April 30, 2007.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov;* or to Jean Hayes, Office of Human Resources Management (051B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; or e-mail: *jean.hayes@va.gov.* Please refer to ''OMB Control No. 2900-0117'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Jean Hayes at (202) 273–9706.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, HRA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VA's functions, including whether the information will have practical utility; (2) the accuracy of HRA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Inquiry Concerning Applicant for Employment, VA Form Letter 5–127.

OMB Control Number: 2900–0117.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form Letter 5–127 is used to verify qualifications of applicants for employment at VA. This information is obtained from individuals who have knowledge of the applicants' past work record, performance, and character. VA will use the data collected to determine the applicant's suitability and qualifications for employment.

Affected Public: Business or other for-profit, individuals or households, State, local or tribal government.

Estimated Annual Burden: 3,125 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 12,500.

Dated: February 12, 2007.

By direction of the Secretary.

Denise McLamb,

Records Management Service.

[FR Doc. E7–3383 Filed 2–26–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0609]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to this notice. This notice solicits comments for information needed to survey veteran enrollees' health status and reliance on VA's health care services.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before April 30, 2007.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov*; or to Mary Stout, Veterans Health Administration (193E1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; or e-mail: *mary.stout@va.gov*. Please refer to ''OMB Control No. 2900–0609'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Mary Stout at (202) 273–8664 or FAX (202) 273–9381.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Survey of Veteran Enrollees' Health and Reliance Upon VA, VA Form 10–21034g.

OMB Control Number: 2900–0609.

Type of Review: Extension of a currently approved collection.

Abstract: Public Law 104–262, The Veterans Health Care Eligibility Reform Act of 1996, requires VA implement a priority-based enrollment system. VA must enroll veterans by specified priorities as far down the priorities as the available resources permit. The number of priority levels to which VHA will be able to deliver care will be a function of annual funding levels and utilization of health care services by enrollees. Additionally, eligibility reform has brought about the ever-increasing need for VA to plan and budget for the evolving clinical care needs of its extremely dynamic enrollee population at risk of need or use of VA care.

There is no valid, recent information available in administrative databases on all enrollees' health status, income, and their reliance upon the VA system. The magnitude of changes each year in

enrollees, their characteristics, and system policies make annual surveys necessary to capture this critical information for input into VHA's Health Care Services Demand Model. The survey will provide VA with current information for sound decisions that affect the entire VA health care delivery system and the veterans it serves. VA Form 10–21034g will be used to provide the survey data on morbidity and reliance that is critical to obtaining accurate projections of VA's ability to service veterans who are seeking VA health care services. The projections will also be used to support VA's Capital Asset Realignment for Enhanced Services initiative and will also served as the basis for VA's new emphasis on population-based budget formulation, policy scenario testing, and strategic planning.

Affected Public: Individuals or households, and Federal Government.

Estimated Annual Burden: 10,900 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 42,200.

Dated: February 12, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–3388 Filed 2–26–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0377]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 29, 2007.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov;* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0377'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005G2), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565–8374; fax (202) 565–7870; or e-mail *denise.mclamb@mail.va.gov*. Please refer to ''OMB Control No. 2900–0377'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Claim for Repurchase of Loan, VA Form 26–8084.

OMB Control Number: 2900–0377.

Type of Review: Extension of a currently approved collection.

Abstract: Holders of delinquent vendee accounts guaranteed by VA complete VA Form 26–8084 to request VA to repurchase a loan that has been in default for three months and the amount of the delinquency equals or exceeds the sum of two monthly installments. VA notifies the obligor(s) in writing of the loan repurchased, and that the vendee account will be service and maintain by VA.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on July 28, 2006 at pages 42894–42895.

Affected Public: Business or other for-profit.

Estimated Annual Burden: 240 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 480.

Dated: February 9, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–3389 Filed 2–26–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–New (VA Form 29–0812)]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 29, 2007.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov;* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to ''OMB Control No. 2900–New (VA Form 29–0812)'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005G2), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565–8374, fax (202) 565–7870 or e-mail *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–New (VA Form 29–0812).''

SUPPLEMENTARY INFORMATION:

Title: Service-Disabled Veterans Insurance—Waiver of Premiums, VA Form 29–0812.

OMB Control Number: 2900–New (VA Form 29–0812).

Type of Review: New collection.

Abstract: Claimants who become totally disabled complete VA Form 29–0812 to apply for a waiver of their Service-Disabled Veterans Insurance policy premiums.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection

of information was published on November 20, 2006 at page 67205.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,167 hours.

Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 3,500.

Dated: February 14, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–3391 Filed 2–26–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0572]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–21), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 29, 2007.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov;* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0572'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005G2), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565–8374, fax (202) 565–7870 or e-mail *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0572.''

SUPPLEMENTARY INFORMATION:

Title: Application for Benefits for Certain Children with Disabilities Born of Vietnam and Certain Korea Service Veterans, VA Form 21–0304.

OMB Control Number: 2900–0572.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–0304 is used to gather the necessary information to determine a claimant's eligibility for a monetary allowance and appropriate level of payment. Under title 38 U.S.C 1815, Children of Women Vietnam Veterans Born with Certain Birth Defects, authorizes payment of monetary benefits to, or on behalf of, certain children of female veterans who served in Republic of Vietnam. To be eligible, the child must be the biological child; conceived after the date the veteran first served in Vietnam during the period February 28, 1961 to May 7, 1975; and have certain birth defects resulting in permanent physical or mental disability.

Under title 38 U.S.C. 1805, Spina Bifida Benefits Eligibility, authorizes payment to a spina bifida child-claimant of parent(s) who performed active military, naval, or air service during the Vietnam era during the period January 9, 1962 to May 7, 1975 or after the date the veteran first served in or near the demilitarized zone in Korea during the period September 1, 1967 to August 31, 1971. The child must be the natural child of a Vietnam veteran, regardless of age or marital status, who was conceived after the date on which the veteran first entered the Republic of Vietnam during the Vietnam era. Spina Bifida benefits are payable for all types of spina bifida except spina bifida occulta. The law does not allow payment of both benefits at the same time. If entitlement exists under both laws, benefits will be paid under 38 U.S.C. 1815.

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

The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on August 22, 2006 at pages 48975–48976.

Affected Public: Individuals or households.

Estimated Annual Burden: 72 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 430.

Dated: February 12, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–3401 Filed 2–26–07; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register
Vol. 72, No. 38
Tuesday, February 27, 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 HEALTH AND HUMAN SERVICES

Indian Health Service

Privacy Act of 1974; Report of Modified or Altered System—Indian Health Service Scholarship and Loan Repayment Programs

Correction

In notice document 07–501 beginning on page 5446 in the issue of Tuesday, February 6, 2007, make the following correction:

On page 5449, in the third column, in the second full paragraph, in the first line, ''IHS may disclose'' should read ''7. IHS may disclose''.

[FR Doc. C7–501 Filed 2–26–07; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

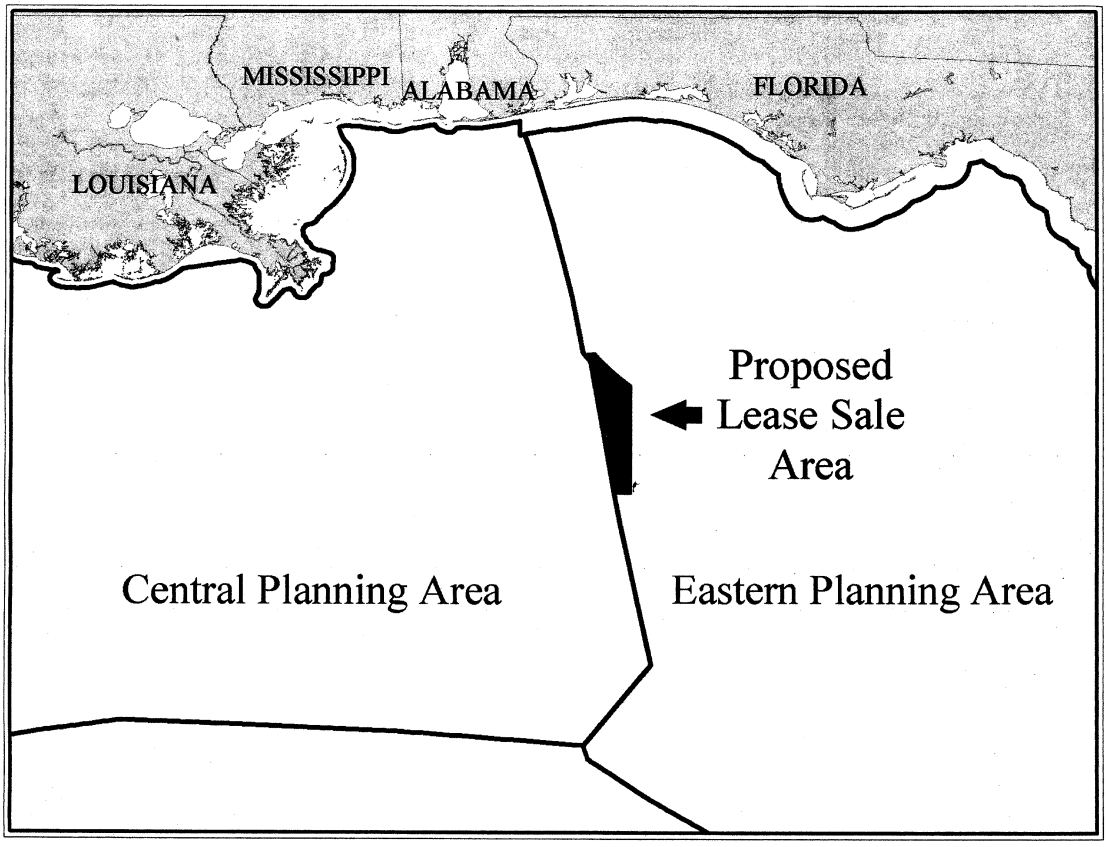
Minerals Management Service

Outer Continental Shelf (OCS), Eastern Gulf of Mexico (GOM), Oil and Gas Lease Sale 224 for 2008

Correction

In notice document E7–2498 beginning on page 7070 in the issue of Wednesday, February 14, 2007, make the following correction:

On page 7073, the graphic at the bottom of the page is being reprinted to appear as set forth below.



[FR Doc. Z7–2498 Filed 2–26–07; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Tuesday,
February 27, 2007

Part II

Consumer Product Safety Commission

16 CFR Part 1610

Standard for the Flammability of Clothing Textiles; Proposed Rule

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1610

Standard for the Flammability of Clothing Textiles; Notice of Proposed Rulemaking

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is proposing to amend its flammability standard of general wearing apparel, the Standard for the Flammability of Clothing Textiles, 16 CFR part 1610. The Standard, originally issued in 1953, has become outdated in several respects. The Commission is proposing changes to better reflect current consumer practices and technologies and to clarify several aspects of the Standard.

DATES: Written comments must be received by May 14, 2007. Requests to make an oral presentation must be received by April 13, 2007.

ADDRESSES: Written comments should be filed by e-mail to *cpsc-os@cpsc.gov.* Comments also may be filed by telefacsimile to (301) 504–0127, or they may be mailed or delivered, preferably in five copies, to the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East West Highway, Bethesda, Maryland 20814–4408; telephone (301) 504–7923. Comments should be captioned ''Clothing NPR.''

The public may also request an opportunity to present comments orally. Such requests should be submitted to the Office of the Secretary by e-mail, mail, fax or in person at the addresses or phone numbers listed above.

FOR FURTHER INFORMATION CONTACT: Patricia K. Adair, Directorate for Engineering Sciences, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814–4408; telephone (301) 504–7536.

SUPPLEMENTARY INFORMATION:

A. Background

1. History of the Standard

It excludes footwear, interlining fabrics, and some hats and gloves. The standard provides a test to determine whether such clothing and fabrics exhibit ''rapid and intense burning,'' and are therefore highly flammable.

In 1953, Congress enacted the Flammable Fabrics Act of 1953 (''FFA''), (Pub. L. 83–88, 67 Stat. 111). As enacted in 1953 and amended in 1954, the FFA prohibited the importation, manufacture for sale, or the sale in commerce of any article of wearing apparel, which is ''so highly flammable as to be dangerous when worn by individuals.'' The FFA of 1953 specified that a test, first published by the Department of Commerce as a voluntary commercial standard, then called ''Flammability of Clothing Textiles, Commercial Standard (''CS'') 191–53,'' shall be used to determine if fabric or clothing is ''so highly flammable as to be dangerous when worn by individuals.''

In 1967, Congress amended the FFA, expanding its coverage and authorizing the Secretary of Commerce to issue flammability standards through rulemaking. A savings clause kept the flammability standard for clothing textiles that the 1953 Act had mandated in effect until superseded or modified by the Secretary of Commerce through the procedures specified in the 1967 amendment. See section 11 of Pub. L. 90–189, 81 Stat. 568, December 14, 1967.

In 1972, Congress established the Consumer Product Safety Commission when it enacted the Consumer Product Safety Act (''CPSA''), 15 U.S.C. 2051 *et seq.* The CPSA transferred to the Commission the authority the Secretary of Commerce had to issue and amend flammability standards under the FFA. 15 U.S.C. 2079(b). In 1975, the Commission published the FFA of 1953 at 16 CFR 1609 and codified the Standard for the Flammability of Clothing Textiles at 16 CFR part 1610.

2. The Current Standard

Most fabrics are combustible. Some combustible fabrics, when used for clothing are potentially dangerous to the wearer because of the speed and intensity of flame with which those fabrics burn and their ease of ignition and because of the design of the garment. The Standard sets out a method for measuring burn time, which is a function of ease of ignition and flame spread rate.

The Commission is not proposing to change the essential aspects of the Standard, but rather to update and clarify it. The Standard describes a test apparatus and the procedures for testing clothing and textiles intended to be used for clothing. It establishes three classes of flammability. The classes are based on measurement of burn time, along with visual observations of flame intensity. The classes are: Class 1 or normal flammability; Class 2 or intermediate flammability; and Class 3 or rapid and intense burning. Clothing and textiles that are categorized as Class 3 under the prescribed test method are considered dangerously flammable. 16 CFR 1610.3.

To determine the appropriate classification, the Standard prescribes the method of testing. Five specimens are subjected to a flammability tester. This is a draft-proof ventilated chamber containing an ignition medium, a sample rack and an automatic timing device. *Id.* 1610.4(b). The ignition medium is a motor driven gas jet around a 26-gage hypodermic needle. *Id.* 1610.4(b)(6). A swatch of each sample must be subjected to the dry cleaning and hand washing procedure prescribed by the Standard. *Id.* 1610.4(d)&(e). To determine results, the average time of flame spread is taken for five specimens. However, if the time of flame spread is less than 4 seconds (3½ seconds for plain-surfaced fabrics), five additional specimens must be tested and the average time of flame spread for these ten specimens, or for as many of them as burn, must be taken. *Id.* 1610.4(g)(7). Classification is based on the reported results before and after drycleaning and washing, whichever is lower. *Id.* 1610.4(g)(8).

3. The Products

The products regulated under the Standard are clothing and fabrics intended to be used for clothing. The Standard applies to all items of clothing, and fabrics used for such clothing, whether for adults or children, for daywear or nightwear. The Commission has other regulations governing the flammability of children's sleepwear, 16 CFR parts 1615 and 1616, that are more stringent than the general wearing apparel flammability standard. The proposed changes discussed in this notice would not affect the children's sleepwear standards.

4. The Risk of Injury

Fatalities where clothing was the first item ignited have declined from 311 fatalities in 1980 to 110 fatalities in 2003, the most recent year of available data. An average of 122 clothing fire-related fatalities occurred annually during 1999–2003. Population fatality rates increased with age. In addition, an estimated 3,822 non-fatal injuries were treated in hospital emergency departments annually (2000–2004). Among these non-fatal injuries, 25 percent were serious enough to require admission to a hospital (compared to 5% for all consumer products). The changes the Commission is proposing will better reflect current practices and technologies and clarify some aspects of the Standard. These changes should improve the Standard's ability to address the risk of injury.

B. Statutory Provisions

The FFA sets forth the process by which the Commission can issue or amend a flammability standard. The Commission first must issue an advance notice of proposed rulemaking (''ANPR'') which it did on September 12, 2002, 67 FR 57770.

The Commission is now issuing a notice of proposed rulemaking (''NPR''). As required, this notice contains the text of the proposed rule along with alternatives the Commission has considered and a preliminary regulatory analysis. 15 U.S.C. 1193(i). Before issuing a final rule, the Commission must prepare a final regulatory analysis, and it must make certain findings concerning any relevant voluntary standard, the relationship of costs and benefits of the rule, and the burden imposed by the regulation. *Id.* 1193(j). In addition, the Commission must find that the standard (1) is needed to adequately protect the public against the risk of the occurrence of fire leading to death, injury or significant property damage, (2) is reasonable, technologically practicable, and appropriate, (3) is limited to fabrics, related materials or products which present unreasonable risks, and (4) is stated in objective terms. 15 U.S.C. 1193(b).

The Commission also must provide an opportunity for interested persons to make an oral presentation before the Commission may issue a final rule. *Id.* 1193(d). The Commission requests that anyone who would like to make an oral presentation concerning this rulemaking please contact the Commission's Office of the Secretary (address is provided in the **ADDRESSES** section of this notice) within 45 days of publication of this notice. If the Commission receives requests to make oral comments, a date will be set for a public meeting for that purpose and notice of the meeting will be provided in the **Federal Register**.

C. Proposed Revision

To reflect changes in consumer garment care practices and to make the standard easier to understand, the Commission is proposing certain changes to the clothing flammability standard. These are discussed below.

Definitions. Over the years people have expressed confusion over the meaning of certain terms and a lack of defined terminology in the Standard. In particular, the meaning of the terms ''base burn'' and ''surface flash'' have caused confusion in interpreting and reporting test results for raised surface textile fabrics. These terms are now defined in the proposal. In addition, several other relevant terms and definitions have been added. These terms include *burn time, dry cleaning, flammability, flame, ignition, interlining, laundering, long dimension, plain surface textile fabric, raised surface textile fabric, refurbishing, sample, specimen, and stop thread supply.*

Changes to the flammability tester. The test chamber prescribed in the current Standard uses a mechanical timing mechanism and is no longer available for purchase. Apparel manufacturers and testing laboratories currently use more modern flammability test chambers that incorporate electro-mechanical components to apply the ignition flame and measure burn time. (The Standard allows alternate procedures if they are as stringent as the specified procedure.) A variety of such testers are available from a number of manufacturers. The proposed revision describes the critical parameters of a modern flammability test apparatus and provides diagrams. In 1982, CPSC staff conducted some work comparing the flame impingement time of the electrical test chamber to that of a chamber with the mechanical timing device and found that the electrical test chamber readings were comparable to and more consistent than the manual test chamber readings. The proposed revisions expressly permit the use of electro-mechanical devices to control and apply the flame impingement.

Refurbishing methods. The Standard requires fabrics to be refurbished, that is, dry cleaned and laundered, one time before testing. The purpose of this requirement is to remove any non-durable solvent or water soluble treatment present on the fabric. It is not intended to replicate how the garment would be used or cared for by a consumer. Both the dry cleaning and laundering procedures prescribed by the current Standard are outdated. The proposal revises these procedures to better reflect modern techniques for laundering and dry cleaning.

The method of dry cleaning that the current Standard prescribes requires perchloroethylene in an open vessel. However, perchloroethylene has been shown to cause cancer in animal tests, and use in this manner violates regulations issued by the Environmental Protection Agency. The Commission staff has not used this procedure since 1986. (The Standard allows alternate procedures if they are as stringent as the specified procedure.) Industry and independent laboratories have been using an alternative dry cleaning procedure provided in ASTM D 1230, Standard Test Method for Apparel Flammability. This procedure uses perchlorethylene in a closed environment commercial dry cleaning machine for one cycle. Analysis of test data from an ASTM interlaboratory round robin indicates that this procedure is as stringent as the procedure currently specified in 16 CFR part 1610. However, the ASTM standard lacks specifications for solvent type, detergent class, cleaning and extraction time, drying time and temperature, and cool down/deoderization time. If specific and uniform conditions are not followed, test results could vary. Therefore, the proposed revision includes specific parameters for these conditions. These parameters were suggested by the International Fabricare Institute, a trade association for the professional garment care industry.

The current Standard requires that after fabric samples are dry cleaned they must be hand washed with neutral chip soap and line dried before testing them for flammability. 16 CFR 1610.4(e). However, neutral chip soap is no longer available. Most detergents are now non-phosphate based due to environmental concerns. The proposed revision sets forth laundering requirements based on those prescribed in American Association of Textile Chemists and Colorists (''AATCC'') 124–2001, Appearance of Fabrics After Repeated Home Laundering. An earlier version of this test method was incorporated into other FFA standards in 2000. 65 FR 12924, 12929, and 12935 (March 10, 2000).

Test procedures. Over the years, manufacturers and testing laboratories have expressed confusion regarding the test procedures and materials or equipment required by the Standard. Inaccurate sample preparation and conditioning undermine the efficacy of the Standard. In the ANPR, the Commission identified confusing sections of the test procedure, including the instructions for selecting the surface or direction of the fabric to be tested, and the directions for determining when to test five additional specimens. The proposed revision reorganizes and rewrites the test procedure in a more logical step-by-step fashion to clarify the directions for selecting the surface or direction of the fabric to be tested, how to determine when testing five additional specimens is necessary, as well as how to conduct the flammability test.

Test result interpretation and reporting. The current Standard provides no codes to report complex test results consistently. Although this is not an issue for plain surface textile fabrics, it is for raised surface textile fabrics, the

classification of which is more complex. The proposed revision clarifies the instructions for calculating burn times and establishing the occurrence of a base burn (§ 1610.8). By defining the terms ''base burn'' and ''surface flash'' in § 1610.2, the proposed revision provides further clarification for the reporting of test results for raised surface textile fabrics. The proposed revision also specifies test result codes. These codes come from CPSC's laboratory test manual and are based on codes developed by the Federal Trade Commission many years ago. Uniform result codes will facilitate reporting accuracy and consistency, understanding of flammability performance, and resolution of test result differences among laboratories.

Subpart B and Subpart C. The Commission is also proposing changes to subparts B and C of the Standard. To reduce confusion, the proposal moves some provisions concerning procedures for conducting the tests that are currently in subpart B and C into subpart A. This should provide a more cohesive and clearer standard. Subpart C is substantially the same, but some language has been clarified to make it more consistent with subparts A and B, and the section describing the history of the FFA and the Standard has been removed.

D. Response to Comments on the ANPR

On September 12, 2002, the Commission published an ANPR initiating this rulemaking. 67 FR 57770. The Commission received 18 written comments from businesses, trade associations, and interested parties representing various segments of the fiber, textile and apparel industries, as well as academic institutions and fire service organizations. Commenters generally agreed that the Standard needs to be updated and reorganized. Specific issues raised by the comments are discussed below.

1. Laundering and Dry Cleaning

a. *Comment.* One commenter suggested considering new dry cleaning methods/solvents as an alternative to perchloroethylene.

Response. The Commission recognizes that new dry cleaning technologies have emerged in recent years as alternatives to perchloroethylene and that at least one region of the country is moving to phase-out the use of perchloroethylene by 2020. At this time, however, approximately 70% of U.S. dry cleaners still use perchloroethylene. Perchloroethylene is known to be slightly more severe in solvent action than other solvents and more likely to remove any flame retardant treatments on textiles. The proposal specifies a ''normal'' commercial dry cleaning method which includes specifications for cleaning, extraction, drying temperature, drying time and cool down/deodorization. Samples are to be cleaned in a commercial dry cleaning machine, using perchloroethylene as the solvent in a closed environment.

b. *Comment.* One commenter expressed concern over the role of fabric softeners in fabric flammability.

Response. According to the Procter and Gamble Company, about 71% of U.S. households have some form of fabric softener. The most common forms of fabric softeners for home laundering are liquid softeners (purchased by 42% of U.S. households) and dryer-added sheet softeners (purchased by about 49% of U.S. households). Dryer sheet softeners have anti-static properties. Some households use both forms; some consumers use both a rinse cycle softener and a dryer sheet softener for the same load of laundry. At the present time there is no ''standard reference'' fabric softener. The AATCC technical committee RA88 on Home Laundering Technology is working on the development of a standard reference fabric softener; the technical committee estimates that this work may be completed in approximately three years. The Commission is not including a requirement for fabric softener at this time since there is no standard fabric softener to reference.

c. *Comment.* For changes to the dry cleaning and laundering procedures, two commenters suggested CPSC consider current AATCC and ASTM standards.

Response. The proposal incorporates certain sections of AATCC Test Method 124–2001 ''Appearance of Fabrics After Repeated Home Laundering,'' consistent with other FFA regulations (16 CFR Parts 1615, 1616, 1630, 1631 and 1632). The dry cleaning procedure in the proposal is similar but not identical to ASTM D1230 Standard Test Method for Flammability of Apparel Textiles section 9.2.1.6 Option B. The proposal has specifications for dry cleaning in a commercial dry-cleaning machine using perchloroethylene in a ''normal'' cycle.

d. *Comment.* One commenter provided suggestions for updating the laundering method which included increasing the number of cycles.

Response. The intent of the laundering and dry cleaning requirements of the Standard is to remove any non-durable flame retardant treatments that may be on the clothing textile; its intent is not to replicate the consumer's refurbishing practices. No change has been made; one cycle of each refurbishing method is required.

e. *Comment.* One commenter suggested requiring only the refurbishing method on the garment care label.

Response. The Standard applies to fabrics and fabrics used in garments. While the test method can be used to test fabric in the garment stage it also applies to fabric before it is sewn into a garment, so a fabric care label may not be present. The refurbishing requirement (laundering/dry cleaning) is to remove any solvent or water soluble treatment that might be on the garment. It is not meant to test the durability of fabric treatments over the lifetime of a garment.

2. Clarifications in the Standard

a. *Comment.* Several comments suggested areas of the Standard in need of clarification. These included clarifying the brushing of the specimens, fabrics considered to be raised fiber textiles, determination of the nap direction of raised surface textiles, exemptions allowed and interpretation of test results for classification.

Response. The Commission agrees that sections of the current Standard are difficult to interpret and need clarification, including clearer instructions on brushing of raised fiber surface textiles and determination of which fabrics are considered to have raised fiber surfaces. The proposal includes examples of raised fiber surface textiles and provides guidance on testing these fabrics. The proposal moves language from footnotes into the body of the Standard to clarify the exemptions allowed and brings forward clarifying language from 16 CFR subparts B and C. In addition, the proposed revision includes new text and graphics on the test procedure, interpretation of test results for classification, and engineering diagrams of the flammability test apparatus.

b. *Comment.* Commenters suggested adding portions of the CPSC laboratory test manual to clarify the test procedures in the Standard.

Response. The staff used the 1981 CPSC laboratory manual as a resource in developing recommendations to amend the Standard. The proposal has added language from the lab manual in many sections.

c. *Comment.* One commenter suggested that the terms ''surface flash'' and ''base burn'' be defined in the Standard; another suggested definitions for these terms.

Response. The proposal adds many new definitions to the Standard, including definitions for ''surface flash'' and ''base burn'' to facilitate clearer understanding of the flammability test, classification criteria and reporting results.

d. *Comment.* Two commenters suggested reorganizing the Standard to eliminate duplication.

Response. The Commission agrees and proposes to reorganize large portions of the Standard to eliminate duplication and make it easier to follow and understand.

3. Enforcement and Procedural Issues

a. *Comment.* Two commenters urged CPSC to continue with enforcement of 16 CFR part 1610.

Response. The CPSC Office of Compliance actively enforces 16 CFR part 1610 and continues to see violations of the Standard. From 1995 through June 2006, the Commission announced the recall of 28 apparel products for violations of 16 CFR part 1610.

b. *Comment.* One commenter suggested CPSC should consider promulgating a procedure or mechanism that allows the agency to make technical changes to this and other standards on a routine basis when referenced voluntary standards are upgraded by AATCC and ASTM (e.g., laundering and dry cleaning) without having to go through full notice and comment rulemaking.

Response. For any change by a voluntary standards organization to have the force and effect of a Commission rule, the Commission must formally adopt it through notice and comment rulemaking.

c. *Comment.* Some commenters suggested that the requirements of the Standard should be made more stringent to improve the level of safety provided by the Standard; comments included reviewing the appropriateness of the ignition source and ignition time, increasing the ignition time from 1 to 5 seconds, revising the acceptable burn times; considering forced ignition, ignition of the lower cut edge of the specimen and horizontal and vertical test configurations. One comment was concerned with the need for new flammability requirements for certain types of clothing (adult sleepwear and bathrobes). One commenter suggested adding a list of ''suspect fabrics'' and requiring more frequent testing for these fabrics. Additional comments included clarifying or amending the exemptions from the requirements for testing to support guaranties and warning labels for ''high-risk'' garments.

Response. The scope of the ANPR issued on September 12, 2002 was limited to considering changes to the Standard to better reflect current consumer practices, modernized testing equipment and clarifying several aspects of the Standard. If, in the future, the Commission should determine that substantive changes to the Standard are needed to adequately protect the public, it would begin a separate proceeding for issuing a new standard or amending the current one in accordance with provisions of section 4 of the FFA (15 U.S.C. 1193).

4. The Desiccant Specified in the Standard

Comment. One commenter recommended specifying silica gel as the desiccant instead of anhydrous calcium chloride. Another commenter was concerned about the potency of the anhydrous calcium chloride desiccant and consequently the efficacy of testing. That commenter noted that the only way to ensure the potency of anhydrous calcium chloride desiccant is to require maintaining daily logs detailing the initial temperature and humidity readings inside the desiccator at the start of each day, as well as after each test is completed.

Response. The Commission agrees with the commenters, and the proposal specifies silica gel as the preferred desiccant. Silica gel is recognized as an effective, reliable desiccant; and it can be reactivated by heating, thus making it economical. Other FFA standards (16 CFR parts 1615, 1616, 1630 and 1631) specify silica gel as the preferred desiccant, and for the purpose of uniformity the CPSC laboratory has been using silica gel as the desiccant for all FFA testing since 1973. Regarding the potency of the desiccant, unlike anhydrous calcium chloride desiccant, the color-changing silica gel indicator provides a visual indication that the desiccant has become saturated with moisture. When the indicating silica gel crystals change color, the desiccant is reactivated by heating it in a laboratory oven.

5. Preliminary Tests

a. *Comment.* One commenter recommended eliminating the preliminary tests requirement because the majority of apparel garments are cut in the lengthwise direction, therefore only the lengthwise direction of a garment or fabric needs to be tested.

Response. When a garment is worn on a body, the orientation of the fabric varies. The standard specifies that the long dimension of a plain surface textile fabric specimen is that direction in which the fabric burns most rapidly. To determine which fabric direction burns the most rapidly, the Standard requires preliminary tests of specimens cut in different directions. Because there can be differences in the burning characteristics with respect to fabric direction, the staff believes that the requirement for preliminary tests should not be eliminated.

b. *Comment.* One commenter suggested increasing the number of preliminary tests, especially for raised fiber surface textile fabrics to include both lengthwise and crosswise directions. The commenter is concerned about low-pile fabrics where it may be difficult to determine the correct direction of the raised surface fibers.

Response. For raised fiber surface textile fabrics the Standard requires the direction of the lay of the surface fibers be parallel with the long dimension of the specimen. Selecting specimens in this manner allows for the brushing procedure to raise the surface fibers, since the specimen is brushed against the direction of the lay of the surface fibers. The Standard requires tests of the most flammable surface of the fabric. With many raised fiber surface textile fabrics it is easy to determine the direction of the lay of the surface fibers by touch and visual observation, and preliminary tests are not needed. Regarding those fabrics where it may be difficult to visually determine the correct direction of the lay of the raised surface fibers, preliminary tests should be done to determine the direction with the fastest burning time. Since the Standard already requires preliminary tests to determine the most flammable fabric direction, there is no need to prescribe preliminary tests of both the lengthwise and crosswise direction of raised fiber surface textile fabrics.

6. Reporting Test Results

Comment. One commenter recommended using simplified abbreviations (or codes) for reporting burn test results.

Response. The existing Standard does not provide codes to report test results. However, the FTC developed test result codes many years ago for both plain surface and raised fiber surface textile fabrics. These codes are found in the CPSC's laboratory test manual, and the CPSC laboratory staff has used them to record test results for a number of years. Uniform result codes will facilitate reporting accuracy, understanding of flammability performance and resolution of test result differences among laboratories. For these reasons the proposal provides test result codes.

E. Preliminary Regulatory Analysis

Introduction

The Commission has preliminarily determined to issue a rule revising and reorganizing the Standard for the Flammability of Clothing Textiles. Section 4(i) of the FFA requires that the Commission prepare a preliminary regulatory analysis for a proposed regulation under the FFA and that it be published with the proposed rule. 15 U.S.C. 1193(i). The following discussion, extracted from the staff's memorandum titled ''Preliminary Regulatory Analysis: Amendment to Clothing Textile Standard,'' addresses this requirement.

Potential Benefits and Costs

Any benefits of the proposed revision would accrue through a reduction in injury and death associated with clothing ignition. However, the proposed amendment simply codifies existing industry practices, and is not intended to change the types and classes of textiles (or garments) available for consumer use. Consequently, we do not anticipate any change in injuries or deaths due to this revision. Therefore, this amendment would not result in any additional expected benefits associated with the Standard.

Similarly, the proposal is not expected to increase costs to manufacturers. Any increased costs that would have been incurred were already borne by manufacturers when they voluntarily initiated the test modifications which would be called for under the revision. No additional testing or recordkeeping requirements are contemplated as a result of the proposed amendment. Again, this amendment simply codifies current industry practices. If anything, this proposed revision may reduce the industry burden since it modifies requirements that are outdated and/or impossible to comply with.

Alternatives

One alternative would be for the Commission to choose to use the ASTM standard as a template for the proposed amendment. The ASTM standard is a recent update (2001) of the FFA regulations promulgated in 1953. This option would harmonize the voluntary standard with the mandatory FFA standard. However, the more extensive definitional language of the proposed revised standard is more complete and more easily understood than that of the ASTM standard, which follows a different organizational format.

Another option may be to use the test procedures outlined in the ASTM standard, combined with the definitional content of the proposal. While each of the options is likely to result in equivalence with the current Standard, the Commission believes that the detail of its proposed language could better address the potential for confusion and mis-classification of clothing textiles by the industry.

F. Regulatory Flexibility Certification

The Regulatory Flexibility Act (''RFA'') generally requires that agencies review proposed rules for their potential economic impact on small entities, including small businesses. Section 603 of the RFA calls for agencies to prepare and make available for public comment an initial regulatory flexibility analysis describing the impact of the proposed rule on small entities and identifying impact-reducing alternatives. 5 U.S.C. 603. However, section 605 states that this requirement does not apply if the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities, and the agency provides an explanation for that conclusion.

This rulemaking will have little or no effect on small businesses in the textile and apparel industries because, as discussed above, the proposal is largely a technical one that updates the FFA Standard to current industry practices. Therefore, the Commission concludes that the proposed amendment will not have a significant economic impact on a substantial number of small entities.

G. Environmental Considerations

Generally, CPSC rules are considered to ''have little or no potential for affecting the human environment,'' and environmental assessments are not usually prepared for these rules (see 16 CFR 1021.5 (c)(1)). Because the proposal continues current industry practices, it is not expected to alter production processes or affect the amounts of materials used in manufacturing, packaging or labeling. Therefore, the Commission does not expect the proposal to have any negative environmental impact.

H. Executive Orders

Executive Order 12988 (February 5, 1996), requires agencies to state in clear language the preemptive effect, if any, to be given to a new regulation. The clothing standard amendment, if issued on a final basis, would modify a flammability standard issued under the FFA. With certain exceptions which are not applicable in this instance, no state or political subdivision of a state may enact or continue in effect ''a flammability standard or other regulation'' applicable to the same fabric or product covered by an FFA standard if the state or local flammability standard or other regulations is ''designed to protect against the same risk of the occurrence fire'' unless the state or local flammability standard or regulation ''is identical'' to the FFA standard. See section 16 of the FFA (15 U.S.C. 1203).

I. Effective Date

Section 4(b) of the FFA (15 U.S.C. 1193(b)) provides that an amendment of a flammability standard shall become effective one year from the date it is promulgated, unless the Commission finds for good cause than an earlier or later effective date is in the public interest, and publishes that finding. Section 4(b) also requires that an amendment of a flammability standard shall exempt products ''in inventory or with the trade'' on the date the amendment becomes effective, unless the Commission limits or withdraws that exemption because those products are so highly flammable that they are dangerous for use by consumers.

The Commission believes that a shorter effective date is in the public interest. As discussed above, the proposed revisions reflect practices that industry and laboratories are currently following. Thus, the impact of the proposed changes should be minimal. Moreover, it should be helpful to the public if the clarifications provided in the proposed revision are effective sooner than one year. Therefore, the Commission proposes that the revisions to the Standard would become effective 180 days after publication of a final amendment and that products ''in inventory or with the trade'' would be exempt from the revised standard.

J. Proposed Findings

Section 1193(a) and (j)(2) of the FFA require the Commission to make certain findings when it issues or amends a flammability standard. The Commission must find that the standard or amendment: (1) Is needed to adequately protect the public against the risk of the occurrence of fire leading to death, injury or significant property damage; (2) is reasonable, technologically practicable, and appropriate; (3) is limited to fabrics, related materials or products which present unreasonable risks; and (4) is stated in objective terms. 15 U.S.C. 1193(b). In addition, the Commission must find that: (1) If an applicable voluntary standard has been adopted and implemented, that compliance with the voluntary standard is not likely to adequately reduce the risk of injury, or compliance with the

voluntary standard is not likely to be substantial; (2) that benefits expected from the regulation bear a reasonable relationship to its costs; and (3) that the regulation imposes the least burdensome alternative that would adequately reduce the risk of injury. These findings are discussed below.

The amendment to the Standard is needed to adequately protect the public against unreasonable risk of the occurrence of fire. The Standard dates from 1953. In the past fifty years changes in technology and consumer practices have made some parts of the Standard obsolete. Through the years, some have found the Standard's terminology and organization confusing and difficult to follow. The proposed amendment will better reflect the modern practices followed by industry and consumers, and modifications in the language and organization of the standard will enhance its clarity.

The amendment to the Standard is reasonable, technologically practicable, and appropriate. The proposed amendment essentially establishes in the Standard the practices currently followed by industry and testing laboratories. These changes should enhance the Standard's reasonableness, practicability, and appropriateness.

The amendment to the Standard is limited to fabrics, related materials, and products that present an unreasonable risk. The proposed amendment continues to apply to the same textiles as the existing Standard.

Voluntary standards. The proposed Standard is similar to ASTM D1230 Standard Test Method for Flammability of Apparel Textiles in methods of testing but significantly different in refurbishing procedures, terminology and criteria. The Commission believes that the proposed amendment will provide better clarity to industry and testing laboratories and therefore is likely to better address the risk of injury.

Relationship of benefits to costs. Because the proposed amendment reflects current practices, both anticipated costs and benefits are likely to be small.

Least burdensome requirement. The proposed amendment makes no substantive changes to the Standard, but only provides modifications that are necessary to update and clarify the Standard.

K. Conclusion

For the reasons discussed above, the Commission preliminarily finds that amending the clothing textile flammability standard is needed to adequately protect the public against the unreasonable risk of the occurrence of fire leading to death, injury, and significant property damage. The Commission also preliminarily finds that the amendment to the Standard is reasonable, technologically practicable, and appropriate. The Commission further finds that the amendment is limited to the fabrics, related materials and products which present such unreasonable risks.

List of Subjects in 16 CFR Part 1610

Clothing, Consumer protection, Flammable materials, Reporting and recordkeeping requirements, Textiles, Warranties.

Therefore, the Commission proposes to amend Title 16 of the Code of Federal Regulations by revising part 1610 to read as follows:

PART 1610—STANDARD FOR THE FLAMMABILITY OF CLOTHING TEXTILES

Subpart A—The Standard

Sec.

1610.1 Purpose, scope and applicability.
1610.2 Definitions.
1610.3 Summary of test method.
1610.4 Requirements for classifying textiles.
1610.5 Test apparatus and materials.
1610.6 Test procedure.
1610.7 Test sequence and classification criteria.
1610.8 Reporting results.

Subpart B—Rules and Regulations

1610.31 Definitions.
1610.32 General requirements.
1610.33 Test procedures for textile fabrics and film.
1610.34 Only uncovered or exposed parts of wearing apparel to be tested.
1610.35 Procedures for testing special types of textile fabrics under the standard.
1610.36 Application of Act to particular types of products.
1610.37 Reasonable and representative tests to support guaranties.
1610.38 Maintenance of records by those furnishing guaranties.
1610.39 Shipments under section 11(c) of the Act.
1610.40 Use of alternative apparatus, procedures, or criteria for tests for guaranty purposes.

Subpart C—Interpretations and Policies

1610.61 Reasonable and representative testing to assure compliance with the standard for the clothing textiles.
Figure 1 to Part 1610—Sketch of Flammability Apparatus
Figure 2 to Part 1610—Flammability Apparatus Views
Figure 3 to Part 1610—Specimen Holder Supported in Specimen Rack
Figure 4 to Part 1610—Igniter
Figure 5 to Part 1610—Brushing Device
Figure 6 to Part 1610—Brush
Figure 7 to Part 1610—Template

Authority: 15 U.S.C. 1191–1204.

Subpart A—The Standard

§ 1610.1 Purpose, scope and applicability.

(a) *Purpose.* The purpose of this standard is to reduce danger of injury and loss of life by providing, on a national basis, standard methods of testing and rating the flammability of textiles and textile products for clothing use, thereby prohibiting the use of any dangerously flammable clothing textiles.

(b) *Scope.* The Standard provides methods of testing the flammability of clothing and textiles intended to be used for clothing, establishes three classes of flammability, sets forth the requirements which textiles shall meet to be classified, and warns against the use of those textiles which have burning characteristics unsuitable for clothing. Hereafter, ''clothing and textiles intended to be used for clothing'' shall be referred to as ''textiles.''

(c) *Specific exceptions.* This standard shall not apply to: (1) Hats, provided they do not constitute or form part of a covering for the neck, face, or shoulders when worn by individuals;

(2) Gloves, provided they are not more than 14 inches in length and are not affixed to or do not form an integral part of another garment;

(3) Footwear, provided it does not consist of hosiery in whole or part and is not affixed to or does not form an integral part of another garment;

(4) Interlining fabrics, when intended or sold for use as a layer between an outer shell and an inner lining in wearing apparel.

(d) *Specific exemptions.* Experience gained from years of testing in accordance with the Standard demonstrates that certain fabrics consistently yield acceptable results when tested in accordance with the Standard. Therefore, persons and firms issuing an initial guaranty of any of the following types of fabrics, or of products made entirely from one or more of these fabrics, are exempt from any requirement for testing to support guaranties of those fabrics:

(1) Plain surface fabrics, regardless of fiber content, weighing 2.6 ounces per square yard or more; and

(2) All fabrics, both plain surface and raised-fiber surface textiles, regardless of weight, made entirely from any of the following fibers or entirely from combination of the following fibers: acrylic, modacrylic, nylon, olefin, polyester, wool.

(e) *Applicability.* The requirements of this part 1610 shall apply to textile fabric or related material in a form or state ready for use in an article of

wearing apparel, including garments and costumes finished for consumer use.

§ 1610.2 Definitions.

In addition to the definitions given in Section 2 of the Flammable Fabrics Act as amended (15 U.S.C. 1191), the following definitions apply for this part 1610.

(a) *Base burn* (also known as base fabric ignition or fusing) means the point at which the flame burns the ground (base) fabric of a raised surface textile fabric and provides a self-sustaining flame. Base burns, used to establish a Class 3 fabric, are those burns resulting from surface flash that occur on specimens in places other than the point of impingement when the warp and fill yarns of a raised surface textile fabric undergo combustion. Base burns can be identified by an opacity change, scorching on the reverse side of the fabric, or when a physical hole is evident.

(b) *Burn time* means the time elapsed from ignition until the stop thread is severed as measured by the timing mechanism of the test apparatus.

(c) *Dry cleaning* means the cleaning of samples in a commercial dry cleaning machine under the conditions described in § 1610.6.

(d) *Film* means any non-rigid, unsupported plastic, rubber or other synthetic or natural film or sheeting, subject to the Act, or any combination thereof, including transparent, and opaque material, whether plain, embossed, molded, or otherwise surface treated, which is in a form or state ready for use in wearing apparel, and shall include film or sheeting of any thickness.

(e) *Flammability* means those characteristics of a material that pertain to its relative ease of ignition and relative ability to sustain combustion.

(f) *Flame application time* means the 1 second during which the ignition flame is applied to the test specimen.

(g) *Ignition* means that there is a self-sustaining flame on the specimen after the test flame is removed.

(h) *Interlining* means any textile which is intended for incorporation into an article of wearing apparel as a layer between an outer shell and an inner lining.

(i) *Laundering* means washing with an aqueous detergent solution and includes rinsing, extraction and tumble drying as described in § 1610.6.

(j) *Long dimension* means the 150 mm (6 in) length of test specimen.

(k) *Plain surface textile fabric* means any textile fabric which does not have an intentionally raised fiber or yarn surface such as a pile, nap, or tuft, but shall include those fabrics that have fancy woven, knitted or flock-printed surfaces.

(l) *Raised surface textile fabric* means any textile fabric with an intentionally raised fiber or yarn surface, such as a pile, including flocked pile, nap, or tufting.

(m) *Refurbishing* means dry cleaning and laundering in accordance with § 1610.6.

(n) *Sample* means a portion of a lot of material which is taken for testing or for record keeping purposes.

(o) *Specimen* means a 50 mm by 150 mm (2 in by 6 in) section of sample.

(p) *Stop thread supply* means No. 50, white, mercerized, 100% cotton sewing thread.

(q) *Surface flash* means a rapid burning of the pile fibers and yarns on a raised fiber surface textile that may or may not result in base burning.

(r) *Textile fabric* means any coated or uncoated material subject to the Act, except film and fabrics having a nitrocellulose fiber, finish, or coating, which is woven, knitted, felted or otherwise produced from any natural or manmade fiber, or substitute therefore, or combination thereof, of 50 mm (2 in) or more in width, and which is in a form or state ready for use in wearing apparel, including fabrics which have undergone further processing, such as dyeing and finishing, in garment form, for consumer use.

§ 1610.3 Summary of test method.

The Standard provides methods of testing the flammability of textiles from or intended to be used for apparel; establishes three classes of flammability; sets forth the requirements for classifying textiles; and prohibits the use of single or multi-layer textile fabrics that have burning characteristics that make them unsuitable for apparel. All textiles shall be tested before and after refurbishing according to § 1610.6. Each specimen cut from the textile shall be inserted in a frame, brushed if it has a raised fiber surface, and held in a special apparatus at an angle of 45°. A standardized flame shall be applied to the surface near the lower end of the specimen for 1 second, and the time required for the flame to proceed up the fabric a distance of 127 mm (5 in) shall be recorded. A notation shall be made as to whether the base of a raised-surface textile fabric ignites or fuses.

§ 1610.4 Requirements for classifying textiles.

(a) *Class 1, Normal Flammability.* Class 1 textiles exhibit normal flammability and are acceptable for use in clothing. This class shall include textiles which meet the minimum requirements set forth in paragraph (a)(1) or paragraph (a)(2) of this section.

(1) *Plain surface textile fabric.* Such textiles in their original state and/or after being refurbished as described in § 1610.6(a) and § 1610.6(b), when tested as described in § 1610.6, shall be classified as Class 1, Normal Flammability, when the burn time is 3.5 seconds or more.

(2) *Raised surface textile fabric.* Such textiles in their original state and/or after being refurbished as described in § 1610.6(a) and § 1610.6(b), when tested as described in § 1610.6, shall be classified as Class 1, Normal Flammability, when the burn time is more than 7 seconds, or when they burn with a rapid surface flash (0 to 7 seconds), provided the intensity of the flame is so low as not to ignite or fuse the base fabric.

(b) *Class 2, Intermediate Flammability.* Class 2 fabrics, applicable only to raised fiber surface textiles, are considered to be of intermediate flammability, but may be used for clothing. This class shall include textiles which meet the minimum requirements set forth in paragraph (b)(2) of this section.

(1) *Plain surface textile fabric.* Class 2 is not applicable to plain surface textile fabrics.

(2) *Raised surface textile fabric.* Such textiles in their original state and/or after being refurbished as described in § 1610.6(a) and § 1610.6(b), when tested as described in § 1610.6, shall be classified as Class 2, Intermediate Flammability, when the burn time is from 4 through 7 seconds, both inclusive, and the base fabric ignites or fuses.

(c) *Class 3, Rapid and Intense Burning.* Class 3 textiles exhibit rapid and intense burning, are dangerously flammable and shall not be used for clothing. This class shall include textiles which have burning characteristics as described in paragraphs (c)(1) and (c)(2) of this section. Such textiles are considered dangerously flammable because of their rapid and intense burning.

(1) *Plain surface textile fabric.* Such textiles in their original state and/or after refurbishing as described in § 1610.6(a) and § 1610.6(b), when tested as described in § 1610.6, shall be classified as Class 3 Rapid and Intense Burning when the time of flame spread is less than 3.5 seconds.

(2) *Raised surface textile fabric.* Such textiles in their original state and/or after refurbishing as described in § 1610.6(a) and § 1610.6(b), when tested

as described in § 1610.6, shall be classified as Class 3 Rapid and Intense Burning when the time of flame spread is less than 4 seconds and the intensity of flame is such as to ignite or fuse the base fabric.

TABLE 1 TO § 1610.4.—SUMMARY OF TEST CRITERIA FOR SPECIMEN CLASSIFICATION

[See also § 1610.7]

Class	Plain surface textile fabric	Raised surface textile fabric
1	Burn time is 3.5 seconds or more. ACCEPTABLE (3.5 sec is a pass).	(1) Burn time is greater than 7.0 seconds or (2) Burn time is 0–7 seconds with no base burns. Exhibits rapid surface flash only. ACCEPTABLE
2	Class 2 is not applicable to plain surface textile fabrics	Burn time is 4–7 seconds (inclusive) with base burn. ACCEPTABLE
3	Burn time is less than 3.5 seconds. NOT ACCEPTABLE	Burn time is less than 4.0 seconds with base burn. NOT ACCEPTABLE.

§ 1610.5 Test apparatus and materials.

(a) *Flammability apparatus.* The flammability test apparatus consists of a draft-proof ventilated chamber enclosing a standardized ignition mechanism, sample rack, and automatic timing mechanism. The flammability apparatus shall meet the minimum requirements for testing as follows.

(1) *Test chamber.*—(i) *Test chamber structure.* The test chamber shall be a metal, draft-proof ventilated chamber. The test chamber shall have inside dimensions of 35.3 cm high by 36.8 cm wide by 21.6 cm deep (14 in by 14.5 in by 8.5 in). There shall be eleven 12.7 mm diameter (0.5 in) holes equidistant along the rear of the top closure. The front of the chamber shall be a close fitting door with an insert made of clear material (i.e., glass, plexiglass) to permit observation of the entire test. A ventilating strip is provided at the base of the door in the front of the apparatus. The test chamber to be used in this test method is illustrated in Figures 1 through 3 of this part.

(ii) *Specimen rack.* The specimen rack provides support for the specimen holder (described in paragraph (a)(1)(iii) of this section) in which the specimen is mounted for testing. The angle of inclination shall be 45°. Two guide pins projecting downward from the center of the base of the rack travel in slots provided in the floor of the chamber so that adjustment can be made for the thickness of the specimen in relation to the test flame. A stop shall be provided in the base of the chamber to assist in adjusting the position of the rack. The specimen rack shall be constructed so that: it supports the specimen holder in a way that does not obstruct air flow around the bottom edge of the fabric specimen; and the fabric specimen is properly aligned with the igniter tip during flame impingement. The specimen rack to be used in this test method is illustrated in Figures 1 and 2 of this part. Movable rack: Refer to the manufacturers' instruction in relation to the adjustment procedure to move the rack into the appropriate position for the indicator finger alignment.

(iii) *Specimen holder.* The specimen holder supports and holds the fabric specimen. The specimen holder shall consist of two 2 mm (0.06 in) thick U-shaped matched metal plates. The plates are slotted and loosely pinned for alignment. The specimen shall be firmly sandwiched in between the metal plates with clamps mounted along the sides. The two plates of the holder shall cover all but 3.8 cm (1.5 in) of the width of the specimen for its full length. See Figure 3 of this part. The specimen holder shall be supported in the draft-proof chamber on the rack at an angle of 45°.

(iv) *Indicator finger.* The position of the specimen rack (described in paragraph (a)(1)(ii) of this section) shall be adjusted, so the tip of the indicator finger just touches the surface of the specimen. The indicator finger is necessary to ensure that the tip of the test flame will impinge on the specimen during testing. The indicator finger to be used in this test method is illustrated in Figures 1 and 2 of this part.

(v) *Ignition mechanism.* The ignition mechanism shall consist of a motor driven butane gas jet formed around a 26-gauge hypodermic needle and creates the test flame. The test flame shall be protected by a shield. The test flame is adjusted to 16 mm (0.625 in) and applied to the specimen for 1 second. A trigger device is located in the front of the apparatus, the pulling or pushing of which activates the test flame impingement and timing device. Electro-mechanical devices (i.e., servo-motors, solenoids, micro-switches, and electronic circuits, in addition to miscellaneous custom made cams and rods, shock absorbing linkages, and various other mechanical components) can be used to control and apply the flame impingement. See Figure 7 of this part.

(vi) *Draft ventilator strip.* A draft ventilator strip shall be placed across the front opening, sealing the space between the sliding door when in lowered position and the base on which the grid rack is attached. (See Figure 1 of this part.)

(vii) *Stop weight.* The weight, attached by means of a clip to the stop thread, in dropping actuates the stop motion for the timing mechanism. The weight shall be at least 30g (1.16 oz).

(viii) *Door.* The door shall be a clear (i.e., glass or plexiglass) door, close fitting and allows for viewing of the entire test.

(ix) *Hood.* The hood or other suitable enclosure shall provide a draft-free environment surrounding the test chamber. The hood or other suitable enclosure shall have a fan or other means for exhausting smoke and/or fumes produced by testing.

(2) *Stop thread and thread guides.*—(i) *Stop thread.* The stop thread shall be stretched from the spool through suitable thread guides provided on the specimen holder and chamber walls.

(ii) *Stop thread supply.* This supply, consisting of a spool of No. 50, white, mercerized, 100% cotton sewing thread, shall be fastened to the side of the chamber and can be withdrawn by releasing the thumbscrew holding it in position.

(iii) *Thread guides.* The thread guides permit the lacing of the stop thread in the proper position exactly 127 mm (5 in) from the point where the center of the ignition flame impinges on the test specimen. The stop thread shall be 9.5 mm (0.37 in) above and parallel to the lower surface of the top plate of the specimen holder. This condition can be achieved easily and reproducibly with the use of a thread guide popularly referred to as a ''sky hook'' suspended down from the top panel along with two L-shaped thread guides attached to the

upper end of the top plate of the specimen holder. Two other thread guides can be installed on the rear panel to draw the thread away from directly over the test flame. The essential condition, however, is the uniform height of 9.5 mm (0.37 in) for the stop thread and not the number, placement or design of the thread guides.

(iv) *Stop weight thread guide.* This thread guide shall be used to guide the stop thread when attaching the stop weight.

(3) *Supply for test flame.* (i) The fuel supply shall be a cylinder of chemically pure (c. p.) butane.

(ii) The fuel-tank control valve shall consist of a sensitive control device for regulating the fuel supply at the tank.

(iii) The flow control device, such as a manometer or flow meter, shall be sufficient to maintain a consistent flame length of 5⁄8 in.

(4) *Timing device.* The timing device consists of a timer, driving mechanism and weight. The timer, by means of special attachments, is actuated to start by connection with the gas jet. A trigger device (described in paragraph (a)(1)(v) of this section) activates the flame impingement, causing the driving mechanism to move the gas jet to its most forward position and automatically starts the timer at the moment of flame impact with the specimen. The falling weight, when caused to move by severance of the stop thread, stops the timer. Time shall be read directly and recorded as a burn time. Read burn time to 0.1 second. An electronic or mechanical timer can be used to record the burn time, and electro-mechanical devices (i.e., servo-motors, solenoids, micro-switches, and electronic circuits, in addition to miscellaneous custom made cams and rods, shock absorbing linkages, and various other mechanical components) can be used to control and apply the flame impingement.

(b) *Specimen preparation equipment and materials*—(1) *Laboratory drying oven.* This shall be a forced circulation drying oven capable of maintaining 105° ± 3° C (221° ± 5° F) for 30 ± 2 minutes to dry the specimens while mounted in the specimen holders.

(2) *Desiccator.* This shall be an airtight and moisture tight chamber capable of holding the specimens horizontally without contacting each other during the cooling period following drying, and shall contain silica gel desiccant.

(3) *Desiccant.* Anhydrous silica gel shall be used as the desiccant.

(4) *Automatic washing machine.* The automatic washing machine shall be as described in § 1610.6(b)(1)(ii).

(5) *Automatic tumble dryer.* The automatic tumble dryer shall be as described in § 1610.6(b)(1)(ii).

(6) *Commercial dry cleaning machine.* The commercial dry cleaning machine shall be capable of providing a complete automatic dry-to-dry cycle using perchloroethylene solvent and a cationic drycleaning detergent as specified in § 1610.6(b)(1)(i).

(7) *Dry cleaning solvent.* The solvent shall be perchloroethylene, commercial grade.

(8) *Dry cleaning detergent.* The dry cleaning detergent shall be cationic class.

(9) *Laundering detergent.* The laundering detergent shall be as specified in § 1610.6(b)(1)(ii).

(10) *Brushing device.* The brushing device shall consist of a base board over which a small carriage is drawn. See Figure 4 of this part. This carriage runs on parallel tracks attached to the edges of the upper surface of the base board. The brush is hinged with pin hinges at the rear edge of the base board and rests on the carriage vertically with a pressure of 150 gf (0.33 lbf). The brush shall consist of two rows of stiff nylon bristles mounted with the tufts in a staggered position. The bristles are 0.41 mm (0.016 in) in diameter and 19 mm (0.75 in) in length. There are 20 bristles per tuft and 4 tufts per inch. See Figure 6 of this part. A clamp is attached to the forward edge of the movable carriage to permit holding the specimen on the carriage during the brushing operation. The purpose of the metal plate or ''template'' on the carriage of the brushing device is to support the specimen during the brushing operation. The template shall be 3.2 mm (0.13 in) thick. See Figure 5 of this part.

§ 1610.6 Test procedure.

The test procedure is divided into two steps. Step 1 is testing in the ''as received'' or original state; Step 2 is testing after the fabric has been refurbished according to paragraph (b)(1) of this section.

(a) *Step 1—Testing in the ''as received'' or original state.* (1) Tests shall be conducted on the fabric in a form or state ready for use in wearing apparel. Determine whether the fabric to be tested is a plain surface textile fabric or a raised surface textile fabric as defined in § 1610.2 (k) and (l). There are some fabrics that require extra attention when preparing test specimens because of their particular construction characteristics. Examples of these fabrics are provided in paragraphs (a)(1)(i) through (vi) of this section along with guidelines for preparing specimens from these fabrics. This information is not intended to be all-inclusive.

(i) *Flocked fabrics.* Fabrics that are flocked overall are treated as raised surface textile fabrics as defined in § 1610.2(l). Flock printed fabrics (usually in a pattern and not covering the entire surface) shall be treated as plain surface textile fabrics as defined in § 1610.2(k).

(ii) *Cut velvet fabrics.* Cut velvet fabrics with a patterned construction shall be considered a raised surface textile fabric as defined in § 1610.2(l).

(iii) *Metallic thread fabrics.* Metallic thread fabrics shall be considered plain surface textile fabrics provided the base fabric is smooth. The specimens shall be cut so that the metallic thread is parallel to the long dimension of the specimen and arranged so the test flame impinges on a metallic thread.

(iv) *Embroidery.* Embroidery on netting material shall be tested with two sets of preliminary specimens to determine the most flammable area (which offers the greatest amount of netting or embroidery in the 150 mm (6 in.) direction). One set of netting only shall be tested and the other set shall consist mainly of embroidery with the specimens cut so that the test flame impinges on the embroidered area. Test the most flammable area according to the plain surface textile fabric requirements. The full test shall be completed on a sample cut from the area that has the fastest burn rate.

(v) *Burn-out patterns.* Flat woven constructions with burn-out patterns shall be considered plain surface textile fabrics as defined in § 1610.2(k).

(vi) *Narrow fabrics and loose fibrous materials.* Narrow fabrics and loose fibrous materials manufactured less than 50 mm (2 in) in width in either direction shall not be tested. If a 50 mm by 150 mm (2 in by 6 in) specimen cannot be cut due to the nature of the item, i.e. hula skirts, leis, fringe, loose feathers, wigs, hairpieces, etc., do not conduct a test.

(2) *Plain surface textile fabrics*—(i) *Preliminary trials.* Conduct preliminary trials to determine the quickest burning direction. The specimen size shall be 50 mm by 150 mm (2 in by 6 in). Cut one specimen from each direction of the fabric. Identify the fabric direction being careful not to make any identifying marks in the exposed area to be tested. Preliminary specimens shall be mounted and conditioned as described in paragraphs (a)(2)(ii) through (iv) of this section and then tested following the procedure in paragraph (c) of this section to determine if there is a difference in the burning characteristics

with respect to the direction of the fabric.

(ii) *Identify and cut test specimens.* Cut the required number of test specimens to be tested (refer to § 1610.7(b)(1)). Each specimen shall be 50 mm by 150 mm (2 in by 6 in), with the long dimension in the direction in which burning is most rapid as established in the preliminary trials. Be careful not to make any identifying marks in the exposed area to be tested.

(iii) *Mount specimens.* Specimens shall be placed in the holders, with the side to be burned face up. Even though plain surface textile fabrics are not brushed, all specimens shall be mounted in a specimen holder placed on the carriage that rides on the brushing device to ensure proper position in the holder. A specimen shall be placed between the two metal plates of a specimen holder and clamped. Each specimen shall be mounted and clamped prior to conditioning and testing.

(iv) *Condition specimens.* All specimens mounted in the holders shall then be placed in a horizontal position on an open metal shelf in the oven to permit free circulation of air around them. The specimens shall be dried in the oven for 30 ± 2 minutes at 105° ± 3 °C (221° ± 5 °F), removed from the oven and placed over a bed of anhydrous silica gel desiccant in a desiccator until cool, but not less than 15 minutes.

(v) *Flammability test.* Follow the test procedure in paragraph (c) of this section and also follow the test sequence in § 1610.7(b)(1).

(3) *Raised surface textile fabrics.*—(i) *Preliminary trials.* The most flammable surface of the fabric shall be tested. Conduct preliminary trials and/or visual examination to determine the quickest burning area. The specimen size shall be 50 mm by 150 mm (2 in by 6 in). For raised surface textile fabrics, the direction of the lay of the surface fibers shall be parallel with the long dimension of the specimen. Specimens shall be taken from that part of the raised fiber surface that appears to have the fastest burn time. For those fabrics where it may be difficult to visually determine the correct direction of the lay of the raised surface fibers, preliminary tests can be done to determine the direction of the fastest burn time. For textiles with varying depths of pile, tufting, etc., the preliminary test specimens are taken from each depth of pile area to determine which exhibits the quickest rate of burning. A sufficient number of preliminary specimens shall be tested to provide adequate assurance that the raised surface textile fabric will be tested in the quickest burning area. Preliminary specimens shall be mounted and conditioned as described below and tested following the procedure in paragraph (c) of this section.

(ii) *Identify and cut test specimens.* Cut the required number of specimens (refer to § 1610.7(b)(3)) to be tested. Each specimen shall be 50 mm by 150 mm (2 in by 6 in), with the specimen taken from the direction in which burning is most rapid as established in the preliminary trials and/or visual examination. Be careful not to make any identifying marks in the exposed area to be tested.

(iii) *Mount specimens.* Prior to mounting the specimen, run a fingernail along the 150 mm (6 in) edge of the fabric not more than 6.4 mm (0.25 in) in from the side to determine the lay of the surface fibers. All specimens shall be mounted in a specimen holder placed on the carriage that rides on the brushing device. The specimens shall be mounted with the side to be burned face up and positioned so the lay of the surface fibers is going away from the closed end of the specimen holder. The specimen must be positioned in this manner so that the brushing procedure described in paragraph (a)(3)(iv) of this section will raise the surface fibers, i.e., the specimen is brushed against the direction of the lay of the surface fibers. The specimen shall be placed between the two metal plates of the specimen holder and clamped.

(iv) *Brush specimens.* After mounting in the specimen holder (and with the holder still on the carriage that rides on the brushing device) each specimen shall be brushed one time. The carriage is pushed to the rear of the brushing device, and the brush lowered to the face of the specimen. The carriage shall be drawn forward by hand once against the lay of the surface fibers at a uniform rate. Brushing of a specimen shall be performed with the specimen mounted in a specimen holder. The purpose of the metal plate or ''template'' on the carriage of the brushing device is to support the specimen during the brushing operation.

(v) *Condition specimens.* All specimens (mounted and brushed) in the holders shall be then placed in a horizontal position on an open metal shelf in the oven to permit free circulation of air around them. The specimens shall be dried in the oven for 30 ± 2 minutes at 105° ± 3 °C (221° ± 5 °F) removed from the oven and placed over a bed of anhydrous silica gel dessicant in a desiccator until cool, but not less than 15 minutes.

(vi) *Conduct flammability test.* Follow the procedure in paragraph (c) of this section and follow the test sequence in § 1610.7(b)(3).

(b) *Step 2—Refurbishing and testing after refurbishing.* (1) The refurbishing procedures are the same for both plain surface textile fabrics and raised fiber surface textile fabrics. Those samples that result in a Class 3, Rapid and Intense Burning after Step 1 testing in the ''as received'' or original state shall not be refurbished and do not undergo Step 2.

(i) *Dry cleaning procedure.* (A) All samples shall be dry cleaned before they undergo the laundering procedure. Samples shall be dry cleaned in a commercial dry cleaning machine, using the following prescribed conditions:

Solvent: Perchloroethylene, commercial grade
Detergent class: Cationic
Cleaning time: 10–15 minutes
Extraction time: 3 minutes
Drying Temperature: 60 − 66 °C (140 − 150 °F)
Drying Time: 18–20 minutes
Cool Down/Deodorization time: 5 minutes

(B) Samples shall be dry cleaned in a load that is 80% of the machine's capacity. If necessary, ballast consisting of clean textile pieces or garments, white or light in color and consisting of approximately 80% wool and 20% polyester, shall be used.

(ii) *Laundering procedure.* The sample, after being subjected to the dry cleaning procedure, shall be washed and dried one time in accordance with sections 8.2.2, 8.2.3 and 8.3.1(A) of AATCC Test Method 124–2001 ''Appearance of Fabrics after Repeated Home Laundering.'' Washing shall be performed in accordance with sections 8.2.2 and 8.2.3 of AATCC Test Method 124–2001 using wash water temperature (V) (149° ± 5 °F; 60° ± 3 °C) specified in Table II of that method, and the water level, agitator speed, washing time, spin speed and final spin cycle specified for ''Normal/Cotton Sturdy'' in Table III. A maximum wash load shall be 8 pounds (3.63 kg) and may consist of any combination of test samples and dummy pieces. Drying shall be performed in accordance with section 8.3.1(A) of that test method, Tumble Dry, using the exhaust temperature (150° ± 10 °F; 66° ± 5 °C) and cool down time of 10 minutes specified in the ''Durable Press'' conditions of Table IV.

(2) *Testing plain surface textile fabrics after refurbishing.* The test procedure is the same as for Step 1—Testing in the ''as received'' or original state described in paragraph (a)(1) of this section; also follow the test sequence § 1610.7(b)(2).

(3) *Testing raised fiber surface textile fabrics after refurbishing.* The test procedure is the same as for Step 1—Testing in the ''as received'' or original state as described in paragraph (a)(3) of this section; also follow the test sequence in § 1610.7(b)(4).

(c) *Procedure for testing flammability.* (1) The test chamber shall be located under the hood (or other suitable enclosure) with the fan turned off. Open the control valve in the fuel supply. Allow approximately 5 minutes for the air to be drawn from the fuel line, ignite the gas and adjust the test flame to a length of 16 mm (5/8 in), measured from its tip to the opening in the gas nozzle.

(2) Remove one mounted specimen from the desiccator at a time and place it in a position on the rack in the chamber of the apparatus. Thick fabrics may require adjustment of the specimen rack so that the tip of the indicator finger just touches the surface of the specimen.

(3) Adjust the position of the specimen rack of the flammability test chamber so that the tip of the indicator finger just touches the face of the mounted specimen.

(4) String the stop thread through the guides in the upper plate of the specimen holder across the top of the specimen, and through any other thread guide(s) of the chamber. Hook the stop weight in place close to and just below the stop weight thread guide. Set the timing mechanism to zero. Close the door of the flammability test chamber.

(5) Begin the test within 45 seconds of the time the specimen was removed from the desiccator. Activate the trigger device to impinge the test flame. The trigger device controls the impingement of the test flame onto the specimen and starts the timing device. The timing is automatic and stops when the weight is released by the severing of the stop thread.

(6) At the end of each test, turn on the hood fan to exhaust any fumes or smoke produced during the test.

(7) Record the burn time (reading of the timer) for each specimen, along with visual observation using the test result codes given in § 1610.8. If there is no burn time, record the visual observation using the test result codes. Please note for raised fiber surface textile fabrics, specimens should be allowed to continue burning, even though a burn rate is measured, to determine if the base fabric will fuse.

(8) After exhausting all fumes and smoke produced during the test, turn off the fan before testing the next specimen.

§ 1610.7 Test sequence and classification criteria.

(a) *Preliminary and final classifications.* Preliminary classifications are assigned based on the test results both before and after refurbishing. The final classification shall be the preliminary classification before or after refurbishing, whichever is the more severe flammability classification.

(b) *Test sequence and classification criteria.* (1) Step 1, Plain Surface Textile Fabrics in the ''as received'' or original state.

(i) Conduct preliminary tests in accordance with § 1610.6(a)(2)(i) to determine the fastest burning direction of the fabric.

(ii) Prepare and test five specimens from the fastest burning direction. The burn times determine whether to assign the preliminary classification and proceed to § 1610.6(b) or to test five additional specimens.

(iii) Assign the preliminary classification of Class 1, Normal Flammability and proceed to § 1610.6(b) when:

(A) There are no burn times; or

(B) There is only one burn time and it is equal to or greater than 3.5 seconds; or

(C) The average burn time of two or more specimens is equal to or greater than 3.5 seconds.

(iv) Test five additional specimens when there is either only one burn time, and it is less than 3.5 seconds; or there is an average burn time of less than 3.5 seconds. Test these five additional specimens from the fastest burning direction as previously determined by the preliminary specimens. The burn times for the 10 specimens determine whether to:

(A) Stop testing and assign the final classification as Class 3, Rapid and Intense Burning only when there are two or more burn times with an average burn time of less than 3.5 seconds; or

(B) Assign the preliminary classification of Class 1, Normal Flammability and proceed to § 1610.6(b) when there are two or more burn times with an average burn time of 3.5 seconds or greater.

(v) If there is only one burn time out of the 10 test specimens, the test is inconclusive. The fabric cannot be classified.

(2) Step 2, Plain Surface Textile Fabrics after refurbishing in accordance with § 1610.6(b)(1).

(i) Conduct preliminary tests in accordance with § 1610.6(a)(2)(i) to determine the fastest burning direction of the fabric.

(ii) Prepare and test five specimens from the fastest burning direction. The burn times determine whether to stop testing and assign the preliminary classification or to test five additional specimens.

(iii) Stop testing and assign the preliminary classification of Class 1, Normal Flammability, when:

(A) There are no burn times; or

(B) There is only one burn time, and it is equal to or greater than 3.5 seconds; or

(C) There is an average burn time 3.5 seconds or greater.

(iv) Test five additional specimens when there is only one burn time, and it is less than 3.5 seconds; or there is an average burn time less than 3.5 seconds. Test five additional specimens from the fastest burning direction as previously determined by the preliminary specimens. The burn times for the 10 specimens determine the preliminary classification when:

(A) There are two or more burn times with an average burn time of 3.5 seconds or greater. The preliminary classification is Class 1, Normal Flammability; or

(B) There are two or more burn times with an average burn time of less than 3.5 seconds. The preliminary and final classification is Class 3, Rapid and Intense Burning; or

(v) If there is only one burn time out of the 10 specimens, the test results are inconclusive. The fabric cannot be classified.

(3) Step 1, Raised Surface Textile Fabric in the ''as received'' or original state.

(i) Determine the area to be most flammable per § 1610.6(a)(3)(i).

(ii) Prepare and test five specimens from the most flammable area. The burn times and visual observations determine whether to assign a preliminary classification and proceed to § 1610.6(b) or to test five additional specimens.

(iii) Assign the preliminary classification and proceed to § 1610.6(b) when:

(A) There are no burn times. The preliminary classification is Class 1, Normal Flammability; or

(B) There is only one burn time and it is less than 4 seconds without a base burn, or it is 4 seconds or greater with or without a base burn. The preliminary classification is Class 1, Normal Flammability; or

(C) There are no base burns regardless of the burn time(s). The preliminary classification is Class 1, Normal Flammability; or

(D) There are two or more burn times with an average burn time of 0–7 seconds with a surface flash only. The

preliminary classification is Class 1, Normal Flammability; or

(E) There are two or more burn times with an average burn time greater than 7 seconds with any number of base burns. The preliminary classification is Class 1, Normal Flammability; or

(F) There are two or more burn times with an average burn time of 4 through 7 seconds (both inclusive) with no more than one base burn. The preliminary classification is Class 1, Normal Flammability; or

(G) There are two or more burn times with an average burn time less than 4 seconds with no more than one base burn. The preliminary classification is Class 1, Normal Flammability; or

(H) There are two or more burn times with an average burn time of 4 through 7 seconds (both inclusive) with two or more base burns. The preliminary classification is Class 2, Intermediate Flammability.

(iv) Test five additional specimens when the tests of the initial five specimens result in either of the following: There is only one burn time and it is less than 4 seconds with a base burn; or the average of two or more burn times is less than 4 seconds with two or more base burns. Test these five additional specimens from the most flammable area. The burn times and visual observations for the 10 specimens will determine whether to:

(A) Stop testing and assign the final classification only if the average burn time for the 10 specimens is less than 4 seconds with three or more base burns. The final classification is Class 3, Rapid and Intense Burning; or

(B) Assign the preliminary classification and continue on to § 1610.6(b) when:

(1) The average burn time is less than 4 seconds with no more than two base burns. The preliminary classification is Class 1, Normal Flammability; or

(2) The average burn time is 4–7 seconds (both inclusive) with no more than 2 base burns. The preliminary classification is Class 1, Normal Flammability, or

(3) The average burn time is greater than 7 seconds. The preliminary classification is Class 1, Normal Flammability; or

(4) The average burn time is 4 through 7 seconds (both inclusive) with three or more base burns. The preliminary classification is Class 2, Intermediate Flammability, or

(v) If there is only one burn time out of the 10 specimens, the test is inconclusive. The fabric cannot be classified.

(4) Step 2, Raised Surface Textile Fabric After Refurbishing in accordance with § 1610.6(b).

(i) Determine the area to be most flammable in accordance with § 1610.6(a)(3)(i).

(ii) Prepare and test five specimens from the most flammable area. Burn times and visual observations determine whether to stop testing and determine the preliminary classification or to test five additional specimens.

(iii) Stop testing and assign the preliminary classification when:

(A) There are no burn times. The preliminary classification is Class 1, Normal Flammability; or

(B) There is only one burn time, and it is less than 4 seconds without a base burn; or it is 4 seconds or greater with or without a base burn. The preliminary classification is Class 1, Normal Flammability; or

(C) There are no base burns regardless of the burn time(s). The preliminary classification is Class 1, Normal Flammability; or

(D) There are two or more burn times with an average burn time of 0 to 7 seconds with a surface flash only. The preliminary classification is Class 1, Normal Flammability; or

(E) There are two or more burn times with an average burn time greater than 7 seconds with any number of base burns. The preliminary classification is Class 1, Normal Flammability; or

(F) There are two or more burn times with an average burn time of 4 through 7 seconds (both inclusive) with no more than one base burn. The preliminary classification is Class 1, Normal Flammability; or

(G) There are two or more burn times with an average burn time less than 4 seconds with no more than one base burn. The preliminary classification is Class 1, Normal Flammability; or

(H) There are two or more burn times with an average burn time of 4 through 7 seconds (both inclusive) with two or more base burns. The preliminary classification is Class 2, Intermediate Flammability.

(iv) Test five additional specimens when the tests of the initial five specimens result in either of the following: There is only one burn time, and it is less than 4 seconds with a base burn; or the average of two or more burn times is less than 4 seconds with two or more base burns.

(v) If required, test five additional specimens from the most flammable area. The burn times and visual observations for the 10 specimens determine the preliminary classification when:

(A) The average burn time is less than 4 seconds with no more than two base burns. The preliminary classification is Class 1, Normal Flammability; or

(B) The average burn time is less than 4 seconds with three or more base burns. The preliminary and final classification is Class 3, Rapid and Intense Burning; or

(C) The average burn time is greater than 7 seconds. The preliminary classification is Class 1, Normal flammability; or

(D) The average burn time is 4–7 seconds (both inclusive), with no more than two base burns. The preliminary classification is Class 1, Normal Flammability; or

(E) The average burn time is 4–7 seconds (both inclusive), with three or more base burns. The preliminary classification is Class 2, Intermediate Flammability; or

(vi) If there is only one burn time out of the 10 specimens, the test is inconclusive. The fabric cannot be classified.

§ 1610.8 Reporting results.

(a) The reported result shall be the classification before or after refurbishing, whichever is the more severe; and based on this result, the textile shall be placed in the proper final classification as described in § 1610.4.

(b) *Test result codes.* The following are the definitions for the test result codes, which shall be used for recording flammability results for each specimen that is burned.

(1) For Plain Surface Textile Fabrics:

DNI Did not ignite

IBE Ignited, but extinguished

*IBE Ignited, but extinguished, the asterisk (*) denotes a burn that goes under the stop thread without breaking the stop thread.

_._ sec. Actual burn time measured and recorded by the timing device in 0.0 seconds.

(2) For Raised Surface Textile Fabrics:

SF uc Surface flash, under the stop thread, but does not break the stop thread.

SF pw Surface flash, part way. No time shown because the surface flash did not reach the stop thread.

SF poi Surface flash, at the point of impingement only (equivalent to ''did not ignite'' for plain surfaces).

_._ sec. Actual burn time measured by the timing device in 0.0 seconds.

_._ SF only Time in seconds, surface flash only. No damage to the base fabric.

_._ SFBB Time in seconds, surface flash base burn. Base starts burning at points other than the point of impingement.

_._ SFBB poi Time in seconds, surface flash base burn starting at the point of impingement.

_._ SFBB poi* Time in seconds, surface flash base burn possibly starting at the point of impingement. The asterisk is accompanied by the following statement: ''Unable to make absolute determination as to source of base burns.'' This statement is added to the result of any specimen if there is a question as to origin of the base burn.

Subpart B—Rules and Regulations

§ 1610.31 Definitions.

In addition to the definitions provided in section 2 of the Flammable Fabrics Act as amended (15 U.S.C. 1191), and in § 1610.2 of the Standard, the following definitions apply for this subpart.

(a) *Act* means the ''Flammable Fabrics Act'' (approved June 30, 1953, Pub. Law 88, 83d Congress, 1st sess., 15 U.S.C. 1191; 67 Stat. 111) as amended, 68 Stat. 770, August 23, 1954.

(b) *Rule, rules, regulations, and rules and regulations,* mean the rules and regulations prescribed by the Commission pursuant to section 5(c) of the act.

(c) *United States* means, the several States, the District of Columbia, the Commonwealth of Puerto Rico and the Territories, and Possessions of the United States.

(d) *Marketing or handling* means the transactions referred to in section 3 of the Flammable Fabrics Act, as amended in 1967.

(e) *Test* means the application of the relevant test method prescribed in the procedures provided under section 4(a) of the Act (16 CFR part 1609).

(f) *Finish type* means a particular finish, but does not include such variables as changes in color, pattern, print, or design, or minor variations in the amount or type of ingredients in the finish formulation. Examples of finish types would be starch finishes, resin finishes or parchmentized finishes.

(g) *Uncovered or exposed part* means that part of an article of wearing apparel that might during normal wear be open to flame or other means of ignition. The outer surface of an undergarment is considered to be an uncovered or exposed part of an article of wearing apparel, and thus subject to the Act. Other examples of exposed parts of an article of wearing apparel subject to the Act include, but are not limited to:

(1) Linings, with exposed areas, such as full front zippered jackets;

(2) Sweatshirts with exposed raised fiber surface inside and capable of being worn napped side out;

(3) Unlined hoods;

(4) Rolled cuffs.

§ 1610.32 General requirements.

No article of wearing apparel or fabric subject to the Act and regulations shall be marketed or handled if such article or fabric, when tested according to the procedures prescribed in section 4(a) of the Act (16 CFR part 1609), is so highly flammable as to be dangerous when worn by individuals.

§ 1610.33 Test procedures for textile fabrics and film.

(a)(1) All textile fabrics (except those with a nitro-cellulose fiber, finish or coating) intended or sold for use in wearing apparel, and all such fabrics contained in articles of wearing apparel, shall be subject to the requirements of the Act, and shall be deemed to be so highly flammable as to be dangerous when worn by individuals if such fabrics or any uncovered or exposed part of such articles of wearing apparel exhibits rapid and intense burning when tested under the conditions and in the manner prescribed in subpart A of this part 1610.

(2) Notwithstanding the provisions of paragraph (a)(1) of this section, coated fabrics, except those with a nitro-cellulose coating, may be tested under the procedures outlined in part 1611, Standard for the Flammability of Vinyl Plastic Film, and if such coated fabrics do not exhibit a rate of burning in excess of that specified in § 1611.3 they shall not be deemed to be so highly flammable as to be dangerous when worn by individuals.

(b) All film, and textile fabrics with a nitro-cellulose fiber, finish or coating intended or sold for use in wearing apparel, and all film and such textile fabrics referred to in this rule which are contained in articles of wearing apparel, shall be subject to the requirements of the Act, and shall be deemed to be so highly flammable as to be dangerous when worn by individuals if such film or such textile fabrics or any uncovered or exposed part of such articles of wearing apparel exhibit a rate of burning in excess of that specified in part 1611, Standard for the Flammability of Vinyl Plastic Film.

§ 1610.34 Only uncovered or exposed parts of wearing apparel to be tested.

(a) In determining whether an article of wearing apparel is so highly flammable as to be dangerous when worn by individuals, only the uncovered or exposed part of such article of wearing apparel shall be tested according to the applicable procedures set forth in § 1610.6.

(b) If the outer layer of plastic film or plastic-coated fabric of a multilayer fabric separates readily from the other layers, the outer layer shall be tested under part 1611—Standard for the Flammability of Vinyl Plastic Film. If the outer layer adheres to all or a portion of one or more layers of the underlaying fabric, the multi-layered fabric may be tested under either part 1610—Standard for the Flammability of Clothing Textiles or part 1611. However, if the conditioning procedures required by § 1610.6(a)(2)(iv) and § 1610.6(a)(3)(v) would damage or alter the physical characteristics of the film or coating, the uncovered or exposed layer shall be tested in accordance with part 1611.

(c) Plastic film or plastic-coated fabric used, or intended for use as the outer layer of disposable diapers is exempt from the requirements of the Standard, provided that a sample taken from a full thickness of the assembled article passes the test in the Standard (part 1610 or part 1611) otherwise applicable to the outer fabric or film when the flame is applied to the exposed or uncovered surface. See § 1610.36(f) and § 1611.36(f).

§ 1610.35 Procedures for testing special types of textile fabrics under the standard.

(a) *Fabric not customarily washed or dry cleaned.* (1) Except as provided in paragraph (a)(2) of this section, any textile fabric or article of wearing apparel which, in its normal and customary use as wearing apparel would not be dry cleaned or washed, need not be dry cleaned or washed as prescribed in § 1610.6(b) when tested under the Standard if such fabric or article of wearing apparel, when marketed or handled, is marked in a clear and legible manner with the statement: ''Fabric may be dangerously flammable if dry cleaned or washed.'' An example of the type of fabric referred to in this paragraph is bridal illusion.

(2) Section 1610.3, which requires that all textiles shall be refurbished before testing, shall not apply to disposable fabrics and garments. Additionally, such disposable fabrics and garments shall not be subject to the labeling requirements set forth in paragraph (a)(1) of this section.

(b) A coated fabric need not, upon test under the procedures outlined in subpart A of part 1610, be dry cleaned as set forth in § 1610.6(b)(1)(i).

(c) In determining whether a textile fabric having a raised-fiber surface, which surface is to be used in the covered or unexposed parts of articles of wearing apparel, is so highly flammable as to be dangerous when worn by individuals, only the opposite surface or surface intended to be exposed need be tested under the applicable procedures

set forth in § 1610.6, providing an invoice or other paper covering the marketing or handling of such fabric is given which clearly designates that the raised-fiber surface is to be used only in the covered or unexposed parts of articles of wearing apparel.

§ 1610.36 Application of Act to particular types of products.

(a) *Interlinings.* Fabrics intended or sold for processing into interlinings or other covered or unexposed parts of articles of wearing apparel shall not be subject to the provisions of section 3 of the Act: *Provided,* that an invoice or other paper covering the marketing or handling of such fabrics is given which specifically designates their intended end use: *And provided further*, that with respect to fabrics which under the provisions of section 4 of the Act, as amended, are so highly flammable as to be dangerous when worn by individuals, any person marketing or handling such fabrics maintains records which show the acquisition, disposition and intended end use of such fabrics, and any person manufacturing articles of wearing apparel containing such fabrics maintains records which show the acquisition, and use and disposition of such fabrics. Any person who fails to maintain such records or to furnish such invoice or other paper shall be deemed to have engaged in the marketing or handling of such products for purposes subject to the requirements of the Act and such person and the products shall be subject to the provisions of sections 3, 6, 7, and 9 of the Act.

(b) *Hats, gloves, and footwear.* Fabrics intended or sold for use in those hats, gloves, and footwear which are excluded under the definition of articles of wearing apparel in section 2(d) of the Act shall not be subject to the provisions of section 3 of the Act: *Provided*, that an invoice or other paper covering the marketing or handling of such fabrics is given which specifically designates their intended use in such products: *And provided further*, that with respect to fabrics which under the provisions of section 4 of the Act, as amended, are so highly flammable as to be dangerous when worn by individuals, any person marketing or handling such fabrics maintains records which show the acquisition, disposition, and intended end use of such fabrics, and any person manufacturing hats, gloves, or footwear containing such fabrics maintains records which show the acquisition, end use and disposition of such fabrics. Any person who fails to maintain such records or to furnish such invoice or other paper shall be deemed to have engaged in the marketing or handling of such products for purposes subject to the requirements of the Act and such person and the products shall be subject to the provisions of sections 3, 6, 7, and 9 of the Act.

(c) *Veils and hats.* (1) Ornamental millinery veils or veilings when used as a part of, in conjunction with, or as a hat, are not to be considered such a ''covering for the neck, face, or shoulders'' as would, under the first proviso of section 2(d) of the Act, cause the hat to be included within the definition of the term ''article of wearing apparel'' where such ornamental millinery veils or veilings do not extend more than nine (9) inches from the tip of the crown of the hat to which they are attached and do not extend more than two (2) inches beyond the edge of the brim of the hat.

(2) Where hats are composed entirely of ornamental millinery veils or veilings such hats will not be considered as subject to the Act if the veils or veilings from which they are manufactured were not more than nine (9) inches in width and do not extend more than nine (9) inches from the tip of the crown of the completed hat.

(d) *Handkerchiefs.* (1) Except as provided in paragraph (d)(2) of this section, handkerchiefs not exceeding a finished size of twenty-four (24) inches on any side or not exceeding five hundred seventy-six (576) square inches in area are not deemed ''articles of wearing apparel'' as that term is used in the Act.

(2) Handkerchiefs or other articles affixed to, incorporated in, or sold as a part of articles of wearing apparel as decoration, trimming, or for any other purpose, are considered an integral part of such articles of wearing apparel, and the articles of wearing apparel and all parts thereof are subject to the provisions of the Act. Handkerchiefs or other articles intended or sold to be affixed to, incorporated in or sold as a part of articles of wearing apparel as aforesaid constitute ''fabric'' as that term is defined in section 2(e) of the Act and are subject to the provisions of the Act, such handkerchiefs or other articles constitute textile fabrics as the term ''textile fabric'' is defined in § 1610.2(r).

(3) If, because of construction, design, color, type of fabric, or any other factor, a piece of cloth of a finished type or any other product of a finished type appears to be likely to be used as a covering for the head, neck, face, shoulders, or any part thereof, or otherwise appears likely to be used as an article of clothing, garment, such product is not a handkerchief and constitutes an article of wearing apparel as defined in and subject to the provisions of the Act, irrespective of its size, or its description or designation as a handkerchief or any other term.

(e) *Raised-fiber surface wearing apparel.* Where an article of wearing apparel has a raised-fiber surface which is intended for use as a covered or unexposed part of the article of wearing apparel but the article of wearing apparel is, because of its design and construction, capable of being worn with the raised-fiber surface exposed, such raised-fiber surface shall be considered to be an uncovered or exposed part of the article of wearing apparel. Examples of the type of products referred to in this paragraph are athletic shirts or so-called ''sweat shirts'' with a raised-fiber inner side.

(f) *Multilayer fabric and wearing apparel with a film or coating on the uncovered or exposed surface.* Plastic film or plastic-coated fabric used, or intended for use, as the outer layer of disposable diapers is exempt from the requirements of the standard, provided that a full thickness of the assembled article passes the test in the standard otherwise applicable to the outer fabric or film when the flame is applied to the exposed or uncovered surface.

§ 1610.37 Reasonable and representative tests to support guaranties.

(a) *Purpose.* The purpose of this § 1610.37 is to establish requirements for reasonable and representative tests to support initial guaranties of products, fabrics, and related materials which are subject to the Standard for the Flammability of Clothing Textiles (the Standard, 16 CFR part 1610).

(b) *Statutory provisions.* (1) Section 8(a) of the Act (15 U.S.C. 1197(a)) provides that no person shall be subject to criminal prosecution under section 7 of the Act (15 U.S.C. 1196) for a violation of section 3 of the Act (15 U.S.C. 1192) if such person establishes a guaranty received in good faith to the effect that the product, fabric, or related material complies with the applicable flammability standard. A guaranty does not provide the holder any defense to an administrative action for an order to cease and desist from violation of the applicable standard, the Act, and the Federal Trade Commission Act (15 U.S.C. 45), nor to any civil action for injunction or seizure brought under section 6 of the Act (15 U.S.C. 1195).

(2) Section 8 of the Act provides for two types of guaranties:

(i) An initial guaranty based on ''reasonable and representative tests'' made in accordance with the applicable standard issued under the Act; and

(ii) A guaranty based on a previous guaranty, received in good faith, to the effect that reasonable and representative tests show conformance with the applicable standard.

(c) *Requirements.* (1) Each person or firm issuing an initial guaranty of a product, fabric, or related material subject to the Standard shall devise and implement a program of reasonable and representative tests to support such a guaranty.

(2) The term program of reasonable and representative tests as used in this § 1610.37 means at least one test with results demonstrating conformance with the Standard for the product, fabric or related material which is the subject of an initial guaranty. The program of reasonable and representative tests required by this § 1610.37 may include tests performed before the effective date of this section, and may include tests performed by persons or firms outside of the territories of the United States or other than the one issuing the initial guaranty. The number of tests and the frequency of testing shall be left to the discretion of the person or firm issuing the initial guaranty.

(3) In the case of an initial guaranty of a fabric or related material, a program of reasonable and representative tests may consist of one or more tests of the particular fabric or related material which is the subject of the guaranty, or of a fabric or related material of the same ''class'' of fabrics or related materials as the one which is the subject of the guaranty. For purposes of this § 1610.37, the term class means a category of fabrics or related materials having general constructional or finished characteristics, sometimes in association with a particular fiber, and covered by a class or type description generally recognized in the trade.

§ 1610.38 Maintenance of records by those furnishing guaranties.

(a) Any person or firm issuing an initial guaranty of a product, fabric, or related material which is subject to the Standard for the Flammability of Clothing Textiles (the Standard, 16 CFR part 1610) shall keep and maintain a record of the test or tests relied upon to support that guaranty. The records to be maintained shall show:

(1) The style or range number, fiber composition, construction and finish type of each textile fabric or related material covered by an initial guaranty; or the identification, fiber composition, construction and finish type of each textile fabric (including those with a nitrocellulose fiber, finish or coating), and of each related material, used or contained in a product of wearing apparel covered by an initial guaranty.

(2) The results of the actual test or tests made of the textile fabric or related material covered by an initial guaranty; or of any fabric or related material used in the product of wearing apparel covered by an initial guaranty.

(3) When the person or firm issuing an initial guaranty has conducted the test or tests relied upon to support that guaranty, that person or firm shall also include with the information required by paragraphs (a)(1) and (2) of this section, a sample of each fabric or related material which has been tested.

(b) Persons furnishing guaranties based upon class tests shall maintain records showing:

(1) Identification of the class test.

(2) Fiber composition, construction and finish type of the fabrics, or the fabrics used or contained in articles of wearing apparel so guaranteed.

(3) A swatch of each class of fabrics guaranteed.

(c) Persons furnishing guaranties based upon guaranties received by them shall maintain records showing the guaranty received and identification of the fabrics or fabrics contained in articles of wearing apparel guaranteed in turn by them.

(d) The records referred to in this section shall be preserved for a period of 3 years from the date the tests were performed, or in the case of paragraph (c) of this section from the date the guaranties were furnished.

(e) Any person furnishing a guaranty under section 8(a) of the Act who neglects or refuses to maintain and preserve the records prescribed in this section shall be deemed to have furnished a false guaranty under the provisions of section 8(b) of the Act.

§ 1610.39 Shipments under section 11(c) of the Act.

(a) The invoice or other paper relating to the shipment or delivery for shipment in commerce of articles of wearing apparel or textile fabrics for the purpose of finishing or processing to render them not so highly flammable as to be dangerous when worn by individuals, shall contain a statement disclosing such purpose.

(b) An article of wearing apparel or textile fabric shall not be deemed to fall within the provisions of section 11(c) of the Act as being shipped or delivered for shipment in commerce for the purpose of finishing or processing to render such article of wearing apparel or textile fabric not so highly flammable under section 4 of the Act, as to be dangerous when worn by individuals, unless the shipment or delivery for shipment in commerce of such article of wearing apparel or textile fabric is made directly to the person engaged in the business of processing or finishing textile products for the prearranged purpose of having such article of apparel or textile fabric processed or finished to render it not so highly flammable under section 4 of the Act, as to be dangerous when worn by individuals, and any person shipping or delivering for shipment the article of wearing apparel or fabric in commerce for such purpose maintains records which establish that the textile fabric or article of wearing apparel has been shipped for appropriate flammability treatment, and that such treatment has been completed, as well as records to show the disposition of such textile fabric or article of wearing apparel subsequent to the completion of such treatment.

(c) The importation of textile fabrics or articles of wearing apparel may be considered as incidental to a transaction involving shipment or delivery for shipment for the purpose of rendering such textile fabrics or articles of wearing apparel not so highly flammable under the provisions of section 4 of the Act, as to be dangerous when worn by individuals, if:

(1) The importer maintains records which establish that: (i) the imported textile fabrics or articles of wearing apparel have been shipped for appropriate flammability treatment, and

(ii) Such treatment has been completed, as well as records to show the disposition of such textile fabrics or articles of wearing apparel subsequent to the completion of such treatment.

(2) The importer, at the time of importation, executes and furnishes to the U.S. Customs and Border Protection an affidavit stating: These fabrics (or articles of wearing apparel) are dangerously flammable under the provisions of section 4 of the Act, and will not be sold or used in their present condition but will be processed or finished by the undersigned or by a duly authorized agent so as to render them not so highly flammable under the provisions of section 4 of the Flammable Fabrics Act, as to be dangerously flammable when worn by individuals. The importer agrees to maintain the records required by 16 CFR 1610.39(c)(1).

(3) The importer, if requested to do so by the U.S. Customs and Border Protection, furnishes an adequate specific-performance bond conditioned upon the complete discharge of the obligations assumed in paragraphs (c)(1) and (2) of this section.

(d) The purpose of section 11(c) of the Act is only to permit articles of wearing apparel or textile fabrics which are dangerously flammable to be shipped or delivered for shipment in commerce for the purpose of treatment or processing to render them not dangerously flammable. Section 11(c) does not in any other respect limit the force and effect of sections 3, 6, 7, and 9 of the Act. In particular, section 11(c) does not authorize the sale or offering for sale of any article of wearing apparel or textile fabric which is in fact dangerously flammable at the time of sale or offering for sale, even though the seller intends to ship the article for treatment prior to delivery to the purchaser or has already done so. Moreover, under section 3 of the Act a person is liable for a subsequent sale or offering for sale if, despite the purported completion of treatment to render it not dangerously flammable, the article in fact remains dangerously flammable.

§ 1610.40 Use of alternate apparatus, procedures, or criteria for tests for guaranty purposes.

(a) Section 8(a) of the Act provides that no person shall be subject to criminal prosecution under section 7 of the Act (15 U.S.C. 1196) for a violation of section 3 of the Act (15 U.S.C. 1192) if that person establishes a guaranty received in good faith which meets all requirements set forth in section 8 of the Act. One of those requirements is that the guaranty must be based upon ''reasonable and representative tests'' in accordance with the applicable standard.

(b) Subpart A of this part 1610 prescribes apparatus and procedures for testing fabrics and garments subject to its provisions. See §§ 1610.5 & 1610.6. Subpart A prescribes criteria for classifying the flammability of fabrics and garments subject to its provisions as ''Normal flammability, Class 1,'' ''Intermediate flammability, Class 2,'' and ''Rapid and Intense Burning, Class 3.'' See § 1610.4. Sections 3 and 4 of the Act prohibit the manufacture for sale, importation into the United States, or introduction in commerce of any fabric or article of wearing apparel subject to the Standard which exhibits ''rapid and intense burning'' when tested in accordance with the Standard. See 16 CFR part 1609.

(c) The Commission recognizes that for purposes of supporting guaranties, ''reasonable and representative tests'' could be either the test in Subpart A of this part, or alternate tests which utilize apparatus or procedures other than those in Subpart A of this part. This § 1610.40 sets forth conditions under which the Commission will allow use of alternate tests with apparatus or procedures other than those in Subpart A of this part to serve as the basis for guaranties.

(d)(1) Persons and firms issuing guaranties that fabrics or garments subject to the Standard meet its requirements may base those guaranties on any alternate test utilizing apparatus or procedures other than those in Subpart A of this part, if such alternate test is as stringent as, or more stringent than, the test in Subpart A of this part. The Commission considers an alternate test to be ''as stringent as, or more stringent than'' the test in Subpart A of this part if, when testing identical specimens, the alternate test yields failing results as often as, or more often than, the test in Subpart A of this part. Any person using such an alternate test must have data or information to demonstrate that the alternate test is as stringent as, or more stringent than, the test in Subpart A of this part.

(2) The data or information required by this paragraph (d) of this section to demonstrate equivalent or greater stringency of any alternate test using apparatus or procedures other than those in Subpart A of this part must be in the possession of the person or firm desiring to use such alternate test before the alternate test may be used to support guaranties of items subject to the Standard.

(3) The data or information required by paragraph (d) of this section to demonstrate equivalent or greater stringency of any alternate test using apparatus or procedures other than those in Subpart A of this part must be retained for as long as that alternate test is used to support guaranties of items subject to the Standard, and for one year thereafter.

(e) Specific approval from the Commission in advance of the use of any alternate test using apparatus or procedures other than those in Subpart A is not required. The Commission will not approve or disapprove any specific alternate test utilizing apparatus or procedures other than those in Subpart A of this part.

(f) Use of any alternate test to support guaranties of items subject to the Standard without the information required by this section may result in violation of section 8(b)), of the Act (15 U.S.C. 1197(b)), which prohibits the furnishing of a false guaranty.

(g) The Commission will test fabrics and garments subject to the Standard for compliance with the Standard using the apparatus and procedures set forth in Subpart A of this part. The Commission will consider any failing results from compliance testing as evidence that:

(1) The manufacture for sale, importation into the United States, or introduction in commerce of the fabric or garment which yielded failing results was in violation of the Standard and of section 3 of the Act; and

(2) The person or firm using the alternate test as the basis for a guaranty has furnished a false guaranty, in violation of section 8(b) of the Act. (Reporting requirements contained in paragraph (d) were approved by Office of Management and Budget under control number 3041–0024.)

Subpart C—Interpretations and Policies

§ 1610.61 Reasonable and representative testing to assure compliance with the standard for the clothing textiles.

(a) *Background.* (1) The CPSC administers the Flammable Fabrics Act (''the Act''), 15 U.S.C. 1191–1204. Under the Act, among other things, the Commission enforces the Flammability Standard for Clothing Textiles (''the Standard''), 16 CFR part 1610. That Standard establishes requirements for the flammability of clothing and textiles intended to be used for clothing (hereinafter ''textiles'').

(2) The Standard applies both to fabrics and finished garments. The Standard provides methods of testing the flammability of textiles, and sets forth the requirements that textiles must meet to be classified into one of three classes of flammability (classes 1, 2 and 3). § 1610.4. Class 1 textiles, those that exhibit normal flammability, are acceptable for use in clothing. § 1610.4(a)(1) & (2). Class 2 textiles, applicable only to raised fiber surfaces, are considered to be of intermediate flammability, but may be used in clothing. § 1610.4(b)(1) & (2). Finally, Class 3 textiles, those that exhibit rapid and intense burning, are dangerously flammable and may not be used in clothing. § 1610.4(c)(1) & (2). The manufacture for sale, offering for sale, importation into the U.S., and introduction or delivery for introduction of Class 3 articles of wearing apparel are among the acts prohibited by section 3(a) of the Act, 15 U.S.C. 1192(a).

(3) CPSC currently uses retail surveillance, attends appropriate trade shows, follows up on reports of noncompliance and previous violations, and works with U.S. Customs and Border Protection in an effort to find textiles that violate CPSC's standards. The Commission has a number of enforcement options to address prohibited acts. These include bringing

seizure actions in federal district court against violative textiles, seeking an order through an administrative proceeding that a firm cease and desist from selling violative garments, pursuing criminal penalties, or seeking the imposition of civil penalties for ''knowing'' violations of the Act. Of particular relevance to the latter two remedies is whether reasonable and representative tests were performed demonstrating that a textile or garment meets the flammability standards for general wearing apparel. Persons who willfully violate flammability standards are subject to criminal penalties.

(4) Section 8(a) of the Act, 15 U.S.C. 1197(a), exempts a firm from the imposition of criminal penalties if the firm establishes that a guaranty was received in good faith signed by and containing the name and address of the person who manufactured the guarantied wearing apparel or textiles or from whom the apparel or textiles were received. A guaranty issued by a person who is not a resident of the United States may not be relied upon as a bar to prosecution. 16 CFR 1608.4. The guaranty must be based on the exempted types of fabrics or on reasonable and representative tests showing that the fabric covered by the guaranty or used in the wearing apparel covered by the guaranty is not so highly flammable as to be dangerous when worn by individuals, i.e., is not a Class 3 material. (The person proffering a guaranty to the Commission must also not, by further processing, have affected the flammability of the fabric, related material or product covered by the guaranty that was received.) Under § 1610.37, a person, to issue a guaranty, should first evaluate the type of fabric to determine if it meets testing exemptions in accordance with § 1610.1(d). (Some textiles never exhibit unusual burning characteristics and need not be tested.) § 1610.1(d). Such textiles include plain surface fabrics, regardless of fiber content, weighing 2.6 oz. or more per sq. yd., and plain and raised surface fabrics made of acrylic, modacrylic, nylon, olefin, polyester, wool, or any combination of these fibers, regardless of weight.) If no exemptions apply, the person issuing the guaranty must devise and implement a program of reasonable and representative tests to support the guaranty. The number of tests and frequency of testing is left to the discretion of that person, but at least one test is required.

(5) In determining whether a firm has committed a ''knowing'' violation of a flammability standard that warrants imposition of a civil penalty, the CPSC considers whether the firm had actual knowledge that its products violated the flammability requirements. The CPSC also considers whether the firm should be presumed to have the knowledge that would be possessed by a reasonable person acting in the circumstances, including knowledge that would have been obtainable upon the exercise of due care to ascertain the truth of representations. 15 U.S.C. 1194(e). The existence of results of flammability testing based on a reasonable and representative program and, in the case of tests performed by another entity (such as a guarantor), the steps, if any, that the firm took to verify the existence and reliability of such tests, bear directly on whether the firm acted reasonably in the circumstances.

(b) *Applicability.* (1) When tested for flammability, a small number of textile products exhibit variability in the test results; that is, even though they may exhibit Class 1 or Class 2 burning characteristics in one test, a third test may result in a Class 3 failure. Violative products that the Commission has discovered between 1994 and 1998 include sheer 100% rayon skirts and scarves; sheer 100% silk scarves; 100% rayon chenille sweaters; rayon/nylon chenille and long hair sweaters; polyester/cotton and 100% cotton fleece/sherpa garments, and 100% cotton terry cloth robes. Between August 1994 and August 1998, there have been 21 recalls of such dangerously flammable clothing, and six retailers have paid civil penalties to settle Commission staff allegations that they knowingly sold garments that violated the general wearing apparel standard.

(2) The violations and resulting recalls and civil penalties demonstrate the critical necessity for manufacturers, distributors, importers, and retailers to evaluate, prior to sale, the flammability of garments made from the materials described above, or to seek appropriate guaranties that assure that the garments comply. Because of the likelihood of variable flammability in the small group of textiles identified above, one test is insufficient to assure reasonably that these products comply with the flammability standards. Rather, a person seeking to evaluate garments made of such materials should assure that the program tests a sufficient number of samples to provide adequate assurance that such textile products comply with the general wearing apparel standard. The number of samples to be tested, and the corresponding degree of confidence that products tested will comply, are to be specified by the individual designing the test program. However, in assessing the reasonableness of a test program, the Commission staff will specifically consider the degree of confidence that the program provides.

(c) *Suggestions.* The following are some suggestions to assist in complying with the Standard:

(1) Purchase fabrics or garments that meet testing exemptions listed in § 1610.1(d). (If buyers or other personnel do not have skills to determine if the fabric is exempted, hire a textile consultant or a test lab for an evaluation.)

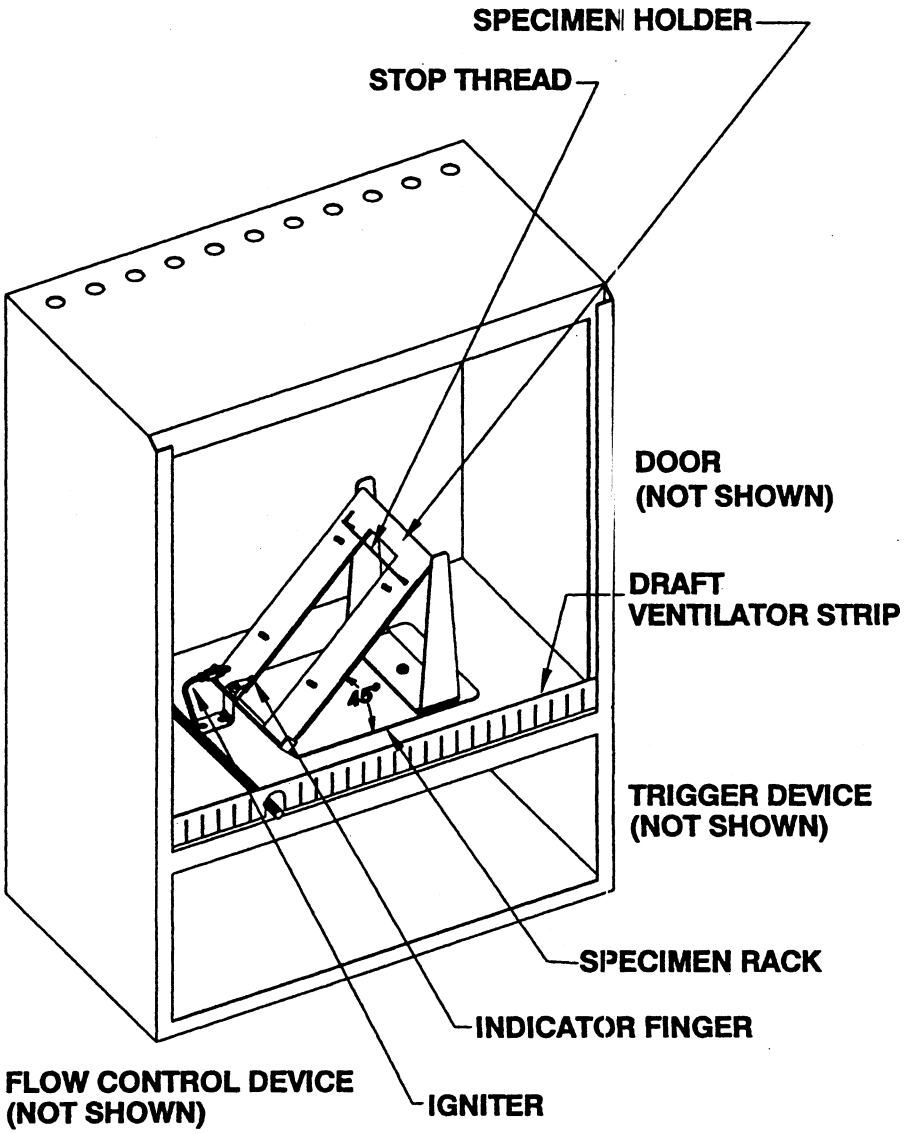
(2) For fabrics that are not exempt, conduct reasonable and representative testing before cutting and sewing, using standard operating characteristic curves for acceptance sampling to determine a sufficient number of tests.

(3) Purchase fabrics or garments that have been guarantied and/or tested by the supplier using a reasonable and representative test program that uses standard operating characteristic curves for acceptance sampling to determine a sufficient number of tests. Firms should also receive and maintain a copy of the guaranty.

(4) Periodically verify that your suppliers are actually conducting appropriate testing.

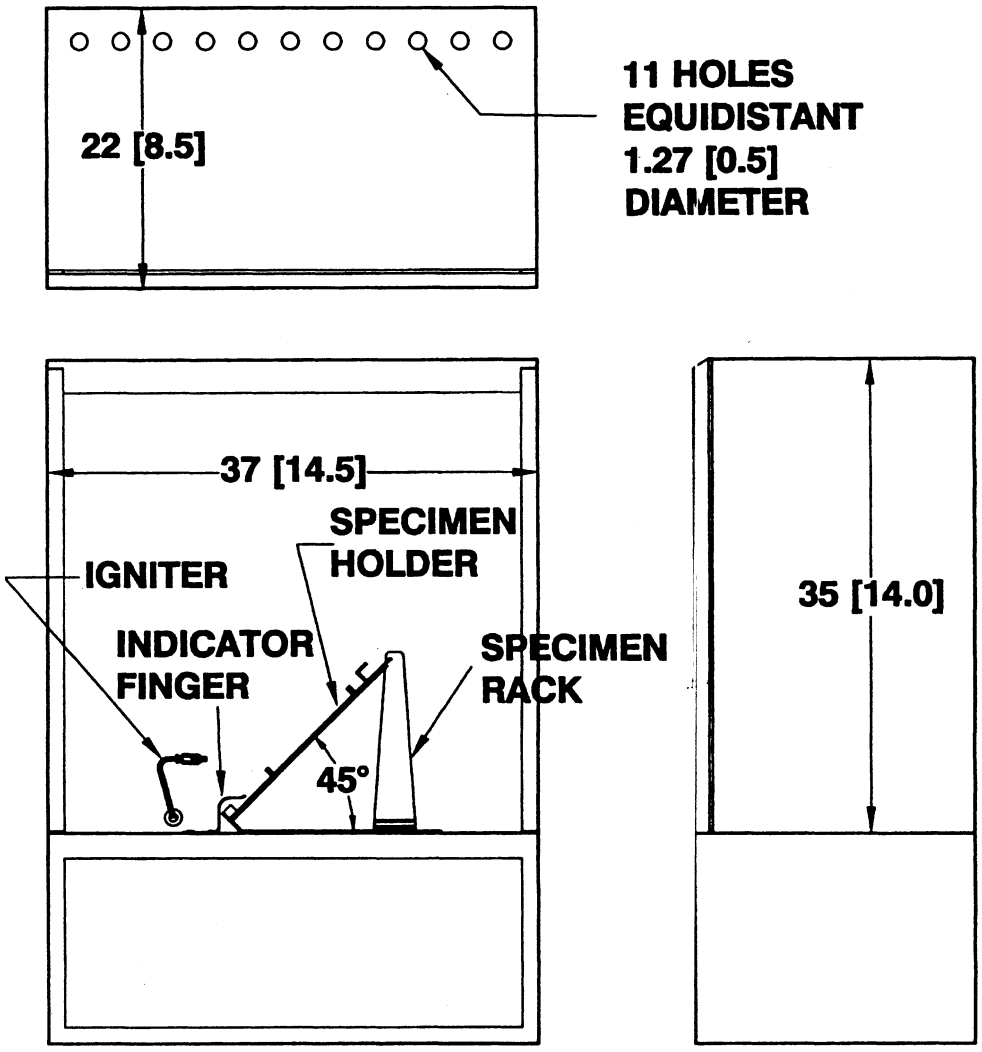
BILLING CODE 6355–01–P

Figure 1 to Part 1610—Sketch of Flammability Apparatus



SKETCH OF FLAMMABILITY APPARATUS
FIGURE 1

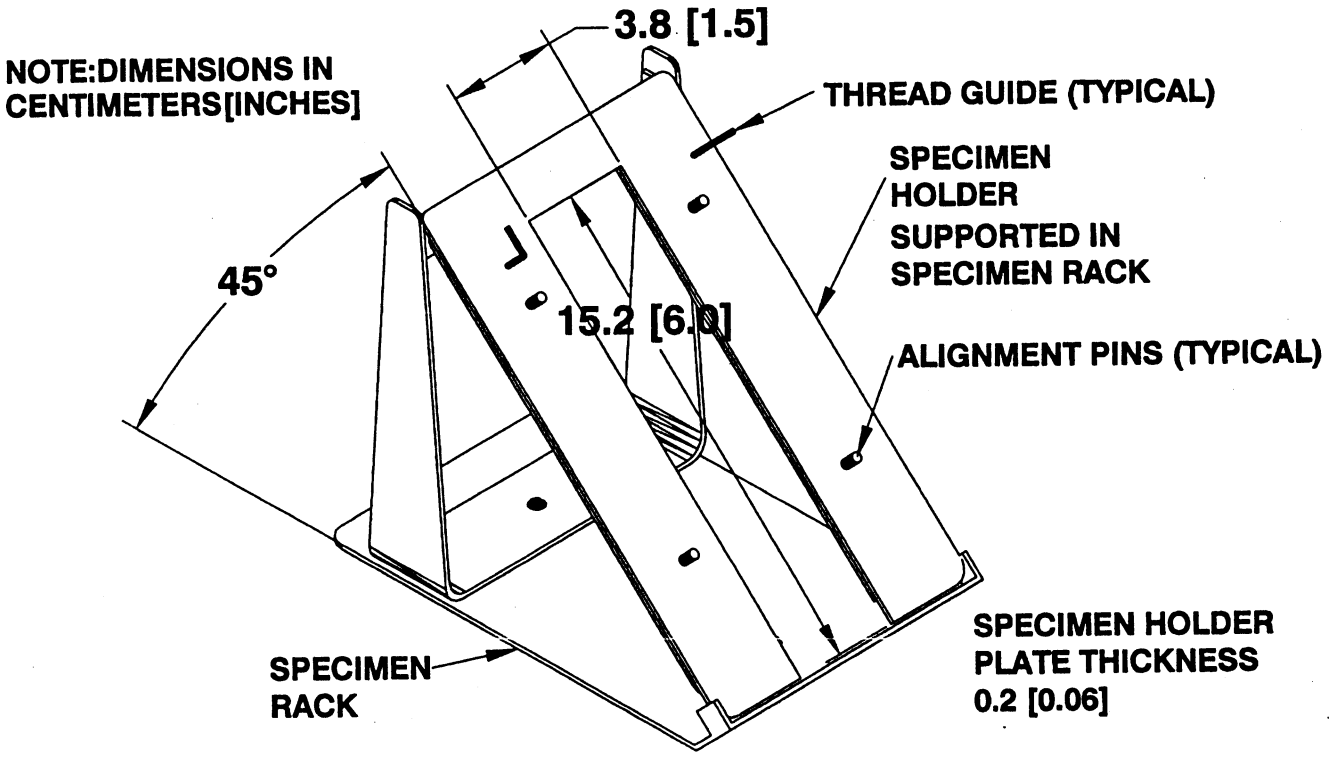
Figure 2 to Part 1610—Flammability Apparatus Views



NOTE: DIMENSIONS IN CENTIMETERS [INCHES]

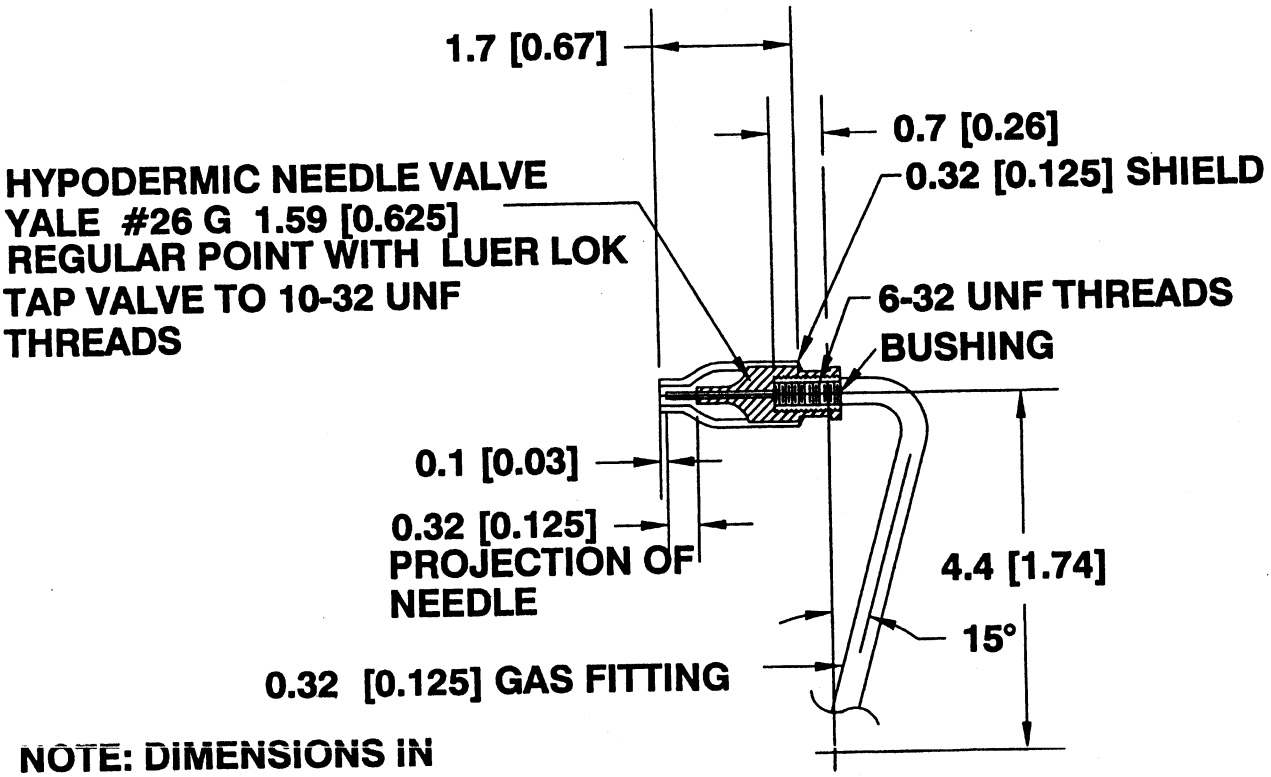
FLAMMABILITY APPARATUS VIEWS
FIGURE 2

Figure 3 to Part 1610—Specimen Holder Supported in Specimen Rack



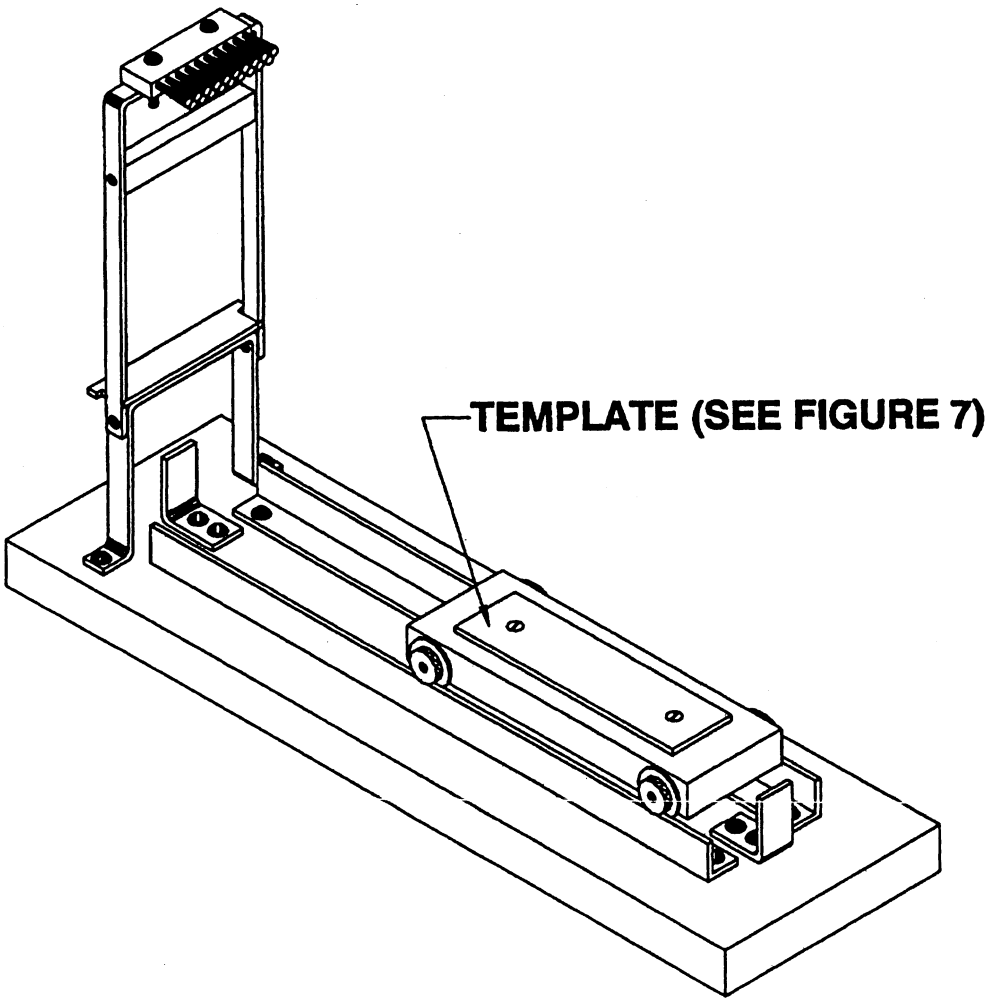
SPECIMEN HOLDER SUPPORTED IN SPECIMEN RACK
FIGURE 3

Figure 4 to Part 1610—Igniter



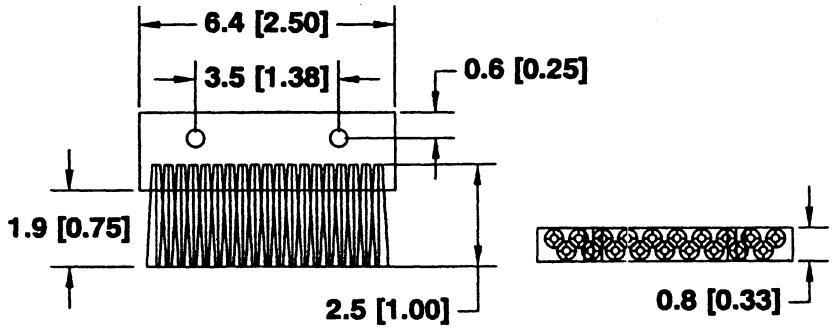
IGNITER
FIGURE 4

Figure 5 to Part 1610—Brushing Device



BRUSHING DEVICE
FIGURE 5

Figure 6 to Part 1610—Brush

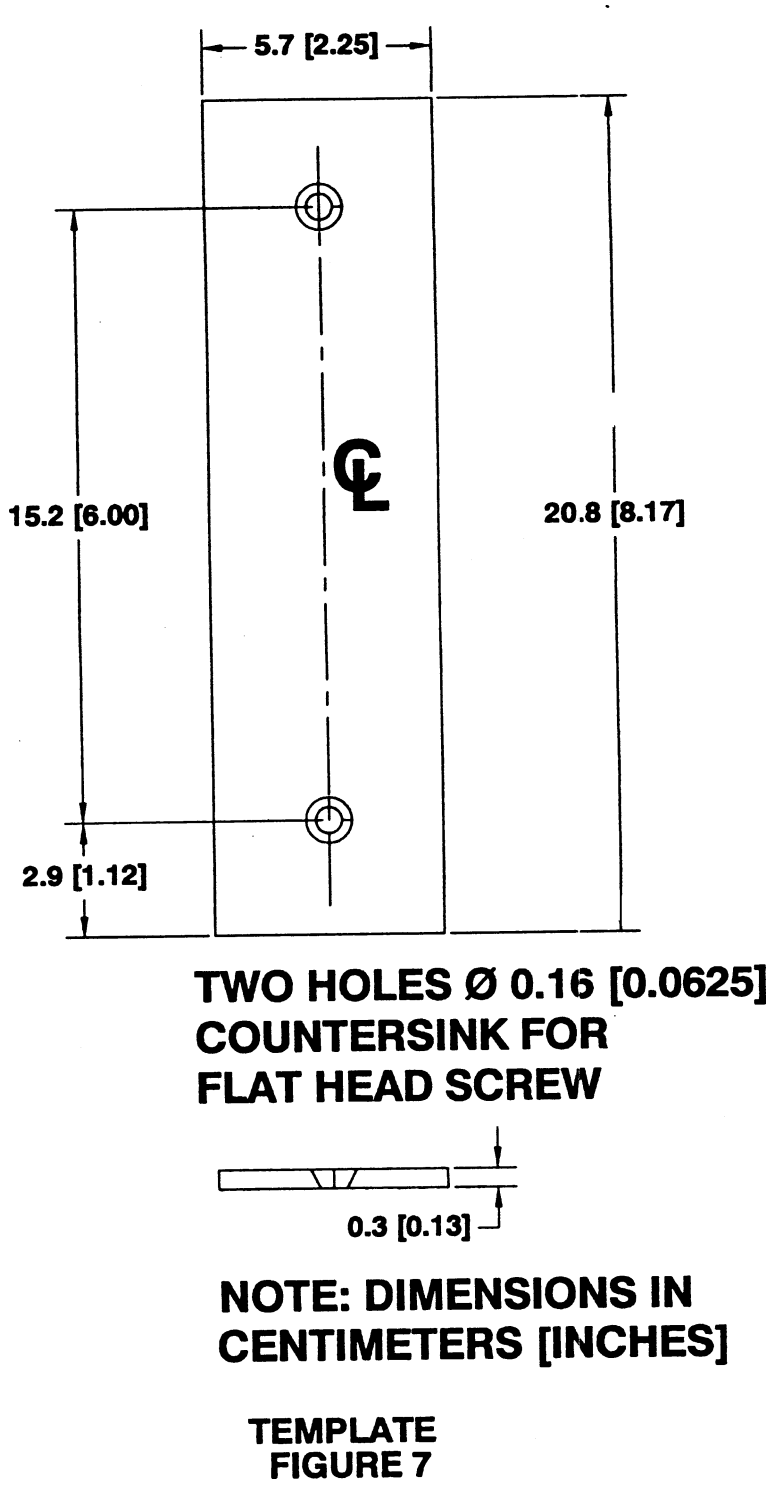


BRUSH CONSISTS OF NYLON BRISTLES
0.004 [0.016] DIAMETER
20 BRISTLES PER TUFT AND 4 TUFTS PER INCH

NOTE: DIMENSIONS IN
CENTIMETERS [INCHES]

BRUSH
FIGURE 6

Figure 7 to Part 1610—Template



BILLING CODE 6355–01–C

Dated: February 13, 2007.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

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

Appendix—List of Relevant Documents

(The following documents are available from the Commission's Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East West Highway, Bethesda, Maryland 20814–4408; telephone (301) 504–7923 or from the Commission's Web site *(http://www.cpsc.gov/library/foia/foia.html)).*

1. Briefing memorandum from Jacqueline Elder, Assistant Executive Director, EXHR and Patricia K. Adair, Project Manager, Directorate for Engineering Sciences, to the Commission, ''Draft Notice of Proposed Rulemaking to Amend the Standard for the Flammability of Clothing Textiles, 16 CFR part 1610,'' January 10, 2007.

2. Memorandum from David Miller, EPHA, Directorate for Epidemiology, to Patricia K. Adair, Project Manager, ''General Wearing Apparel Fires,'' November 7, 2006.

3. Memorandum from Terrance R. Karels, Directorate for Economic Analysis, to Patricia K. Adair, Project Manager, ''Amendment to the Clothing Textiles Standard,'' November 21, 2006.

4. Memorandum from Gail Stafford and Weiying Tao, Directorate for Laboratory Sciences, to Patricia K. Adair, Project Manager, ''Response to Comments Received as a Result of the Advance Notice of Proposed Rulemaking (ANPR) for Updating the Standard for the Flammability of Clothing Textiles,'' November 21, 2006.

5. Memorandum from Marilyn Borsari, Office of Compliance and Field Operations, to Patricia K. Adair, Project Manager, ''ANPR to Amend the Standard for the Flammability of Clothing Textiles, 16 CFR part 1610, November 22, 2006.

6. Memorandum from Patricia K. Adair, ESFS to the File, July 28, 2006.

7. Memorandum from Cassandra Prioleau, Ph.D., Directorate for Health Sciences, to Patricia K. Adair, Project Manager, ''Toxicity Review of Perchloroethylene,'' July 6, 2006.

[FR Doc. 07–779 Filed 2–26–07; 8:45 am]

BILLING CODE 6355–01–P

Federal Register

Tuesday,
February 27, 2007

Part III

Department of Education

Ohio Department of Health; Written Findings and Decision of the Secretary and Compliance Agreement Under the Infants and Toddlers With Disabilities Program—Part C of the Individuals With Disabilities Education Act; Notice

DEPARTMENT OF EDUCATION

Ohio Department of Health; Written Findings and Decision of the Secretary and Compliance Agreement Under the Infants and Toddlers With Disabilities Program—Part C of the Individuals with Disabilities Education Act

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of written findings and decision and compliance agreement.

SUMMARY: Section 457 of the General Education Provisions Act (GEPA) authorizes the U.S. Department of Education (Department) to enter into a compliance agreement with a recipient that is failing to comply substantially with Federal program requirements. In order to enter into a compliance agreement, the Department must determine, in written findings, that the recipient cannot comply with the applicable program requirements until a future date and that a compliance agreement is a viable means of bringing about such compliance. On November 8, 2006, the Department entered into a compliance agreement with the Ohio Department of Health (ODH). Under section 457(b)(2) of GEPA, the written findings and decision and compliance agreement must be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: David Steele, U.S. Department of Education, 400 Maryland Avenue, SW., room 4025, Potomac Center Plaza, Washington, DC 20202–2600. Telephone (202) 245–6520.

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 the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION: Under Part C of the Individuals with Disabilities Education Act (Part C), the Department provides funds to States to ''maintain and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities and their families.'' 20 U.S.C. 1433. Early intervention services are services that are, among other things, ''designed to meet the developmental needs of an infant or toddler with a disability, as identified by the individualized family service plan team, in any 1 or more of the following areas: (i) Physical development; (ii) cognitive development; (iii) communication development; (iv) social or emotional development; or (v) adaptive development''; ''are provided by qualified personnel''; ''to the maximum extent appropriate, are provided in natural environments, including the home, and community settings in which children without disabilities participate''; and ''are provided in conformity with an individualized family service plan adopted in accordance with section 636'' of IDEA. 20 U.S.C. 1432(4)(C), (F), (G), and (H).

The Department's February 27, 2006 letter responding to Ohio's December 2005 State Performance Plan (SPP) indicated that ODH had yet to ensure compliance with the following four noncompliance findings originally identified in the Department's March 30, 2001 Ohio Part C Monitoring Report:

(1) *Monitoring:* the lead agency's responsibility to monitor (identifying and timely correcting any noncompliance by all programs and activities used to implement the statewide early intervention system as required by 34 CFR 303.501(b));

(2) *45-day Timeline:* evaluations and assessments in all five developmental areas and the initial Individualized Family Service Plan (IFSP) meetings are held within 45 days after a referral is received as required by 34 CFR 303.321(e)(2), 303.322(e)(1) and 303.342(a);

(3) *Timely Service Provision:* early intervention services on the child's IFSP are timely provided as required by 34 CFR 303.340(c), 303.342(e) and 303.344(f)(1); and

(4) *Timely Transition Planning:* 90-day conferences are held as required by 34 CFR 303.148(b)(2)(i) and IFSPs include the early childhood transition plan as required by 34 CFR 303.148(b)(4) and 303.344(h).

On March 10, 2006, ODH Director, J. Nick Baird, requested that the Department consider entering into a compliance agreement with ODH under Part C. Before entering into a compliance agreement, the Department must hold a hearing at which the recipient, individuals affected by any potential compliance agreement, including infants and toddlers with disabilities and their families or other representatives, and other interested parties are invited to participate. In that hearing, the recipient has the burden of persuading the Department that: (1) Full compliance with the applicable requirements of law is not feasible until a future date; and (2) that a compliance agreement is a viable means for bringing about such compliance in no more than three years. 20 U.S.C. 1234f(b)(1) and (c). If, on the basis of all the evidence available, the Secretary determines that the recipient has met that burden, the Secretary is to make written findings to that effect and publish those findings, together with the substance of the compliance agreement, in the **Federal Register**. 20 U.S.C. 1234f(b)(2).

On May 9, 2006, Department officials conducted a public hearing in Columbus, Ohio regarding ODH's ability to meet certain Part C requirements. The testimony and materials either presented at the hearing, or submitted in relation to the hearing, by ODH representatives, other State agency representatives, parent and State Interagency Coordinating Council representatives, Part C early intervention service providers, and other affected or interested individuals confirmed that, as required under 20 U.S.C. 1234f, full compliance with Part C requirements by ODH is genuinely not feasible until a future date, but that ODH will be able to come into full compliance with Part C within three years. Testimony and written submissions supported the development of a compliance agreement that would bring ODH into compliance with Part C as soon as feasible and would allow continuation of Part C funding by OSEP to Ohio during this process. As indicated in the Written Findings and Decision of the Secretary, the Department has determined that a compliance agreement is appropriate to address the four outstanding areas of Part C non-compliance.

As required by section 457(b)(2) of GEPA, 20 U.S.C. 1234f(b)(2), the text of the Secretary's Written Findings and Decision and the substance of the compliance agreement are published in this notice of written findings and decision and compliance agreement.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents 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.*

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(Authority: 20 U.S.C. 1234c, 1234f, 1431 through 1444)

Dated: February 20, 2007.

John H. Hager,

Assistant Secretary for Special Education and Rehabilitative Services.

United States Department of Education

In the Matter of the Request of the Ohio Department of Health To Enter Into a Compliance Agreement—Written Findings and Decision of the Secretary

I. Introduction

The United States Department of Education (Department) finds, pursuant to 20 U.S.C. 1234c, that the Ohio Department of Health (ODH) has failed to comply substantially with the requirements of Part C of the Individuals with Disabilities Education Act (Part C or IDEA), 20 U.S.C. 1401–1408 and 1431–1444, and applicable regulations, 34 CFR part 303. ODH is the lead agency designated by the Governor of Ohio to implement Ohio's statewide system of early intervention services under IDEA, 20 U.S.C. 1435(a)(10) and 34 CFR 303.500. The Bureau of Early Intervention Services (BEIS), within ODH, is responsible for the daily administration and oversight of Ohio's early intervention program for infants and toddlers with disabilities and their families under Part C.

The Department's February 27, 2006 letter and April 4, 2006 conversation with ODH representatives confirmed that ODH was not in compliance with the following four Part C requirements originally identified in the 2001 Ohio Part C Monitoring Report issued by the Department's Office of Special Education Programs (OSEP): [1]

(1) Monitoring to ensure the identification and timely correction of noncompliance with Part C as required by 34 CFR 303.501(b) (General Supervision or GS);

(2) Conducting evaluations and assessments and the initial Individualized Family Service Plan (IFSP) meetings within 45 days from referral of an infant or toddler to Part C as required by 34 CFR 303.321(e)(2), 303.322(e)(1) and 303.342(a) (45-day Timeline);

(3) Providing in a timely manner all early intervention services identified on the IFSP to all eligible infants and toddlers with disabilities and their families as required by 34 CFR 303.340(c), 303.342(e), 303.344(f)(1) (Service Provision); and

(4) Conducting timely transition planning as required by 34 CFR 303.148(b)(2)(i), 303.148(b)(4) and 303.344(h) (Timely Transition Planning).

On March 10, 2006, ODH requested that the Department consider entering into a compliance agreement, because ODH indicated it needed additional time (not to exceed three years) to ensure compliance. ODH invited the Department to hold a public hearing, which the Department is required to conduct before it can enter into a compliance agreement under the General Education Provisions Act (GEPA), 20 U.S.C. 1234f(b)(1). On May 9, 2006, Department officials conducted a public hearing in Columbus, Ohio, at which oral and written testimony were received regarding ODH's ability to comply with the four outstanding requirements. At the hearing, testimony was provided by ODH representatives, other Ohio State participating agencies, Part C early intervention providers, parents of infants, toddlers and children with disabilities, representatives from the Ohio State interagency coordinating council (SICC), and other affected or interested individuals. Additional written testimony was submitted to the Department through the comment period, which ended on June 1, 2006.

At the public hearing, the State bears the burden of demonstrating that: (1) Full compliance with the applicable requirements of Part C is not feasible until a future date and (2) a compliance agreement is a viable means for bringing about such compliance in no more than three years. 20 U.S.C. 1234f(b)(1). Based on the testimony received and other information available, the Department concludes, as required under 20 U.S.C. 1234f, that full compliance with the above four Part C requirements by ODH is genuinely not feasible until a future date, but that under the terms of the attached compliance agreement, which expires three years from the date of this decision, ODH will be able to come into full compliance with Part C within this three-year period.

II. Legal Basis for Entering Into a Compliance Agreement: Requirements Under Part C and GEPA

A. Part C Requirements

Part C was enacted in 1986, and amended in 2004, in response to Congress's finding that ''there is an urgent and substantial need * * * to enhance the development of infants and toddlers with disabilities, to minimize their potential for developmental delay, and to recognize the significant brain development that occurs during a child's first 3 years of life.'' 20 U.S.C. 1431(a)(1). Under Part C, the Department provides funds to States to implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system that provides early intervention services for infants and toddlers with disabilities and their families. 20 U.S.C. 1431(b)(1).

An ''infant or toddler with a disability'' is a child under three years of age who needs early intervention services because the child either: (1) Is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures, in one or more of the following five areas of development: cognitive, physical, communication, social or emotional, or adaptive; or (2) has a diagnosed physical or mental condition which has a high probability of resulting in developmental delay. 20 U.S.C. 1432(5). Early intervention services are developmental services designed to meet the developmental needs of an infant or toddler with a disability, as identified by the IFSP team, in any one or more of the five developmental areas listed above. 20 U.S.C. 1432(4); 34 CFR 303.12.

Part C requires that there be a single line of responsibility and clear interagency guidelines to ensure that one agency, the lead agency, is responsible for administering Part C in

[1] OSEP's 2001 Ohio Monitoring Report identified nine areas of noncompliance and required the State to submit an Improvement Plan that addressed all nine findings. OSEP's October 24, 2002 letter that accepted ODH's 2002 Improvement Plan required that ODH submit a final Progress Report by October 24, 2003, providing data demonstrating compliance with these findings. ODH provided data and information indicating correction of five of the nine findings. However, ODH's final October 30, 2003 final progress report under its Improvement Plan and subsequent reports, requested by OSEP and submitted by ODH on April 30, 2004, November 1, 2004 and March 31, 2005, failed to provide data demonstrating compliance with the four remaining findings: monitoring, 45-day timeline, timely service provision and timely transition planning.

The Department imposed special conditions on two of the areas (45-day timeline and timely transition planning) in Ohio's FFY 2005 Part C grant. The special conditions required Ohio to provide OSEP a progress report in November 2005 and a final report by April 2006 that included data demonstrating compliance. The Department's February 27, 2006 letter responding to the State's Performance Plan (SPP) and April 4, 2006 conversation with ODH representatives confirmed that ODH had yet to ensure compliance with four noncompliance findings from OSEP's 2001 Ohio Monitoring Report and questioned the feasibility of ODH's ability to ensure compliance with these requirements. On March 10, 2006, ODH indicated it could not come into compliance. ODH requested that the Department consider entering into a Compliance Agreement with ODH under Part C of the IDEA because ODH would need additional time (not to exceed three years) to make systemic changes in its monitoring, data, service delivery, and other systems in order to ensure correction of these four findings.

the State. 20 U.S.C. 1435(a)(10)(A); 34 CFR 303.500, 303.523–303.528. The lead agency must monitor all programs and activities used by the State to carry out Part C for compliance with all Part C requirements, and ensure the correction of any noncompliance it identifies. 20 U.S.C. 1435(a)(10)(A); 34 CFR 303.501.

Other Part C requirements include ensuring that all infants and toddlers referred to Part C are evaluated and assessed, and an initial IFSP meeting is held, within 45 days of the child's referral to Part C. 34 CFR 303.321(e)(2), 303.322(e)(1), and 303.342(a). The evaluation must be conducted in all five developmental areas, including vision and hearing. 34 CFR 303.322(c)(3)(ii). The lead agency must ensure that the early intervention services identified as needed on the child's IFSP are provided in a timely manner to the child and his or her family. 34 CFR 303.340(c), 303.342(e) and 303.344(f)(1). In addition, the lead agency must ensure that timely transition planning is provided for children when they exit the Part C program, which typically occurs at age three. 34 CFR 303.148(b) and 303.344(h). For children exiting from Part C, the IFSPs must contain transition steps and services. 34 CFR 303.148(b)(4) and 303.344(h). For children potentially eligible under Part B of the IDEA, with the approval of the family, a transition conference must be convened among the lead agency, the family, and the local educational agency at least 90 days before the child's third birthday. 34 CFR 303.148(b)(2)(i). Thus, under Part C, the lead agency must ensure that it makes available all appropriate early intervention services to an infant or toddler with a disability and his or her family to meet the unique developmental needs of the child and to support the family while the child receives Part C services and as the child transitions from Part C to Part B or other programs.

B. Authority To Enter Into a Compliance Agreement Under Part C and GEPA

If a State fails to comply substantially with the requirements of Part C, the Department has the authority under GEPA and Part C to take certain enforcement actions, including withholding funds, seeking a cease and desist order, entering into a compliance agreement, or taking other action authorized by law with respect to the State. 20 U.S.C. 1234c, 1416, 1437(c) and 1442; 34 CFR 303.101. In this instance, and at ODH's request, the Department has determined it is appropriate to address ODH's failure to comply substantially with the requirements of Part C through a compliance agreement.

The purpose of a compliance agreement is ''to bring the recipient into full compliance with the applicable requirements of the law as soon as feasible and not to excuse or remedy past violations of such requirements.'' 20 U.S.C. 1234f(a). As mentioned above, the recipient has the burden of persuading the Department that: (1) Full compliance with the applicable requirements of law is not feasible until a future date and (2) a compliance agreement is a viable means for bringing about such compliance in no more than three years. 20 U.S.C. 1234f(b)(1). If, on the basis of all the evidence available to the Department, the Secretary determines that the recipient has met that burden, the Secretary must publish written findings to that effect, together with the substance of the compliance agreement, in the **Federal Register**. 20 U.S.C. 1234f(b)(2).

The compliance agreement must contain the terms and conditions with which the recipient must comply during the period that the Agreement is in effect. 20 U.S.C. 1234f(c). If the recipient fails to comply with any of the terms and conditions of the compliance agreement, the Department may consider the Agreement no longer in effect and may take any action authorized by law, including withholding funds or seeking a cease and desist order. 20 U.S.C. 1234f(d).

III. ODH's Ability To Meet the Requirements of the Compliance Agreement

A. ODH Cannot Immediately Come Into Compliance With Part C Requirements

As confirmed through the testimony of ODH, State agency representatives, early intervention service providers, parents of infants, toddlers and children with disabilities, Ohio SICC representatives and others, ODH is not in compliance now, and cannot immediately come into compliance, with Part C's General Supervision, 45-day Timeline, Service Provision, and Timely Transition Planning requirements. ODH's failure to comply with these major Part C requirements is caused by a number of complicated factors and cannot be corrected immediately. In the testimony provided by ODH and other witnesses at the public hearing, six major barriers to ODH's ability to come into immediate compliance with Part C were identified. The barriers identified are a lack of: (1) Coordination with other State and local partners to ensure correction of noncompliance; (2) clarity in the lead agency's policies, procedures and guidance regarding evaluations and assessments and timely transition planning; (3) a monitoring system that identifies Part C compliance requirements and available corrective actions; (4) clarity in the lead agency's single line of responsibility, including monitoring authority over its 88 counties; [2] (5) the State's current data system's ability to collect key compliance elements; and (6) sufficient qualified personnel and system capacity to conduct evaluations and assessments and provide Part C services.

One major barrier to immediate compliance is the need for coordination with other State and local partners to ensure correction of noncompliance. Under the compliance agreement, ODH has agreed to revise Interagency Agreements with the Ohio Department of Mental Retardation Developmental Disabilities (ODMRDD), the Ohio Department of Education (ODE), and other participating State agencies to clarify each agency's responsibility in ensuring compliance with Part C requirements, including timely transition planning. At the hearing, representatives from ODE and ODMRDD expressed their commitment to work with ODH to enter into revised Interagency Agreements that will help ODH come into compliance with the Part C requirements.

Another aspect of the need for coordination with other State and local partners is the delineation of Part C requirements. At the hearing, witnesses from the Ohio's SICC Help Me Grow Advisory Council and the County Boards of MRDD Association explained how there is little delineation between the Part C requirements and the requirements for other programs that provide services to children through the Help Me Grow program.[3] Under the compliance agreement, ODH will clarify its guidance to distinguish Part C from other Help Me Grow program requirements and align the policies of other State agency partners, particularly ODMRDD with ODH's policies and procedures on substantive Part C requirements, including the 45-day timeline and EI service provision. Defining the respective agencies'

[2] The Ohio Part C early intervention statewide system of services is provided through the Help Me Grow program, which provides funds to the 88 county Family and Children First Councils (FCFCs). ODMRDD is not part of ODH, but the 88 county boards within ODMRDD are the largest provider of Part C early intervention services in Ohio.

[3] Help Me Grow provides Part C services for children eligible under Part C but also provides services to other children through other programs and provides services under other programs to children eligible under Part C.

responsibilities and delineating the Part C requirements are necessary to ensure compliance with Part C.

A second barrier to immediate compliance is the lack of clarity in the lead agency's policies, procedures and guidance regarding evaluations and assessments and timely transition planning. At the hearing, the Chief of BEIS, Debbie Wright, testified that ODH's policies and procedures do not ensure consistent documentation of transition planning, and do not ensure that evaluations and assessments include screenings in all developmental areas, such as hearing and vision. Under the compliance agreement, ODH will revise its policies, procedures and guidance to address these issues. It will take ODH more than a year to revise and implement those policies, procedures and guidance, and to monitor for compliance with the related Part C requirements.

A third barrier to immediate compliance is the need to revise the State's monitoring system to include identification of noncompliance and corrective actions. At the hearing, Ms. Wright testified that the State's monitoring system must be revised to align with the State's Performance Plan and to increase the State's ability to identify areas of noncompliance and ensure timely corrective action. The uncontroverted testimony at the hearing confirmed that implementing all of the steps necessary to revise the State's monitoring process, including adding compliance elements in the data and monitoring systems and implementing corrective action procedures, will require more than one year. Under the compliance agreement, the State will first review and revise its monitoring process, with input from OSEP, then the State will pilot the revised monitoring system in its first year, and beginning in the second year, the State will implement its revised monitoring process to demonstrate correction.

A fourth barrier to immediate compliance is the need to review, and determine if revisions are needed to, the State's current authorizing authority, its Governor's Executive Order, to provide for a clearer line of responsibility by the Part C lead agency. At the hearing, witnesses from the Ohio Help Me Grow Advisory Council and the County Boards of MRDD Association explained that the lead agency's single line of authority is not clearly defined. Heather Kendall representing the testimony of the Ohio Superintendents County Boards of MRDD Association, explained ''in the current system, the local Family and Children First Council has the authority to determine how the compliance of ODH Part C policies and procedures is met. This system allows for 88 different interpretations of Part C service delivery in Ohio.'' ODH reported that different counties have different interpretations of some policies, including evaluations and assessment and transition planning. An important step in ensuring compliance with Part C will be to strengthen ODH's single line of responsibility, which cannot be done immediately. Under the compliance agreement, ODH will review its authorizing Governor's Order, legislation, FCFC applications, and other State policies to determine whether it needs to clarify ODH's lead agency authority and general supervision responsibilities under IDEA § 635(a)(10) and 34 CFR 303.500.

A fifth barrier to immediate compliance is the need for ODH to revise its data system (Early Track) to ensure that it includes critical Part C compliance elements. Under the compliance agreement, ODH will revise its Early Track data system to collect and report information on the 45-day timeline and transition that will help ODH to identify and correct noncompliance. Revising and verifying its new data system, and collecting data from the new system, will take ODH more than one year. Effectively utilizing the data from the new data system as part of its new monitoring system to verify both noncompliance areas and corrective action results will take ODH even longer.

Finally, ODH's ability to comply with Part C is affected by the capacity of the system to serve the number of infants and toddlers referred to the program. One possible cause is the lack of system capacity including the availability of sufficient qualified personnel to conduct evaluations and assessments and provide early intervention services. Testimony from ODH officials and early intervention providers cited personnel recruitment and retention, adequate financial resources and other personnel and system issues as among the major challenges for timely evaluations and assessments and early intervention service delivery, particularly in rural counties. For example, a local provider in Carroll County explained at the hearing how there is a lack of providers in her area. She explained that she is from a rural agricultural Appalachian county that has a shortage of health professionals. ODH cannot, acting on its own, immediately address this personnel shortage. Under the compliance agreement, ODH will conduct a needs assessment with its State agency partners to identify available services and gaps in services. As part of the needs assessment, ODH will analyze the impact of its newly developed system of payments and will explore its ability to maximize the use of all funding sources. ODH will then develop a plan to address the issues identified in the needs assessment and will work with its state partners to implement the plan. Removing these system capacity barriers and obtaining needed personnel will require a long-term effort that will involve working with other organizations in Ohio to ensure that qualified personnel are available to conduct evaluations and assessments and provide early intervention services.

The evidence gathered by the Department at the public hearings confirms that ODH is not able to immediately come into compliance with the requirements of Part C. These problems are not isolated examples of noncompliance that can be quickly or easily corrected, but the outgrowth of systemic failures, for which systemic change is needed. The Department, therefore, concludes that ODH cannot come into immediate compliance with the requirements of Part C.

B. ODH Can Ensure Full Compliance With the Four Part C Requirements Within Three Years

The compliance agreement addresses the four major areas of ODH's noncompliance with Part C, namely: (1) General Supervision, (2) 45-day Timeline, (3) Service Provision, and (4) Timely Transition Planning. The compliance agreement sets out specific timelines, activities and responsible parties to implement the following strategies to address these areas of noncompliance.

General Supervision

Under the compliance agreement, ODH will develop, revise or update Interagency Agreements with other State agencies, and will implement and utilize effective monitoring and general supervision procedures, to ensure the identification and timely correction of noncompliance with Part C. ODH will also review its authorizing authority, including its Governor's Executive Order, state statutes and regulations, to determine how to strengthen its single line of authority as the Part C lead agency in Ohio.

45-day Timeline and Service Provision

Under the compliance agreement, ODH will revise and implement its program guidance to ensure that evaluations and assessments and the initial IFSP meetings are conducted within the 45-day timeline, and that

early intervention services are timely provided to eligible infants and toddlers with disabilities and their families. ODH will work with other State agencies to align their policies with the ODH policies and procedures. In addition, ODH will develop and implement its guidance and documentation procedures to ensure vision and hearing status is assessed for infants and toddlers referred to Part C, and present levels of functioning are documented on a child's IFSP. ODH and other State agencies will also collaborate to determine whether and how its early intervention system may be redesigned in the long-term to increase its system capacity (including providers) and maximize funding for early intervention services.

Timely Transition Planning

Under the compliance agreement, ODH will revise its transition policies and procedures to ensure documentation of transition planning is aligned across State agencies and in all 88 counties. The Interagency Agreement between ODH and ODE, and the transition agreements between the county FCFC and the local education agencies, will be developed, updated or revised to ensure compliance with the timely transition planning requirements under IDEA.

The compliance agreement sets forth the data collection and reporting procedures that ODH will follow. These provisions will enable the Department to determine whether or not ODH is meeting each of its commitments under the compliance agreement. The compliance agreement, because of the obligations it imposes on ODH, will provide the Department with the information and authority it needs to protect the Part C rights of Ohio infants and toddlers with disabilities.

IV. Conclusion

For the foregoing reasons, the Department finds that: (1) Full compliance by ODH with the requirements of Part C is not feasible until a future date, and (2) ODH can meet the terms and conditions of the attached compliance agreement and come into full compliance with the four requirements of Part C within three years of the date of this decision. Therefore, the Secretary determines that it is appropriate for the Department to enter into a compliance agreement with ODH. Under the terms of 20 U.S.C. 1234f, this compliance agreement becomes effective the date these Written Findings and Decision are signed by the Secretary.

Dated: November 8, 2006.

John H. Hager,

Assistant Secretary, Office of Special Education and Rehabilitative Services, U.S. Department of Education.

On behalf of: Margaret Spellings, Secretary, U.S. Department of Education.

Appendix A: Ohio Part C Compliance Agreement

Compliance Agreement Under Part C of the Individuals With Disabilities Education Act (IDEA), the Infants and Toddlers With Disabilities Program, Between the United States Department of Education and the Ohio Department of Health

I. Background—Areas of Noncompliance

This Compliance Agreement is entered into under the General Education Provisions Act (GEPA) (at 20 U.S.C. 1234f) between the United States Department of Education (the Department or ED) and the State of Ohio through the Ohio Department of Health (ODH) to address certain requirements under Part C of the Individuals with Disabilities Education Act (IDEA) (codified at 20 U.S.C. 1401 through 1407 and 1431 through 1444) and its applicable regulations (at 34 CFR Part 303).

Under section 1234f of GEPA, the Department may enter into a Compliance Agreement with the purpose of bringing a grant recipient (ODH) into full compliance with the applicable requirements of law as soon as feasible and not to excuse or remedy past violations. Before entering into a Compliance Agreement, the Department must hold a hearing where the recipient and other affected and interested parties are invited to participate. Compliance Agreements must contain an expiration date not later than three years from the date of the Agreement and Written Findings. A Compliance Agreement allows a recipient to continue to receive its grant award while it works toward achieving full compliance under the terms of the agreement.

The Department's February 27, 2006 letter responding to Ohio's December 2005 State Performance Plan (SPP) indicated that ODH had yet to ensure compliance with the following four noncompliance findings originally identified in the Department's March 30, 2001 Ohio Part C Monitoring Report:

(1) *Monitoring:* the lead agency's responsibility to monitor (identifying and timely correcting any noncompliance by all programs and activities used to implement the statewide early intervention system as required by 34 CFR 303.501(b));

(2) *45-day Timeline:* evaluations and assessments in all five developmental areas and the initial Individualized Family Service Plan (IFSP) meetings are held within 45 days after a referral is received as required by 34 CFR 303.321(e)(2), 303.322(e)(1) and 303.342(a);

(3) *Timely Service Provision:* early intervention services on the child's IFSP are timely provided as required by 34 CFR 303.340(c), 303.342(e) and 303.344(f)(1); and

(4) *Timely Transition Planning:* 90-day conferences are held as required by 34 CFR 303.148(b)(2)(i) and IFSPs include the early childhood transition plan as required by 34 CFR 303.148(b)(4) and 303.344(h).

On March 10, 2006, ODH requested that the Department consider entering into a Compliance Agreement with ODH under Part C of the IDEA because, although ODH had addressed five of the original findings from OSEP's 2001 monitoring report, ODH indicated that it would need additional time (not to exceed three years) to make systemic changes in its monitoring, data, service delivery, and other systems in order to ensure correction of these four findings. ODH invited the Department's Office of Special Education Programs (OSEP) to conduct a public hearing in Ohio as required by GEPA prior to the establishment of a Compliance Agreement. On May 9, 2006, OSEP conducted a public hearing in Columbus, Ohio regarding ODH's ability to meet the four Part C requirements identified above. The testimony and materials either presented at the hearing, or provided in relation to the hearing, by ODH representatives, other Ohio participating agencies, Part C providers, parents of infants, toddlers and children with disabilities, and other affected or interested individuals confirmed that, as required under 20 U.S.C. 1234f, full compliance with Part C requirements by ODH is genuinely not feasible until a future date, but that ODH will be able to come into full compliance with Part C within three years. Testimony and written submissions supported the development of a compliance agreement that would bring ODH into compliance with Part C as soon as feasible and allow continuation of Part C funding by OSEP to Ohio during this process. As indicated in the attached Secretary's Written Findings and Decision of the Secretary, ED agrees that a compliance agreement is appropriate to address noncompliance and this document reflects the terms of the Compliance Agreement.

II. Parties

The parties to this Compliance Agreement under IDEA, Part C, are the Department and ODH. ODH is the lead agency under Part C of the IDEA designated under the authority of IDEA Section 635(a)(10) as codified at 20 U.S.C. 1435(a)(10) and 34 CFR 303.500. The Bureau of Early Intervention Services (BEIS) is the office within ODH that is responsible for the daily administration and oversight of Ohio's early intervention program for infants and toddlers with disabilities and their families under Part C of the IDEA. The Ohio Part C program referred to herein as Help Me Grow (HMG) includes the following participating state agencies: ODH; Ohio Department of Mental Retardation/ Developmental Disabilities (ODMRDD); Ohio Department of Job and Family Services (ODJFS); Ohio Department of Education (ODE); Ohio Family and Children First (OFCF); County Family and Children First Councils (FCFCs); and providers of early intervention services (whether contractors of ODH or other state or local agency entities). The Help Me Grow program is administered in each of Ohio's eighty-eight (88) counties by the county Family and Children First Council (FCFC). The Council receives federal and state funds to implement all requirements of the program serving pregnant

women, newborns, infants and toddlers at risk for or with developmental delays and disabilities. See Attachment A (Work Plan).

III. Areas of Identified Non-compliance

Under the terms of this Compliance Agreement, entered into pursuant to 20 U.S.C. 1234f, ODH must be in full compliance with the requirements of Part C of IDEA no later than three years from the effective date of this Agreement, which is the date the Secretary signs the Written Findings of Fact and Decision and the Compliance Agreement. Specifically, ODH must ensure and document that no later than three years from the effective date of this Agreement compliance is achieved in each of the following four major areas as follows:

1. *General Supervision—Monitoring:* ODH will meet its general supervision responsibilities and monitoring for compliance with all requirements of Part C under IDEA Section 635(a)(10) as codified at 20 U.S.C. 1435(a)(10) and 34 CFR 303.501(b), including: (1) Monitoring participating state and recognized local agencies, organizations and providers who deliver or contract to deliver Part C services in Ohio; (2) enforcing contractual and/or legal obligations regarding Part C compliance; (3) providing training and technical assistance as needed to providers and governmental participants in the Part C program; and (4) correcting within one year of identification, any Part C noncompliance identified through ODH's general supervision and monitoring systems.

2. *Timely Evaluation, Assessment and Development of the IFSP:* ODH will meet the requirement that infants and toddlers referred to Part C and suspected of having a disability receive timely and comprehensive evaluations in all five developmental areas (cognitive, physical, communication, social/emotional, and adaptive skills) as required by 34 CFR 303.321(e)(2) and 303.322(e)(1). Evaluations and assessments are completed and, if the infant or toddler is eligible, the initial IFSP meeting is conducted within 45 days of the date a referral is received containing sufficient family contact information to enable the Ohio Part C HMG program to contact the family as required by 34 CFR 303.342(a).

3. *Timely Provision of All Early Intervention Services Specified in IFSPs:* ODH will ensure all early intervention services identified on the child's IFSP will be made available on a timely basis to an eligible infant or toddler with a disability and the child's family under 34 CFR 303.340(c), 303.342(e) and 303.344(f)(1).

4. *Transition Planning:* ODH will ensure that timely transition planning is provided and transition conferences are held within required timelines as required by 34 CFR 303.148(b)(2)(i). Also IFSPs with transition plans will be developed to assist all children and their families as they exit Part C as required by 34 CFR 303.148(b)(4) and 303.344(h).

IV. Funding and Work Plan

During the term of the Compliance Agreement, ODH is eligible to receive Part C funds if it complies with the terms and conditions of this Agreement and all other provisions of Part C not addressed by this Agreement.

In the attached Work Plan (General Supervision, Early Intervention Services in the Natural Environment, and Timely Transition Planning), this Compliance Agreement specifies the goals and timetables required for ODH to come into full compliance with its Part C obligations in the following areas: (1) General Supervision and Monitoring; (2) Timely Evaluation, Assessment and Development of the IFSP; (3) Timely Provision of All Early Intervention Services Specified in IFSPs; and (4) Transition Planning. ODH is required to submit verification of its compliance with enumerated activities, goals and timetables. This Work Plan includes measurable outcomes, goals/objectives, and activities to achieve the goals, target completion dates for each activity and goal, and ways to verify progress to ensure compliance with the goals and objectives during the three-year term of this Agreement. A report on progress made under this Work Plan, reflecting activities/goals met, any obstacles and other information as to progress shall be submitted by ODH quarterly to ED through OSEP. The first report shall be submitted on the final day of the fourth month following the effective date of this Agreement. The report will include verification items required during the first three months of this Agreement. Subsequent reports shall continue quarterly throughout the term of this Agreement.

V. Current Status, Outcomes, Goals and Verification

AREA 1: General Supervision (GS)

Current Status: OSEP's 2001 Monitoring Report found that ODH did not have a method for identifying and correcting noncompliance with Part C requirements. Following its December verification monitoring visit to the State, OSEP confirmed in a letter dated May 1, 2005 that, ''ODH's systems for general supervision constitute a reasonable approach to the identification and correction of noncompliance''. However, the May 2005 letter also indicated that ''OSEP cannot determine whether ODH/HMG's monitoring system is identifying and correcting noncompliance''. Data in ODH's December 2005 SPP indicated that ODH did not have an adequate monitoring system that identified and corrected noncompliance.

Outcome: ODH utilizes effective monitoring and general supervision procedures to ensure the identification and correction of noncompliance with Part C.

Measurable Goals:

Goal 1: ODH monitors all public or private early intervention service programs (including FCFC in its 88 counties) that provide Part C services in Ohio, for compliance with all Part C requirements under IDEA Section 635(a)(10)(A) [codified at 20 U.S.C. 1435(a)(10)] and 34 CFR 303.501(b).

Goal 2: ODH ensures that noncompliance with Part C identified through its general supervision and monitoring systems are corrected within one year of identification under IDEA Section 635(a)(10)(A) [codified at 20 U.S.C. 1435(a)(10)] and 34 CFR 303.501(b)(4).

Strategies:

GS. 1: ODH will develop, revise or update an Interagency Agreement(s) with the Ohio Department of Mental Retardation/Developmental Disabilities (ODMRDD), the Ohio Department of Education (ODE), and other Part C participating State agencies to ensure monitoring and correction of Part C noncompliance.

GS. 2: ODH will review its authorizing authority, including its Governor's Executive Order, state statutes, regulations, and other appropriate documents (*e.g.*, State Interagency Agreement), as needed, to determine how to strengthen its single line of responsibility under IDEA Section 635(a)(10) [codified at 20 U.S.C. 1435(a)(10)] as the Part C lead agency in Ohio.

GS. 3: ODH will implement and utilize effective monitoring and general supervision procedures to ensure the identification and timely correction of noncompliance with Part C.

Verification: In its quarterly reports to OSEP, ODH shall submit an Interagency Agreement(s), revised monitoring procedures, monitoring data, monitoring reports, and the status of correction of identified noncompliance and include summaries of the status of each of the goals, strategies, tasks, activities and timelines.

AREA 2: Early Intervention Services (EIS)

Current Status: OSEP's 2001 monitoring report found that ODH had not ensured that evaluations and assessments were completed in all developmental areas, including the family assessment, within 45 days after a referral is received. OSEP's 2006 SPP response letter confirmed that initial IFSP meetings were also not held within the 45-day timeline. OSEP's 2001 monitoring report found that ODH has not ensured that IFSPs are developed based on the child's unique needs and that required early intervention services are provided due to waiting lists, lack of availability of personnel, and lack of payment sources. OSEP's 2006 SPP response letter confirmed that ODH has yet to provide data demonstrating compliance with the timely provision of early intervention services.

Outcomes: The evaluation and assessment and initial IFSP meeting are conducted within 45 days of the child's referral to the Part C early intervention program. All Part C early intervention services identified on the child's IFSP are provided in a timely manner to all eligible infants and toddlers with disabilities and their families.

Measurable Goals:

Goal 1: The evaluations (including vision and hearing screenings) and assessments of children referred to Part C are conducted within 45 days of the child's referral under 34 CFR 303.321(e)(2) and 303.322(e)(1).

Goal 2: Initial IFSP meetings are held within 45 days of the child's referral for eligible infants and toddlers with disabilities referred to Part C under 34 CFR 303.342(a).

Goal 3: Eligible infants and toddlers with disabilities and their families receive the Part C early intervention (EI) services identified on the child's IFSP in a timely manner under 34 CFR 303.340(c), 303.342(e) and 303.344(f)(1).

Strategies:

EIS. 1: ODH's Help Me Grow (HMG) program guidance will be revised and implemented in accordance with Part C. ODMRDD and other HMG participating State agencies' policies will be aligned to ensure that evaluations and assessments and the initial IFSP meeting are conducted within the 45-day timeline and that EI services are provided timely to eligible infants and toddlers with disabilities and their families.

EIS. 2: ODH will develop and implement its guidance on vision and hearing (including its hearing tool) and documentation procedures to ensure vision and hearing status is assessed and present level of functioning (including vision and hearing status) are documented on a child's IFSP for infants and toddlers referred to Part C.

EIS. 3: ODH will revise and implement its monitoring system to identify and correct any findings on 45-day timeline and timely EI service provision.

EIS. 4: ODH, ODMRDD, ODE, ODJFS, OFCF and other providers will collaborate to develop a plan to redesign the EI system to increase system capacity for EI service providers.

Verification: In its quarterly reports to OSEP, ODH shall submit its revised evaluation and assessment policies and procedures, including vision and hearing, align its policies across State agencies (including ODMRDD), provide monitoring and correction data, implement strategies to increase system capacity and maximize funding sources and include a summary of the status of each of the goals, strategies, tasks, activities and timelines.

AREA 3: Transition Planning (TP)

Current Status: OSEP's 2001 monitoring report found that ODH had not ensured timely transition planning and implementation under 34 CFR 303.148(b)(2)(i) and (b)(4) and 303.344(h).

Outcome: ODH ensures timely transition planning for eligible children who are receiving Part C services and exiting Part C at age three to preschool or other programs by ensuring for such children that: (1) A transition plan will be included on the IFSP under 34 CFR 303.148(b)(4) and 303.344(h); and (2) for children potentially eligible for Part B, transition planning conferences are held, with the approval of the family, at least ninety days (and at the discretion of the parties, no more than nine months) prior to the child's third birthday under 34 CFR 303.148(b)(2)(i).

Measurable Goals:

Goal 1: All IFSPs shall include transition plans to support the transition of the child to Part B or other services as needed as required by 34 CFR 303.148(b)(4) and 303.344(h).

Goal 2: For Part C children receiving services and potentially eligible for Part B, transition planning conferences are held, with the approval of the family, at least ninety days (and at the discretion of the parties, no more than nine months) prior to the child's third birthday under 34 CFR 303.148(b)(2)(i).

Goal 3: ODH will implement transition policies and procedures in partnership with the Ohio Department of Education that comply with Part C.

Strategies:

TP. 1: ODH will, through its monitoring and general supervision procedures, identify and timely correct findings to ensure: (1) A transition plan on the IFSP for each eligible child who is receiving Part C services and exiting Part C at age three and (2) timely transition planning conferences for all children exiting Part C at age three and who are potentially eligible for Part B.

TP. 2: ODH will revise its transition policies and procedures to ensure documentation of transition planning is aligned across participating State agencies (ODH, ODMRDD, and ODE) and in all 88 counties to ensure compliance with timely transition conferences and transition planning requirements under Part C.

TP. 3: ODH will update its Interagency Agreement with ODE to include all IDEA transition planning requirements (Parts B and C) and data-sharing protocols. ODH and ODE will develop more specific transition timelines for both Part B and Part C that will be part of the Interagency Agreement. Transition Agreements between the Family and Children First Council in each of the 88 counties and LEAs will be developed, updated, or revised to ensure compliance with the timely transition conferences and transition planning requirements under IDEA.

Verification: In its quarterly reports to OSEP, ODH shall submit its revised transition timeline and monitoring policies and procedures, IFSP transition content form, provide monitoring and correction transition data, verification of its implementation of transition strategies between Part C and Part B and include a summary of the status of each of the goals, strategies, tasks, activities and timelines.

VI. Other Terms and Conditions

A. This Compliance Agreement is executed in two original counterparts in order to provide each party with an original.

B. ED agrees to coordinate available Technical Assistance (TA) through the Technical Assistance and Dissemination Network (TA&D) and make TA available on IDEA Part C to ODH through conference calls, videoconferencing, and/or onsite visits.

C. ODH agrees that its continued eligibility to receive Part C funds is predicated upon compliance with statutory and regulatory requirements of that program, which include requirements not addressed specifically by this Agreement.

D. *Amendments:* ODH may not amend the strategy requirements to execute the interagency agreements identified in the work plan, as well as strategies in section GS. 1., EIS. 1C. and EIS. 1D., and TP. 3., and strategies to develop and implement data and monitoring systems that identify and correct noncompliance. ODH may modify the activities in the work plan as needed to ensure implementation of goals and provided that ODH: (1) Informs OSEP in writing of such modifications in the next quarterly progress report due under the Compliance Agreement; and (2) continues to provide the data/verification (in the timelines set forth in the attached work plan, sections GS. 1., EIS. 1., EIS. 3. and TP. 1.) that demonstrate progress in ensuring compliance with the goals during the period of the Compliance Agreement. Any other amendments to strategies or verification under this Compliance Agreement must be made in writing. ODH may also request an amendment to the Compliance Agreement, pursuant to the requirements above, due to acts of God, riots, strikes, or unforeseen circumstances resulting from changes in Ohio's executive leadership.

If ODH wishes to amend any of the provisions of the Compliance Agreement, ODH will promptly submit to OSEP in writing any requests for changes to the terms of this Compliance Agreement (which includes the Introduction and Attachment A, the Work Plan). Within two working days of receipt of any such request, OSEP shall acknowledge via e-mail or letter that the request was received and the date of receipt. OSEP will review and respond in writing within forty-five (45) days of receipt of ODH's written request for amendment. ODH is not required to implement the activities under any proposed modifications to strategies that are pending review by OSEP until OSEP has provided its response regarding those proposed modifications to strategies. Any request for modification does not release ODH from complying with the goals of the Compliance Agreement.

E. In the event, Ohio determines that it cannot participate in the Part C program due to a lack of available funds (which are certified as available for the purposes of this Agreement by the Ohio Director of Management and Budget under Ohio Statute R.C. 127.06), ODH may terminate its participation in the Part C program and this Compliance Agreement voluntarily upon a ninety (90) day written notice to OSEP. Subject to the applicable fiscal, parental notice and service provision requirements of Part C and EDGAR identified in this paragraph, the agreement shall terminate the earlier of 90 days from the Department's receipt of written notice from Ohio of voluntary termination or the date on which Ohio has obligated any remaining Federal Part C funds available to Ohio following such notice. The Ohio Part C lead agency must submit to the Department a final fiscal report under EDGAR and annual performance report under IDEA Section 616 for each fiscal year in which Ohio obligated and expended Federal Part C funds. In addition, notice of termination of provision of early intervention services to infants and toddlers with disabilities and their families must be provided as required by applicable Federal and State laws. Any funds not obligated as of the date of termination may not be used by Ohio and must remain in the Federal treasury. Liquidation of any obligations incurred by Ohio under Part C through the termination date must occur within the 90-day period provided for under EDGAR.

F. Subject to Article VI, paragraph D of this Agreement, any failure by ODH to comply with the terms and provisions of this Compliance Agreement, including the reporting requirements, will authorize the Department to consider the agreement no longer in effect. If ODH fails to comply with the terms of the Agreement, the Department

may take any actions authorized under GEPA at 20 U.S.C. 1200 *et seq.* and the IDEA at 20 U.S.C. 1401 *et seq.* (including 1431 through 1444) and applicable regulations in 34 CFR Part 303. Such actions may include withholding of funds under Part C of the IDEA, referral to the Department of Justice, and other enforcement mechanisms.

Attachment A: Work plan

Signed for the Ohio Department of Health:

J. Nick Baird,

Director of Health.

Date: October 18, 2006.

Signed for the U.S. Department of Education:

John H. Hager,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

On behalf of: Margaret Spellings, Secretary.

Date: November 8, 2006.

[FR Doc. E7–3400 Filed 2–26–07; 8:45 am]

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H.R. 434/P.L. 110–4

To provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through July 31, 2007, and for other purposes. (Feb. 15, 2007; 121 Stat. 7; 1 page)

H.J. Res. 20/P.L. 110–5

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