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Rules and Regulations

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

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 591

RIN 3206–AL07

Allowances and Differentials

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing final regulations to increase the maximum annual uniform allowance rate from $400 to $800. When civilian Federal employees are required to wear a uniform in the performance of their duties, agencies must pay a uniform allowance or furnish a uniform.

DATES: The regulations are effective on May 29, 2007.

FOR FURTHER INFORMATION CONTACT: Kevin Kitchelt, by telephone at (202) 606–2858; by fax at (202) 606–0824; or by e-mail at *pay-performance-policy@opm.gov.*

SUPPLEMENTARY INFORMATION: On June 30, 2006, the Office of Personnel Management (OPM) issued proposed regulations (71 FR 37507) to increase the maximum annual uniform allowance rate. Under 5 U.S.C. 5901, when civilian Federal employees are required to wear a uniform in the performance of their duties, agencies must pay a uniform allowance or furnish a uniform. OPM proposed to increase the maximum annual uniform allowance rate from $400 to $500. The 60-day comment period ended on August 29, 2006. During the comment period, OPM received comments from nine individuals, two labor organizations, one agency, and one professional association. The comments are addressed in this final rule.

Increasing the Maximum Annual Uniform Allowance Rate

Under 5 U.S.C. 5902, OPM may, from time to time, adjust the maximum annual uniform allowance granted to employees for the cost of their uniforms. The rate has not been increased since 1991. On June 30, 2006, OPM issued proposed regulations in 5 CFR 591.103 to increase the maximum annual uniform allowance rate from $400 to $500. OPM's proposed increase was based on the Bureau of Labor Statistics' Producer Price Index—Commodities (Seasonally Adjusted), which showed an increase of 24 percent between January 1991 and January 2005. Most of the commenters supported OPM's proposal to increase the maximum annual uniform allowance rate but suggested that the rate needed to be increased to an amount higher than $500. Two individuals objected to the proposed increase in the maximum annual uniform allowance rate.

The commenters identified specific categories of employees in uniforms (*e.g.*, firefighters) that require protective clothing which must meet certain professional standards. The commenters noted the protective clothing is expensive because the quality of such clothing is continuously improving due to technological advancements in the materials (i.e., Nomex) used to make it. The professional association recommended an increase to $800.

We agree that expensive specialized clothing may be required for certain categories of employees and should be considered in determining a maximum annual uniform allowance rate. Therefore, we are amending 5 CFR 591.103 to provide a maximum annual uniform allowance rate of $800. Although agencies will now be permitted to pay an annual uniform allowance rate *up* to a maximum rate of $800 a year, it is not anticipated or expected that every employee who is required to wear a uniform will receive the maximum rate of $800 per year. Agencies are in the best position to identify and manage the specific uniform allowance needs of their employees.

We note that although OPM has sole authority to adjust the maximum *annual* uniform allowance granted to employees for maintaining uniforms (5 U.S.C. 5902 and 5 CFR 591.103), agencies have discretionary authority to establish a higher *initial* maximum uniform allowance rate under 5 CFR 591.104. An agency must publish a notice in the **Federal Register** with a description and justification for establishing a higher *initial* maximum uniform allowance rate.

One labor organization recommended that OPM require agencies to provide uniforms when the safety of the employee is involved. We have not adopted this recommendation because OPM does not have the authority to implement such a requirement. Under 5 U.S.C. 5901(a), an agency must determine whether to furnish a uniform or pay a uniform allowance to its employees who are required to wear a uniform.

Agency Uniform Allowance Policy

An individual recommended that agencies be required to establish a policy for paying uniform allowances to ensure that uniforms are maintained appropriately and the allowance is used solely to maintain uniforms. Although we believe agencies have already established such policies in writing or in practice, as we adopt a new annual uniform allowance rate that is twice the amount of the previous rate, we agree OPM's regulations should make this requirement explicit. We have added a new paragraph (c) to 5 CFR 591.103 to require that any agency which provides a uniform allowance must establish policies to administer the uniform allowance program and such policies must contain uniform standards acceptable to the agency but we defer to agencies to develop specific provisions of the policy. At a minimum, OPM expects such policies will (1) Identify the category of employees required to wear uniforms, (2) establish requirements for determining the annual uniform allowance rate based on the specific uniform needs of each category of employees, (3) require employees to provide evidence acceptable to the agency of the employee's purchase of one or more uniforms (e.g., receipts), and (4) require employees to obtain uniforms that meet standards acceptable to the agency. Agencies may use any standards acceptable to them to determine uniform appearance, and any other specialized uniform requirements such as safety requirements, if appropriate.

E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with E.O. 12866.

Regulatory Flexibility Act

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

List of Subjects in 5 CFR Part 591

Government employees, Travel and transportation expenses, Wages.

Office of Personnel Management.

Linda M. Springer,

Director.

■ Accordingly, OPM is amending 5 CFR part 591 as follows:

PART 591—ALLOWANCES AND DIFFERENTIALS

Subpart A—Uniform Allowances

■ 1. The authority citation for subpart A of part 591 continues to read as follows:

Authority: 5 U.S.C. 5903; E.O. 12748, 3 CFR 1991 Comp., p. 316. Source: 59 FR 43705, Aug. 25, 1994, unless otherwise noted.

■ 2. In § 591.103, paragraphs (a) and (b) are revised and a new paragraph (c) is added to read as follows:

§ 591.103 Governmentwide maximum uniform allowance rate.

* * * * *

(a) Pay an allowance for a uniform not to exceed $800 a year; or

(b) Furnish a uniform at a cost not to exceed $800 a year.

(c) Any agency which provides a uniform allowance under paragraph (a) of this section must establish policies to administer the uniform allowance program, including uniform standards acceptable to the agency.

[FR Doc. E7–7959 Filed 4–25–07; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service

7 CFR Part 3403

RIN 0524–AA31

Small Business Innovation Research Grants Program

AGENCY: Cooperative State Research, Education, and Extension Service, USDA.

ACTION: Final rule.

SUMMARY: The Cooperative State Research, Education, and Extension Service (CSREES) is revising the Small Business Innovation Research (SBIR) Grants Program Administrative Regulations to implement changes and be compliant with the Small Business Innovation Research Policy Directive (67 FR 60072, September 24, 2002).

DATES: This rule is effective April 26, 2007.

FOR FURTHER INFORMATION CONTACT: Dr. Deborah Sheely, Director, Integrated Programs, Competitive Programs Unit, Cooperative State Research, Education, and Extension Service, USDA, STOP 2241, 1400 Independence Avenue, SW., Washington, DC 20250–2241; Telephone: (202) 401–1924; E-mail: *dsheely@csrees.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background and Purpose

On May 18, 2006, CSREES published a Proposed Rule (71 FR 28780, May 18, 2006) to revise the Small Business Innovation Research Grants Program Administrative Regulations. In the Proposed Rule, CSREES invited comments which were due to the Agency contact by June 19, 2006. We did not receive any comments. In section 3403.8, we have deleted reference to ''the project period normally should not exceed six months'' in anticipation of potential changes of a similar requirement in the SBA Policy Directive. Changes were made to sections 3403.7 and 3403.8 in accordance with the new application forms. In section 3404.11, ''resubmission'' has been added as one of the factors in the final decisions that will be made by USDA.

In 1982, Congress enacted the Small Business Innovation Development Act of 1982, Public Law 97–219 (15 U.S.C. 638), which established the Small Business Innovation Research (SBIR) Program. The statutory purpose of the SBIR Program is to strengthen the role of innovative small business concerns in Federally-funded research and research and development (R/R&D). The SBIR Program is a phased process, uniform throughout the Federal Government, of soliciting proposals and awarding funding agreements for R/R&D to meet stated agency needs or missions. To stimulate and foster scientific and technological innovation, including increasing commercialization of Federal R/R&D, the program must follow a uniform competitive process.

In December of 2000, Congress enacted the Small Business Innovation Research Program Reauthorization Act of 2000, Public Law 106–554. The Reauthorization Act extends the SBIR Program through September 30, 2008, and requires the Small Business Administration (SBA) to clarify that rights to data generated during the performance of an SBIR award apply to all SBIR awards. In addition, the Act requires that each application for a Phase II award contain a succinct commercialization plan.

On September 24, 2002, the SBA revised the SBIR Program Policy Directive to reflect statutory amendments to the SBIR Program, and provided guidance to Federal agencies for the general conduct of the program.

The U.S. Department of Agriculture participates in the SBIR Program through the issuance of competitive research grants by CSREES. The Agency proposed revising the existing rule, at 7 CFR Part 3403, to comply with recent statutory revisions and changes to the SBA Policy Directive.

The following definitions have been added to clarify the provisions and in compliance with the Policy Directive: Intellectual Property; Innovation; Joint Venture; Outcomes and Outputs; Authorized Departmental Officer; Authorized Organizational Representative; Essentially Equivalent Work; SBIR Technical Data Rights; SBIR Technical Data; SBIR Participants; Prototype; Research Project Grant; Small Business Concern; and Socially and Economically Disadvantaged Small Business Concern. In addition, in Part 3403.4, language was added to clarify the eligibility of Phase I recipients, specifically allowing those organizations receiving Phase I rights via successor-in-interest or novation agreements to be eligible to receive Phase II awards. In addition, language clarifying the timing of the submission of Phase II proposals during the funding cycle was added. In Part 3403.5 the mention of specific forms was deleted in anticipation of electronic submission of proposals. The requirement was inserted into Part 3403.7 that a small business concern that is submitting a proposal for a Phase I award must document the extent to which it was able to secure Phase III funding if it has received more than 15 Phase II awards during the preceding five years.

Classification

This rule has been reviewed under Executive Order 12866, and it has been determined that it is not a ''significant regulatory action'' rule because it will not have an annual effect on the economy of $100 million or more or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or

State, local, or tribal governments or communities. This rule will not create any serious inconsistencies or otherwise interfere with any actions taken or planned by another agency. It will not materially alter the budgetary impact of entitlements, grants, user fees or loan programs and does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order No. 12866.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), this rule will not have a significant economic impact on a substantial number of small entities for the rule only applies to awards issued under the SBIR program.

CSREES issues SBIR awards to small business concerns (SBC). SBC means a concern that, on the date of award for both Phase I and Phase II funding agreements: (1) Is organized for profit, with a place of business located in the United States, which operates primarily within the United States, or which makes a significant contribution to the United States economy through the payment of taxes or use of American products, materials or labor; (2) is in the legal form of an individual proprietorship, partnership, limited liability company, corporation, joint venture, association, trust or cooperative, except that where the form is a joint venture, there can be no more than 49 percent participation by foreign business entities in the joint venture; (3) is at least 51 percent owned and controlled by one or more individuals who are citizens of, or permanent resident aliens in, the United States, except in the case of a joint venture, where each entity in the venture must be 51 percent owned and controlled by one or more individuals who are citizens of, or permanent resident aliens in the United States; and (4) has, including its affiliates, not more than 500 employees. The term ''affiliates'' is defined in greater detail in 13 CFR 121.103. The term ''number of employees'' is defined in 13 CFR 121.106.

The Small Business Administration (SBA) was given the responsibility of issuing policy directives for the general conduct of the SBIR Program. In September 1984, the SBA issued a Policy Directive, which was subsequently revised in January 1993. To implement statutory changes in the Reauthorization Act and to streamline the Policy Directive, SBA modified the Policy Directive in 2002 (67 FR 60072, Sept. 24, 2002). This rule is compliant with the 2002 Policy Directive. The 2002 Policy Directive provides guidance to the SBIR participatory Federal agencies for the general operation of the program. Since such agencies are compliant with the Policy Directive there is a reduction of burden inherent in the consistency amongst the agencies. Furthermore, awardees are able to use amounts awarded for indirect costs to meet the costs of implementing the regulations. In FY 2007 funds awarded by CSREES under the SBIR program are available to pay full allowable indirect costs. As of April 6, 2006, CSREES has 151 active SBIR awards which are subject to this rule.

Paperwork Reduction Act

In accordance with the Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implements the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements that will be imposed in the implementation of this Final Rule have been approved under OMB No. 0524–0024, Grant Application Forms for the Small Business Innovation Research Grants Programs.

Federalism

We have analyzed this rule under Executive Order 13132, Federalism, and have determined that it does not have federalism implications to warrant the preparation of a Federalism assessment under that order.

Intergovernmental Review

The Department published notice of the exclusion of this program from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials in the Final Rule-Related Notice for 7 CFR part 3015, subpart V, (48 FR 29115, June 24, 1983).

Environmental Impact Statement

This proposed regulation does not significantly affect the environment. Therefore an environmental impact statement is not required under the National Environmental Policy Act of 1969, as amended.

Regulatory Analysis

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. All State and local laws and regulations that are in conflict with this rule are preempted. No retroactive effect is to be given to this rule. This rule does not require administrative proceedings before parties may file suit in court.

Unfunded Mandates Reform Act

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), the Department assessed the effects of this rulemaking action on State, local, and Tribal governments, and the public. This action does not compel the expenditure of $100 million or more by any State, local, or Tribal government, or anyone in the private sector. Therefore, a statement under section 202 of the Unfunded Mandates Reform Act of 1995 is not required.

Consultation and Coordination with Indian Tribal Governments

This rule does not have tribal implications and thus no further action is required under Executive Order 13175.

Energy Supply

The Final Rule is not a significant energy action for purposes of Executive Order 13211, Actions Concerning Regulations that Significantly Affect Supply (May 18, 2001).

List of Subjects in 7 CFR Part 3403

Small Business Innovation Research, Small Business, Research, Research and Development.

■ For the reasons stated in the preamble, CSREES revises 7 CFR part 3403 to read as follows:

PART 3403—SMALL BUSINESS INNOVATION RESEARCH GRANTS PROGRAM

Subpart A—General Information

Sec.

3403.1 Applicability of regulations.
3403.2 Definitions.
3403.3 Eligibility requirements.

Subpart B—Program Description

3403.4 Three-phase program.

Subpart C—Preparation of Proposals

3403.5 Program solicitation.
3403.6 Content of proposals.
3403.7 Proposal format for phase I applications.
3403.8 Proposal format for phase II applications.

Subpart D—Submission and Evaluation of Proposals

3403.9 Submission of proposals.
3403.10 Proposal review.
3403.11 Availability of information.

Subpart E—Supplementary Information

3403.12 Terms and conditions of grant awards.
3403.13 Notice of grant awards.
3403.14 Use of funds; changes.
3403.15 Other Federal statutes and regulations that apply.
3404.16 Other considerations.

Authority: 15 U.S.C. 638.

Subpart A—General Information

§ 3403.1 Applicability of regulations.

(a) The regulations of this part apply to small business innovation research grants awarded under the general authority of section 630 of the Act making appropriations for Agriculture, Rural Development, and Related Agencies' programs for fiscal year ending 1987, and for other purposes as made applicable by section 101(a) of Pub. L. 99–591, 100 Stat. 3341, and the provisions of the Small Business Innovation Development Act of 1982, as amended (15 U.S.C. 638), and the Small Business Innovation Research Program Reauthorization Act of 2000, Pub. L. 106–554, which extends the SBIR Program through September 30, 2008. The Small Business Innovation Development Act of 1982, as amended, mandates that each Federal agency with an annual extramural budget for research or research and development in excess of $100 million participate in a Small Business Innovation Research (SBIR) program by reserving a statutory percentage of its annual extramural budget for award to small business concerns for research or research and development in order to stimulate technological innovation, use small business to meet Federal research and development needs, increase private sector commercialization of innovations derived from Federal research and development, and foster and encourage the participation of socially and economically disadvantaged small business concerns and women-owned small business concerns in technological innovation. The Department will participate in this program through the issuance of competitive research grants which will be administered by the Office of Extramural Programs, CSREES.

(b) The regulations of this part do not apply to research grants awarded by the Department under any other authority.

§ 3403.2 Definitions.

As used in this part:

Ad hoc reviewers means experts or consultants, qualified by training and experience in particular scientific or technical fields to render expert advice on the scientific technical merit of the grant applications in those fields, who review on an individual basis one or several of the eligible proposals submitted to this program in their area of expertise and who submit to the Department written evaluations of such proposals.

Applicant is the organizational entity that, at the time of award, will qualify as a small business concern and that submits a grant application for a funding agreement under the SBIR Program.

Authorized departmental officer (ADO) means the Secretary or any employee of the Department who has the authority to issue or modify grant instruments on behalf of the Secretary. The ADO is also referred to as the Funding Agreement Officer.

Authorized organizational representative (AOR) means the president, director, or chief executive officer or other designated official of the applicant organization who has the authority to commit the resources of the organization.

Budget Period means the interval of time into which the project period is divided for budgetary and reporting purposes.

Commercialization is the process of developing marketable products or services and producing and delivering products or services for sale (whether by the originating party or by others) to Government or commercial markets.

CSREES means the Cooperative State Research, Education and Extension Service.

Department means the U.S. Department of Agriculture.

Essentially equivalent work occurs when:

(1) Substantially the same research is proposed for funding in more than one grant application submitted to the same Federal agency;

(2) Substantially the same research is submitted to two or more different Federal agencies for review and funding consideration; or

(3) A specific research objective and the research design for accomplishing an objective are the same or closely related in two or more proposals or awards, regardless of the funding source.

Funding agreement is any contract, grant, or cooperative agreement entered into between any Federal agency and any small business concern for the performance of experimental, developmental, or research work, including products or services funded in whole or in part by the Federal Government.

A grant is a financial assistance mechanism providing money, property, or both to an eligible entity to carry out the approved project or activity, and substantial programmatic involvement by Government is not anticipated.

Grantee means the small business concern designated in the grant award document as the responsible legal entity to whom the grant is awarded under this part.

Innovation is something new or improved, having marketable potential including:

(1) Development of new technologies;

(2) Refinement of existing technologies; or

(3) Development of new applications for existing technologies.

Intellectual property means the separate and distinct types of intangible property that are referred to collectively as ''intellectual property,'' including but not limited to: Patents, trademarks, copyrights, trade secrets, SBIR technical data (as defined in this section), ideas, designs, know-how, business, technical and research methods, other types of intangible business assets, and all types of intangible assets either proposed or generated by a small business concern as a result of its participation in the SBIR Program.

Joint venture is an association of concerns with interests in any degree or proportion by way of contract, express or implied, consorting to engage in and carry out a single specific business venture for joint profit, for which purpose they combine their efforts, property, money, skill, or knowledge, but not on a continuing or permanent basis for conducting business generally. A joint venture is viewed as a business entity in determining power to control its management.

Outcomes are the measure of long-term, eventual, program impact.

Outputs are the measures of near-term program impact.

Peer review group means experts or consultants, qualified by training and experience in particular scientific or technical fields to give expert advice on the scientific and technical merit of grant applications to those fields, who assemble as a group to discuss and evaluate all of the eligible proposals submitted to this program in their area of expertise.

Principal investigator/project director is the one individual designated by the applicant to provide the scientific and technical direction to a project supported by the funding agreement.

Professional Employer Organization is an organization that provides an integrated approach to the management and administration of the human resources and employer risk of its clients, by contractually assuming substantial employer rights, responsibilities, and risk, through the establishment and maintenance of an employer relationship with the workers assigned to its clients.

Program solicitation is a formal request for proposals whereby an agency notifies the small business community of its research or research and

development needs and interests in broad and selected areas, as appropriate to the agency, and requests proposals from small business concerns in response to these needs and interests.

Project period means the total length of time that is approved by the Department for conducting the research project as outlined in an approved grant application.

Prototype is a model of something to be further developed, which includes designs, protocols, questionnaires, software, and devices.

Research or research and development (R/R&D) means any activity which is:

(1) A systematic, intensive study directed toward greater knowledge or understanding of the subject studied;

(2) A systematic study directed specifically toward applying new knowledge to meet a recognized need; or

(3) A systematic application of knowledge toward the production of useful materials, devices, and systems or methods, including design, development, and improvement of prototypes and new processes to meet specific requirements.

Research project grant means the award by the Department of funds to a grantee to assist in meeting the costs of conducting for the benefit of the public an identified project which is intended and designed to establish, discover, elucidate, or confirm information or the underlying mechanisms relating to a research topic area identified in the annual solicitation of applications.

SBIR Participants are business concerns that have received SBIR awards or that have submitted SBIR proposals/applications.

SBIR Technical Data is defined as all data generated during the performance of an SBIR award.

SBIR Technical Data Rights are the rights a small business concern obtains in data generated during the performance of any SBIR award that an awardee delivers to the Government during or upon completion of a Federally-funded project, and to which the government receives a license.

Small business concern (SBC) means a concern that, on the date of award for both Phase I and Phase II funding agreements:

(1) Is organized for profit, with a place of business located in the United States, which operates primarily within the United States, or which makes a significant contribution to the United States economy through the payment of taxes or use of American products, materials or labor;

(2) Is in the legal form of an individual proprietorship, partnership, limited liability company, corporation, joint venture, association, trust or cooperative, except that where the form is a joint venture, there can be no more than 49 percent participation by foreign business entities in the joint venture;

(3) Is at least 51 percent owned and controlled by one or more individuals who are citizens of, or permanent resident aliens in, the United States, except in the case of a joint venture, where each entity in the venture must be 51 percent owned and controlled by one or more individuals who are citizens of, or permanent resident aliens in the United States; and

(4) Has, including its affiliates, not more than 500 employees. The term ''affiliates'' is defined in greater detail in 13 CFR 121.103. The term ''number of employees'' is defined in 13 CFR 121.106.

Socially and economically disadvantaged small business concern is defined in 13 CFR part 124–8(A) Business Development/Small Disadvantaged Business Status Determinations, § 124.103 (Who is socially disadvantaged?) and § 124.104 (Who is economically disadvantaged?).

United States means the 50 states, the territories and possessions of the Federal Government, the Commonwealth of Puerto Rico, the District of Columbia, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

Women-owned small business concern means a small business concern that is at least 51 percent owned by one or more women, or in the case of any publicly owned business, at least 51 percent of the stock is owned by women, and women control the management and daily business operations.

§ 3403.3 Eligibility requirements.

(a) *Eligibility of organization.* (1) To receive SBIR funds, each awardee of a SBIR Phase I or Phase II must qualify as a small business concern.

(2) For Phase I, a minimum of two-thirds of the research or analytical effort, as measured by the budget, must be performed by the awardee. Occasionally, deviations from this requirement may occur, and must be approved in writing by the ADO after consultation with the agency SBIR National Program Leader.

(3) For Phase II, a minimum of one-half of the research or analytical effort, as measured by the budget, must be performed by the awardee. Occasionally, deviations from this requirement may occur, and must be approved in writing by the ADO after consultation with the agency SBIR National Program Leader.

(4) For both Phase I and Phase II, the primary employment of the principal investigator must be with the SBC at the time of award and during the conduct of the proposed project. Primary employment means that more than one-half of the principal investigator's time is spent in the employ of the SBC. This precludes full-time employment with another organization. Occasionally, deviations from this requirement may occur, and must be approved in writing by the ADO after consultation with the agency SBIR National Program Leader. Further, an SBC may replace the principal investigator on an SBIR Phase I or Phase II award, subject to approval in writing by the ADO after consultation with the SBIR National Program Leader. For purposes of the SBIR Program, personnel obtained through a Professional Employer Organization or other similar personnel leasing company must be considered employees of the awardee. This is consistent with SBA's size regulations, 13 CFR 121.106—Small Business Size Regulations.

(5) For both Phase I and Phase II, the R/R&D must be performed in the United States. However, based on a rare and unique circumstance, ADO approval may be granted to perform a particular portion of the research or research and development work outside of the United States, for example, if a supply of material or other item or project requirement is not available in the United States. The ADO, after consultation with the agency SBIR National Program Leader, must approve each such specific condition in writing.

(b) [Reserved].

Subpart B—Program Description

§ 3403.4 Three-phase program.

The Small Business Innovation Research Grants Program is carried out in three separate phases described in this section. The first two phases are designed to assist USDA in meeting its research or research and development objectives and will be supported with SBIR Program funds. The purpose of the third phase is to pursue the commercial applications or objectives of the research carried out in Phases I and II through the use of private or Federal non-SBIR funds.

(a) *Phase I.* Phase I involves a solicitation of grant applications (hereinafter referred to as proposals) to conduct feasibility-related experimental research and development related to described agency requirements. These

requirements, as defined by agency topics contained in the solicitation, may be general or narrow in scope, depending on USDA needs. The object of this phase is to determine the scientific and technical merit and feasibility of the proposed effort and the quality of performance of the small business concern with a relatively small agency investment before consideration of further Federal support in Phase II.

(b) *Phase II* is the principal research or research and development effort in which the results from Phase I are expanded upon and further pursued, normally for a period not to exceed 24 months. Only SBIR awardees in Phase I are eligible to participate in Phase II. This includes those awardees identified via a ''novated'' or ''successor in interest'' or similarly-revised funding agreement, or those that have reorganized with the same key staff, regardless of whether they have been assigned a different tax identification number. For each Phase I project funded, the awardee may apply for a Phase II award only once. Phase I awardees who for valid reasons cannot apply for Phase II support in the next fiscal year funding cycle may normally apply for support no later than the second fiscal year funding cycle.

(c) *Phase III* refers to work that derives from, extends, or logically concludes effort(s) performed under prior SBIR funding agreements, but is funded by sources other than the SBIR Program. Phase III work is typically oriented towards commercialization of SBIR research or technology. This portion of a project is funded by a non-SBIR source through the use of a follow-on funding commitment. A follow-on funding commitment is an agreement between the small business concern and a provider of the follow-on capital for a specified amount of funds to be made available to the small business concern for future development of their effort upon achieving certain mutually agreed upon technical objectives.

Subpart C—Preparation of Proposals

§ 3403.5 Program solicitation.

(a) *Phase I.* A program solicitation requesting Phase I proposals will be prepared each fiscal year in which funds are made available for this purpose. This solicitation will contain information sufficient to enable eligible applicants to prepare grant proposals and will include descriptions of specific research topic areas which the Department will support during the fiscal year involved. A notice of solicitation, and the entire contents of the program solicitation will be published, at a minimum, on the agency's Web site.

(b) *Phase II.* For each fiscal year in which funds are made available for this purpose, the Department will send correspondence requesting Phase II proposals from the Phase I grantees eligible to apply for Phase II funding in that fiscal year. The correspondence will contain information sufficient to enable eligible applicants to prepare grant proposals.

§ 3403.6 Content of proposals.

(a) The proposed research must be responsive to one of the USDA program interests stated in the research topic descriptions of the program solicitation.

(b) Proposals must cover only scientific/technological research activities. A small business concern must not propose product development, technical assistance, demonstration projects, classified research, or patent applications. Many of the research projects supported by the SBIR program lead to the development of new products based upon the research results obtained during the project. However, projects that seek funding solely for product development where no research is involved, i.e., funds are needed to permit the development of a project based on previously completed research, will not be accepted. Literature surveys should be conducted prior to preparing proposals for submission and must not be proposed as a part of the SBIR Phase I or Phase II effort. Proposals principally for the development of proven concepts toward commercialization or for market research should not be submitted since such efforts are considered the responsibility of the private sector and therefore are not supported by USDA.

(c) A proposal must be limited to only one topic. The same proposal may not be submitted under more than one topic as defined in the solicitation. However, an organization may submit separate proposals on the same topic. Where similar research is discussed under more than one topic, the proposer should choose that topic whose description appears most relevant to the proposer's research concept. USDA will not consider funding duplicate (essentially equivalent work) proposals. In addition, essentially equivalent work funded by another entity will be returned to the applicant without review.

§ 3403.7 Proposal format for phase I applications.

(a) The following items relate to Phase I applications. Further instructions or descriptions for these items as well as any additional items to be included will be provided in the annual solicitation, as necessary.

(1) *SF–424 R&R Cover.* Applicants must submit basic proposal identification information on the first page of the proposals. Applicants must also certify on the first page of the proposals that they meet the definition of a small business concern as stated in the solicitation, and must certify as to whether or not they qualify as socially and economically disadvantaged small business concerns, or women-owned small business concerns.

(2) *Project Summary/Abstract.* The technical abstract should include a brief description of the problem or opportunity, project objectives, and a description of the effort. Anticipated results and potential commercial applications of the proposed research also should be summarized in the space provided. Keywords should characterize the most important aspects of the project. The project summary of successful proposals may be published by USDA and therefore should not contain proprietary information.

(3) *Project Narrative.* The main body of the proposal should include:

(i) Identification and significance of the problem or opportunity.

(ii) Background and rationale.

(iii) Relationship with future research or research and development.

(iv) Phase I technical objectives.

(v) Phase I work plan.

(vi) Related research or research and development.

(vii) References. For each reference cited in the Proposal, provide the complete name for each author, the date of publication, the full title of the article, name of the journal, etc.

(4) *Key personnel and bibliography.* Identify key personnel involved in the effort, including information on their directly related education and experience. For each key person, provide a chronological list of the most recent representative publications in the topic area.

(5) *Facilities and equipment.* Describe the types, location, and availability of instrumentation and physical facilities necessary to carry out the work proposed. Items of equipment to be purchased must be fully justified under this section.

(6) *Outside services.* Involvement of university or other consultants in the planning and research stages of the project as consultants or through subcontracting arrangements is permitted and may be particularly helpful to small business concerns that have not previously received Federal research awards. If such involvement is

intended, it should be described in detail.

(7) *Satisfying the public interest.* Specify how the proposed research will satisfy one or more of the following objectives:

(i) Develops sustainable agriculture production systems;

(ii) Protects natural resources and the environment;

(iii) Creates a safe, nutritious and affordable food supply;

(iv) Develops value-added food and non-food products from agricultural materials;

(v) Enhances global competitiveness; and

(vi) Enhances economic opportunity and quality of life, especially for people in rural areas.

(8) *Potential post applications.* Briefly describe the commercialization potential of the proposed research. Indicate whether and by what means there appears to be a potential for the Federal Government to use the proposed research. Include a brief description of the proposing company (e.g., date founded, number of employees) and its field of interest. What are the major competitive products in this field, and what advantages will the proposed research have over existing technology (in application, performance, technique, efficiency or cost)?

(9) *Similar Proposals or Awards.* (i) WARNING—While it is permissible with proposal notification to submit identical proposals containing a significant amount of essentially equivalent work for consideration under numerous Federal program solicitations, it is unlawful to enter into funding agreements requiring essentially equivalent work. If there is any question concerning this, it must be disclosed to the soliciting agency or agencies before award. If an applicant elects to submit identical proposals or proposals containing a significant amount of essentially equivalent work under other Federal program solicitations, a statement must be included in each such proposal indicating:

(A) Name and address of the agency(ies) to which the proposal was submitted, or will be submitted, or from which an award is expected or has been received.

(B) Date of actual or anticipated proposal submission or date of award, as appropriate.

(C) Title of proposal or award, identifying number assigned to the solicitation or proposal by the agency involved, and the date the proposal(s) were submitted or the award was received.

(D) Applicable research topic area for each proposal submitted or award received.

(E) Titles of research projects.

(F) Name and title of principal investigator for each proposal submitted or award received.

(ii) *USDA will not make awards that duplicate research funded (or to be funded) by other Federal agencies.*

(10) *Cost breakdown on proposal budget.* Complete a budget form for the phase under which you are currently applying. (An applicant for Phase I funding should not submit both Phase I and Phase II budgets.) A budget narrative with supporting detail for each budget category must be included.

(11) *Special Considerations.* If the proposed research will include laboratory animals or human subjects at risk, the applicant may be required to have the research plan reviewed and approved by an Institutional Animal Care and Use Committee (IACUC) or Institutional Review Board (IRB) prior to commencing actual substantive work. If such approval is required, USDA may not release funds for the award until proper documentation is submitted and accepted by USDA. It is suggested that applicants contact local universities, colleges, or nonprofit research organizations which have established reviewing mechanisms to have this service performed.

(12) *Proprietary information.* (i) If proprietary information is provided by an applicant in a proposal which constitutes a trade secret, proprietary commercial or financial information, confidential personal information, or data affecting the national security, it will be treated in confidence to the extent permitted by law. This information must be clearly marked by the applicant with the term ''confidential proprietary information'' and the following legend must appear on the title page of the proposal: ''These data shall not be disclosed outside the Government and shall not be duplicated, used, or disclosed in whole or in part for any purpose other than evaluation of this proposal. If a funding agreement is awarded to this applicant as a result of or in connection with the submission of these data, the Government shall have the right to duplicate, use, or disclose the data to the extent provided in the funding agreement and pursuant to applicable law. This restriction does not limit the Government's right to use information contained in the data if it is obtained from another source without restriction. The data subject to this restriction are contained on pages ____ of this proposal.''

(ii) USDA, by law, is required to make the final decision as to whether the information is required to be kept in confidence. Information contained in unsuccessful proposals will remain the property of the applicant. However, USDA will retain for three years one copy of all proposals received; extra copies will be destroyed. Public release of information for any proposal submitted will be subject to existing statutory and regulatory requirements. Any proposal which is funded will be considered an integral part of the award and normally will be made available to the public upon request through the Freedom of Information Act, except for designated proprietary information.

(iii) The inclusion of proprietary information is discouraged unless it is necessary for the proper evaluation of the proposal. If proprietary information is to be included, it should be limited, set apart from other text on a separate page, and keyed to the text by numbers. It should be confined to a few critical technical items which, if disclosed, could jeopardize the obtaining of foreign or domestic patents. Trade secrets, salaries, or other information which could jeopardize commercial competitiveness should be similarly keyed and presented on a separate page. Proposals or reports which attempt to restrict dissemination of large amounts of information may be found unacceptable by USDA.

(13) *Rights in data developed under SBIR funding agreement.* The legend (or statements) in the SBIR datarights clause included in the SBIR award must be affixed to any submissions of technical data. Where such legend is affixed, rights in technical data, including software developed under the terms of any funding agreement resulting from a proposal submitted in response to the program solicitation shall remain with the grantee. The Government may not use, modify, reproduce, release, perform, display, or disclose technical data or computer software marked with this legend for 4 years. After expiration of the 4-year period, the Government has a royalty-free license to use, and to authorize others to use on its behalf, these data for Government purposes, and is relieved of all disclosure prohibitions and assumes no liability for unauthorized use of these data by third parties, except that any such data that is also protected and referenced under a subsequent SBIR award shall remain protected through the protection of that subsequent SBIR award.

(14) *Patents and Inventions.* Allocation of rights to inventions shall be in accordance with 35 U.S.C. 202

through 206 and the Department of Commerce implementing regulations entitled ''Rights to Inventions Made by Nonprofit Organizations and Small Business Firms under Government Grants, Contracts and Cooperative Agreements'' at 37 CFR part 401. These regulations provide that small businesses normally may retain the principal worldwide patent rights to any invention developed with USDA support. USDA receives a royalty-free license for Federal Government use, reserves the right to require the patentee to license others in certain circumstances, and requires that anyone exclusively licensed to sell the invention in the United States must normally manufacture it domestically. To the extent authorized by 35 U.S.C. 205, USDA will not make public any information disclosing a USDA-supported invention for a four-year period. SBIR awardees must report inventions to the awarding agency within two months of the inventor's report to the awardee. The reporting of inventions shall be made through submission to Interagency Edison as specified in the terms and conditions of the grant.

(15) *Organizational management information.* Before the award of an SBIR funding agreement, USDA requires the submission of certain organizational management, personnel, and financial information to assure responsibility of the applicant. This information is not required unless a project is recommended for funding, and then it is submitted on a one-time basis only. However, new information should be submitted if a small business concern has undergone significant changes in organization, personnel, finance or policies, including those relating to civil rights.

(16) *Documentation of commercialization record of firms with multiple phase II awards.* A small business concern submitting a proposal for a Phase I award that has received more than 15 Phase II SBIR awards during the preceding five fiscal years must document the extent to which it was able to secure Phase III funding to develop concepts resulting from previous Phase II SBIR awards.

(b) [Reserved].

§ 3403.8 Proposal format for phase II applications.

(a) The following items relate to Phase II applications. Further instructions or descriptions for these items as well as any additional items to be included will be identified in the annual program solicitation as necessary. See § 3403.9.

(1) *SF–424 R&R cover sheet.* Follow instructions found in § 3403.7(a)(1).

(2) *Project summary.* Follow instructions found at § 3403.7(a)(2).

(3) *Phase I results.* The proposal should contain an extensive section that lists Phase I objectives and makes detailed presentation of the Phase I results. This section should establish the degree to which Phase I objectives were met and feasibility of the proposed research project was established.

(4) *Proposal.* Since Phase II is the principal research and development effort, proposals should be more comprehensive than those submitted under Phase I. However, the outline and information contained in § 3403.7(a)(3)–(9) and § 3403.7(a)(11)–(14) should be followed, tailoring the information requested to the Phase II project.

(5) *Cost breakdown on proposal budget.* For Phase II, a detailed budget is required for each year of requested support. In addition, a summary budget is required detailing the requested support for the overall project period. A budget narrative, with supporting budget detail for each budget category must be included.

(6) *Organizational management information.* Each Phase II awardee will be asked to submit an updated statement of financial condition (such as the latest audit report, financial statements or balance sheet) and report any changes in management or principals.

(7) *Commercialization Plan.* A succinct commercialization plan must be included in each SBIR Phase II proposal moving toward commercialization. Elements of a commercialization plan may include the following:

(i) *Company information.* Focused objectives/core competencies; size; specialization area(s); products with significant sales; and history of previous Federal and non-Federal funding; regulatory experience; and subsequent commercialization.

(ii) *Customer and competition.* Clear description of key technology objectives, current competition, and advantages compared to competing products or services; description of hurdles to acceptance of the innovation.

(iii) *Market.* Milestone, target dates, analyses of market size, and estimated market share after first year sales and after five years; explanation of plan to obtain market share.

(iv) *Intellectual property.* Patent status, technology lead, trade secrets or other demonstration of a plan to achieve sufficient protection to realize the commercialization state and attain at least a temporary competitive advantage.

(v) *Financing.* Plans for securing necessary funding in Phase III.

(vi) *Assistance and mentoring.* Plans for securing needed technical or business assistance through mentoring, partnering, or through arrangements with state assistance programs, Small Business Development Centers, Federally-funded research laboratories, manufacturing extension Partnership Centers, or other assistance providers.

(8) *Data Collection.* Each Phase II applicant will be required to provide information to the Tech-Net Database System (*http://technet.sba.gov*) per OMB No. 3245–03356. The following are examples of the data to be entered by applicants into Tech-Net:

(i) Any business concern or subsidiary established for the commercial application of a product or service for which an SBIR award is made;

(ii) Revenue from the sale of new products or services resulting from the research conducted under each Phase II award;

(iii) Additional investment from any source, other than Phase I or Phase II awards, to further the research and development conducted under each Phase II award; and

(iv) Updates to information in the Tech-Net database for any prior Phase II award received by the small business concern.

(b) [Reserved].

Subpart D—Submission and Evaluation of Proposals

§ 3403.9 Submission of proposals.

The SBIR program solicitation for Phase I proposals and the correspondence requesting Phase II proposals will provide the deadline date for submitting proposals, and instructions for submitting the proposal to CSREES for funding consideration.

§ 3403.10 Proposal review.

(a) The receipt of all proposals will be acknowledged.

(b) All Phase I and II proposals will be evaluated and judged on a competitive basis. Proposals will be initially screened to determine responsiveness. Proposals passing this initial screening will be technically evaluated by scientists to determine the most promising technical and scientific approaches. Each proposal will be judged on its own merit. USDA is under no obligation to fund any proposal or any specific number of proposals in a given topic. It also may elect to fund several or none of the proposed approaches to the same topic or subtopic.

(c) Phase I and II proposal evaluation criteria will be published in the ''Method of Selection and Evaluation Criteria'' section of the program solicitation.

(d) External peer reviewers may be used during the technical evaluation stage of this process. Selections will be made from among recognized specialists who are uniquely qualified by training and experience in their respective fields to render expert advice on the merit of proposals received. It is anticipated that such experts will include those located in universities, government, and nonprofit research organizations. If possible, USDA intends that peer review groups shall be balanced with minority and female representation and with an equitable age distribution.

(e) Reviewers will base their conclusions and recommendations on information contained in the Phase I or Phase II proposal. It cannot be assumed that reviewers are acquainted with any experiments referred to within a proposal, with key individuals, or with the firm itself. Therefore, the proposals should be self-contained and written with the care and thoroughness accorded papers for publication.

(f) Final decisions will be made by USDA based upon the rating assigned by reviewers in consideration of the technical and commercial potential of the application, duplication of research, any critical USDA requirements, resubmission and budget limitation. In the event that two or more proposals are of approximately equal merit, the existence of a cooperative research and development agreement (CRADA) with a USDA laboratory will be an important consideration. The existence of a follow-on funding commitment for continued development in Phase III will also be an important consideration. The value of any commitment will depend upon the degree of financial commitment made by investors, with the maximum value resulting from a signed agreement with reasonable terms for an amount at least equal to funding requested from USDA in Phase II.

§ 3403.11 Availability of information.

Information regarding the peer review process will be made available to the extent permitted under the Freedom of Information Act (5 U.S.C. 552), the Privacy Act (5 U.S.C. 552a), the SBIR Policy Directive, and implementing Departmental and other Federal regulations. Implementing Departmental regulations are found at 7 CFR part 1.

Subpart E—Supplementary Information

§ 3403.12 Terms and conditions of grant awards.

Within the limit of funds available for such purposes, the Authorized Departmental Officer shall make research project grants to those responsible, eligible applicants whose proposals are judged most meritorious in the announced program areas under the evaluation criteria and procedures set forth in the annual program solicitation. The beginning of the project period shall be no later than September 30 of the Federal fiscal year in which the project is approved for support. All funds granted under this part shall be expended solely for the purpose for which funds are granted in accordance with the approved application and budget, the regulations of this part, the terms and conditions of award, the Federal Acquisition Regulations (48 CFR part 31), and the Department's Uniform Federal Assistance Regulations (7 CFR part 3015).

§ 3403.13 Notice of grant awards.

(a) The grant award document may include the following:

(1) Legal name and address of performing organization or institution;

(2) Title of project;

(3) Name and institution of Project Director's chosen to direct and control approved activities;

(4) Identifying grant number assigned by the Department;

(5) Project period, specifying the amount of time the Department intends to support the project;

(6) Total amount of Departmental financial assistance approved for the project period;

(7) Legal authority(ies) under which the grant is awarded;

(8) Appropriate Catalog of Federal Domestic Assistance (CFDA) number;

(9) Applicable award terms and conditions;

(10) Approved budget plan for categorizing allocable project funds to accomplish the stated purpose of the grant award; and

(11) Other information or provisions deemed necessary by CSREES to carry out its respective granting activities or to accomplish the purpose of a particular grant.

(b) [Reserved].

§ 3403.14 Use of funds; changes.

(a) *Delegation of fiscal responsibility.* Unless the terms and conditions of the grant state otherwise, the grantee may not in whole or in part delegate or transfer to another person, institution, or organization the responsibility for use or expenditure of grant funds.

(b) *Changes in Project Plans.* (1) The permissible changes by the grantee, Project Director, or other key project personnel in the approved project grant shall be limited to changes in methodology, techniques, or other similar aspects of the project to expedite achievement of the project's approved goals. If the grantee or the Project Director (PD) is uncertain as to whether a change complies with this provision, the question must be referred to the Authorized Departmental Officer (ADO) for a final determination. The signatory of the award document is the ADO, not the program contact.

(2) Changes in approved goals or objectives shall be requested by the grantee and, in consultation with the CSREES SBIR National Program Leader, approved in writing by the ADO prior to effecting such changes. In no event shall requests for such changes be approved which are outside the scope of the original approved project.

(3) Changes in approved project leadership or the replacement or reassignment of other key project personnel shall be requested by the grantee and, in consultation with the CSREES SBIR National Program Leader, approved in writing by the ADO prior to effecting such changes.

(4) Transfers of actual performance of the substantive programmatic work in whole or in part and provisions for payment of funds, whether or not Federal funds are involved, shall be requested by the grantee and, in consultation with the CSREES SBIR National Program Leader, approved in writing by the ADO prior to effecting such transfers, unless prescribed otherwise in the terms and conditions of the grant.

(c) *Changes in Project Period.* The project period may be extended by CSREES without additional financial support, for such additional period(s) as the ADO determines may be necessary to complete or fulfill the purposes of an approved project provided Federal funds remain. Any extension of time shall be conditioned upon prior request by the grantee and approval in writing by the ADO unless otherwise noted in the award terms and conditions. In such cases the extension will not normally exceed 12 months. The Phase I award will still be limited to the approved award amount, and the submission of a Phase II proposal will normally be delayed by no more than one year. The extension allows the grantee to continue expending the remaining Federal funds for the intended purpose over the extension period. In instances where no

Federal funds remain, it is unnecessary to approve an extension since the purpose of the extension is to continue using Federal funds. The grantee may opt to continue the Phase I project after the grant's termination and closeout, however, the grantee would have to do so without additional Federal funds. In the latter case, no communication with USDA is necessary.

(d) *Changes in approved budget.* Changes in an approved budget must be requested by the grantee and approved in writing by the ADO prior to instituting such changes if the revision will involve transfers or expenditures of amounts requiring prior approval as set forth in the applicable Federal cost principles, Departmental regulations, or grant award.

(e) *Use of Change of Name and Novation Agreement.* (1) Occasionally, after an award has been made the name of the Awardee may change. CSREES requires execution of a ''Change of Name Agreement'' in such instances. The specific circumstances of each situation will determine which kind of agreement should be executed. This decision will be determined by the ADO.

(i) A Change of Name Agreement is a legal instrument executed by the Awardee and the Government that recognizes a change of the legal name of the Awardee without disturbing the original rights and obligations of the parties. If only a change of the Awardee's name is involved and the Government's and Awardee's rights and obligations remain unaffected, the parties should execute an agreement to reflect the name change.

(ii) In order to execute the actual Change of Name Agreement with USDA, the Awardee is required to submit the following information:

(A) The document effecting the name change, authenticated by a proper official of the State having jurisdiction;

(B) The opinion of the Grantee's legal counsel stating that the change of name was properly effected under applicable law and showing the effective date;

(C) A list of all affected awards between the Grantee and CSREES.

(iii) When CSREES is notified that a change of name has taken place, the ADO will request the aforementioned information from the Grantee. Upon receipt and review of this information, parties will properly execute a Change of Name Agreement and the appropriate changes will be made to the Agency's records. The following suggested format for an agreement may be adapted for specific cases:

CHANGE OF NAME AGREEMENT

THE ABC CORPORATION (Grantee), a corporation duly organized and existing under the laws of _____ (insert State), and the COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE, USDA (Government) enter into this Agreement as of _____ (insert date when the change of name became effective under applicable State law).

(a) THE PARTIES AGREE TO THE FOLLOWING FACTS:

1. The Government, represented by the ADO, has entered into certain awards with XYZ CORPORATION, namely _____ (insert award number or delete ''namely'' and insert ''as shown in the attached list marked 'Exhibit A' and incorporated in this Agreement by reference.'') The term ''the awards,'' as used in this Agreement, means the above awards and all other awards, including all modifications, made by the Government and the Grantee before the effective date of this Agreement (whether or not performance and payment have been completed and releases executed if the Government or the Grantee has any remaining rights, duties, or obligations under these awards.)

2. The XYZ CORPORATION, by an amendment to its certificate of incorporation, dated _____, 20____, has changed its corporate name to ABC CORPORATION.

3. This amendment accomplishes a change of corporate name only and all rights and obligations of the Government and of the Grantee under the awards are unaffected by this change.

4. Documentary evidence of this change of corporate name has been filed with the Government.

(b) IN CONSIDERATION OF THESE FACTS, THE PARTIES AGREE THAT:

1. The awards covered by this Agreement are amended by substituting the name ''ABC CORPORATION'' for the name ''XYZ CORPORATION'' wherever it appears in the awards; and

2. Each party has executed this Agreement as of the day and year first above written.

COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE, USDA

BY: _____

TITLE: _____

ABC CORPORATION

BY: _____

TITLE: _____

CERTIFICATE

I, _____, certify that I am the Secretary of ABC CORPORATION, that _____ , who signed this Agreement for this corporation, was then _____ of this corporation; and that this Agreement was duly signed for and on behalf of this corporation by authority of its governing body and within the scope of its corporation powers.

WITNESS MY HAND, and the seal of this corporation, this _____ day of _____, 20____.

BY: _____

(CORPORATE SEAL)

(2) From time to time the legal entity performing the research under the award may have to be changed. In such instances, USDA will ensure that all parties properly execute a Novation Agreement (Successor in Interest Agreement).

(i) A Novation Agreement is a legal instrument executed by the Grantee (transferor), the successor in interest (transferee), and the Government by which, among other things, the transferor guarantees performance of the award, the transferee assumes all obligations under the award, and the Government recognizes the transfer of the award and related assets. This occurs when the third party's interest in the award arises out of the transfer of all the Grantee's assets or the entire portion of the assets involved in performing the award. Examples include, but are not limited to: the sale of these assets with a provision for assuming liabilities; the transfer of these assets incident to a merger or corporate consolidation; and the incorporation of a proprietorship or partnership, or the formation of a partnership.

(ii) When a Grantee asks the Government to recognize a successor in interest, the responsible ADO shall obtain the following from the Grantee:

(A) An authenticated copy of the instrument effecting the transfer of assets; e.g., bill of sale, certificate of merger, contract, deed, agreement, or court decree;

(B) A list of all affected awards;

(C) A certified copy of each resolution of the corporate parties' boards of directors authorizing the transfer of assets;

(D) A certified copy of the minutes of each corporate party's stockholder meeting necessary to approve the transfer of assets;

(E) The opinion of legal counsel for the transferor and transferee stating that the transfer was properly effected under applicable law and the effective date of transfer;

(F) An authenticated copy of the transferee's certificate and articles of incorporation, if a corporation was formed for the purpose of receiving the assets involved in performing the Government award;

(G) Evidence of transferee's capability to perform the award; and

(H) Balance sheets of the transferor and transferee as of the dates immediately before and after the transfer of assets, certified for accuracy by independent accountants.

(iii) The ADO will review the Agency's financial records concerning

the correct cash-on-hand balances held by the transferor to ensure that they are properly accounted for in the transfer process. If recognizing a successor in interest to a Government award is consistent with the Government's interest, the ADO will prepare a Novation Agreement for execution by all three parties. The agreement will provide that:

(A) The transferee assumes all the transferor's obligations under the award(s);

(B) The transferor waives all rights under the award against the Government;

(C) The transferor guarantees performance of the award by the transferee (a satisfactory performance bond may be accepted instead of the guarantee); and

(D) Nothing in the agreement shall relieve the transferor or transferee from compliance with any Federal law.

(E) The following suggested format for an agreement may be adapted for specific cases:

NOVATION AGREEMENT (SUCCESSOR IN INTEREST AGREEMENT)

THE ABC CORPORATION (Transferor), a corporation duly organized and existing under the laws of _____ (insert state) with its principal office in _____ (insert city); the XYZ CORPORATION (Transferee), a corporation duly organized and existing under the laws of _____ (insert state) with its principal office in _____ (insert city); and the COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE, USDA (Government) enter into this Agreement as of _____ (insert the date transfer of assets became effective under applicable State law).

(a) THE PARTIES AGREE TO THE FOLLOWING FACTS:

1. The Government, represented by the ADO has entered into certain awards with the Transferor, namely: _____ (insert award number or delete ''namely'' and insert ''as shown in the attached list marked 'Exhibit A' and incorporated in this Agreement by reference.'') The term ''the awards,'' as used in this Agreement, means the above awards and all other awards, including all modifications, made between the Government and Transferor before the effective date of this Agreement (whether or not performance and payment have been completed and releases executed if the Government or the Transferor has any remaining rights, duties, or obligations under these awards.) Included in the term ''award'' are also all modifications made under the terms and conditions of these awards between the Government and the Transferor, on or after the effective date of this Agreement.

2. As of _____, 20____, the Transferor has transferred to the Transferee all the assets of the Transferor by virtue of a _____ (insert terms or legal transaction involved) between the Transferor and the Transferee.

3. The Transferee has acquired all the assets of the Transferor by virtue of the above transfer.

4. The Transferee has assumed all obligations and liabilities of the Transferor under the awards by virtue of the above transfer.

5. The Transferee is in a position to fully perform all obligations that may exist under the awards.

6. It is consistent with the Government's interest to recognize the Transferee as the successor party to the awards.

7. Evidence of the above transfer has been filed with the Government.

(b) IN CONSIDERATION OF THESE FACTS, THE PARTIES AGREE THAT BY THIS AGREEMENT:

1. The Transferor confirms the transfer to the Transferee, and waives any claims and rights against the Government that it now has or may have in the future in connection with the awards.

2. The Transferee agrees to be bound by and to perform each award in accordance with the conditions contained in the awards. The Transferee also assumes all obligations and liabilities of, and all claims against, the Transferor under the awards as if the Transferee were the original party to the awards.

3. The Transferee ratifies all previous actions taken by the Transferor with respect to the awards, with the same force and effect as if the action had been taken by the Transferee.

4. The Government recognizes the Transferee as the Transferor's successor in interest in and to the awards. The Transferee by this Agreement becomes entitled to all rights, titles, and interests of the Transferor in and to the awards as if the Transferee were the original party to the awards. Following the effective date of this Agreement, the term Grantee, as used in the awards, shall refer to the Transferee.

5. Except as expressly provided in this Agreement, nothing in it shall be construed as a waiver of any rights of the Government against the Transferor.

6. All payments and reimbursements previously made by the Government to the Transferor, and all other previous actions taken by the Government under the awards, shall be considered to have discharged those parts of the Government's obligations under the awards. All payments and reimbursements made by the Government after the date of this Agreement in the name of or to the Transferor shall have the same force and effect as if made to the Transferee, and shall constitute a complete discharge of the Government's obligations under the awards, to the extent of the amounts paid or reimbursed.

7. The Transferor and the Transferee agree that the Government is not obligated to pay or reimburse either of them for, or otherwise give effect to, any costs, taxes, or other expenses, or any related increases, directly or indirectly arising out of or resulting from the transfer or this Agreement, other than those that the Government in the absence of this transfer or Agreement would have been obligated to pay or reimburse under the terms of the awards.

8. The Transferor guarantees payment of all liabilities and the performance of all obligations that the Transferee (i) assumes under this Agreement or (ii) may undertake in the future should these awards be modified under their terms and conditions. The Transferor waives notice of, and consents to, any such future modifications.

9. The awards shall remain in full force and effect, except as modified by this Agreement. Each party has executed this Agreement as of the day and year first above written.

COOPERATIVE STATE RESEARCH, EDUCATION AND EXTENSION SERVICE, USDA

BY: _____

TITLE: _____

ABC CORPORATION

BY: _____

TITLE: _____

XYZ CORPORATION

BY: _____

TITLE: _____

CERTIFICATE

I, _____, certify that I am the Secretary of ABC CORPORATION, that _____, who signed this Agreement for this corporation, was then_____ of this corporation; and that this Agreement was duly signed for and on behalf of this corporation by authority of its governing body and within the scope of its corporation powers. WITNESS MY HAND, and the seal of this corporation, this _____day of _____, 20____

BY: _____

(CORPORATE SEAL)

CERTIFICATE

I, _____, certify that I am the Secretary of XYZ CORPORATION, that _____, who signed this Agreement for this corporation, was then_____ of this corporation; and that this Agreement was duly signed for and on behalf of this corporation by authority of its governing body and within the scope of its corporation powers. WITNESS MY HAND, and the seal of this corporation, this _____day of _____, 20____

BY: _____

(CORPORATE SEAL)

§ 3403.15 Other Federal statues and regulations that apply.

Several other Federal statutes and regulations apply to grant proposals considered for review or to research project grants awarded under this part. These include but are not limited to:

7 CFR part 1, subpart A—USDA implementation of the Freedom of Information Act.

7 CFR part 1c—USDA implementation of the Federal Policy for the Protection of Human Subjects.

7 CFR part 3—USDA implementation of the Debt Collection Act.

7 CFR part 15, subpart A—USDA implementation of Title VI of the Civil Rights Act of 1964, as amended.

7 CFR part 331 and 9 CFR part 121—USDA implementation of the Agricultural Bioterrorism Protection Act of 2002.

7 CFR part 3015—USDA Uniform Federal Assistance Regulations, implementing OMB directives (i.e., OMB Circular Nos. A–21 and A–122) and incorporating provisions of 31 U.S.C. 6301–6308 (formerly the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95–224), as well as general policy requirements applicable to recipients of Departmental financial assistance.

7 CFR part 3017—USDA implementation of Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants).

7 CFR part 3018—USDA implementation of Restrictions on Lobbying. Imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans.

7 CFR part 3019—USDA implementation of OMB Circular A–110, Uniform Administrative Requirements for Grants and Other Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations.

7 CFR part 3052—USDA implementation of OMB Circular No. A–133, Audits of States, Local Governments, and Non-profit Organizations.

7 CFR part 3407—CSREES procedures to implement the National Environmental Policy Act of 1969, as amended.

9 CFR parts 1, 2, 3, and 4—USDA implementation of the Act of August 24, 1966, Pub. L. 89–544, as amended (commonly known as the Laboratory Animal Welfare Act).

48 CFR part 31—Contract Cost Principles and Procedures of the Federal Acquisition Regulations.

29 U.S.C. 794 (section 504, Rehabilitation Act of 1973) and 7 CFR part 15b (USDA implementation of statute)—prohibiting discrimination based upon physical or mental handicap in Federally assisted programs.

35 U.S.C. 200 et seq.—Bayh-Dole Act, controlling allocation of rights to inventions made by employees of small business firms and domestic nonprofit organizations, including universities, in Federally assisted programs (implementing regulations are contained in 37 CFR part 401).

§ 3403.16 Other considerations.

The Department may, with respect to any research project grant, impose additional conditions prior to or at the time of any award when, in the Department's judgment, such conditions are necessary to assure or protect advancement of the approved project, the interests of the public, or the conservation of grant funds.

Done at Washington, DC, on this 22nd day of April, 2007.

Colien Hefferan,

Administrator, Cooperative State Research, Education, and Extension Service.

[FR Doc. E7–7934 Filed 4–25–07; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AH98

List of Approved Spent Fuel Storage Casks: HI-STORM 100 Revision 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations by revising the Holtec International HI-STORM 100 cask system listing within the ''List of approved spent fuel storage casks'' to include Amendment No. 3 to Certificate of Compliance Number 1014. Amendment No. 3 revises Technical Specification (TS) 3.1.3, to eliminate cooling of the Multi-Purpose Canister (MPC) cavity prior to reflood with water, as part of cask unloading operations; TS 3.3.1, to allow linear interpolation between minimal soluble boron concentrations, for certain fuel enrichments in the MPC–32/32F; Appendix B, Section 1 to the CoC, to make modifications to the definitions of fuel debris, damaged fuel assembly, and non-fuel hardware; and Appendix B, Section 2 to the CoC, to permit the storage of pressurized water reactor fuel assemblies with annular fuel pellets in the top and bottom 12 inches of the active fuel length. Other changes are made to incorporate minor editorial corrections. This final rule allows the holders of power reactor operating licenses to store spent fuel in this approved cask in accordance with the revised conditions, under the NRC's general license provisions.

DATES: The final rule is effective on May 29, 2007.

ADDRESSES: Publicly available documents related to this rulemaking may be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), Room O1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee. Selected documents can be viewed and downloaded electronically via the NRC's rulemaking Web site at *http://ruleforum.llnl.gov*.

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

FOR FURTHER INFORMATION CONTACT: Jayne M. McCausland, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6219, e-mail: *jmm2@nrc.gov*.

SUPPLEMENTARY INFORMATION:

Background

Section 218(a) of the Nuclear Waste Policy Act of 1982 (NWPA), as amended, requires that ''[t]he Secretary [of the Department of Energy (DOE)] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'' Section 133 of the NWPA states, in part, that ''[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 218(a) for use at the site of any civilian nuclear power reactor.''

To implement this mandate, the NRC approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule in 10 CFR Part 72 entitled ''General License for Storage of Spent Fuel at

Power Reactor Sites'' (55 FR 29181; July 18, 1990). This rule also established a new Subpart L within 10 CFR Part 72, entitled ''Approval of Spent Fuel Storage Casks,'' containing procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on May 1, 2000 (65 FR 25241) that approved the HI-STORM 100 cask system design, and added it to the list of NRC-approved cask designs in 10 CFR 72.214 as Certificate of Compliance Number (CoC No.) 1014.

Discussion

On November 7, 2005, and as supplemented on April 30, 2006, the certificate holder, Holtec International, submitted an application to the NRC to amend the HI-STORM 100 cask system. The application requested changes to eliminate cooling of the MPC cavity prior to reflood with water as part of cask unloading operations; changes to allow linear interpolation between minimal soluble boron concentrations for certain fuel enrichments in the MPC–32/32F; modifications to the definitions of fuel debris, damaged fuel assembly, and non-fuel hardware; changes to permit the storage of pressurized water reactor fuel assemblies with annular fuel pellets in the top and bottom 12 inches of the active fuel length; and other changes to incorporate minor editorial corrections. No other changes to the HI-STORM 100 cask system were requested in this application. The NRC staff performed a detailed safety evaluation of the proposed CoC amendment request and found that an acceptable safety margin is maintained. In addition, the NRC staff has determined that there continues to be reasonable assurance that public health and safety and the environment will be adequately protected.

The NRC published a direct final rule (71 FR 60659; October 16, 2006) and the companion proposed rule (71 FR 60672) in the **Federal Register** to amend the HI-STORM 100 cask system listing in 10 CFR 72.214 to include the changes requested by Holtec International as Amendment No. 3 to CoC No. 1014. The comment period ended on November 15, 2006. One comment letter was received on the proposed rule. The comments contained within the letter were considered to be significant and adverse and warranted withdrawal of the direct final rule. A notice of withdrawal was published in the **Federal Register** on December 27, 2006 (71 FR 77586). Additionally, the NRC staff is amending the TS to remove non-fuel hardware from the definition of fuel debris, as discussed in the response to Comment C.1 in the preamble. The safety evaluation report (SER) has been modified to describe the NRC's staff's determination.

The NRC finds that the Holtec International HI-STORM cask system, as designed and when fabricated and used in accordance with the conditions specified in its CoC, meets the requirements of 10 CFR Part 72. Thus, use of the Holtec International HI-STORM cask system, as approved by the NRC, will provide adequate protection of public health and safety and the environment. With this final rule, the NRC is approving the use of the Holtec International HI-STORM 100 cask system under the general license in 10 CFR Part 72, Subpart K, by holders of power reactor operating licenses under 10 CFR Part 50. Simultaneously, the NRC is issuing a final SER and CoC that will be effective on May 29, 2007. Single copies of the CoC and SER are available for public inspection and/or copying for a fee at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Copies of the public comments are available for review in the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD.

Discussion of Amendments by Section

Section 72.214 List Of Approved Spent Fuel Storage Casks

Certificate No. 1014 is revised by adding the effective date of Amendment Number 3.

Summary of Public Comments on the Proposed Rule

The NRC received one comment letter on the proposed rule from Public Citizen and the Nuclear Information and Resource Service. Copies of the public comment letter are available for review in the NRC's Public Document Room, O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Comments on the Holtec HI-STORM 100 Cask System Revision 3

The commenters provided specific comments on Holtec's TS. To the extent possible, the comments on a particular subject are grouped together. The listing of the Holtec HI-STORM 100 cask system within 10 CFR 72.214, ''List of approved spent fuel storage casks,'' has not been changed as a result of the public comments. A review of the comments and the NRC staff's responses follow:

A. Holtec's Proposal To Eliminate Cooling of the MPC Cavity Prior to Reflood With Water as Part of Cask Unloading Operations

Comment A.1: The commenters stated that if adequate cooling is not done prior to reflooding with water during cask unloading, the casks could experience brittle fracturing caused by a sudden temperature change from hot to cold. The fracturing could be in addition to the brittle fracturing already introduced into the casks by forced cooling during their original manufacture. The commenters stated that forced cooling violates NRC regulations and applicable ASME and ANSI codes.

Response: The Holtec spent fuel canisters are fabricated from austenitic stainless steel. This is an extremely tough material with excellent ductility at all temperatures. Also, this material does not have a ductile-to-brittle transformation temperature that is typical of some other types of steel. Hence, this material and the casks which are fabricated from it are not susceptible to any kind of brittle fracture as suggested by the comment. For the design environmental temperatures, the range varies from -40 degrees F to 775 degrees F for the MPC, and this range of temperatures formed the design bases for the MPC of the cask system. The structural analyses performed for the cask system considered this range of temperatures.

There are no heating or cooling rate restrictions imposed by any regulatory or code requirement for this material or for this application.

Comment A.2: The commenters stated that during welding, the strength of the material decreases dramatically with the increased temperature of the material. After welding, Federal regulations require cooling at 100 degrees F without forced cooling. They further stated that if the material does not cool properly, voids inside the heated zones caused by welding could remain and cause cracking in the future, and that these cracks may not be detected by testing that is performed immediately after cooling. The commenters believed that the potential delayed cracking is the reason why Federal regulations require specific tests to assess whether the material's strength, which is reduced by welding, is returned to its original design strength. The commenters believed that such cracking is also why forced cooling, such as immersion in water baths or forced air fan cooling, is not allowed by NRC regulations and applicable ASME and ANSI codes.

Response: As stated in the response to Comment A.1, above, there is no regulatory or code requirement or restriction for heating or cooling rates for austenitic stainless steel, nor is there any need to impose such requirements. Further, cooling rates as alluded to by the commenters only apply during post-weld heat treatment (PWHT). PWHT is not required by the ASME code for this material, nor is it desirable because of the deleterious effect the PWHT temperatures would have upon the fuel payload.

The part of the cask which is welded while the cask is in the loading pool is some distance from the surface of the loading pool during welding of the closure lid. Any potential ''forced cooling'' effect by the pool water would be negligible compared to the normally occurring cooling effect which arises from the thermal mass of the structural lid which is being welded. Likewise, the inert gas purge which is employed during welding is just sufficient to displace any hydrogen which may evolve from the fuel payload. It also provides a backing gas to protect the root pass of the weld from oxidation. It is insufficient to provide any significant cooling effect. To provide any significant cooling would require a gas flow such that welding would not be possible.

No credible delayed cracking mechanism exists for this material, unlike the situation for other types of steel. Given this, the excellent ductility of the material, and the lack of any kind of ductile-to-brittle transformation for the material, no suggested ''brittle fracturing'' mechanism is credible.

Comment A.3: The commenters stated that nine quality assurance (QA) violations affecting Holtec casks at the U.S. Tool and Die factory in Pittsburgh, PA, were identified by a former senior lead QA inspector for Commonwealth Edison/Exelon and his QA team in June and July 2000. The major QA violations included regulatory code violations, weld flaws, design flaws, and manufacturing flaws that call into question the structural integrity of the Holtec shipping containers, especially under transport accident conditions. The commenters stated that an NRC Region III dry cask inspector shared the concerns about the QA violations, and that despite this, NRC failed to address these issues.

Response: Region III forwarded the allegations raised by the former senior lead QA inspector for Commonwealth Edison/Exelon and his QA team in June and July 2000 to the former Spent Fuel Project Office (SFPO) at NRC Headquarters in memoranda dated February 20, 2002, and April 19, 2002. SFPO staff reviewed his allegations and concluded that there were no safety-significant problems with Holtec's QA program, and more importantly, that there were no identified defects in any casks previously manufactured. When the former senior lead QA inspector for Commonwealth Edison/Exelon asserted that NRC did not adequately address his issues, the NRC 's independent Office of the Inspector General (OIG) conducted an investigation. The OIG report, dated July 27, 2004 (available on the NRC website: *http://www.nrc.gov/reading-rm.html*), concluded that: (1) The NRC staff did not fail to provide adequate oversight of Holtec and U.S. Tool and Die; (2) the NRC appropriately inspected those companies, found deficiencies, and verified that corrective actions were taken; (3) NRC's handling of the allegations from the former senior lead QA inspector for Commonwealth Edison/Exelon was appropriate; and (4) the NRC conducted a timely inspection and had a valid basis to determine that no safety significant problems existed.

B. Holtec's Proposal To Allow Linear Interpolation Between Minimal Soluble Boron Concentrations for Certain Fuel Enrichments in the MPC–32/32F

Comment: The commenters stated that boron concentrations must be maintained very carefully given the risk of inadvertent criticality due to the fissile materials (such as U–235 and Pu-239) still present in the irradiated fuel. They stated that the NRC should not allow rollbacks on criticality safety regulations.

Response: During the review of the proposed amendment the staff carefully considered the additional risk of an inadvertent criticality given a corresponding reduction in the soluble boron levels based on enrichment. The original requirement to load any fuel over 4.1 weight percent uranium-235 as if it were 5.0 weight percent uranium-235 fuel was extremely conservative. Based on the study performed in the license amendment request, staff finds that linear interpolation of the soluble boron levels is conservative in this instance and continues to provide an ample margin of safety against inadvertent criticality.

C. Holtec's Proposal To Modify the Definitions of Fuel Debris, Damaged Fuel Assembly, and Nonfuel Hardware

Comment C.1: The commenters stated that fuel debris and damaged fuel assemblies are among the most risky high-level radioactive waste to handle, store, transport, and dispose of, because the integrity of the fuel cladding has been ruined. They stated that radioactive particles and gases and entire nuclear fuel pellets are able to escape the fuel rods, worsening contamination of the Holtec inner canister and cask systems. They believed this could increase radiation doses for nuclear workers and the public as well as increase criticality risks in certain accident scenarios such as underwater submersions. Thus, the commenters believe that the definitions of these terms should not be modified.

Response: In its review of the final rule that added the Holtec HI-STORM 100 cask system to the listing in 10 CFR 72.214 (65 FR 25241; May 1, 2000), the staff found that fuel debris, as defined in that amendment, can be stored safely in the HI-STORM 100 cask system. The basis for the staff's finding is explained in the SER for that final rule. The current amendment does propose, however, to expand the definition of fuel debris to include additional materials.

In response to the comment, staff reevaluated this proposal and determined that expanding the definition of fuel debris to include containers or structures that are supporting intact or damaged fuel assembly parts is acceptable, as stated in the SER. However, staff determined that expanding the definition of fuel debris to include non-fuel hardware in order to permit storage of non-fuel hardware separately from (i.e., not within) a fuel assembly was not acceptable, and modified the Technical Specifications to remove non-fuel hardware from the definition of fuel debris. The SER has been modified to describe the staff's determination.

Comment C.2: The commenters stated that the nonfuel hardware is a hazardous material due to the radioactive contamination and radioactive activation it has experienced and presents a danger to workers and the public.

Response: In its review of Amendment 1 to the HI-STORM 100 cask system (67 FR 46369; July 15, 2002), the staff found that non-fuel hardware, as defined in that amendment, can be stored safely in the HI-STORM 100 cask system. The basis for the staff's finding is explained in the SER for that previous amendment. The current amendment proposes to add neutron source assemblies (NSA) to the definition of allowable non-fuel hardware and limits the number and the locations of NSAs to one per MPC stored in one of the four center-most fuel basket positions. Also, the staff found in its review that the shielding source term for an NSA is bounded by

the shielding source terms of the cask contents approved in the previous amendment. Thus, the staff finds the cask system can safely store non-fuel hardware as defined in the current amendment.

D. Holtec's Proposal To Permit the Storage of Pressurized Water Reactor (PWR) Fuel Assemblies With Annular Fuel Pellets in the Top and Bottom 12 Inches of the Active Fuel Length

Comment: The commenters expressed concern that permitting the storage of PWR fuel assemblies with annular fuel pellets in the top and bottom 12 inches of the active fuel length would risk increasing doses to nuclear workers and the public during cask loading, handling, storage, transport, and disposal operations. They stated that this storage should not be allowed by NRC.

Response: The current amendment proposes to modify the allowable PWR contents to included PWR assemblies containing annular fuel pellets in the top and bottom 12 inches of the active fuel length. NRC staff considered the difference between annular and solid fuel pellets in this part of the fuel from two aspects—source term and shielding—and concluded that the effect would not be noticeable. The annular pellet would produce a smaller source term than the solid pellet, since there is less fuel in the annular pellet, though the difference would be small, considering the lower burnup that the ends of the active fuel experience and the fact that the majority of fissions occur in the outer portions of a fuel pellet. Also, while solid pellets may be more effective than annular pellets as shielding, the amount of shielding provided by the MPC lid and the cask lid would make this effect small. Thus, the staff finds that the cask system can safely store PWR assemblies with annular pellets in the top and bottom 12 inches of the active fuel length.

Summary of Final Revisions

In Appendix B to the CoC, Section 1.0, Definitions, the TS has been revised in response to Comment C.1. to remove non-fuel hardware from the definition of fuel debris. The SER has also been revised to document this change.

Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this final rule, the NRC is revising the HI-STORM 100 cask system design listed in 10 CFR 72.214 (List of NRC-approved spent fuel storage cask designs). This action does not constitute the establishment of a standard that contains generally applicable requirements.

Agreement State Compatibility

Under the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs'' approved by the Commission on June 30, 1997, and published in the **Federal Register** on September 3, 1997 (62 FR 46517), this rule is classified as Compatibility Category ''NRC.'' Compatibility is not required for Category ''NRC'' regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954 (AEA), as amended, or the provisions of Title 10 of the Code of Federal Regulations. Although an Agreement State may not adopt program elements reserved to NRC, it may wish to inform its licensees of certain requirements via a mechanism that is consistent with the particular State's administrative procedure laws but does not confer regulatory authority on the State.

Finding of No Significant Environmental Impact: *Availability*

Under the National Environmental Policy Act of 1969, as amended, and the NRC regulations in Subpart A of 10 CFR Part 51, the NRC has determined that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. This final rule amends the CoC for the HI-STORM 100 cask system within the list of approved spent fuel storage casks that power-reactor licensees can use to store spent fuel at reactor sites under a general license. Amendment No. 3 modifies the present cask system design by revising TS 3.1.3 to eliminate cooling of the MPC cavity prior to reflood with water as part of cask unloading operations; TS 3.3.1 to allow linear interpolation between minimal soluble boron concentrations for certain fuel enrichments in the MPC–32/32F; Appendix B, Section 1 to the CoC, to make modifications to the definitions of fuel debris, damaged fuel assembly, and non-fuel hardware; and Appendix B, Section 2 to the CoC, to permit the storage of pressurized water reactor fuel assemblies with annular fuel pellets in the top and bottom 12 inches of the active fuel length. Other changes are made to incorporate minor editorial corrections.

The environmental assessment (EA) and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Single copies of the EA and finding of no significant impact are available from Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6219, e-mail *jmm2@nrc.gov*.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, Approval Number 3150–0132.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

Regulatory Analysis

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR Part 72 to provide for the storage of spent nuclear fuel under a general license in cask designs approved by the NRC. Any nuclear power-reactor licensee can use NRC-approved cask designs to store spent nuclear fuel if it notifies the NRC in advance, spent fuel is stored under the conditions specified in the cask's CoC, and the conditions of the general license are met. A list of NRC-approved cask designs is contained in 10 CFR 72.214. On May 1, 2000 (65 FR 25241), the NRC issued an amendment to Part 72 that approved the HI–STORM 100 cask system design by adding it to the list of NRC-approved cask designs in 10 CFR 72.214. On November 7, 2005, and as supplemented on April 30, 2006, the certificate holder, Holtec International, submitted an application to the NRC to amend the HI–STORM 100 cask system. The amendment revises TS 3.1.3 to eliminate cooling of the MPC cavity prior to reflood with water as part of cask unloading operations; TS 3.3.1 to allow linear interpolation between minimal soluble boron concentrations for certain fuel enrichments in the MPC–32/32F; Appendix B, Section 1 to the CoC, to make modifications to the

definitions of fuel debris, damaged fuel assembly, and non-fuel hardware; and Appendix B, Section 2 to the CoC, to permit the storage of pressurized water reactor fuel assemblies with annular fuel pellets in the top and bottom 12 inches of the active fuel length. Other changes are made to incorporate minor editorial corrections. The alternative to this action is to withhold approval of this amended cask system design. Withholding approval, in the absence of any safety reason for doing so, would not comply with the requirements of sections 218(a) and 133 of the Nuclear Waste Policy Act.

Approval of the final rule is consistent with previous NRC actions. Further, the final rule will have no adverse effect on public health and safety. This final rule has no significant identifiable impact or benefit on other Government agencies. Based on this discussion of the benefits and impacts of the alternatives, the NRC concludes that the requirements of the final rule are commensurate with the NRC's responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory, and thus, this action is recommended.

Regulatory Flexibility Certification

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this rule will not, if issued, have a significant economic impact on a substantial number of small entities. This final rule affects only the licensing and operation of nuclear power plants, independent spent fuel storage facilities, and Holtec International. The companies that own these plants do not fall within the scope of the definition of ''small entities'' set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121.

Backfit Analysis

The NRC has determined that the backfit rule (10 CFR 50.109 or 10 CFR 72.62) does not apply to this final rule because this amendment does not involve any provisions that would impose backfits as defined. Therefore, a backfit analysis is not required.

Congressional Review Act

Under the Congressional Review Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

■ For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR Part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

■ 1. The authority citation for Part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Pub. L. 109–58, 119 Stat. 806–10 (42 U.S.C. 2014, 2021, 2021b, 2111).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2224 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

■ 2. In § 72.214, Certificate of Compliance 1014 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1014.

Initial Certificate Effective Date: June 1, 2000.

Amendment Number 1 Effective Date: July 15, 2002.

Amendment Number 2 Effective Date: June 7, 2005.

Amendment Number 3 Effective Date: May 29, 2007.

SAR Submitted by: Holtec International.

SAR Title: Final Safety Analysis Report for the HI–STORM 100 Cask System.

Docket Number: 72–1014.

Certificate Expiration Date: June 1, 2020.

Model Number: HI–STORM 100.

* * * * *

Dated at Rockville, Maryland, this 13th day of April, 2007.

For the Nuclear Regulatory Commission.

Luis A. Reyes,

Executive Director for Operations.

[FR Doc. E7–8033 Filed 4–25–07; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–27980; Directorate Identifier 2007–NM–066–AD; Amendment 39–15033; AD 2007–09–03]

RIN 2120–AA64

Airworthiness Directives; Learjet Model 45 Airplanes

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

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Learjet Model 45 airplanes. This AD requires deactivating the auxiliary power unit (APU), capping/plugging the fuel lines to the APU, and removing the APU fuel shutoff valve. This AD results from reports of fuel leaking from the APU fuel shutoff valve into a flammable fluid fire protection area that is also interconnected with the main landing gear's wheel well bay. We are issuing this AD to prevent fuel leaking from the fuel shutoff valve of the APU, which could result in an uncontrollable fire and adversely affect the airplane's continued safe flight and landing.

DATES: This AD becomes effective May 11, 2007.

The Director of the Federal Register approved the incorporation by reference

of a certain publication listed in the AD as of May 11, 2007.

We must receive comments on this AD by June 25, 2007.

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

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

Contact Learjet, Inc., One Learjet Way, Wichita, Kansas 67209–2942, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: James P. Galstad, Aerospace Engineer, Mechanical Systems and Propulsion Branch, ACE–116W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4135; fax (316) 946–4107.

SUPPLEMENTARY INFORMATION:

Discussion

We have received a report indicating that there have been 16 occurrences of fuel leaking from the fuel shutoff valve of the auxiliary power unit (APU), on Model 45 airplanes in the field and on the production line. Epoxy was used in the valve to seal or adhere certain components of the valve. The epoxy was found to have been improperly prepared and/or applied, which allowed fuel to leak out through and/or around the electrical switch and connector in the bottom of the valve. Some valves were also found to have internal leaks due to fuel-soaked silicone sealant that had expanded into the electrical switch's location. The APU's fuel shutoff valve leaks fuel into a flammable fluid fire protection area that is also interconnected with the main landing gear's wheel well bay. This condition, if not corrected, could result in an uncontrollable fire, which could adversely affect the airplane's continued safe flight and landing.

Relevant Service Information

We have reviewed Bombardier Alert Service Bulletin A45–49–11, dated March 26, 2007. The service bulletin describes procedures for deactivating the APU, capping/plugging the fuel lines to the APU, and removing the APU fuel shutoff valve. Deactivating the APU also involves attaching inoperative APU placards in various locations. The service bulletin also describes procedures for sending the removed APU shutoff valves and compliance information to Learjet.

FAA's Determination and Requirements of This AD

The unsafe condition described previously is likely to exist or develop on other airplanes of the same type design. For this reason, we are issuing this AD to prevent fuel leaking from the fuel shutoff valve of the APU, which could result in an uncontrolled fire and adversely affect the airplane's continued safe flight and landing. This AD requires accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between the AD and the Service Bulletin.''

Differences Between the AD and the Service Bulletin

Operators should note that, although the Accomplishment Instructions of the referenced service bulletin describe procedures for returning the APU's fuel shutoff valve to Learjet, this AD does not require that action.

Operators should also note that, although the Accomplishment Instructions of the referenced service bulletin describe procedures for submitting a compliance response form for recording compliance with the service bulletin, this AD does not require that action.

Interim Action

This AD is considered to be interim action. The manufacturer has advised us that it currently is developing a modification that will address the unsafe condition addressed by this AD. Once this modification is approved, we may consider additional rulemaking.

FAA's Determination of the Effective Date

Since an unsafe condition exists that requires the immediate adoption of this AD, we have found that notice and opportunity for public comment before issuing this AD are impracticable, and that good cause exists to make this AD effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements that affect flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any relevant written data, views, or arguments regarding this AD. Send your comments to an address listed in the **ADDRESSES** section. Include ''Docket No. FAA–2007–27980; Directorate Identifier 2007–NM–066–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD that might suggest a need to modify it.

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

Examining the Docket

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

Authority for This Rulemaking

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

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

products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

We prepared 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):

2007–09–03 LEARJET: Amendment 39–15033. Docket No. FAA–2007–27980; Directorate Identifier 2007–NM–066–AD.

Effective Date

(a) This AD becomes effective May 11, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Learjet Model 45 airplanes, certificated in any category; serial numbers 45–005 through 45–321, equipped with an auxiliary power unit (APU).

Unsafe Condition

(d) This AD results from reports of fuel leaking from the APU fuel shutoff valve into a flammable fluid fire protection area that is also interconnected with the main landing gear's wheel well bay. We are issuing this AD to prevent fuel leaking from the fuel shutoff valve of the APU, which could result in an uncontrollable fire and adversely affect the airplane's continued safe flight and 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.

Deactivation of the APU and Removal of the APU Fuel Shutoff Valve

(f) Within 50 flight hours after the effective date of this AD, deactivate the APU, cap/plug the fuel lines to the APU, and remove the APU fuel shutoff valve, in accordance with the Accomplishment Instructions of Bombardier Alert Service Bulletin A45–49–11, dated March 26, 2007.

Differences From the Service Information

(g) Although Bombardier Alert Service Bulletin A45–49–11, dated March 26, 2007, specifies to submit certain information to the manufacturer and send the APU fuel shutoff valve to Learjet, this AD does not include those requirements.

Special Flight Permit

(h) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished, provided the APU is not used.

Alternative Methods of Compliance (AMOCs)

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

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

Material Incorporated by Reference

(j) You must use Bombardier Alert Service Bulletin A45–49–11, dated March 26, 2007, 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 Learjet, Inc., One Learjet Way, Wichita, Kansas 67209–2942, 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 April 16, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–7640 Filed 4–25–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26690 Directorate Identifier 2006–CE–088–AD; Amendment 39–15032; AD 2007–09–02]

RIN 2120–AA64

Airworthiness Directives; REIMS AVIATION S.A. Model F406 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:

During maintenance, cracks have been discovered about the left and right rib at the connection of the center wing and the fuselage localized at the fuselage station FS160.80. Cracks spread in the rib could result in structural failure.

We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective May 31, 2007.

On May 31, 2007 the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

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: 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 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 February 23, 2007 (72 FR 8134). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states that:

> During maintenance, cracks have been discovered about the left and right rib at the connection of the center wing and the fuselage localized at the fuselage station FS160.80. Cracks spread in the rib could result in structural failure.

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 highlighted in a NOTE within the AD.

Costs of Compliance

We estimate that this AD will affect 7 products of U.S. registry. We also estimate that it will take about 70 work-hours per product to comply with basic requirements of this AD. The average labor rate is $80 per work-hour. Required parts will cost about $4,750 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 $72,450 or $10,350 per product.

In addition, we estimate that any necessary follow-on actions would take about 10 work-hours and require parts costing $1,000, for a cost of $1,800 per product. We have no way of determining the number of products that may need these actions.

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:

2007–09–02 REIMS AVIATION S.A.: Amendment 39–15032; Docket No. FAA–2006–26690; Directorate Identifier 2006–CE–088–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective May 31, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to REIMS AVIATION S.A. Model F406 airplanes, serial numbers F406–0001 through F406–0089 and serial number F406–0091, certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 57: Wings.

Reason

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

During maintenance, cracks have been discovered about the left and right rib at the connection of the center wing and the fuselage localized at the fuselage station FS160.80. Cracks spread in the rib could result in structural failure.

Actions and Compliance

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

(1) Within the next 600 hours time-in-service or the next 12 months after the effective date of this AD, whichever occurs first, and thereafter repetitively during a period not to exceed 12 months, inspect the ribs in accordance with REIMS AVIATION INDUSTRIES Service Bulletin No. F406–54 REV 1, dated November 9, 2004.

(2) If cracks are found during any inspection required by this AD, before further flight, do the actions prescribed in chapters 1D and 2E of the REIMS AVIATION INDUSTRIES Service Bulletin No. F406–54 REV 1, dated November 9, 2004.

Note 1: We have established the repetitive inspection times of this AD so that they may coincide with annual inspections.

FAA AD Differences

Note 2: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, 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

(h) Refer to MCAI Direction générale de l'aviation civile (DGAC), which is the aviation authority for France, AD No. F–2004–114 R1, dated January 5, 2005; and REIMS AVIATION INDUSTRIES Service Bulletin No. F406–54 REV 1, dated November 9, 2004, for related information.

Material Incorporated by Reference

You must use REIMS AVIATION INDUSTRIES Service Bulletin No. F406–54 REV 1, dated November 9, 2004, 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 REIMS AVIATION INDUSTRIES, 51360 PRUNAY–FRANCE.

(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 April 13, 2007.

Charles L. Smalley,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–7641 Filed 4–25–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 101 and 141

[Docket No. RM07–2–000; Order No. 694]

Accounting and Reporting Requirements for Nonoperating Public Utilities and Licensees 2007.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: In this Final Rule, the Federal Energy Regulatory Commission (Commission) is amending its accounting and reporting regulations to require public utilities and licensees to continue to follow the Commission's Uniform System of Accounts (USofA) and to file annual and quarterly financial reports when they have ceased making jurisdictional sales of electric energy, or providing jurisdictional transmission service, but continue collecting amounts pursuant to a Commission-accepted tariff or rate schedule, or a Commission order. The Final Rule will close a gap in the Commission's regulations which apply now only to operating public utilities and licensees, and which provide information necessary to the Commission's regulatory responsibilities.

DATES: *Effective Date:* The rule will become effective May 29, 2007.

FOR FURTHER INFORMATION CONTACT: Jane Stelck, Office of Enforcement, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6648, *jane.stelck@ferc.gov.*

SUPPLEMENTARY INFORMATION:

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

I. Introduction

1. On December 21, 2006, the Commission issued a Notice of Proposed Rulemaking (NOPR) that proposed to amend its accounting and reporting regulations, in Parts 101 and 141, to require public utilities and licensees to continue to follow the Commission's Uniform System of Accounts (USofA) and to file annual and quarterly financial reports when they have ceased making jurisdictional sales of electric energy, or providing jurisdictional transmission service, but continue collecting amounts pursuant to a Commission-accepted tariff or rate schedule, or a Commission order.[1] The NOPR also sought comments regarding the applicability of Part 125, Preservation of Records of Public Utilities and Licensees, to public utilities or licensees which have ceased operations, but continue to collect amounts pursuant to a Commission-approved tariff or rate schedule, or a Commission order.

2. The Final Rule adopts the proposed revisions to Parts 101 and 141 contained in the NOPR. The Final Rule requires that companies who cease operating but continue collecting amounts pursuant to a Commission-accepted tariff or rate schedule, or a Commission order, continue to comply with Parts 101 and 141. The Final Rule finds that there is no need to adopt changes to Part 125 of the Commission's regulations.

II. Discussion

3. Parts 101 and 141 of the Commission's regulations require public utilities and licensees whose sales or transmission service exceed certain prescribed levels to follow the USofA and to file annual and quarterly financial reports, Forms No. 1, 1–F, and 3–Q, respectively. Under the Commission's existing regulations, public utilities and licensees are

[1] *Accounting and Reporting Requirements For Nonoperating Public Utilities and Licensees,* 72 FR 922 (Jan. 9, 2007), FERC Stats. & Regs. ¶ 32,610 (2006).

relieved of these accounting and reporting requirements when they cease making sales for resale or providing transmission. This is true even when these nonoperating entities continue to collect amounts pursuant to a Commission-approved tariff or rate schedule, or a Commission order. Therefore, the Commission cannot oversee, monitor, or audit costs that provide information necessary to the Commission's oversight responsibilities and the protection of the public interest under the existing regulations.

4. As discussed in the NOPR,[2] in recent years, this accounting and reporting gap has been highlighted when, for example, nuclear generating plants shut down but continue to collect decommissioning and other administrative costs under a Commission-accepted tariff or rate schedule, or a Commission order.[3] The amounts collected by these companies are material and may span a decade or longer.[4] The occurrence of these and the potential occurrence of similar circumstances impede the Commission's ability to collect information, monitor, or audit the underlying costs when accounting and reporting requirements no longer apply. The Commission has a continuing need to have access to books and records and to receive periodic financial reports for any jurisdictional entity, even when that entity has ceased operations but continues to collect amounts pursuant to a Commission-accepted tariff or rate schedule, or a Commission order. Without Commission oversight, customers and ratepayers cannot be assured that these billings are just and reasonable. For these reasons, we find that, nonoperating entities' compliance with Part 101 and reporting information in these financial reports is necessary to enable the Commission to fulfill its statutory responsibilities under the Federal Power Act (FPA).[5] In addition, the information, because it is publicly available, will allow customers, state commissions, and others to evaluate the amounts charged.

III. The Final Rule

6. The Final Rule adopts the proposed changes outlined in the NOPR. A new category, designated nonoperating, is added to the General Instructions of Part 101, to the classification of utilities subject to compliance with the USofA. Sections 141.1, 141.2, and 141.400 of the Commission's regulations are revised to require nonoperating public utilities and licensees whose operations have ceased but who continue to collect amounts pursuant to a Commission tariff or rate schedule, or a Commission order, to continue to comply with the Commission's reporting requirements.

7. The NOPR also sought comments on the continued applicability of Part 125 of the Commission's regulations, which sets forth record retention requirements for public utilities and licensees. The NOPR stated that a reasonable interpretation of Part 125 is that the requirements of that part continue to apply to nonoperating public utilities and licensees who continue to collect amounts pursuant to a Commission-approved tariff or rate schedule, or Commission order.[6] The Final Rule similarly adopts this reading of Part 125, and it is unnecessary to makes changes to Part 125.

IV. Comments

8. Comments on the NOPR were filed jointly by Yankee Atomic Electric Company, Connecticut Yankee Atomic Power Company, and Maine Yankee Atomic Power Company (jointly, Yankee Companies), and by the Connecticut Department of Public Utility Control, The Maine Public Utilities Commission and The Maine Office of Public Advocate (jointly, New England Parties). Neither the Yankee Companies nor the New England Parties object to the proposed regulations, but both parties express concern regarding additional costs that might be incurred and the effect on consumers who will ultimately pay the costs. The New England Parties state that the NOPR ''may provide needed insight into the expenditures of non-operating plants'' but state that it might increase the companies' operating costs. The New England Parties request that the Commission exempt the Yankee Companies from the instant accounting requirements.

9. The Yankee Companies also state that they concur with the Commission's interpretation of Part 125 and its conclusion that no revisions to that part are necessary. The Yankee Companies state that they will continue to abide by Part 125 as they have done since ceasing operations.

10. Where a company ceases operations but continues to collect costs pursuant to a Commission-approved tariff or rate schedule, or a Commission order, it is only proper that the affected company be obligated to continue maintaining their accounts pursuant to the USofA, and continue filing quarterly and annual financial reports with the Commission.[7] At this time, however, any costs associated with meeting such requirements are unknown; thus, only a potential impact on rates exists.[8] Moreover, any company affected by this Final Rule would, at the time it ceases operations, already be in compliance with the USofA and the Commission's financial reporting requirements. Thus, any burden imposed by this Final Rule is likely to be comparatively minimal.[9] Finally, given the Commission's regulatory responsibilities, the benefits of closing this regulatory gap far outweigh the comparatively minimal costs that are likely to arise from compliance.

V. Information Collection Statement

11. The collections of information referenced in this Final Rule have been submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the Paperwork Reduction Act of 1995.[10] OMB's regulations require OMB to approve certain information collection requirements imposed by agency rule.[11] Upon approval of a collection of information, OMB will assign an OMB control number and expiration date. Respondents subject to the filing requirements of this Final Rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number or the Commission had provided a justification as to why the control number should be displayed.

12. Persons wishing to comment on the collection of information may do so

[2] NOPR at P 5.

[3] *See, e.g., Connecticut Yankee Atomic Power Company,* 92 FERC ¶ 61,005 (2000) (approving decommissioning cost collections.)

[4] For example, Connecticut Yankee collected $16.7 million per year in decommissioning funds from 2000 to 2004 and $93 million in 2005 and 2006. *Id.*

[5] 16 U.S.C. 824 *et seq.*

[6] *See* NOPR at P 7.

[7] Yankee Companies have agreed to file FERC Form No. 1 as part of a settlement recently approved by the Commission. *See Connecticut Yankee Atomic Power Co.*, 117 FERC ¶ 61,192 (2006).

[8] *See Virginia State Corp. Comm'n* v. *FERC*, 468 F.3d 845, 847 (D.C. Cir. 2006) (''Petitioners' claim of a rate effect is belied by the proposition that '[a]ccounting practices are not controlling for rate making purposes,' '' (citing *Consolidated Gas Supply Corp.*, 14 FERC ¶ 61,029 at 61,054 (1981) and *Williston Basin Interstate Pipeline Co.*, 56 FERC ¶ 61,104 at 61,370–71 (1991)).

[9] Even the Yankee Companies, who would be most affected because they have not been operating for some time, offer an estimated cost of only ''at least $30,000 annually'' for each Yankee company. Comparatively speaking, this is not a large sum. In fact, moreover, they also state that what they currently report to the Commission does ''not differ substantially'' from what they will now be required to submit to the Commission. *See* Yankee Companies' comments at 2–3.

[10] *See* 44 U.S.C. 3507(d).

[11] 5 CFR 1320.11.

by contacting the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, Attention: Desk Officer for the Federal Energy Regulatory Commission; phone: 202–395–4650, fax: 202–395–7285.

Title: FERC Form No. 1, ''Annual report of Major electric utilities, licensees, and others''; FERC Form No. 1–F, ''Annual report for Nonmajor public utilities and licensees''; FERC Form No. 3–Q, ''Quarterly financial report of electric utilities, licensees, and natural gas companies''; and FERC–555, ''Preservation of Records of Public Utilities and Licensees, Natural Gas Companies, and Oil Pipeline Companies''.

Action: Proposed information collections.

OMB Control Nos. 1902–0021; 1902–0029; 1902–0205; and 1902–0098.

Respondents: Business or others for profit.

Frequency of responses: Annually and quarterly.

Necessity of the Information: This Final Rule amends the Commission's accounting and reporting regulations, in Parts 101 and 141, to require public utilities and licensees to continue to follow the Commission's USofA and to file annual and quarterly financial reports when they have ceased making jurisdictional sales of electric energy, or providing jurisdictional transmission service, but continue to collect amounts pursuant to a Commission-accepted tariff or rate schedule, or Commission order. The Final Rule closes a gap in the Commission's regulations which apply now only to operating public utilities and licensees. Without the changes made in the Final Rule, the Commission cannot oversee, monitor, or audit costs that provide information necessary to the Commission's oversight responsibilities and the protection of the public interest.

VI. Environmental Analysis

13. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[12] No environmental consideration is necessary for the promulgation of a rule that addresses information gathering, analysis, and dissemination,[13] and, also, that addresses accounting.[14] This Final Rule addresses information gathering, analysis, and accounting requirements. Therefore, the Final Rule falls within categorical exemptions provided in the Commission's regulations. Consequently, neither an Environmental Impact Statement nor an Environmental Assessment is required.

VII. Regulatory Flexibility Act

14. The Regulatory Flexibility Act of 1980 (RFA)[15] generally requires a description and analysis of the effect that a Final Rule will have on small entities or a certification that a rule will not have a significant economic impact on a substantial number of small entities.

15. The Commission concludes that this Final Rule will not have such an impact on a substantial number of small entities. Because most public utilities and licensees do not fall within the definition of ''small entity,'' the Commission certifies that this Final Rule will not have a significant impact on a substantial number of small entities.

VIII. Document Availability

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

17. From the Commission's Home Page on the Internet, this document is available in the Commission's document management system, e-Library. The full text of this document is available on e-Library in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in e-Library, type the docket number excluding the last three digits of this document in the docket number field.

18. User assistance is available for e-Library and the Commission's Web site during normal business hours. For assistance, please contact FERC Online Support at 1–866–208–3676 (toll free) or 202–502–6652 (e-mail at *FERCOnlineSupport@ferc.gov*) or the Public Reference Room at 202–502–8371, TTY 202–502–8659 (e-mail at *public.reference@ferc.gov*).

IX. Effective Date and Congressional Notification

19. This Final Rule will take effect May 29, 2007.

20. The Commission has determined with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB Final Rule is not a major rule within the meaning of section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996.[16] The Commission will submit the Final Rule to both houses of Congress and the Government Accountability Office.

List of Subjects

18 CFR Part 101

Electric power, Electric utilities, Reporting and recordkeeping requirements, Uniform System of Accounts.

18 CFR Part 141

Electric power, Reporting and recordkeeping requirements.

By the Commission.

Philis J. Posey,

Deputy Secretary.

■ In consideration of the foregoing, the Commission amends parts 101 and 141 of Title 18 of the Code of Federal Regulations, as set forth below:

PART 101—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR PUBLIC UTILITIES AND LICENSEES SUBJECT TO THE PROVISIONS OF THE FEDERAL POWER ACT

■ 1. The authority citation for part 101 continues to read as follows:

Authority: 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352, 7651–7615o.

■ 2. Amend part 101, General Instructions, 1. *Classification of Utilities,* to add a new paragraph A.(3) and to revise the first sentence in paragraph B to read as follows:

General Instructions

Classification of Utilities

A. * * *

(3) *Nonoperating.* Utilities and licensees formerly designated as Major or Nonmajor that have ceased operation but continue to collect amounts pursuant to a Commission-accepted tariff or rate schedule, or a Commission order.

B. This system applies to Major, Nonmajor, and Nonoperating utilities and licensees. * * *

* * * * *

[12] *See Regulations Implementing the National Environmental Policy Act*, Order No. 486, 52 FR 47897 (Dec. 17, 1987) FERC Stats. & Regs. ¶ 30,783 (1987).

[13] *See* 18 CFR 380.4(a)(5).

[14] *See* 18 CFR 380.4(c)(16).

[15] *See* 5 U.S.C. 601–12.

[16] 5 U.S.C. 801.

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

■ 3. The authority citation for part 141 continues to read as follows:

Authority: 15 U.S.C. 79; 16 U.S.C. 791a–828c, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

■ 4. Revise § 141.1(b)(1)(i) to read as follows:

§ 141.1 FERC Form No. 1, Annual report of Major electric utilities, licensees and others.

* * * * *

(b) *Filing requirements*—(1) *Who must file*—(i) *Generally*. Each Major and each Nonoperating (formerly designated as Major) electric utility (as defined in part 101 of Subchapter C of this chapter) and other entity, *i.e.*, each corporation, person or licensee as defined in section 3 of the Federal Power Act (16 U.S.C. 792 *et seq.*), including any agency, authority, or other legal entity or instrumentality engaged in generation, transmission, distribution, or sale of electric energy, however produced, throughout the United States and its possessions, having sales or transmission service equal to Major or Nonoperating (formerly designated as Major) as defined above, whether or not the jurisdiction of the Commission is otherwise involved, shall prepare and file electronically with the Commission the FERC Form No. 1 pursuant to the General Instructions set out in that form.

* * * * *

■ 5. Revise § 141.2(b)(1)(i) to read as follows:

§ 141.2 FERC Form No. 1–F, Annual report for Nonmajor public utilities and licensees.

* * * * *

(b) *Filing Requirements*—(1) *Who Must File*—(i) *Generally*. Each Nonmajor and each Nonoperating (formerly designated as Nonmajor) public utility and licensee as defined by the Federal Power Act, which is considered Nonmajor as defined in Part 101 of this chapter, shall prepare and file with the Commission an original and conformed copies of FERC Form No. 1–F pursuant to the General Instructions set out in that form.

* * * * *

■ 6. In § 141.400, revise paragraphs (b)(1)(i), (b)(2) introductory text, and (b)(3) introductory text to read as follows:

* * * * *

§ 141.400 FERC Form No. 3–Q, Quarterly financial report of electric utilities, licensees, and natural gas companies.

* * * * *

(b) *Filing Requirements*—(1) *Who must file*—(i) *Generally*. Each electric utility and each Nonoperating (formerly designated as Major or Nonmajor) electric utility (as defined in part 101 of subchapter C of this chapter) and other entity, *i.e.*, each corporation, person, or licensee as defined in section 3 of the Federal Power Act (16 U.S.C. 792 *et seq.*), including any agency or instrumentality engaged in generation, transmission, distribution, or sale of electric energy, however produced, throughout the United States and its possessions, having sales or transmission service, whether or not the jurisdiction of the Commission is otherwise involved, must prepare and file with the Commission FERC Form No. 3–Q pursuant to the General Instructions set out in that form.

* * * * *

(2) Each Major and Nonoperating (formerly designated as Major) (as defined in part 101 of subchapter C of this chapter) public utility and licensee must file the quarterly financial report form as follows:

* * * * *

(3) Nonmajor and Nonoperating (formerly designated as Nonmajor) public utilities and licensees must file the quarterly financial report form as follows:

* * * * *

[FR Doc. E7–7771 Filed 4–25–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 141 and 385

[Docket No. RM07–14–000; Order No. 695]

Electronic Filing of FERC Form No. 714

Issued April 19, 2007.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: In this Final Rule, the Federal Energy Regulatory Commission (Commission) is amending its regulations to provide for electronic filing of the FERC Form No. 714, Annual Electric Control and Planning Area Report. Paper filings will no longer be accepted. No substantive changes are being made to the information reported in the FERC Form No. 714; however, the Commission has made minor formatting changes to the form to facilitate the development of the form submission software. Finally, as an administrative revision, the term ''Control Area'' will be changed to ''Balancing Authority Area,'' in line with current industry practice. In a separate notice, a forty-five day extension, to July 16, 2007, will be granted this first year under the new system to allow additional time to file.

DATES: Effective Date: The Final Rule will become effective May 29, 2007.

FOR FURTHER INFORMATION CONTACT: Lawrence Greenfield (Legal Information), Office of the General Counsel—Energy Markets, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, Telephone: (202) 502–6415, E-mail: *lawrence.greenfield@ferc.gov*.

Patricia W. Morris (Technical Information), Division of Administration, Budget and Strategic Planning, Office of Energy Markets and Reliability, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, Telephone: (202) 502–8730, E-mail: *patricia.morris@ferc.gov*.

Craig Hill (Software Information), Division of Administration, Budget and Strategic Planning, Office of Energy Markets and Reliability, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, Telephone: (202) 502–8621, E-mail: *craig.hill@ferc.gov*.

SUPPLEMENTARY INFORMATION:

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

1. The Federal Energy Regulatory Commission is amending its regulations to provide for electronic filing of the FERC Form No. 714, Annual Electric Control and Planning Area Report (Form 714).[1] Paper filings will no longer be accepted. No substantive changes are being made to the information reported in the Form 714; however, the Commission has made minor formatting changes to the form to facilitate the development of form submission software. Finally, as an administrative revision, the term ''Control Area'' will be changed to ''Balancing Authority Area,'' in line with current industry practice. In a separate notice, a forty-five day extension, to July 16, 2007, will be granted this first year under the new system to allow additional time to file.

Background

2. Form 714 gathers utility operating and planning information, primarily on

[1] *See* 18 CFR 141.51.

a control area basis,[2] for the purpose of evaluating utility operations with regard to mergers and dispositions, jurisdictional services, jurisdictional rates, energy market oversight, and wholesale market changes in light of evolving competitive forces.

3. Form 714 is submitted annually by approximately 173 utilities who operate balancing authority areas and planning areas. Currently, Form 714 is submitted in a paper format.

Discussion

4. The Commission's regulations provide for electronic filing, using web-enabled software technology, of numerous reports currently submitted by entities subject to Commission jurisdiction, some of which are: FERC Form No. 1, Annual Report of Major Electric Utilities, Licensees and Others; FERC Form No. 516, Electric Quarterly Report; FERC Form No. 423, Monthly Report of Cost and Quality of Fuels for Electric Plants; FERC Form No. 3Q, Quarterly Financial Report of Electric Utilities, Licensees, and Natural Gas Companies; and FERC Form No. 60, Annual Report of Centralized Service Companies.[3] The electronic filing of these reports yields significant benefits, including reduced cost of data entry and retrieval, overall reduction of reporting burden, faster and more precise data validation, more timely analysis and publication of data, and increased data analysis capability.[4] And, in general, filers and users alike agree that electronic filing of these reports yields significant benefits in terms of process simplification and savings of time and expense.[5]

5. With respect to Form 714, the Commission seeks similar benefits. The Commission, therefore, will require utilities to file the Form 714 electronically, using the Commission's web-enabled software, beginning with the 2006 reporting year, to be filed this first year by an extended filing date of July 16, 2007.

6. In addition, the term ''Control Area'' will be changed to ''Balancing Authority Area'' in the title and throughout the form and instructions in keeping with this change in industry. By using either term, the Commission is referring to the area operator that is responsible for matching generation and load, that is responsible for maintaining scheduled interchange with other Balancing Authority Areas, and that is responsible for maintaining the frequency in real-time of the electric power system.

7. No substantive changes are being made to the information reported in Form 714. However, the Commission will make minor formatting changes to Form 714 to facilitate the development of the form submission software. These minor changes will include updating certain attachments so that the data is reported in a structured format, updating the General Instructions to Form 714 to clarify that the respondents will no longer file paper copies of Form 714, but rather the respondents will be required to use the Commission's form submission software to file the information, and lastly allowing only utilities subject to the reporting requirements to submit a Form 714 via the software. Ergo, the Commission will not register the software to a regional transmission system organization operator who is not a Balancing Authority Area operator or Planning Area operator. Entities that are neither Balancing Authority Area operators nor Planning Area operators, but who are authorized by their members to compile Form 714 data on their behalf, are required to make the data available to their Balancing Authority Area operators or Planning Area operators in order that those area operators may file the data with the Commission.

8. In a separate notice, filers will be directed to the Commission's Web site where instructions will be provided concerning how a utility may register as a respondent and download the form submission software for use in filing Form 714.

Information Collection Statement

9. Office of Management and Budget (OMB) regulations require OMB to approve certain information collection requirements imposed by an agency.[6] The Final Rule will not change the reporting requirements in Form 714. This rule, therefore, is not subject to OMB review. The Commission is submitting a copy of the Final Rule to OMB for information purposes only. When the collection is next up for OMB renewal (2009), the Commission will report a reduction in burden (1) Due to a reduction in the number of filers from the previous 250 to the current 173, a result of the formation of regional transmission organizations (and other similar entities) encompassing numerous former Control Areas (Balancing Authority Areas) and (2) due to the switch from a paper and diskette filing to an all-electronic filing.

10. Interested persons may obtain information on these reporting requirements by contacting the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 [Attn: Michael Miller, Information Services Division (202) 502–8415, fax: (202) 273–0873]. Comments on the requirements of this rule can be sent to the Office of Information and Regulatory Affairs of OMB [Attn: Desk Officer for the Federal Energy Regulatory Commission; phone, (202) 395–4650, fax: (202) 395–7285, e-mail: *oira_submission@omb.eop.gov*].

Environmental Analysis

11. Commission regulations require that an Environmental Assessment or an Environmental Impact Statement be prepared for any Commission action that may have a significant adverse effect on the human environment.[7] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. No environmental consideration is necessary for the promulgation of a rule concerning information gathering, analysis or dissemination, or that is merely procedural.[8] Because the electronic filing requirement for Form 714 adopted in this Final Rule concerns information gathering, and is procedural, no environmental consideration is necessary.

Regulatory Flexibility Act Certification

12. The Regulatory Flexibility Act of 1980 (RFA)[9] generally requires either a description and analysis of a rule that will have a significant economic impact on a substantial number of small entities or a certification that the rule will not have a significant economic impact on a substantial number of small entities. Most utilities to which this Final Rule applies would not fall within the RFA's definition of small entity.[10]

[2] In line with electric industry developments, ''Control Area'' will changed to ''Balancing Authority Area.''

[3] *See, e.g.,* 18 CFR 385.2011.

[4] See, *e.g., Electronic Filing of FERC Form No. 1,* Order No. 574,. 60 FR 1716 (Jan. 5, 1995), FERC Stats. & Regs. ¶31,013 at 31,257 (1995).

[5] *Id.* at 31,256–57.

[6] 5 CFR 1320.11.

[7] *Regulations Implementing the National Environmental Policy Act,* Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (1987) (*codified at* 18 CFR Part 380).

[8] 18 CFR 380.4(a)(2)(ii), (5).

[9] 5 U.S.C. 601–12.

[10] 5 U.S.C. 601(3), *citing* to section 3 of the Small Business Act, 15 U.S.C. 632. Section 3 of the Small Business Act defines a ''small business concern'' as a business that is independently owned and operated and that is not dominant in its field of operation. The Small Business Size Standards component of the North American Industry Classification System (NAICS) defines a small electric utility as one that, including its affiliates, is primarily engaged in the generation, transmission, and/or distribution of electric energy for sale and whose total electric output for the preceding fiscal year did not exceed four million MWh. 13 CFR 121.201.

Consequently, the Commission certifies that this Final Rule will not have a ''significant economic impact on a substantial number of small entities.''

Document Availability

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

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

15. User assistance is available for eLibrary and the Commission's Web site during normal business hours. For assistance, please contact FERC Online Support at 1–866–208–3676 (toll free) or 202–502–6652 (e-mail at *FERCOnlineSupport@ferc.gov*) or the Public Reference Room at 202–502–8371, TTY 202–502–8659 (e-mail at *public.referenceroom@ferc.gov).*

Administrative Findings and Effective Date

16. The Administrative Procedure Act (APA)[11] requires rulemakings to be published in the **Federal Register**. The APA also mandates that an opportunity for comments be provided when an agency promulgates regulations. However, notice and comment are not required under the APA when the agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary or contrary to the public interest.[12]

17. The Commission finds that notice and comment are unnecessary for this rulemaking. As explained above, this Final Rule is merely procedural in nature. The Commission is not substantively revising the information utilities file in the Form 714. The Commission is merely requiring electronic filing of the Form 714 using software analogous to software developed by the Commission for the collection of other information from the same utilities that currently file Form 714, *e.g.*, Forms 1, 3Q and 516.

18. This Final Rule is effective May 29, 2007.

Congressional Notification

19. The provisions of the Small Business Regulatory Enforcement Fairness Act of 1996[13] regarding Congressional review of Final Rules do not apply to this Final Rule, because the rule concerns agency procedure and practice and will not substantially affect the substantive rights of non-agency parties.[14]

List of subjects

18 CFR Part 141

Electric power, Reporting and recordkeeping requirements.

18 CFR Part 385

Administrative practice and procedure, Electric power, Penalties, Pipelines, Reporting and recordkeeping requirements.

By the Commission.

Philis J. Posey,

Deputy Secretary.

■ In consideration of the foregoing, the Commission amends parts 141 and 385, Chapter I, Title 18, Code of Federal Regulations, as follows:

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

■ 1. The authority citation for part 141 continues to read as follows:

Authority: 15 U.S.C. 79; 16 U.S.C. 791a–828c, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

■ 2. In § 141.51, the section heading, and paragraphs (a)(1) and (c) are revised to read as follows:

§ 141.51 FERC Form No. 714, Annual Electric Balancing Authority Area and Planning Area Report.

(a) *Who must file.* (1) Any electric utility, as defined by section 3(4) of the Public Utility Regulatory Policies Act, 16 U.S.C. 2602, operating a balancing authority area, and any group of electric utilities, which by way of contractual arrangements operates as a single balancing authority area, must complete and file the applicable schedules in FERC Form No. 714 with the Federal Energy Regulatory Commission.

* * * * *

(c) *What to file.* FERC Form No. 714, Annual Electric Balancing Authority Area and Planning Area Report, must be filed with the Federal Energy Regulatory Commission as prescribed in § 385.2011 of this chapter and as indicated in the General Instructions set out in this form.

PART 385—RULES OF PRACTICE AND PROCEDURE

■ 3. The authority citation for part 385 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717z, 3301–3432; 16 U.S.C.791a–825v, 2601–2645; 28 U.S.C. 2461; 31 U.S.C. 3701, 9701; 42 U.S.C. 7101–7352, 16441, 16451–16463; 49 U.S.C. 60502; 49 App. U.S.C. 1–85 (1988).

■ 4. In § 385.2011, paragraph (a)(10) is added and paragraph (c)(3) is revised to read as follows:

§ 385.2011 Procedures for filing on electronic media (Rule 2011).

(a) * * *

(10) FERC Form No. 714, Annual Electric Balancing Authority Area and Planning Area Report.

* * * * *

(c) * * *

(3) With the exception of the FERC Form Nos. 1, 2, 2–A, 6, 60, and 714, the electronic media must be accompanied by the traditional prescribed number of paper copies.

* * * * *

[FR Doc. E7–7772 Filed 4–25–07; 8:45 am]

BILLING CODE 6717–01–P

[11] 5 U.S.C. 551–59.

[12] 5 U.S.C. 553(B); *See, e.g., Mid-Tex Electric Cooperative, Inc.* v. *FERC,* 822 F.2d 1123 (D.C. Cir. 1987).

[13] 5 U.S.C. 801.

[14] 5 U.S.C. 804(3)(B).

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD07–06–050]

RIN 1625–AA09

Drawbridge Operation Regulation; Venetian Causeway (West) Drawbridge, Atlantic Intracoastal Waterway, Mile 1088.6, and Venetian Causeway (East) Drawbridge, Biscayne Bay, Miami, Miami-Dade County, FL; Correction

AGENCY: Coast Guard, DHS.

ACTION: Final rule; correction.

SUMMARY: On April 16, 2007, the Coast Guard published in the **Federal Register** a final rule that changes the operating regulations governing the Venetian Causeway (West) drawbridge, Atlantic Intracoastal Waterway, mile 1088.6, and Venetian Causeway (East) drawbridge, Biscayne Bay, Miami, Miami-Dade County, Florida. Inadvertently, under

the second amendatory instruction, the wrong section number was used in the section heading. This document corrects that incorrect section number.

DATES: This rule is effective May 16, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Lieberum, Seventh Coast Guard District, Bridge Branch, telephone number 305–415–6744.

SUPPLEMENTARY INFORMATION: In the final rule, published on April 16, 2007, (72 FR 18885), the Coast Guard changed the operating schedule of the Venetian Causeway (West) Drawbridge, Atlantic Intracoastal Waterway, Mile 1088.6, and Venetian Causeway (East) Drawbridge, Biscayne Bay, Miami, Miami-Dade County, FL. In the second amendatory instruction, the amendatory instruction directs a revision to § 117.261, however, in the heading to the section being revised, the section number is listed as § 117.287, even though the heading used is that listed for § 117.261 (Atlantic Intracoastal Waterway from St. Mary's to Key Largo). This correction fixes the error in the section number listed in the section heading.

PART 117—[CORRECTED]

■ In FR Doc. E7–7157 published on April 16, 2007, (72 FR 18885), make the following correction. On page 18886, in the third column, change the section heading under amendatory instruction 2 to read as follows:

§ 117.261 Atlantic Intracoastal Waterway from St. Marys River to Key Largo.

Dated: April 19, 2007.

Steve Venckus,

Chief, Office of Regulations and Administrative Law.

[FR Doc. E7–7949 Filed 4–25–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–07–015]

RIN 1625–AA00

Safety Zone; Port Pirate Festival Fireworks, Port Washington Harbor, Port Washington, WI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in Port Washington Harbor, Port Washington, WI. This zone is intended to restrict vessels from a portion of Port Washington Harbor and Lake Michigan during the Port Pirate Festival fireworks display. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with fireworks displays.

DATES: This rule is effective from 8 p.m. to 11 p.m. (local) on June 2, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD09–07–015 and are available for inspection or copying at U.S. Coast Guard Sector Lake Michigan, 2420 South Lincoln Memorial Drive, Milwaukee, Wisconsin 53207, between 8:30 a.m. (local) and 3:00 p.m. (local), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer Brad Hinken, U.S. Coast Guard Sector Lake Michigan, Prevention Department, 2420 South Lincoln Memorial Drive, Milwaukee, Wisconsin 53207, (414) 747–7154.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The permit application was not received in time to publish an NPRM followed by a final rule before the effective date. Under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property. The Coast Guard has not received any complaints or negative comments previously with regard to this event.

Background and Purpose

This temporary safety zone is necessary to ensure the safety of vessels and spectators from hazards associated with a fireworks display. Based on accidents that have occurred in other Captain of the Port zones, and the explosive hazards of fireworks, the Captain of the Port Lake Michigan has determined fireworks launches in close proximity to watercraft pose significant risk to public safety and property. The likely combination of large numbers of recreation vessels, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the location of the launch platform will help ensure the safety of persons and property at these events and help minimize the associated risks.

Discussion of Rule

A temporary safety zone is necessary to ensure the safety of spectators and vessels during the setup, loading and launching of a fireworks display in conjunction with the Port Pirate Festival fireworks display. The fireworks display will occur between 8 p.m. (local) and 11 p.m. (local) on June 2, 2007.

The safety zone for the fireworks will encompass all waters of Port Washington Harbor and Lake Michigan within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 43°23′07″ N, 087°51′54″ W (NAD 83).

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

This determination is based on the minimal time that vessels will be restricted from the zone and the zone is an area where the Coast Guard expects insignificant adverse impact to mariners from the zone's activation.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners and operators of vessels intending to transit or anchor in a portion of Port Washington Harbor at Port Washington, WI, between 8 p.m. (local) and 11 p.m. (local) on June 2, 2007.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: this rule will be in effect for only three hours for one event. Vessel traffic can safely pass outside the safety zone during the event. In the event that this temporary safety zone affects shipping, commercial vessels may request permission from the Captain of the Port Lake Michigan to transit through the safety zone. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

The Coast Guard recognizes the treaty rights of Native American Tribes. Moreover, the Coast Guard is committed to working with Tribal Governments to implement local policies and to mitigate tribal concerns. We have determined that this safety zone and fishing rights protection need not be incompatible. We have also determined that this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. Nevertheless, Indian tribes that have questions concerning the provisions of this rule or options for compliance are encouraged to contact the point of contact listed under **FOR FURTHER INFORMATION CONTACT**.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedure; and related management system practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This event establishes a safety zone; therefore paragraph (34)(g) of the Instruction applies.

A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' will be available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–015 to read as follows:

§ 165.T09–015 Safety zone; Port Pirate Festival Fireworks, Port Washington Harbor, Port Washington, WI.

(a) *Location.* The following area is a temporary safety zone: All waters of Port Washington Harbor and Lake Michigan within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 43°23′07″ N, 087°51′54″ W (NAD 83).

(b) *Effective period.* This regulation is effective from 8 p.m. to 11 p.m. (local), on June 2, 2007.

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan, or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Lake Michigan or his designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Lake Michigan or his on-scene representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Lake Michigan or his on-scene representative.

Dated: April 17, 2007.

Bruce C. Jones,

Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.

[FR Doc. E7–7948 Filed 4–25–07; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2006–0568; FRL–8305–1]

Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Albuquerque/Bernalillo County; Prevention of Significant Deterioration (PSD) and New Source Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving revisions to the State Implementation Plan (SIP) for the Albuquerque/Bernalillo County, New Mexico, area that were adopted on December 14, 2005, and submitted to EPA by the Governor of New Mexico on May 24, 2006. The SIP revisions modify the PSD and Nonattainment New Source Review (NNSR) regulations in the SIP. They were submitted to make the area's PSD and NNSR rules consistent with the Federal PSD and NNSR revised regulations, which were promulgated by EPA on December 31, 2002, (67 FR 80186), and reconsidered with minor changes on November 7, 2003, (68 FR 63021), (collectively, the ''2002 New Source Review (NSR) Reform rules''). The revisions include provisions for baseline emissions calculations, an actual-to-projected-actual methodology for calculating emissions changes, options for plantwide applicability limits, and recordkeeping and reporting requirements. The EPA is approving these revisions pursuant to section 110, part C, and part D of the Federal Clean Air Act.

DATES: This final rule is effective on May 29, 2007.

ADDRESSES: The EPA has established a docket for this action under Docket ID Number EPA–R06–OAR–2006–0568. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 Freedom of Information Act Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal is also available for public inspection at the State Air Agency listed below during official business hours by appointment:

Albuquerque Environmental Health Department, Air Pollution Control Division, One Civic Plaza, Albuquerque, New Mexico 87103.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley M. Spruiell, Air Permits Section (6PD–R), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–7212; fax number (214) 665–7263; or e-mail address *spruiell.stanley@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, any reference to ''we,'' ''us,'' or ''our'' means EPA.

Outline

I. What Action Is EPA Taking?
II. Statutory and Executive Order Reviews

I. What Action Is EPA Taking?

The EPA is taking final action to approve the SIP revisions that the Governor of New Mexico submitted May 24, 2006. This submittal consists of revisions to two regulations that are already part of the Albuquerque/Bernalillo County SIP. The affected regulations are: 20.22.60 New Mexico Administrative Code (NMAC) (Permitting in Nonattainment Areas) and 20.22.61 NMAC (Prevention of Significant Deterioration). These revisions update the Albuquerque/Bernalillo County Air Quality Control Board (AQCB) NNSR and PSD regulations to ensure that the regulations are consistent with the 2002 New Source Review Reform Rules.

The SIP revision also includes other non-substantive changes to AQCB's PSD and NNSR rules needed to update the regulatory citations, make clarifying revisions to the regulatory text, correct typographical errors, and ensure that the regulations are consistent with all

current Federal requirements for PSD and NNSR. These non-substantive changes do not change the regulatory requirements.

On February 15, 2007 (72 FR 7361), we published our proposed approval of this SIP revision. The February 15, 2007, proposal provided detailed information about the Albuquerque/Bernalillo County SIP revisions that are being approved today. The proposal also provided a detailed analysis of EPA's rationale for approving the Albuquerque/Bernalillo County SIP revisions. In the proposal, we provided opportunity for public comment on the proposed action. The public comment period for this proposed rulemaking ended March 19, 2007. We received no comments, adverse or otherwise, on the proposed rulemaking. We are therefore finalizing our proposed approval without changes. For more details on this submittal, please refer to the proposed rulemaking and to the Technical Support Document, which is in the docket for this action.

The EPA is also making a non-substantive administrative change to the title of the second table under 40 CFR 52.1620(c), which incorporates the SIP-approved Albuquerque/Bernalillo County regulations. The title of this table currently is ''EPA Approved Albuquerque/Bernalillo County, NN Regulations.'' The EPA is changing this title to ''EPA Approved Albuquerque/Bernalillo County, NM Regulations.''

II. Statutory and Executive Order Reviews

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

This rule also does not have tribal implications because it will not have a substantial direct effect on: One or more Indian tribes, the relationship between the Federal Government and Indian tribes, or the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. The EPA interprets Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), as applying only to those regulatory actions that concern health or safety risks such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it approves a State program. Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Because this rule merely approves a State rule implementing a Federal standard, EPA lacks the discretionary authority to modify today's regulatory decision on the basis of environmental justice considerations.

In reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 25, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: April 17, 2007.

Richard E. Greene,

Regional Administrator, Region 6.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart GG—New Mexico

■ 2. Section 52.1620 is amended as follows:

■ a. The title of the second table in paragraph (c) is revised to read: ''EPA Approved Albuquerque/Bernalillo County, NM Regulations''

■ b. The second table in § 52.1620(c) entitled ''EPA Approved Albuquerque/Bernalillo County, NM Regulations'' is amended as follows:

■ i. By revising the entry for Part 60 (20.11.60).

■ ii. By revising the entry for Part 61 (20.11.61).

The amendments read as follows:

§ 52.1620 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED ALBUQUERQUE/BERNALILLO COUNTY, NEW MEXICO REGULATIONS

State citation	Title/subject	State submittal/ effective date	EPA approval date	Explanation
*	*	*	*	*
New Mexico Administrative Code Title 20—Environmental Protection, Chapter 11—Albuquerque/Bernalillo County Air Quality Control Board				
*	*	*	*	*
Part 60 (20.11.60)	Permitting in Nonattainment Areas.	12/14/05	4/26/07 [Insert FR page number where document begins].	
Part 61 (20.11.61)	Prevention of Significant Deterioration.	12/14/05	4/26/07 [Insert FR page number where document begins].	
*	*	*	*	*

* * * * *

[FR Doc. E7–7896 Filed 4–25–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 1051

[EPA–HQ–OAR–2006–0858; FRL–8305–8]

RIN 2060–A035

Extension of Temporary Exhaust Emission Test Procedure Option for All Terrain Vehicles

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: In a rule published November 8, 2002, EPA promulgated new emission standards for recreational vehicles beginning in model year 2006. This included a newly regulated class of nonroad vehicles/engines commonly referred to as all-terrain vehicles. In that rulemaking, a temporary provision was included allowing manufacturers to test all-terrain vehicles over a steady-state, engine-based, duty cycle for exhaust emissions prior to the 2009 model year in lieu of the transient, chassis-based, Federal Test Procedure which was effective for 2006 and later model years. In this rulemaking we are taking direct final action to extend the availability of this temporary provision for in some cases up to an additional six model years. More specifically, manufacturers would have to certify exhaust emission engine families representing not less than 50 percent of their US-directed production on the Federal Test Procedure in model year 2014 and 100 percent in 2015. Manufacturers with only one all terrain vehicle exhaust emission engine family would not be required to use the Federal Test Procedure until the 2015 model year. For those manufacturers who have not yet done so, this will allow additional time to certify to the previously promulgated Federal Test Procedure-based emission standards using either contract facilities or by obtaining in-house capability.

DATES: This direct final rule is effective on June 25, 2007, without further notice, unless we receive adverse comments by May 29, 2007 or a request for a public hearing by May 11, 2007. If EPA receives such comments or such a request, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2005–0858, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- E-mail: *a-and-r-docket@epa.gov*
- Fax: (202) 566–1741
- Mail: Environmental Protection Agency, Mail Code: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC, 20460. Please include two copies.
- Hand Delivery: EPA Docket Center (Air Docket), U.S. Environmental Protection Agency, EPA West Building, 1301 Constitution Avenue, NW., Room: 3334 Mail Code: 6102T, 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.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2006–0858. 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 infonnation 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 EPA Docket Center, EPA/DC, EPA West, Room 3334, 1301 Constitution Avenue, 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 Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Michael Samulski, Assessment and Standards Division, Office of Transportation and Air Quality, 2000 Traverwood Drive, Ann Arbor, MI, 48105; telephone number: (734) 214–4532; fax number: (734) 214–4050; email address: *samulski.michael@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Why is EPA Using a Direct Final Rule?

EPA is publishing this rule without a prior proposal because we view this action as noncontroversial and anticipate no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to adopt the provisions in this Direct Final Rule if adverse comments are received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If EPA receives adverse comment or a request for public hearing, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We would address all public comments in any subsequent final rule based on the proposed rule.

II. Does This Action Apply to Me?

This action will affect companies that manufacture and certify all-terrain vehicles for sale in the United States.

Category	NAICS code [a]	Examples of potentially affected entities
Industry	336999	Snowmobiles and all-terrain vehicle manufacturers.
Industry	421110	Independent commercial importers of vehicles and parts.

[a] North American Industry Classification System (NAICS).

To determine whether particular activities may be affected by this action, you should carefully examine the regulations. You may direct questions regarding the applicability of this action as noted in **FOR FURTHER INFORMATION CONTACT**.

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

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

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

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

IV. Summary of Rule

The current exhaust emission standards for all-terrain vehicles (ATVs) are based on the use of the chassis-based transient emission test cycle used for Class I highway motorcycles. These emission standards first took effect in the 2006 model year. As an option, section 1051.145(b) of the regulations includes a temporary provision which allows ATV manufacturers to certify their products for exhaust emissions over a steady-state, engine-based, duty cycle. This option is now in place for model years 2006–2008, inclusive. This option has existed in California since 1997 and it is permanently available under the California regulations. Until recently, for their California certification most manufacturers have elected to use the optional engine cycle. EPA included the optional test cycle in its rule because it enabled the implementation of emission controls for ATVs several years earlier than otherwise would have been possible if ATV manufacturers had been required to certify their products on the chassis-based FTP. For many manufacturers, additional lead time would have been required to procure and install the necessary chassis dynamometers and related emissions measurement equipment, train technicians, and then to certify their products on this chassis cycle. In this rulemaking, we are extending the availability of this option for reasons described below.

The steady-state duty cycle, often referred to as J1088, has six modes and was originally developed to represent the operation of small utility engines. It only includes engine operation at idle and one other speed. During the course of the original rulemaking, EPA expressed its concern that the J1088 test cycle misses substantial portions of typical ATV operation. EPA stated that it preferred using the transient motorcycle FTP as the basis for the test procedures and emission standards in a long-term ATV program. However, many manufacturers expressed support for the long-term use of the optional test procedure to certify their engines, as was allowed in California, primarily due to costs associated with installing

chassis dynamometer facilities capable of meeting FTP requirements.

EPA recognized the manufacturers' interests regarding facility costs associated with FTP testing for ATVs. During the rulemaking, EPA discussed the possibility of developing a new test cycle specifically for ATVs. EPA discussed its intent to work with all interested parties to determine whether a new test cycle and accompanying standards would be appropriate. By finalizing the temporary J1088 option, EPA provided time to develop, and if appropriate, adopt and implement an alternative to the FTP that meets the needs of the Agency, manufacturers, and other parties. EPA indicated that it would consider extending the availability of the J1088 option beyond the 2008 model year, if necessary, to give more time to adopt changes to the ATV test cycle.

Soon after the final rule was published for the ATV emission standards, EPA entered a memorandum of understanding (MOU) with the California Air Resources Board, the Motorcycle Industry Council, and the Specialty Vehicle Institute of America, regarding ATV test cycle development and implementation with the goal of developing and implementing a test cycle for ATVs that would be agreed to by all participants. In response to the MOU, the manufacturers collected data on ATV operating characteristics in the field (speed, load, etc.) in an attempt to better inform the signatories to the MOU on the operating characteristics of these vehicles. This data was provided to EPA in November 2005 together with a manufacturer concept on a possible steady state test cycle derived from this field data and some data comparing emissions on this cycle to those on the FTP. This information is available in the public docket for this rulemaking.

EPA very carefully considered the data and analyses provided by the manufacturers with the core question being whether ATV operation is fundamentally steady-state or transient in nature. Beyond this, EPA fully considered the steady-state test cycle put forth by the manufacturers. However, EPA is concerned that much of the possible operating range of ATV engines was not covered in the test cycle proposed by the manufacturers and that transient operation is not represented at all. In an effort to at least partially resolve this matter, EPA put forth the idea of adding Not-To-Exceed requirements to the industry cycle such as required in other EPA rules where steady-state testing is prescribed. However, EPA and the industry could not agree on a concept or appropriate multipliers.

Thus, EPA believes it is time to close deliberations on a new emissions test cycle, leaving in place the current provision that the FTP and the emission standards promulgated in 2002 would take effect if an alternative test cycle was not implemented. While many manufacturers have already certified on the FTP, the manufacturers involved in the MOU postponed investing in the chassis dynamometer testing facilities needed for the FTP in the good faith hope that an engine dynamometer based alternative cycle could be developed. Since this will not be the case, it is appropriate to determine how much lead time is needed to complete full transition to the FTP in an orderly manner. Time is not now available to procure and implement the chassis dynamometer and meet the emission standards called for by EPA's 2009 requirement.

EPA believes that a period of five additional model years is appropriate before FTP-based testing should be mandated and that one additional model year is needed to accommodate a phase-in and small business interests. As mentioned in the summary above, exhaust emission engine families representing at least 50 percent of US-directed production would have to be certified on the FTP in the 2014 model year with the remainder in 2015 model year. Manufacturers with only one exhaust emission engine family in the 2014 model year would not be required to comply until the 2015 model year.

To allow for the use of current emission sampling practices used with the J1088 cycle, this action also extends the availability of raw gas sampling. It will be available for use with the J1088 cycle as long as the J1088 cycle can be used for ATV exhaust emission certification.

In determining how much lead time is needed EPA considered the following factors. Time is needed to build chassis test facilities, procure and install chassis dynamometers and related emission test equipment, train personnel on use of this equipment, conduct the development work needed to meet the emission standards, and ultimately to certify. Generally speaking, the first two items would take approximately 36 months to complete, the next two would take about 24 months, and the last step, certification, about 12 months. Thus, products would be ready for the 2014 model year. The original rule provided six years of lead time for the FTP requirement. It was promulgated in late 2002 and absent a change in the test cycle would be required for the 2009 model year (mid-late 2008). Thus five of the six years have passed. During this timeframe large manufacturers would also have to acquire the facilities and equipment to run the required production line testing programs beginning in the 2014 model year.

It is worth noting that in the 2007 model year many small volume manufacturers, almost exclusively from Asia, have certified using the FTP. However, information available to EPA suggests that most of these manufacturers avoided installing new equipment either by using time available on co-located or nearby chassis dynamometers used for motorcycle development or by contracting with one of a few contract labs in the Asia. Generally, such options are not readily available to the larger volume manufacturers who have not yet pursued chassis dynamometer facilities for certification of their ATVs and who must have production line testing capability as well.

EPA does not expect that this revision to the regulation will have an adverse cost impact to the manufacturers beyond that envisioned in the original rule. It will give manufacturers additional time to use current practices while moving toward mandatory use of the FTP for ATV emissions certification. We expect this extension will help to ensure compliance costs are minimized and that the emission reductions identified in the 2002 rule are achieved. Even the J1088 test cycle has reduced emissions significantly by eliminating ATVs powered by high emitting two-stroke engines as a new product offering. Adopting the FTP will help to ensure robust emission control in ATVs using 4-stroke engines by including consideration of transient operation and vehicle/engine operation over a wider variety of conditions than that seen in the J1088 cycle.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the Executive Order. This direct final rule merely gives an extension of time in which a temporary optional test duty cycle may be used. There are no costs associated with this rule beyond those envisioned in the original rule.

B. Paperwork Reduction Act

This direct final rule does not include any new collection requirements, as it acts to extend the availability of an existing temporary test procedure option. There are no new paperwork requirements associated with this rule.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this direct final rule.

For purposes of assessing the impacts of this final rule on small entities, a small entity is defined as: (1) A small business that meet the definition for business based on SBA size standards at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-far-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the proposed rule on small entities.'' 5 U.S.C. 603 and 604. Thus, an agency may conclude that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

This direct final rule merely gives an extension of time in which a temporary optional test duty cycle may be used. We have therefore concluded that today's final rule will relieve regulatory burden for all small entities and will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

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

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

This rule contains no federal mandates for state, local, or tribal governments as defined by the provisions of Title II of the UMRA. The rule imposes no enforceable duties on any of these governmental entities. Nothing in the rule would significantly or uniquely affect small governments. EPA has determined that this rule contains no federal mandates that may result in expenditures of more than $100 million to the private sector in any single year. This direct final rule merely gives an extension of time in which a temporary optional test duty cycle may be used. The requirements of UMRA therefore do not apply to this action.

E. Executive Order 13132: Federalism

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

Under Section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the regulation.

Section 4 of the Executive Order contains additional requirements for rules that preempt State or local law, even if those rules do not have federalism implications (i.e., the rules will not have substantial direct effects on the States, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government). Those requirements include providing all affected State and local officials notice and an opportunity for appropriate participation in the development of the regulation. If the preemption is not based on express or implied statutory

authority, EPA also must consult, to the extent practicable, with appropriate State and local officials regarding the conflict between State law and Federally protected interests within the agency's area of regulatory responsibility.

This rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This direct final rule merely gives an extension of time in which a temporary optional test duty cycle may be used.

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

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (59 FR 22951, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This rule does not uniquely affect the communities of Indian Tribal Governments. Further, no circumstances specific to such communities exist that would cause an impact on these communities beyond those discussed in the other sections of this rule. This direct final merely gives an extension of time in which a temporary optional test duty cycle may be used. Thus, Executive Order 13175 does not apply to this rule.

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

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, Section 5–501 of the Order directs the Agency to evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This direct final gives an extension of time in which a temporary optional test duty cycle may be used beyond that time period prescribed in the original rule.

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

This rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. This direct final rule merely gives an extension of time in which a temporary optional test duty cycle may be used.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (such as materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This direct final rule does not involve technical standards. This direct final rule merely gives an extension of time in which a temporary optional test duty cycle may be used. Thus, we have determined that the requirements of the NTTAA do not apply.

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

Executive Order 12898 (59 FR 7629 (February 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This direct final rule merely gives an extension of time in which a temporary optional test duty cycle may be used before it expires.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 et seq., as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to Congress and the Comptroller General of the United States. We will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States before publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This direct final rule is effective on June 25, 2007.

L. Statutory Authority

The statutory authority for this action comes from section 213 of the Clean Air Act as amended (42 U.S.C. 7547). This action is a rulemaking subject to the provisions of Clean Air Act section 307(d). See 42 U.S.C. 7607(d):

List of Subjects in 40 CFR Part 1051

Environmental protection, Air pollution control, Exhaust emission

testing, Recreational vehicle, All-terrain vehicle.

Dated: April 19, 2007.

Stephen L. Johnson,

Administrator.

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

PART 1051—CONTROL OF EMISSIONS FROM RECREATIONAL ENGINES AND VEHICLES

■ 1. The authority citation for part 1051 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

■ 2. Section 1051.145 is amended by revising paragraphs (b) introductory text and (e)(2) to read as follows:

§ 1051.145 What provisions apply only for a limited time?

* * * * *

(b) *Optional emission standards for ATVs.* To meet ATV standards for model years before 2014, you may apply the exhaust emission standards by model year in paragraph (b)(1) of this section while measuring emissions using the engine-based test procedures in 40 CFR part 1065 instead of the chassis-based test procedures in 40 CFR part 86. In model year 2014 you may apply this provision for exhaust emission engine families representing up to 50 percent of your U.S.-directed production. This provision is not available in the 2015 or later-model years. If you certify only one ATV exhaust emission engine family in the 2014 model year this provision is available for that family in the 2014 model year.

* * * * *

(e) * * *

* * * * *

(2) *ATV.* You may use the raw sampling procedures described in 40 CFR part 90 or 91 for ATVs certified using engine-based test procedures as specified in § 1051.615 before the 2015 model year. You may use these raw sampling procedures for any ATVs certified using engine-based test procedures as specified in paragraph (b) of this section.

* * * * *

[FR Doc. 07–2069 Filed 4–25–07; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Base (1% annual chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each 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 date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final 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) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director of FEMA has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This final 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 final 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 final rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This final 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 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.

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. * Elevation in feet (NGVD) + Elevation in feet (NAVD) Modified
Union County, Arkansas Docket No.: FEMA–B–7456				
Arkansas	Union County, (Unincorporated Areas).	F Creek	Approximately at Highway 7 and F Creek	+133
			Confluence of F Creek and F Creek Tributary FC.	+171
	Union County, (Unincorporated Areas).	Ouachita River	Approximately 1,700 feet Northwest of New Lock 8 and Ouachita River.	+97
			Approximately at Ouachita River and Highway 167.	+100
	Union County, (Unincorporated Areas).	Ouachita River	Approximately at New Lock Road 6	+91
			South end of Old Lock 6 Road	+91
	Union County, (Unincorporated Areas).	Boggy Creek	Approximately at Highway 82 and Boggy Creek.	+186
			Approximately 1,200 feet downstream from E. Main Street and Boggy Creek.	+213
	Union County, (Unincorporated Areas).	Lapile Creek	Approximately at Lapile Creek and Highway 82.	+103
			Approximately at Lapile Creek and Highway 275.	+107
	Union County, (Unincorporated Areas).	Loutre Creek Tributary 2	Confluence of Loutre Creek Tributary 2 and Loutre Creek Main Stem.	+192
			Approximately 1,000 feet downstream from Loutre Creek Tributary 2 and Robert E. Lee Street.	+203
	Union County, (Unincorporated Areas).	Loutre Creek Main Stem	Approximately at Loutre Creek Main Stem and Ouachita Railroad.	+186
			Confluence of Loutre Creek Tributary 2 and Loutre Creek Main Stem.	+192

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ North American Vertical Datum.

ADDRESSES

Union County (Unincorporated Areas)

Maps are available for inspection at Union County Courthouse, 101 N. Washington St., Ste 101, El Dorado, Arkansas 71730.

Guam Docket No.: FEMA–D–7674				
Guam		Agana River	At downstream side of Marine Drive (Route 1).	*7
			Approximately 350 feet upstream of O'Brien Drive.	*13

#Depth in feet above ground.
*National Geodetic Vertical Datum.
+North American Vertical Datum.

ADDRESSES

Guam

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. * Elevation in feet (NGVD) + Elevation in feet (NAVD) Modified
Maps are available for inspection at the Guam Department of Public Works, Government of Guam, 542 North Marine Drive, Building A, Tamuning, Guam.				
City of Anthon, Iowa Docket No.: FEMA–B–7704				
Iowa	City of Anthon / Woodbury County.	Little Sioux River	At southern corporate limit, approximately 5,000 feet downstream of 220th Street Bridge.	*1,100
			At northern corporate limit, approximately 5,500 feet upstream of 220th Street Bridge.	*1,105

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ North American Vertical Datum.

ADDRESSES

City of Anthon

Maps are available for inspection at City Hall, 301 East Main Street, Anthon, Iowa 51004.

City of Watertown, South Dakota Docket No.: FEMA–B–7462				
South Dakota	City of Watertown	Big Sioux River	Approximately 4,675 feet downstream of 20th Avenue South.	+1,714
			Approximately 1,900 feet upstream from the 14th Avenue North Bridge.	+1,723
	City of Watertown	Roby Creek	At 3rd Avenue North bridge	+1,735
			Approximately 3,750 feet upstream of 3rd Avenue North bridge.	+1,745
	City of Watertown	Pelican Lake	Pelican Lake	+1,717

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ North American Vertical Datum.

ADDRESSES

City of Watertown

Maps are available for inspection at: City Hall, 23 2nd Street NE, Watertown, SD.

Town of Hulett, Wyoming Docket No.: FEMA–B–7460				
Wyoming	Town of Hulett	Belle Fourche River	0.75 miles downstream of State Highway 24.	+3,747
			0.48 miles upstream of State Highway 24	+3,754

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ North American Vertical Datum.

ADDRESSES

Town of Hulett

Maps are available for inspection at The Town of Hulett.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground. Modified	Communities affected
Escambia County, Alabama and Incorporated Areas Docket No.: FEMA–B–7702			
Big Escambia Creek	U.S. 29 and U.S. 31 Crossing	+73	Escambia County (Unincorporated Areas).
	Approximately 8,000 feet upstream of U.S. 9 and U.S. 31 Crossing.	+78	
Burnt Corn	Approximately 6,200 feet upstream of confluence with Murder Creek.	+88	Escambia County (Unincorporated Areas).
	Approximately 1,500 feet upstream of confluence with Little Juniper Creek.	+109	
Conecuh River	Approximately 6,000 feet upstream of confluence with Murder Creek.	+79	Town of Riverview, Escambia County (Unincorporated Areas).
	Approximately 31,000 feet upstream of confluence with Murder Creek.	+86	
Franklin Mill Creek	Approximately 4,000 feet upstream of confluence with Murder Creek.	+69	Escambia County (Unincorporated Areas).
	Approximately 4,000 feet upstream of Booth Boulevard Crossing.	+91	
King Branch	Confluence with Murder Creek	+90	Escambia County (Unincorporated Areas).
	Martin Luther King Drive Crossing	+109	
Mantle Branch	Confluence with Conecuh River	+82	Escambia County (Unincorporated Areas).
	Forrest Avenue (U.S. 29) Crossing	+82	
Murder Creek	Approximately 11,000 feet upstream of confluence with Conecuh River.	+81	Escambia County (Unincorporated Areas).
	Approximately 10,000 feet upstream of confluence with King Branch.	+95	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

Town of Riverview

Maps are available for inspection at 4190 Highway 41, Brewton, AL 36426.

Escambia County (Unincorporated Areas)

Maps are available for inspection at 314 Belleville Avenue, Brewton, AL 36426.

Calhoun County, Alabama and Incorporated Areas Docket No.: FEMA–B–7702			
Coosa River	Talladega County Line	+479	Calhoun County (Unincorporated Areas).
	Etowah County Line	+510	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

Town of Ohatchee

Maps are available for inspection at 7801 Alabama Highway 77, Ohatchee, AL 36271.

Calhoun County (Unincorporated Areas)

Maps are available for inspection at 507 Francis Street W, Jacksonville, AL 36265.

Talladega County, Alabama, and Incorporated Areas Docket No.: FEMA–B–7702			
Blue Eye Creek	Approximately 2,000 feet downstream of McLain Avenue Crossing.	+482	Talladega County (Unincorporated Areas).
	Approximately 1,000 feet upstream of McLain Avenue Crossing.	+486	
Coosa River	Approximately 13,000 feet downstream of confluence with Talladega Creek.	+413	Talladega County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground. Modified	Communities affected
	Approximately 3,000 feet downstream of confluence with Talladega Creek.	+414	
Coosa River	Shelby County Line	+418	Town of Lincoln, Talladega County (Unincorporated Areas).
	Calhoun County Line	+479	
Crooked Creek	Approximately 4,500 feet downstream of 3rd Street Crossing	+521	Talladega County (Unincorporated Areas).
	Approximately 2,000 feet downstream of 3rd Street Crossing	+526	
Griffin Branch	Approximately 7800 feet downstream of Bon Air Road Crossing.	+421	City of Childersburg, Town of Bon Air, Talladega County (Unincorporated Areas).
	U.S. Highway 280 Crossing	+469	
Shirtee Creek	Odena Road Crossing	+465	Talladega County (Unincorporated Areas).
	Approximately 3,000 feet upstream of Odena Road Crossing	+471	
Talladega Creek	Confluence with Coosa River	+417	Talladega County (Unincorporated Areas).
	Approximately 8,000 feet upstream of confluence with Coosa River.	+418	
Upper Shirtee Creek	Approximately 1,000 feet downstream of Old Birmingham Highway Crossing.	+516	Talladega County (Unincorporated Areas).
	Old Birmingham Highway Crossing	+518	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

City of Childersburg

Maps are available for inspection at 118 Sixth Avenue, SW, Childersburg, AL 35044.

Town of Bon Air

Maps are available for inspection at 500 Institute Lane, Talladega, AL 35161.

Town of Lincoln

Maps are available for inspection at 33 Complex Drive, Linclon, AL 35096.

Talladega County (Unincorporated Areas)

Maps are available for inspection at 500 Institute Lane, Talladega, AL 35161.

Benton County, Arkansas and Incorporated Areas
Docket No.: FEMA–B–7465

Little Osage Creek	Approximately 500 feet upstream from the intersection with West Fish Hatchery Road.	+1258	City of Centerton.
	Approximately 100 feet upstream from the intersection with Centerton Blvd.	+1278	
McKisic Creek	At Confluence with Little Sugar Creek	+1037	Benton County (Unincorporated Areas), City of Bentonville, City of Centerton.
	Approximately 300 feet upstream from the intersection of Harvest Street and Tyler Street.	+1291	
Osage Tributary 1	Approximately 1000 feet downstream from the intersection with Stoney Brook Road.	+1197	Benton County (Unincorporated Areas), City of Bentonville, City of Rogers.
	Approximately 100 feet upstream from the intersection with 14th Street.	+1302	
Osage/Turtle Creek	Approximately 500 feet downstream from the intersection of Inglewood Road and Osage Creek Road.	+1160	Benton County (Unincorporated Areas), City of Cave Springs, City of Rogers.
	Approximately 200 feet downstream from the intersection of West Persimmon Street and North 4th Street.	+1347	
Tributary 3 to Sager Creek	Approximately 1000 feet downstream from the intersection with Orchard Hill Road.	+1042	Benton County (Unincorporated Areas), City of Siloam.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground. Modified	Communities affected
	Approximately 150 feet upstream from the intersection with North Mt. Olive Street.	+1087	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

City of Bentonville

Maps are available for inspection at 305 Southwest A Street, Bentonville, AR 72712.

City of Cave Springs

Maps are available for inspection at 137 N. Main, Cave Springs, AR 72718.

City of Centerton

Maps are available for inspection at 290 Main Street, Centerton, AR 72719.

City of Rogers

Maps are available for inspection at 207 South 2nd, Rogers, AR 72756.

City of Siloam Springs

Maps are available for inspection at 400 North Broadway, Siloam Springs, AR 72761.

Unincorporated Areas of Benton County

Maps are available for inspection at 905 Northwest 8th Street, Bentonville, AR 72712.

Gulf County, Florida and Incorporated Areas
Docket No.: FEMA–B–7702

Five Acre Farm Creek East	Approximately 800 feet downstream of County Route 381	+23	Gulf County (Unincorporated Areas).
	Approximately 1.0 mile upstream of County Route 381	+26	
Five Acre Farm Creek West	Approximately 1.6 miles downstream of State Route 71	+25	Gulf County (Unincorporated Areas).
	Just upstream of State Route 71	+26	
Stone Mill Creek	Approximately 0.4 mile downstream of State Route 71	+30	Gulf County (Unincorporated Areas), City of Wewahitchka.
	Approximately 2.8 miles upstream of State Route 71	+31	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

Gulf County (Unincorporated Areas)

Maps are available for inspection at the Gulf County Courthouse, 1000 Cecil G. Costin, Sr. Boulevard, Room 302, Port St. Joe, Florida.

City of Wewahitchka

Maps are available for inspection at the Wewahitchka City Hall, 109 South 2nd Street, Wewahitchka, Florida.

Seminole County, Florida and Incorporated Areas
Docket No.: FEMA–B–7462, FEMA–B–7702

Bel Air Lake		+45	Seminole County (Unincorporated Areas).
Big Lake Mary		+43	City of Lake Mary.
Bird Lake		+61	City of Longwood.
Boat Lake		+53	Seminole County (Unincorporated Areas).
Border Lake		+77	Seminole County (Unincorporated Areas), City of Winter Springs.
Canal Between Lake Wildmere and Fairy Lake.	Approximately 175 feet downstream of Foggy Brook Place	+58	City of Longwood.
	Approximately 63 feet downstream of Wildmere Avenue	+63	
Clear Lake		+64	Seminole County (Unincorporated Areas).
Crane Lake		+63	City of Longwood.
Crystal Bowl		+65	City of Casselberry.
Cyrstal Lake		+45	City of Lake Mary.
Dawson Lake		+45	City of Lake Mary.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground. Modified	Communities affected
Deep Lake		+55	Seminole County (Unincorporated Areas).
De Forest Lakes		+45	Seminole County (Unincorporated Areas).
Duck Pond		+58	City of Casselberry.
East Lake		+62	City of Longwood.
Fairy Lake		+58	Seminole County (Unincorporated Areas), City of Longwood.
Fairy Lake Drainage Canal	At Grant Street	+58	City of Longwood.
	Approximately 20 feet downstream of East Lake Street	+79	
Golden Lake		+41	Seminole County (Unincorporated Areas), City of Sanford.
Golf Course Lake 1		+52	City of Sanford.
Lake 2		+50	City of Lake Mary.
Lake 3		+48	City of Lake Mary.
Lake 4		+48	City of Lake Mary.
Grace Lake		+67	Seminole County (Unincorporated Areas).
Grassey Lake		+87	Seminole County (Unincorporated Areas).
Grassy Lake Drainage Channel to Triplet Lake.	Approximately 230 feet downstream of South Triplet Drive	+56	City of Casselberry.
	Approximately 1,170 feet upstream of Southcot Road	+80	
Gull Lake		+69	City of Longwood.
Hidden Lake		+39	City of Sanford.
Island Lake (Longwood)		+85	City of Longwood.
Lake 1		+50	City of Lake Mary.
Lake 13		+51	Seminole County (Unincorporated Areas).
Lake 14		+65	Seminole County (Unincorporated Areas).
Lake 15		+61	Seminole County (Unincorporated Areas).
Lake 16		+50	Seminole County (Unincorporated Areas).
Lake 17		+25	Seminole County (Unincorporated Areas).
Lake 18		+66	Seminole County (Unincorporated Areas).
Lake 19		+72	Seminole County (Unincorporated Areas).
Lake 2		+46	City of Lake Mary.
Lake 20		+68	Seminole County (Unincorporated Areas).
Lake 21		+72	Seminole County (Unincorporated Areas).
Lake 22		+50	City of Lake Mary.
Lake 23		+46	Seminole County (Unincorporated Areas), City of Sanford.
Lake 24		+52	Seminole County (Unincorporated Areas), City of Sanford.
Lake 25		+51	City of Sanford, City of Lake Mary.
Lake 26		+46	City of Lake Mary.
Lake 27		+47	City of Lake Mary.
Lake 28		+45	Seminole County (Unincorporated Areas).
Lake 29		+44	Seminole County (Unincorporated Areas).
Lake 3		+45	City of Lake Mary.
Lake 30		+48	City of Lake Mary.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground. Modified	Communities affected
Lake 31		+46	Seminole County (Unincorporated Areas).
Lake 32		+80	Seminole County (Unincorporated Areas).
Lake 33		+67	City of Longwood.
Lake 34		+60	City of Longwood.
Lake 35		+64	Seminole County (Unincorporated Areas).
Lake 36		+86	Seminole County (Unincorporated Areas).
Lake 37		+65	City of Longwood.
Lake 38		+59	Seminole County (Unincorporated Areas).
Lake 39		+59	Seminole County (Unincorporated Areas).
Lake 40		+41	Seminole County (Unincorporated Areas).
Lake 41		+56	City of Casselberry, City of Winter Springs.
Lake 42		+70	City of Casselberry.
Lake 43		+76	City of Casselberry.
Lake 44		+58	City of Casselberry.
Lake 45		+64	City of Casselberry.
Lake 46		+58	Seminole County (Unincorporated Areas).
Lake 47		+59	Seminole County (Unincorporated Areas), City of Casselberry.
Lake 48		+61	City of Winter Springs.
Lake 49		+58	City of Winter Springs.
Lake 50		+55	City of Winter Springs.
Lake 51		+50	City of Winter Springs.
Lake 52		+52	City of Winter Springs.
Lake 53		+55	City of Winter Springs.
Lake 54		+51	City of Winter Springs.
Lake 55		+61	Seminole County (Unincorporated Areas).
Lake 56		+42	City of Winter Springs.
Lake 57		+51	City of Oviedo.
Lake 58		+52	City of Oviedo.
Lake 59		+60	City of Oviedo.
Lake 60		+43	Seminole County (Unincorporated Areas).
Lake 61		+43	Seminole County (Unincorporated Areas).
Lake 62		+43	Seminole County (Unincorporated Areas).
Lake 63		+26	Seminole County (Unincorporated Areas).
Lake 64		+26	Seminole County (Unincorporated Areas).
Lake 65		+24	Seminole County (Unincorporated Areas).
Lake 66		+55	Seminole County (Unincorporated Areas).
Lake 67		+52	Seminole County (Unincorporated Areas).
Lake 68		+43	Seminole County (Unincorporated Areas).
Lake 69		+63	Seminole County (Unincorporated Areas).
Lake 70		+89	Seminole County (Unincorporated Areas).
Lake 71		+64	Seminole County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground. Modified	Communities affected
Lake 72		+64	Seminole County (Unincorporated Areas).
Lake 73		+106	Seminole County (Unincorporated Areas).
Lake 74		+114	Seminole County (Unincorporated Areas).
Lake 75		+125	Seminole County (Unincorporated Areas).
Lake 76		+51	City of Lake Mary.
Lake 77		+51	City of Lake Mary.
Lake 78		+46	City of Lake Mary.
Lake 79		+46	City of Lake Mary.
Lake Ada		+40	City of Sanford.
Lake Alma		+59	Seminole County (Unincorporated Areas).
Lake Anette		+57	City of Casselberry.
Lake Bingham		+44	City of Lake Mary.
Lake Brantley		+48	Seminole County (Unincorporated Areas).
Lake Cecile		+57	City of Casselberry.
Lake Charm		+45	City of Oviedo.
Lake Como		+46	City of Lake Mary.
Lake Concord		+62	City of Casselberry.
Lake Ellen		+68	City of Casselberry.
Lake Emily		+57	City of Casselberry.
Lake Emma		+45	City of Lake Mary.
Lake Evergreen		+63	City of Longwood.
Lake Fern		+64	City of Longwood.
Lake Gem		+74	City of Longwood.
Lake Geoffrey		+51	(Seminole County (Unincorporated Areas).
Lake Greenwood		+45	Seminole County (Unincorporated Areas), City of Casselberry.
Lake Griffin		+77	City of Lake Mary, City of Casselberry, City of Longwood.
Lake Hodge		+51	Seminole County (Unincorporated Areas).
Lake Irene North		+59	Seminole County (Unincorporated Areas), City of Casselberry.
Lake Irene South		+62	Seminole County (Unincorporated Areas).
Lake Jane		+66	City of Longwood.
Lake Jennie		+38	Seminole County (Unincorporated Areas).
Lake Lotus		+86	Seminole County (Unincorporated Areas).
Lake Lucerne		+58	Seminole County (Unincorporated Areas), City of Casselberry.
Lake Maltbie		+91	City of Altamonte Springs.
Lake Marie		+57	City of Casselberry.
Lake Minnie		+37	Seminole County (Unincorporated Areas).
Lake Onora		+45	Seminole County (Unincorporated Areas).
Lake Orange		+76	City of Longwood.
Lake Pickett		+58	Seminole County (Unincorporated Areas).
Lake Ruth		+64	Seminole County (Unincorporated Areas), City of Longwood.
Lake Searcy		+70	City of Longwood.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground. Modified	Communities affected
Lake Talmo		+59	City of Longwood, City of Sanford.
Lake Tony		+59	Seminole County (Unincorporated Areas), City of Winter Springs.
Lake Wayman		+76	City of Longwood, City of Sanford.
Lake Wildmere		+63	City of Longwood.
Lake Winsor		+84	City of Longwood.
Lake Yvonne		+57	City of Casselberry.
Little Crystal Lake		+45	Seminole County (Unincorporated Areas), City of Sanford.
Little Lake Howell		+56	Seminole County (Unincorporated Areas), City of Lake Mary.
Little Lake Mary		+44	City of Sanford, City of Lake Mary.
Little Lake Wildmere		+64	City of Longwood.
Lost Lake		+56	City of Casselberry.
Mud Lake		+85	City of Longwood, City of Sanford.
North Side Lake		+68	City of Longwood.
Pearl Lake (East Altamonte Springs).		+88	Seminole County (Unincorporated Areas), City of Altamonte Springs.
Pelican Lake		+69	City of Longwood, City of Casselberry.
Piney Ridge Lake		+88	City of Casselberry.
Plaza Pool		+76	City of Casselberry.
Ponding Area 10		+67	Seminole County (Unincorporated Areas).
Ponding Area 11		+52	Seminole County (Unincorporated Areas).
Ponding Area 12		+55	Seminole County (Unincorporated Areas), City of Longwood.
Ponding Area 13		+56	Seminole County (Unincorporated Areas), City of Longwood.
Ponding Area 14		+66	City of Longwood.
Ponding Area 15		+90	Seminole County (Unincorporated Areas), City of Altamonte Springs.
Ponding Area 16		+57	City of Casselberry.
Ponding Area 17		+80	City of Casselberry.
Ponding Area 18		+75	City of Casselberry.
Ponding Area 19		+58	City of Casselberry.
Ponding Area 20		+57	City of Casselberry.
Ponding Area 21		+58	City of Casselberry.
Ponding Area 22		+50	City of Winter Springs.
Ponding Area 23		+46	City of Lake Mary.
Ponding Area 26		+47	City of Oviedo.
Ponding Area 27		+57	City of Oviedo.
Ponding Area 28		+60	City of Oviedo.
Ponding Area 29		+40	Seminole County (Unincorporated Areas).
Ponding Area 30		+44	Seminole County (Unincorporated Areas).
Ponding Area 31		+42	Seminole County (Unincorporated Areas).
Ponding Area 32		+45	Seminole County (Unincorporated Areas).
Ponding Area 33		+59	Seminole County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground. Modified	Communities affected
Ponding Area 34		+54	Seminole County (Unincorporated Areas).
Ponding Area 35		+66	Seminole County (Unincorporated Areas).
Ponding Area 6		+94	Seminole County (Unincorporated Areas).
Ponding Area 7		+22	Seminole County (Unincorporated Areas), City of Altamonte Springs.
Ponding Area 8		+61	City of Sanford.
Ponding Area 9		+59	Seminole County (Unincorporated Areas).
Pot Lake		+88	City of Altamonte Springs.
Prairie Lake		+88	Seminole County (Unincorporated Areas).
Quail Pond		+65	City of Casselberry, City of Altamonte Springs.
Queens Mirror Lake		+56	City of Casselberry.
Reservoir Lake		+44	Seminole County (Unincorporated Areas).
Rock Lake		+83	Seminole County (Unincorporated Areas), City of Sanford.
Sand Lake		+115	Seminole County (Unincorporated Areas), City of Longwood.
Secret Lake		+55	City of Casselberry.
Secret Lake Drainage Canal	Approximately 25 feet upstream of Secret Way	+56	City of Casselberry.
	Approximately 30 feet downstream of Sunset Drive	+59	
Silver Lake		+44	Seminole County (Unincorporated Areas).
Soldier Creek	Approximately 85 feet upstream of CSX Railroad	+41	Seminole County (Unincorporated Areas).
	Approximately 65 feet upstream of 14th Avenue	+60	City of Longwood.
Triplet Lake (North)		+55	City of Casselberry City of Winter Springs.
Triplet Lake (South)		+56	City of Casselberry.
Trout Lake (Casselberry)		+80	Seminole County (Unincorporated Areas), City of Casselberry, City of Longwood.
Twin Lakes (Sanford East)		+45	Seminole County (Unincorporated Areas), City of Sanford.
Twin Lakes (Sanford West)		+50	Seminole County (Unincorporated Areas), City of Sanford, City of Mary Lake.
West Lake		+65	City of Longwood.

* National Geodetic Vertical Datum.
+ National American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

City of Altamonte Springs

Maps are available for inspection at 225 Newburyport Avenue, Altamonte Springs, FL 32701.

City of Casselberry

Maps are available for inspection at 95 Triplet Lake Drive, Casselberry, FL 32707.

City of Lake Mary

Maps are available for inspection at 911 Wallace Court, Lake Mary, FL 32746.

City of Longwood

Maps are available for inspection at 175 West Warren Avenue, Longwood, FL 32750.

City of Oviedo

Maps are available for inspection at 400 Alexandria Boulevard, Oviedo, FL 32765.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground. Modified	Communities affected

City of Sanford

Maps are available for inspection at 300 North Park Avenue, Sanford, FL 32771.

City of Winter Springs

Maps are available for inspection at 1126 East S.R. 434, Winter Springs, FL 32708.

Seminole County (Unincorporated Areas)

Maps are available for inspection at Seminole County Serviced Building, 1101 East First Street, Sanford, FL 32771.

Suwannee County, Florida and Incorporated Areas
Docket No.: FEMA–B–7702

Closed Basin Area 1A	An area located approximately 0.8 mile southwest of the intersection of 104th Street and County Road 49.	+91	Suwannee County (Unincorporated Areas).
Closed Basin Area 1B	An area located approximately 460 feet east of the intersection of 112th Street and 109th Drive.	+100	Suwannee County (Unincorporated Areas).
Closed Basin Area 1C	An area located approximately 0.5 mile west of the intersection of 112th Street and County Road 49.	+91	Suwannee County (Unincorporated Areas).
Closed Basin Area 1D	An area located approximately 900 feet east of the intersection of 112th Street and County Road 49.	+115	Suwannee County (Unincorporated Areas).
Closed Basin Area 1E	An area located approximately 0.4 mile east of the intersection of 112th Street and County Road 49.	+125	Suwannee County (Unincorporated Areas).
Closed Basin Area 1F	An area located approximately 550 feet southeast of the intersection of 114th Terrace and County Road 49.	+104	Suwannee County (Unincorporated Areas).
Closed Basin Area 2A	An area located approximately 1,250 feet southeast of the intersection of 99th Lane and 146th Street.	+99	Suwannee County (Unincorporated Areas).
Closed Basin Area 2B	An area located approximately 0.25 mile northeast of the intersection of 99th Lane and 146th Street.	+98	Suwannee County (Unincorporated Areas).
Closed Basin Area 2C	An area located approximately 0.4 mile east of the intersection of 99th Lane and 146th Street.	+93	Suwannee County (Unincorporated Areas).
Closed Basin Area 2D	An area located approximately 0.6 mile southeast of the intersection of 99th Lane and 146th Street.	+93	Suwannee County (Unincorporated Areas).
Closed Basin Area 2E	An area located approximately 0.7 mile northeast of the intersection of 99th Lane and 146th Street.	+104	Suwannee County (Unincorporated Areas).

* National Geodetic Vertical Datum.
+ National American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

Suwannee County (Unincorporated Areas)

Maps are available for inspection at the Suwannee County Coordinator's Office, Suwannee County Courthouse, 200 South Ohio/MLK Jr. Avenue, Live Oak, Florida.

Bartow County, Georgia and Incorporated Areas
Docket No.: FEMA–B–7701

Raccoon Creek	Approximately 19,930 feet upstream of the confluence with Etowah River.	+705	Bartow County (Unincorporated Areas).
	Approximately 22,900 feet upstream of the confluence with Etowah River.	+708	

* National Geodetic Vertical Datum.
+ National American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

Bartow County (Unincorporated Areas)

Maps are available for inspection at the Community Map Repository, 135 West Cherokee Avenue, Suite 124, Cartersville, Georgia 30120.

Houston County, Georgia and Incorporated Areas
Docket No.: FEMA–B–7470

Howard Branch	At confluence with Sandy Run Creek	+304	City of Warner Robins, Houston County (Unincorporated Areas).
	Approximately 690 feet upstream of confluence with Sandy Run Creek.	+307	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground. Modified	Communities affected
Redding Branch	At confluence with Mossy Creek	+269	Houston County (Unincorporated Areas).
	Approximately 630 feet upstream of confluence with Mossy Creek.	+269	
Sandy Run Creek	Approximately 1,700 feet upstream of Leisure Lake Dam	+302	Houston County (Unincorporated Areas).
	Approximately 11,950 feet upstream of confluence of Howard Branch.	+310	

* National Geodetic Vertical Datum.
+ National American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

Houston County (Unincorporated Areas)

Maps are available for inspection at Houston County Building Inspections Department, 200 Carl Vinson Parkway, Warner Robins, Georgia.

City of Warner Robins

Maps are available for inspection at the City of Warner Robins Engineering Department, 700 Watson Boulevard, Warner Robins, Georgia.

Union County, Georgia and Incorporated Areas
Docket No.: FEMA–B–7702

Akins Creek/Cooks Cove Branch.	At confluence with Nottely River (Upper Reach)	*1,829	Union County (Unincorporated Areas).
	Approximately 1,690 feet upstream of Town Mountain Road	*1,903	
Anderson Creek	At confluence with Coosa Creek	*1,805	Union County (Unincorporated Areas).
	Approximately 2,660 feet upstream of the confluence with Coosa Creek.	*1,815	
Arkaqua Creek	At confluence with Nottely River (Upper Reach)	*1,832	Union County (Unincorporated Areas).
	Approximately 11,170 feet upstream of Lower Trackrock Road	*2,015	
Barnes Creek	At confluence with Ivylog Creek	*1,790	Union County (Unincorporated Areas).
	Just upstream of Ivylog Road	*1,810	
Brasstown Creek	Approximately 1,100 feet downstream of Young Harris Highway.	*1,889	Union County (Unincorporated Areas).
	Approximately 3,500 feet upstream of Young Harris Highway	*1,931	
Butternut Creek	At confluence with Nottely River (Upper Reach)	*1,783	City of Blairsville, Union County (Unincorporated Areas).
	Approximately 8,210 feet upstream of Memory Gardens Drive	*1,950	
Conley Creek	Approximately 2,750 feet downstream of Murphy Highway	*1,788	Union County (Unincorporated Areas).
	Approximately 70 feet upstream of Ivylog Road	*1,852	
Coosa Creek	Approximately 90 feet downstream of Blue Ridge Highway	*1,802	Union County (Unincorporated Areas).
	At confluence of East and West Forks Coosa Creek	*1,865	
Dooley Creek	Approximately 130 feet downstream of John Smith Road West	*1,653	Union County (Unincorporated Areas).
	Approximately 855 feet upstream of R.T. Lance Road	*1,784	
East Fork Coosa Creek	At confluence with Coosa Creek	*1,865	Union County (Unincorporated Areas).
	Approximately 3,030 feet upstream of Crawley Gap Road	*1,950	
Ivylog Creek	Approximately 100 feet downstream of the confluence of Barnes Creek.	*1,789	Union County (Unincorporated Areas).
	Approximately 3,280 feet upstream of Gumlog Road	*1,899	
Jones Creek	At confluence with Youngcane Creek	*1,877	Union County (Unincorporated Areas).
	Approximately 360 feet upstream of R Way Road	*1,955	
Kiutuestia Creek	Approximately 50 feet downstream of Kiutuestia Creek Road	*1,783	Union County (Unincorporated Areas).
	Just downstream of Pleasant Grove Road	*1,884	
Little Youngcane Creek	At confluence with Youngcane Creek	*1,877	Union County (Unincorporated Areas).
	Approximately 50 feet upstream of Blue Ridge Highway	*1,935	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground. Modified	Communities affected
Nottely Lake	Entire Shoreline	*1,783	Union County (Unincorporated Areas).
Nottely River (Lower Reach)	Approximately 3,465 feet downstream Road of John Smith Road West.	*1,600	Union County (Unincorporated Areas).
	Approximately 8,180 feet upstream of John Smith Road West	*1,615	
Nottely River (Upper Reach)	Approximately 800 feet downstream of State Highway 515	*1,782	Union County (Unincorporated Areas).
	Approximately 50 feet upstream of Hatchet Creek Road	*2,021	
Stink Creek	At confluence with Nottely River (Upper Reach)	*1,889	Union County (Unincorporated Areas).
	Approximately 200 feet upstream of Wolfstake Road East	*2,007	
Suches Creek	At confluence with Toccoa River	*2,107	Union County (Unincorporated Areas).
	Approximately 6,520 feet upstream of Old Robert Harkins Drive.	*2,141	
Toccoa River	Approximately 11,960 feet downstream of Parker Road	*2,047	Union County (Unincorporated Areas).
	Approximately 2,220 feet upstream of Gooch Road South	*2,156	
Town Creek	At confluence with Nottely River (Upper Reach)	*1,869	Union County (Unincorporated Areas).
	Approximately 275 feet upstream of Fain Branch Road	*1,994	
Trackrock Branch	At confluence with Arkaqua Creek	*1,890	Union County (Unincorporated Areas).
	Approximately 3,900 feet upstream of the confluence with Arkaqua Creek.	*1,920	
West Fork Coosa Creek/Hicks Gap Branch.	At confluence with Coosa Creek	*1,865	Union County (Unincorporated Areas).
	Approximately 70 feet upstream of Mulky Gap Road	*1,945	
Wolf Creek	At confluence with Nottely River (Upper Reach)	*1,866	Union County (Unincorporated Areas).
	Approximately 1,375 feet upstream of Meadow Drive	*1,913	
Youngcane Creek	Approximately 225 feet downstream of State Highway 515	*1,817	Union County (Unincorporated Areas).
	Approximately 2,420 feet upstream of Burnette Road	*1,984	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

City of Blairsville

Maps are available for inspection at the Community Map Repository, City Hall, Blairsville, Georgia 30514.

Union County (Unincorporated Areas)

Maps are available for inspection at the Community Map Repository, 114 Courthouse Street, Blairsville, Georgia 30512.

Franklin County, Kentucky and Incorporated Areas
Docket No.: FEMA–B–7470

Penitentiary Branch	Approximately 660 feet upstream of the confluence with the Kentucky River.	+493	Franklin County (Unincorporated Areas), City of Franklin.
	Approximately 2,820 feet upstream of U.S. Route 127	+493	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

Franklin County Unincorporated Areas

Maps are available for inspection at 313 West Main Street, Frankfort, Kentucky 40601.

City of Franklin

Maps are available for inspection at 315 West Second Street, Frankfort, Kentucky 40602.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground. Modified	Communities affected
Choctaw County, Mississippi, and Incorporated Areas Docket No.: FEMA–B–7701			
Yockanookany River	At Highway 407	+454	Town of Weir, Choctaw County (Unincorporated Areas).
	Approximately 400 feet upstream of South Union Road	+513	
Tributary 2	At Kansas City Southern Railroad Bridge	+516	Town of Ackerman, Choctaw County (Unincorporated Areas).
	Approximately 120 feet upstream of McKnight Road	+534	
Tributary 3	At West Main Street	+510	Town of Ackerman, Choctaw County (Unincorporated Areas).
	Approximately 90 feet upstream of State Highway 12	+538	
Tributary 4	Approximately 70 feet downstream of Commerce Street	+521	Town of Ackerman.
	Approximately 320 feet upstream of College Street	+534	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

Town of Ackerman

Maps are available for inspection at Town Hall, 45 East Main Street, Ackerman, MS 39735.

Choctaw County (Unincorporated Areas)

Maps are available for inspection at County Courthouse, 22 East Quinn Street, Ackerman, MS 39735.

Town of Weir

Maps are available for inspection at Town Hall, 217 Front Street, Weir, MS 39772.

Ozark County, Missouri and Incorporated Areas Docket No.: FEMA–B–7459			
Becky Cobb Creek	Approximately 400 feet upstream of the confluence with Lick Creek.	+765	Ozark County (Unincorporated Areas), City of Gainesville.
	Approximately 2800 feet downstream of County Road 102	+856	
Bennetts Bayou	Approximately 9300 feet downstream of Highway 142	+670	Ozark County (Unincorporated Areas), Village of Bakersfield.
	Approximately 1400 feet upstream of the confluence with Unnamed Stream in Smith Hollow.	+741	
Harrison Creek	Approximately 1850 feet upstream of the confluence with Lick Creek.	+749	Ozark County (Unincorporated Areas), City of Gainesville.
	Approximately 4750 feet upstream of First Road	+800	
Hogard Creek	Approximately 500 feet upstream of the confluence with Lick Creek.	+793	Ozark County (Unincorporated Areas).
	Approximately 8750 feet upstream of the confluence with Lick Creek.	+856	
Lick Creek	Approximately 7500 feet downstream of the confluence with Harrison Creek.	+713	Ozark County (Unincorporated Areas), City of Gainesville.
	Approximately 5350 feet upstream of the confluence with Hogard Creek.	+818	
Turkey Creek	Approximately 1000 feet downstream of County Road 632	+698	Ozark County (Unincorporated Areas).
	Approximately 100 feet downstream of Highway 160	+806	
Unnamed Stream in Ledbetter Hollow.	Approximately 4850 feet upstream of the confluence with Pond Fork.	+698	Ozark County (Unincorporated Areas).
	Approximately 700 feet downstream of Highway 95	+811	
Unnamed Stream in Plumb Hollow.	Approximately 1350 feet upstream of the confluence with Bennetts Bayou.	+714	Ozark County (Unincorporated Areas), Village of Bakersfield.
	Approximately 1200 feet upstream of Highway 101	+769	
Unnamed Stream in Smith Hollow.	Approximately 500 feet upstream of the confluence with Bennetts Bayou.	+740	Ozark County (Unincorporated Areas).
	Approximately 2400 feet upstream of the confluence with Bennetts Bayou.	+755	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground. Modified	Communities affected

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

Ozark County (Unincorporated Areas)

Maps are available for inspection at Ozark County Courthouse, Gainesville, MO 65655.

City of Gainesville

Maps are available for inspection at 4th and Harlin, Gainesville, MO 65655.

Village of Bakersfield

Maps are available for inspection at 112 Watertower, Bakersfield, MO 65609.

Flathead County, Montana, and Incorporated Areas
Docket No.: FEMA–B–7472

Ashley Creek	Just downstream of Cemetery Road	+2920	Flathead County (Unincorporated Areas), City of Kalispell.
	Approximately 150 feet downstream of Airport Road	+2929	
	Approximately 250 feet upstream of Burlington Northern Railroad.	+2942	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

Flathead County (Unincorporated Areas)

Maps are available for inspection at the Flathead County Library, 247 First Ave. East, Kalispell, Montana 59901 and at the Flathead County Planning and Zoning Office, 1035 First Ave. West, Kalispell, Montana 59901.

City of Kalispell

Maps are available for inspection at the City of Kalispell Planning Department, 17 Second St. East, Suite 211, Kalispell, Montana 59901.

Union County, Pennsylvania, and Incorporated Areas
Docket No.: FEMA–B–7700

Buffalo Creek	Approximately at Mill Road	+461	Township of Kelly.
	Approximately 1950 feet downstream of Strawbridge Road	+462	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

Township of Kelly

Maps are available for inspection at 551 Zeigler Rd, Lewisburg, PA 17837.

Campbell County, Tennessee, and Incorporated Areas
Docket No.: FEMA–B–7473

Big Creek	Approximately 70 feet downstream of High Knob Road	+1032	Campbell County (Unincorporated Areas).
	At the confluence with Casper Sharp Branch	+1032	
Clear Fork	Approximately 900 feet upstream of the confluence of Rose Creek.	+1084	Campbell County (Unincorporated Areas).
	Approximately 2,050 feet upstream of the confluence of Rose Creek.	+1086	
Dog Creek	Just downstream of Elkins Road	+1032	Campbell County (Unincorporated Areas), Town of Caryville, Town of Jacksboro.
	Approximately 1,690 feet upstream of U.S. Highway 25	+1075	
Dog Creek Tributary	At the confluence with Dog Creek	+1060	Town of Jacksboro.
	Just downstream of Eagle Bluff Road	+1090	
Elk Creek	Approximately 800 feet upstream of railroad bridge	+972	Campbell County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground. Modified	Communities affected
	Approximately 1,730 feet downstream of the confluence of Burnt Pone Creek.	+975	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

Town of Caryville

Maps are available for inspection at 4839 Old Highway 63, Caryville, TN 37717.

Town of Jacksboro

Maps are available for inspection at 585 Main Street, Jacksboro, TN 37757.

Campbell County (Unincorporated Areas)

Maps are available for inspection at County Courthouse, 195 Kentucky Street, Jacksboro, TN 37757.

Giles County, Tennessee, and Incorporated Areas
Docket No.: FEMA–B–7473

Branch Creek	At the confluence with Robertson Fork Creek	+738	Giles County (Unincorporated Areas), City of Lynnville
	Approximately 1,000 feet upstream of Industrial Park Road	+762	
Tributary 1	At the confluence with Branch Creek	+748	City of Lynnville.
	Approximately 870 feet upstream of Mill Street	+763	
Elk River	Approximately 2,800 feet downstream of U.S. Highway 31	+607	City of Elkton.
	Approximately 100 feet downstream of Interstate Highway 65	+608	
Robertson Fork Creek	Approximately 1.3 miles downstream of the confluence with Lynn Creek.	+715	Giles County (Unincorporated Areas), City of Lynnville.
	Approximately 100 feet upstream of the confluence with Branch Creek.	+739	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

City of Elkton

Maps are available for inspection at Elkton City Hall, 110 Main Street, Elkton, TN 38455.

City of Lynnville

Maps are available for inspection at Lynnville City Hall, 101 Mill Street, Lynnville, TN 38472.

Unincorporated Areas of Giles County

Maps are available for inspection at County Courthouse, Pulaski, TN 38478.

Hardeman County, Tennessee, and Incorporated Areas
Docket No.: FEMA–B–7473

Spring Creek	Just upstream of U.S. Highway 64	+352	City of Bolivar.
	Approximately 500 feet upstream of State Highway 125	+360	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

City of Bolivar

Maps are available for inspection at County Tax Assessors Office, 106 Warren Street, Bolivar, TN 38008.

Henry County, Tennessee, and Incorporated Areas
Docket No.: FEMA–B–7473

Bailey Fork Creek Tributary 2	At Lone Oak Road	+390	City of Paris.
	Approximately 280 feet upstream of U.S. Highway 641	+450	
Clifty Creek	Approximately 1,600 feet upstream of State Highway 77	+422	Henry County (Unincorporated Areas).
	Approximately 1,940 feet upstream of State Highway 218 By-pass.	+452	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground. Modified	Communities affected
Greenbriar Creek	At the confluence with Barnes Fork	+377	Henry County (Unincorporated Areas).
	Approximately 1,480 feet upstream of Hobby Road	+407	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

City of Paris

Maps are available for inspection at 100 North Caldwell Avenue, Paris, TN 38242.

Henry County (Unincorporated Areas)

Maps are available for inspection at Henry County Courthouse, 213 West Washington Street, Paris, TN 38242.

Lauderdale County, Tennessee, and Incorporated Areas
Docket No.: FEMA–B–7473

Cane Creek 2	At the confluence with Cane Creek	+339	Lauderdale County (Unincorporated Areas).
	Approximately 6,600 feet upstream of Dam Site 14A	+369	
Hyde Creek	At the confluence with Cane Creek	+318	Lauderdale County (Unincorporated Areas), Town of Ripley.
	Approximately 50 feet upstream of Parrish Road	+379	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

Town of Ripley

Maps are available for inspection at Ripley Town Hall, 110 South Washington Street, Ripley, TN 38063.

Lauderdale County (Unincorporated Areas)

Maps are available for inspection at County Courthouse, 100 Court Square, Ripley, TN.

McMinn County, Tennessee and Incorporated Areas
Docket No: FEMA–B–7700

Guthrie Creek	At confluence with North Mouse Creek	+822	McMinn County (Unincorporated Areas).
	At County Highway 172	+822	
Forest Branch	At North Jackson Street	+952	City of Athens.
	At North Avenue	+962	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

McMinn County (Unincorporated Areas)

Maps are available for inspection at: McMinn County Mayor's Office, 6 East Madison Avenue, Athens, Tennessee 37303.

City of Athens

Maps are available for inspection at: City of Athens GIS Department, 815 North Jackson Street, Athens, Tennessee 37371.

Roane County, Tennessee and Incorporated Areas
Docket No.: FEMA–B–7701

Clinch River	At confluence with Tennessee River	+746	City of Kingston, Roane County (Unincorporated Areas).
	At confluence with Emory River	+746	
Clinch River	At confluence with Brashear Creek	+747	City of Oak Ridge, Roane County (Unincorporated Areas).
	At Roane County-Knox County Boundary	+796	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground. Modified	Communities affected

Depth in feet above ground.

ADDRESSES

Roane County (Unincorporated Areas)

Maps are available for inspection at: Roane County Mayor's Office, 200 Race Street, Kingston, TN 37763.

City of Kingston

Maps are available for inspection at: City of Kingston Mayor's Office, 125 W. Cumberland Street, Kingston, TN 37763.

City of Oak Ridge

Maps are available for inspection at: Community Development Department, 200 South Tulane Avenue, Oak Ridge, TN 37830.

Shelby County, Tennessee and Incorporated Areas
Docket No.: FEMA–B–7458

Harrington Lateral C Creek	At Bartlett Road	+257	City of Bartlett, Shelby County (Unincorporated Areas).
	At Hawethorn Road	+280	
Harrington Creek Lateral D	At the confluence of Harrington Creek	+259	City of Bartlett, Shelby County (Unincorporated Areas).
	At Elmore Park Road	+275	
Wolf Creek Lateral J	At Shelton Road	+296	City of Collierville, Shelby County (Unincorporated Areas).
	At Peterson Lake Road	+298	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

Shelby County (Unincorporated Areas)

Maps are available for inspection at the Department of Engineering, 160 North Main Street, Memphis, TN 38103.

City of Arlington

Maps are available for inspection at Arlington City Hall, 5854 Airline Road, Arlington, TN 38002.

City of Bartlett

Maps are available for inspection at Bartlett City Hall, 3585, Altrutial Road, Bartlett, TN 38134.

City of Collierville

Maps are available for inspection at Department of Public Services, 500 Keough Road, Collierville, TN 38017.

City of Germantown

Maps are available for inspection at Department of Engineering, 1920 South Germantown Road, Germantown, TN 38138.

City of Lakeland

Maps are available for inspection at Lakeland City Hall, 10001 Highway 70, Lakeland, TN 38002.

City of Memphis

Maps are available for inspection at Department of Engineering, 125 North Mid American Mall, Memphis, TN 38103.

City of Millington

Maps are available for inspection at Millington City Hall, 7930 Nelson Street, Millington, TN 38053.

White County, Tennessee and Incorporated Areas
Docket No.: FEMA–B–7701

Calfkiller River	At Wagner Street	+867	City of Sparta.
	At West Bronson Street	+963	
Town Creek B	At Highway 111	+896	White County (Unincorporated Areas).
	At Highway 70/North	+906	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

White County (Unincorporated Areas)

Maps are available for inspection at White County Executive Office, Room 205, Courthouse, 1 West Bockmen Way, Sparta, TN 38583.

City of Sparta

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground. Modified	Communities affected
Maps are available for inspection at White County Executive Office, Room 205, Courthouse, 1 West Bockmen Way, Sparta, TN 38583.			
Lubbock County, Texas and Incorporated Areas Docket No.: FEMA–B–7457			
Jones Warner Playa	Bordered by: Parklane Drive to the west and south, Spur Lane to the east and Lee Kitchens Drive to the north.	+3111	Lubbock County (Unincorporated Areas).
Playa 26	Bordered by: Highway 289 to the south, 62nd Street to the north, Peoria Avenue to the east, and Quaker Avenue to the west.	+3236	Lubbock County (Unincorporated Areas).
Playa 44	Bordered by: Brownfield Highway to the south, Raleigh Avenue to the west, Memphis Avenue to the east, and 13th Street to the north.	+3229	Lubbock County (Unincorporated Areas).
Playa 47	Confluence of Playa System C3 and Playa System C1	+3247	Lubbock County (Unincorporated Areas).
Roche's Lake Playa	Bordered by: 13th Street to the east, Highway 84 to the south and west, and Geneva Street to the north.	+3080	Lubbock County (Unincorporated Areas).
Woodrow East Playa-Central	Approximately 1,750 feet southwest of the intersection of Highway 87 and Woodrow Road.	+3182	Lubbock County (Unincorporated Areas).
Playa-East	Approximately 5,000 feet southwest of the intersection of Highway 87 and Woodrow Road.	+3194	Lubbock County (Unincorporated Areas).
Playa-West	Intersection of Highway 87 and Woodrow Road	+3180	Lubbock County (Unincorporated Areas).

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

Lubbock County (Unincorporated Areas)

Maps are available for inspection at 904 Broadway, Room 101, Lubbock, TX 79408.

City of Lubbock

Maps are available for inspection at City Hall, 1625 13th Street, Room 107, Lubbock, TX 79401.

City of Ransom Canyon

Maps are available for inspection at 24 Lee Kitchens Drive, Ransom Canyon, TX 79366.

City of Slaton

Maps are available for inspection at 130 South 9th Street, Slaton, TX 79364.

Clarke County, Virginia, and Incorporated Areas Docket No.: FEMA–B–7705			
Shenandoah River	Approximately 2.47 miles downstream of Harry Byrd Highway/ State Highway 7, at the Clarke County/ West Virginia State line.	+379	Clarke County (Unincorporated Areas).
	Approximately 3.91 miles upstream of John Mosby Highway/ U.S. Highway 17/50, at the Clarke/ Fauquier County line.	+456	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

Clarke County (Unincorporated Areas)

Maps are available for inspection at the County Administration Building, 102 North Church Street, Berryville, VA 22611.

Roanoke County, Virginia, and Incorporated Areas Docket No.: FEMA–B–7473			
Back Creek Tributary A	Approximately 2330 feet downstream of U.S. Road 220	+960	Roanoke County (Unincorporated Areas).
	Approximately 2945 feet downstream of U.S. Road 220	+960	
Bradshaw Creek	Approximately 5490 feet downstream of Bradshaw Road at the County Line.	+1383	Roanoke County (Unincorporated Areas).
	Approximately 6740 feet upstream of Hidden Cove Road	+1850	
Mason Creek	Approximately at Bendemeer Road	+1274	Roanoke County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground. Modified	Communities affected
Snyder Branch	Approximately 800 feet upstream of Bradshaw Road	+1586	City of Salem.
	Approximately 100 feet downstream of South Market Street	+960	
	Approximately 2330 feet downstream of U.S. Road 220	+960	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

City of Salem

Maps are available for inspection at 114 North Broad St, Salem, VA 24018.

Roanoke County (Unincorporated Areas)

Maps are available for inspection at 5204 Bernard Drive, SW., Roanoke, VA 24018.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: April 16, 2007.

David I. Maurstad,

Federal Insurance Administrator of the National Flood Insurance Program, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E7–7975 Filed 4–25–07; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Base (1% annual chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each 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 date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final 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) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director of FEMA has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This final 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 final 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 final rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This final 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 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.

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) # Depth in feet above ground	Communities affected
		Modified	
Fairfield County, Ohio and Incorporated Areas Docket No.: FEMA–P–7923			
Blacklick Creek	Just upstream of Tussing Road	*826	Fairfield County (Unincorporated Areas).
	Approximately 190 feet downstream of U.S. Interstate 70 Eastbound.	*828	
Georges Creek	Approximately 350 feet downstream of Long Road	*791	City of Pickerington.
	Approximately 150 feet upstream of Pickerington Ridge Drive.	*816	
Georges Creek Overflow	Approximately 2,690 feet downstream of the divergence from Georges Creek.	*800	City of Pickerington.
	At the divergence from Georges Creek	*807	

ADDRESSES

Fairfield County, Ohio (Unincorporated Areas)

Maps are available for inspection at Fairfield County Regional Planning Commission, 210 East Main Street, Lancaster, Ohio 43140.

City of Pickerington, Fairfield and Franklin Counties, Ohio

Maps are available for inspection at City of Pickerington City Hall, 100 Lockville Road, Pickerington, Ohio 43147.

Franklin County, Ohio and Incorporated Areas Docket No.: FEMA–P–7923			
Blacklick Creek	Approximately 3,930 feet upstream of Refugee Road	*803	City of Columbus.
	Approximately 300 feet downstream of U.S. Interstate 70 Eastbound.	*828	
Coble-Bowman Ditch	Approximately 500 feet downstream of Bixby Road/County Highway 229.	*742	Franklin County (Unincorporated Areas).
	Approximately 4,500 feet upstream of Winchester Pike/ CountyHighway 376.	*760	
Georges Creek	Approximately 90 feet upstream of Conrail	*749	Franklin County (Unincorporated Areas).
	Approximately 2,200 feet upstream of Long Road/County Highway 220 (limit of flooding affecting Franklin County).	*799	Village of Canal Winchester, City of Columbus.
Georges Creek Overland Flow.	At the confluence with Georges Creek	*749	Franklin County (Unincorporated Areas).
	Approximately 1,440 feet upstream of confluence with Georges Creek.	*749	
Georges Creek Split Flow	At the convergence with Georges Creek	*777	Franklin County (Unincorporated Areas).
	At the divergence from Georges Creek	*784	City of Columbus.
Georges Creek Overflow	Approximately 150 feet upstream of the convergence with Blacklick Creek.	*796	City of Columbus.
	Approximately 3,560 feet upstream of the convergence with Blacklick Creek.	*800	

ADDRESSES

Village of Canal Winchester, Franklin County, Ohio

Maps are available for inspection at Canal Winchester Municipal Building, 36 South High Street, Canal Winchester, Ohio 43110.

City of Columbus, Franklin County, Ohio

Maps are available for inspection at Building Services Division, 757 Carolyn Avenue, Columbus, Ohio 43215.

Franklin County, Ohio (Unincorporated Areas)

Maps are available for inspection at Franklin County Economic Development and Planning Department, 280 East Broad Street, Room 202, Columbus, Ohio 43215.

Depth in feet above ground.
*National Geodetic Vertical Datum.
+North American Vertical Datum.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: April 16, 2007.

David I. Maurstad,

Federal Insurance Administrator of the National Flood Insurance Program, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E7–7970 Filed 4–25–07; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

48 CFR Chapter 44

[Docket ID FEMA–2006–0033]

RIN 1660–AA46

Federal Emergency Management Agency (FEMA) Acquisition Regulation System; Removal of Chapter 44

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a direct final rule that notified the public of its intent to remove the FEMA Acquisition Regulation in its entirety. FEMA did not receive any comments on the rule. Therefore, the rule will go into effect as scheduled.

DATES: The effective date of the direct final rule published March 2, 2007 (72 FR 9445) is confirmed as May 1, 2007.

FOR FURTHER INFORMATION CONTACT: Joyce M. Ard, Federal Emergency Management Agency, 500 C Street, SW., Patriot Plaza Room 201, Washington DC, 20472, (phone) 202–646–3213, (facsimile) 202–646–2928, or (e-mail) *joyce.ard@dhs.gov.*

SUPPLEMENTARY INFORMATION: On March 2, 2007, FEMA published a direct final rule at 72 FR 9445 that notified the public of FEMA's intent to remove the FEMA Acquisition Regulation (FEMAAR) at 48 CFR Chapter 44 in its entirety. The specific language and subsequent clauses are removed as a result of the transfer of FEMA to the Department of Homeland Security (DHS) on March 1, 2003. The Homeland Security Acquisition Regulation (HSAR) created a department-wide acquisition regulation for DHS in 48 CFR Chapter 30, and included FEMA in the list of entities for which the chapter applied, thereby superseding and making 48 CFR Chapter 44 duplicative and unnecessary. FEMA has not received an adverse comment, or notice of intent to submit an adverse comment, on this rule. Therefore, the rule will go into effect as scheduled.

Dated: April 19, 2007.

R. David Paulison,

Administrator, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E7–7971 Filed 4–25–07; 8:45 am]

BILLING CODE 9110–49–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 203

RIN 0750–AF60

Defense Federal Acquisition Regulation Supplement; Acquisition Integrity (DFARS Case 2006–D044)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to address requirements for the separation of Government functions for oversight, source selection, contract negotiation, and contract award. The rule contains best practice policies for use by the military departments and defense agencies.

EFFECTIVE DATE: April 26, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Delaney, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–8384; facsimile (703) 602–0350. Please cite DFARS Case 2006–D044.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule adds a new section at DFARS 203.170 to address requirements for the separation of Government functions for oversight, source selection, contract negotiation, and contract award. The rule contains best practice policies to ensure the separation of such functions.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This rule will not have a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of DoD. Therefore, publication for public comment under 41 U.S.C. 418b is not required. However, DoD will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2006–D044.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply, because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 203

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR part 203 is amended as follows:

PART 203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

■ 1. The authority citation for 48 CFR part 203 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

■ 2. Section 203.170 is added to read as follows:

203.170 Business practices.

To ensure the separation of functions for oversight, source selection, contract negotiation, and contract award, departments and agencies shall adhere to the following best practice policies:

(a) Senior leaders shall not perform multiple roles in source selection for a major weapon system or major service acquisition.

(b) Vacant acquisition positions shall be filled on an ''acting'' basis from below until a permanent appointment is made. To provide promising professionals an opportunity to gain experience by temporarily filling higher positions, these oversight duties shall not be accrued at the top.

(c) Acquisition process reviews of the military departments shall be conducted to assess and improve acquisition and management processes, roles, and structures. The scope of the reviews should include—

(1) Distribution of acquisition roles and responsibilities among personnel;

(2) Processes for reporting concerns about unusual or inappropriate actions; and

(3) Application of DoD Instruction 5000.2, Operation of the Defense

Acquisition System, and the disciplines in the Defense Acquisition Guidebook.

(d) Source selection processes shall be—

(1) Reviewed and approved by cognizant organizations responsible for oversight;

(2) Documented by the head of the contracting activity or at the agency level; and

(3) Periodically reviewed by outside officials independent of that office or agency.

(e) Legal review of documentation of major acquisition system source selection shall be conducted prior to contract award, including the supporting documentation of the source selection evaluation board, source selection advisory council, and source selection authority.

(f) Procurement management reviews shall determine whether clearance threshold authorities are clear and that independent review is provided for acquisitions exceeding the simplified acquisition threshold.

[FR Doc. E7–7911 Filed 4–25–07; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 206 and 225

RIN 0750–AF62

Defense Federal Acquisition Regulation Supplement; Deletion of Obsolete Acquisition Procedures (DFARS Case 2006–D046)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to remove text relating to obsolete requirements for maintenance of paper-based solicitation mailing lists and for furnishing of documents to certain entities.

EFFECTIVE DATE: April 26, 2007.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0328; facsimile (703) 602–0350. Please cite DFARS Case 2006–D046.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends DFARS text as follows:

○ 206.303–1—Removes text designating the Director of Defense Procurement and Acquisition Policy as the agency point of contact for submission of certain justification and approval documents to the U.S. Trade Representative. This text is no longer applicable, as the underlying Federal Acquisition Regulation (FAR) requirement for submission of these documents to the U.S. Trade Representative was removed by the interim rule that was published at 69 FR 77870 on December 28, 2004, and finalized at 71 FR 219 on January 3, 2006.

○ 225.870–2 and 225.872–3—Removes text addressing requirements for inclusion of Canadian firms and qualifying country sources on solicitation mailing lists, and for sending solicitations to the Canadian Commercial Corporation as well as Canadian firms appearing on the lists. This text is no longer applicable, as solicitation mailing lists have been replaced by electronic tools such as the Central Contractor Registration database and the Federal Business Opportunities Web site. The FAR was amended to remove references to solicitation mailing lists in the final rule published at 68 FR 43855 on July 24, 2003.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This rule will not have a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of DoD. Therefore, publication for public comment under 41 U.S.C. 418b is not required. However, DoD will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2006–D046.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply, because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 206 and 225

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR parts 206 and 225 are amended as follows:

■ 1. The authority citation for 48 CFR parts 206 and 225 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 206—COMPETITION REQUIREMENTS

206.303 and 206.303–1 [Removed]

■ 2. Sections 206.303 and 206.303–1 are removed.

PART 225—FOREIGN ACQUISITION

225.870–2 [Amended]

■ 3. Section 225.870–2 is amended as follows:

■ a. By removing paragraphs (a) through (c); and

■ b. By redesignating paragraphs (d) and (e) as paragraphs (a) and (b) respectively.

225.872–3 [Amended]

■ 4. Section 225.872–3 is amended as follows:

■ a. By removing paragraph (a); and

■ b. By redesignating paragraphs (b) through (g) as paragraphs (a) through (f) respectively.

[FR Doc. E7–7907 Filed 4–25–07; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 215, 231, and 252

RIN 0750–AF67

Defense Federal Acquisition Regulation Supplement; Excessive Pass-Through Charges (DFARS Case 2006–D057)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 852 of the National Defense Authorization Act for Fiscal Year 2007. Section 852

requires DoD to prescribe regulations to ensure that pass-through charges on contracts or subcontracts that are entered into for or on behalf of DoD are not excessive in relation to the cost of work performed by the relevant contractor or subcontractor.

DATES: *Effective date:* April 26, 2007.

Comment date: Comments on the interim rule should be submitted in writing to the address shown below on or before June 25, 2007, to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2006–D057, using any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- E-mail: *dfars@osd.mil.* Include DFARS Case 2006–D057 in the subject line of the message.
- Fax: (703) 602–0350.
- Mail: Defense Acquisition Regulations System, Attn: Mr. John McPherson, OUSD(AT&L)DPAP(CPF), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.
- Hand Delivery/Courier: Defense Acquisition Regulations System, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202–3402.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Mr. John McPherson, (703) 602–0296.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule implements Section 852 of the National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364). Section 852 requires DoD to prescribe regulations to ensure that pass-through charges on contracts or subcontracts (or task or delivery orders) that are entered into for or on behalf of DoD are not excessive in relation to the cost of work performed by the relevant contractor or subcontractor. To enable DoD to ensure that pass-through charges are not excessive, this interim rule contains a solicitation provision and a contract clause requiring offerors and contractors to identify the percentage of work that will be subcontracted and, when subcontract costs will exceed 70 percent of the total cost of work to be performed, to provide information on indirect costs and profit and value added with regard to the subcontract work.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because DoD does not expect a significant number of entities to propose excessive pass-through charges under DoD contracts or subcontracts, and the information required from offerors and contractors regarding pass-through charges is minimal. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2006–D057.

C. Paperwork Reduction Act

This interim rule contains a new information collection requirement. The Office of Management and Budget (OMB) has approved the information collection requirement for use through October 31, 2007, under OMB Control Number 0704–0443, in accordance with the emergency processing procedures of 5 CFR 1320.13. DoD invites comments on the following aspects of the interim rule: (a) Whether the collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The following is a summary of the information collection requirement.

Title: Defense Federal Acquisition Regulation Supplement (DFARS); Excessive Pass-Through Charges.

Type of Request: New collection.

Number of Respondents: 12,650.

Responses per Respondent: Approximately 1.

Annual Responses: 12,800.

Average Burden per Response: .51 hour.

Annual Burden Hours: 6,550.

Needs and Uses: DoD needs this information to ensure that pass-through charges under DoD contracts and subcontracts are not excessive, in accordance with Section 852 of Public Law 109–364. DoD contracting officers will use the information to assess the value added by a contractor or subcontractor in relation to proposed, billed, or claimed indirect costs or profit on work performed by a subcontractor.

Affected Public: Businesses or other for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Frequency: On occasion.

Written comments and recommendations on the proposed information collection should be sent to Ms. Hillary Jaffe at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503, with a copy to the Defense Acquisition Regulations System, *Attn:* Mr. John McPherson, OUSD(AT&L)DPAP(CPF), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Comments can be received from 30 to 60 days after the date of this notice, but comments to OMB will be most useful if received by OMB within 30 days after the date of this notice.

To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Acquisition Regulations System, Attn: Mr. John McPherson, OUSD(AT&L)DPAP(CPF), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish an interim rule prior to affording the public an opportunity to comment. This interim rule implements Section 852 of the National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364). Section 852 requires DoD to prescribe regulations, not later than May 1, 2007, to ensure that pass-through charges on contracts or subcontracts (or task or delivery orders) that are entered into for or on behalf of DoD are not excessive in relation to the cost of work performed by the relevant contractor or subcontractor. Comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Parts 215, 231, and 252

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR parts 215, 231, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 215, 231, and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 215—CONTRACTING BY NEGOTIATION

■ 2. Section 215.408 is amended by adding paragraph (3) to read as follows:

215.408 Solicitation provisions and contract clauses.

* * * * *

(3) Use the provision at 252.215–7003, Excessive Pass-Through Charges—Identification of Subcontract Effort, and the clause at 252.215–7004, Excessive Pass-Through Charges, in all solicitations and contracts (including task or delivery orders) except for—

(i) Firm-fixed-price contracts awarded on the basis of adequate price competition;

(ii) Fixed-price contracts with economic price adjustment, awarded on the basis of adequate price competition;

(iii) Firm-fixed-price contracts for the acquisition of a commercial item; or

(iv) Fixed-price contracts with economic price adjustment, for the acquisition of a commercial item.

PART 231—CONTRACT COST PRINCIPLES AND PROCEDURES

■ 3. Sections 231.201–2 and 231.203 are added to read as follows:

231.201–2 Determining allowability.

(a) In addition to the requirements at FAR 31.201–2(a), a cost is allowable only when it complies with the clause at 252.215–7004, Excessive Pass-Through Charges.

231.203 Indirect costs.

(d) Excessive pass-through charges, as defined in the clause at 252.215–7004, are unallowable.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 4. Sections 252.215–7003 and 252.215–7004 are added to read as follows:

252.215–7003 Excessive pass-through charges—identification of subcontract effort.

As prescribed in 215.408(3), use the following provision:

EXCESSIVE PASS-THROUGH CHARGES—IDENTIFICATION OF SUBCONTRACT EFFORT (APR 2007)

(a) *Definition. Excessive pass-through charge,* as used in this provision, is defined in the clause of this solicitation entitled ''Excessive Pass-Through Charges'' (DFARS 252.215–7004).

(b) *General.* The offeror's proposal shall exclude excessive pass-through charges.

(c) *Performance of work by the Contractor or a subcontractor.* (1) The offeror shall identify in its proposal the percent of effort it intends to perform, and the percent expected to be performed by each subcontractor, under the contract, task order, or delivery order.

(2) If the offeror intends to subcontract more than 70 percent of the total cost of work to be performed under the contract, task order, or delivery order, the offeror shall identify in its proposal—

(i) The amount of the offeror's indirect costs and profit applicable to the work to be performed by the subcontractor(s); and

(ii) A description of the value added by the offeror as related to the work to be performed by the subcontractor(s).

(3) If any subcontractor proposed under the contract, task order, or delivery order intends to subcontract to a lower-tier subcontractor more than 70 percent of the total cost of work to be performed under its subcontract, the offeror shall identify in its proposal—

(i) The amount of the subcontractor's indirect costs and profit applicable to the work to be performed by the lower-tier subcontractor(s); and

(ii) A description of the value added by the subcontractor as related to the work to be performed by the lower-tier subcontractor(s).

(End of provision)

252.215–7004 Excessive pass-through charges.

As prescribed in 215.408(3), use the following clause:

EXCESSIVE PASS-THROUGH CHARGES (APR 2007)

(a) *Definitions.* As used in this clause—

Excessive pass-through charge, with respect to a Contractor or subcontractor that adds no or negligible value to a contract or subcontract, means a charge to the Government by the Contractor or subcontractor that is for indirect costs or profit on work performed by a subcontractor (other than charges for the costs of managing subcontracts and applicable indirect costs and profit based on such costs).

No or negligible value means the Contractor or subcontractor cannot demonstrate to the Contracting Officer that its effort added substantive value to the contract or subcontract in accomplishing the work performed under the contract.

(b) *General.* The Government will not pay excessive pass-through charges. The Contracting Officer shall determine if excessive pass-through charges exist.

(c) *Performance of work by the Contractor or a subcontractor.* (1) If the Contractor changes the amount of subcontract effort identified in its proposal such that it exceeds 70 percent of the total cost of work to be performed under the contract, task order, or delivery order, the Contractor shall provide the Contracting Officer with a description of the value added by the Contractor as related to the subcontract effort.

(2) If any subcontractor identified in the proposal changes the amount of lower-tier subcontractor effort such that it exceeds 70 percent of the total cost of the work to be performed under its subcontract, the Contractor shall provide the Contracting Officer with a description of the value added by the subcontractor as related to the work to be performed by the lower-tier subcontractor(s).

(3) If any subcontractor not identified in the proposal subcontracts to a lower-tier subcontractor more than 70 percent of the total cost of work to be performed under its subcontract, the Contractor shall provide the Contracting Officer with a description of the value added by the subcontractor as related to the work to be performed by the lower-tier subcontractor(s).

(d) *Recovery of excessive pass-through charges.* If the Contracting Officer determines that excessive pass-through charges exist—

(1) For fixed-price contracts, the Government shall be entitled to a price reduction for the amount of excessive pass-through charges included in the contract price; and

(2) For other than fixed-price contracts, the excessive pass-through charges are unallowable in accordance with the provisions in Subpart 31.2 of the Federal Acquisition Regulation (FAR) and Subpart 231.2 of the Defense FAR Supplement.

(e) *Access to records.* (1) The Contracting Officer, or authorized representative, shall have the right to examine and audit all the Contractor's records (as defined at FAR 52.215–2(a)) necessary to determine whether the Contractor proposed, billed, or claimed excessive pass-through charges.

(2) For those subcontracts to which paragraph (f) of this clause applies, the Contracting Officer, or authorized representative, shall have the right to examine and audit all the subcontractor's records (as defined at FAR 52.215–2(a)) necessary to determine whether the subcontractor proposed, billed, or claimed excessive pass-through charges.

(f) *Flowdown.* The Contractor shall insert the substance of this clause, including this paragraph (f), in all subcontracts under this contract, except for—

(1) Firm-fixed-price subcontracts awarded on the basis of adequate price competition;

(2) Fixed-price subcontracts with economic price adjustment, awarded on the basis of adequate price competition;

(3) Firm-fixed-price subcontracts for the acquisition of a commercial item; or

(4) Fixed-price subcontracts with economic price adjustment, for the acquisition of a commercial item.

(End of clause)

[FR Doc. E7–7905 Filed 4–25–07; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 219 and 252

RIN 0750–AE93

Defense Federal Acquisition Regulation Supplement; Small Business Programs (DFARS Case 2003–D047)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending Defense Federal Acquisition Regulation Supplement (DFARS) text pertaining to small business programs. The rule updates and clarifies policy for contracting with small business and small disadvantaged business concerns and relocates text to the DFARS companion resource, Procedures, Guidance, and Information.

EFFECTIVE DATE: April 26, 2007.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Tronic, Defense Acquisition Regulations System, OUSD(AT&L)DPAP(DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0289; facsimile (703) 602–0350. Please cite DFARS Case 2003–D047.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends DFARS Part 219 and corresponding contract clauses. The DFARS changes—

- Update and clarify requirements for contracting with small business and small disadvantaged business concerns; and
- Delete text containing procedures for referring matters to the Small Business Administration; procedures for processing contract awards under the 8(a) Program; and information on the DoD test program for negotiation of comprehensive small business subcontracting plans. Text on these subjects has been relocated to the DFARS companion resource, Procedures, Guidance, and Information (PGI), available at *http://www.acq.osd.mil/dpap/dars/pgi.*

DoD published a proposed rule at 71 FR 9303 on February 23, 2006. Three respondents submitted comments on the proposed rule. A discussion of the comments is provided below.

1. *Comment:* One respondent stated that the proposed changes to subcontracting plan requirements at DFARS 219.704(2) and 252.219–7003(g) would create an ambiguity. These changes proposed to amend text requiring contractors to notify the administrative contracting officer (ACO) of any substitutions of ''firms that are not small, small disadvantaged, or women-owned small businesses for the firms listed in the subcontracting plan,'' to instead indicate that the contractor must notify the ACO of any substitutions of small businesses specifically identified in the subcontracting plan. The respondent stated that ACOs and contractors could interpret this change to mean that contractors would be required to provide notification when substituting any firm, even one that is a small business concern, for one that is listed in the subcontracting plan. The respondent recommended that the rule instead require contractors to notify the ACO of any substitutions of ''firms that are not small business concerns'' for the firms listed in the subcontracting plan.

DoD Response: DoD agrees that the language in the proposed rule could be ambiguous. Therefore, the final rule has been written to clarify the existing policy, *i.e.*, that the contractor must notify the ACO of any substitutions of firms that are not small business firms, for the small business firms specifically identified in the subcontracting plan.

2. *Comment:* One respondent recommended deleting the proposed text at 219.704(3), which contains a reference to the procedures in DFARS 215.304 regarding evaluation of offers that require a subcontracting plan. The respondent recommended that the proposed 219.704(3) be replaced with text stating that offerors with approved commercial or comprehensive subcontracting plans are not required to submit contract-specific goals, and that those offerors will be evaluated based on Standard Form 295 information and Defense Contract Management Agency evaluations of company-wide performance under their small business programs. In addition, the respondent recommended that 219.704 state that contracting officers may accept commercial subcontracting plans for both commercial item and noncommercial item contracts, provided the plan covers the entire production of both commercial and noncommercial items as set forth at FAR 52.219–9(g).

DoD Response: The issues addressed in this comment go beyond the scope of the changes being made under this DFARS case. DoD recognizes the importance of the issues raised by the respondent and is currently working independently of this case to resolve those issues. Any proposed changes to the DFARS that might result would be published under a separate case for public comment.

3. *Comment:* One respondent stated that deleting DFARS text and putting it in PGI requires contracting officers to research multiple locations to ensure they are complying with all the necessary requirements. The respondent stated that deleting requirements would be streamlining, not moving them to another area which may cause uncertainty and ambiguity.

DoD Response: DoD has moved non-regulatory requirements and guidance that do not significantly impact the public, from DFARS to PGI to facilitate rapid dissemination of any future changes, thus streamlining the process. Where there is related text in PGI, a link to this text is imbedded in DFARS. Through these links, the user is able to view the related PGI text side-by-side with the DFARS text. PGI also contains information on training, deviations, policy memoranda, and other information (*e.g.*, guidebooks) that is not available in the DFARS.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule makes no significant change to DoD policy for contracting with small business and small disadvantaged business concerns.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply, because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 219 and 252

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR parts 219 and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 219 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 219—SMALL BUSINESS PROGRAMS

■ 2. Section 219.000 is revised to read as follows:

219.000 Scope of part.

This part also implements 10 U.S.C. 2323, which—

(1) Is applicable to DoD through fiscal year 2009; and

(2) Establishes goals for awards to small disadvantaged business (SDB) concerns, historically black colleges and universities (HBCUs), and minority institutions (MIs). See 226.370 for policy on contracting with HBCU/MIs.

219.202–1 [Removed]

■ 3. Section 219.202–1 is removed.

■ 4. The heading of Subpart 219.6 is revised to read as follows:

Subpart 219.6—Certificates of Competency and Determinations of Responsibility

■ 5. Section 219.602 is revised to read as follows:

219.602 Procedures.

When making a nonresponsibility determination for a small business concern, follow the procedures at PGI 219.602.

219.602–1 and 219.602–3 [Removed]

■ 6. Sections 219.602–1 and 219.602–3 are removed.

■ 7. Section 219.702 is revised to read as follows:

219.702 Statutory requirements.

(1) Section 834 of Public Law 101–189, as amended (15 U.S.C. 637 note), requires DoD to establish a test program to determine whether comprehensive subcontracting plans on a corporate, division, or plant-wide basis will reduce administrative burdens while enhancing subcontracting opportunities for small and small disadvantaged business concerns. See PGI 219.702 for the requirements of the test program.

(2) Comprehensive subcontracting plans shall not be subject to application of liquidated damages during the period of the test program (Section 402, Pub. L. 101–574).

219.703 [Amended]

■ 8. Section 219.703 is amended in paragraph (a)(2)(B) by removing ''Small, Small Disadvantaged and Women-Owned''.

■ 9. Section 219.704 is revised to read as follows:

219.704 Subcontracting plan requirements.

(1) The goal for use of small disadvantaged business concerns shall include subcontracts with historically black colleges and universities and minority institutions (see Subpart 226.70), in addition to subcontracts with small disadvantaged business concerns. Subcontracts with historically black colleges and universities and minority institutions do not have to be included in the small disadvantaged business goal in commercial items subcontracting plans.

(2) In those subcontracting plans which specifically identify small businesses, prime contractors shall notify the administrative contracting officer of any substitutions of firms that are not small business firms, for the small business firms specifically identified in the subcontracting plan. Notifications shall be in writing and shall occur within a reasonable period of time after award of the subcontract. Contractor-specified formats shall be acceptable.

(3) See 215.304 for evaluation of offers in acquisitions that require a subcontracting plan.

219.705–2 [Removed]

■ 10. Section 219.705–2 is removed.

■ 11. Section 219.708 is amended by revising the section heading and paragraph (b)(1) to read as follows:

219.708 Contract clauses.

(b)(1)(A) Use the clause at 252.219–7003, Small Business Subcontracting Plan (DoD Contracts), in solicitations and contracts that contain the clause at FAR 52.219–9, Small Business Subcontracting Plan.

(B) In contracts with contractors that have comprehensive subcontracting plans approved under the test program described in 219.702, use the clause at 252.219–7004, Small Business Subcontracting Plan (Test Program), instead of the clauses at 252.219–7003, Small Business Subcontracting Plan (DoD Contracts), and FAR 52.219–9, Small Business Subcontracting Plan.

* * * * *

■ 12. Section 219.800 is amended by revising paragraph (a) to read as follows:

219.800 General.

(a) By Partnership Agreement (PA) between the Small Business Administration (SBA) and the Department of Defense (DoD), the SBA has delegated to the Under Secretary of Defense (Acquisition, Technology, and Logistics) its authority under paragraph 8(a)(1)(A) of the Small Business Act (15 U.S.C. 637(a)) to enter into 8(a) prime contracts, and its authority under 8(a)(1)(B) of the Small Business Act to award the performance of those contracts to eligible 8(a) Program participants. However, the SBA remains the prime contractor on all 8(a) contracts, continues to determine eligibility of concerns for contract award, and retains appeal rights under FAR 19.810. The SBA delegates only the authority to sign contracts on its behalf. Consistent with the provisions of the PA, this authority is hereby redelegated to DoD contracting officers. A copy of the PA, which includes the PA's expiration date, is available at PGI 219.800.

* * * * *

■ 13. Section 219.803 is revised to read as follows:

219.803 Selecting acquisitions for the 8(a) Program.

When selecting acquisitions for the 8(a) Program, follow the procedures at PGI 219.803.

■ 14. Section 219.804 is revised to read as follows:

219.804 Evaluation, offering, and acceptance.

When processing requirements under the PA, follow the procedures at PGI 219.804.

219.804–2 and 219.804–3 [Removed]

■ 15. Sections 219.804–2 and 219.804–3 are removed.

■ 16. Section 219.805–2 is revised to read as follows:

219.805–2 Procedures.

When processing requirements under the PA, follow the procedures at PGI 219.805–2 for requesting eligibility determinations.

■ 17. Sections 219.808–1 and 219.811 are revised to read as follows:

219.808–1 Sole source.

For sole source requirements processed under the PA, follow the procedures at PGI 219.808–1.

219.811 Preparing the contracts.

When preparing awards under the PA, follow the procedures at PGI 219.811.

219.811–1 and 219.811–2 [Removed]

■ 18. Sections 219.811–1 and 219.811–2 are removed.

■ 19. Section 219.811–3 is amended by revising paragraph (3) to read as follows:

219.811–3 Contract clauses.

* * * * *

(3) Use the clause at 252.219–7011, Notification to Delay Performance, in

solicitations and purchase orders issued under the PA cited in 219.800.

219.812 [Removed]

■ 20. Section 219.812 is removed.

■ 21. Section 219.1101 is added to read as follows:

219.1101 General.

The determination to use or suspend the price evaluation adjustment for DoD acquisitions can be found at *http://www.acq.osd.mil/dpap/dars/classdev/index.htm*.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 22. Section 252.212–7001 is amended by revising the clause date and paragraphs (b)(2) and (3) to read as follows:

252.212–7001 Contract terms and conditions required to implement Statutes or Executive orders applicable to Defense acquisitions of commercial items.

* * * * *

CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS (APR 2007)

* * * * *

(b) * * *

(2) ____ 252.219–7003, Small Business Subcontracting Plan (DoD Contracts) (APR 2007) (15 U.S.C. 637).

(3) ____ 252.219–7004, Small Business Subcontracting Plan (Test Program) (APR 2007) (15 U.S.C. 637 note).

* * * * *

■ 23. Section 252.219–7003 is amended by revising the section heading, the clause title and date, the introductory text preceding paragraph (a), and paragraph (g) to read as follows:

252.219–7003 Small business subcontracting plan (DoD contracts).

* * * * *

SMALL BUSINESS SUBCONTRACTING PLAN (DOD CONTRACTS) (APR 2007)

This clause supplements the Federal Acquisition Regulation 52.219–9, Small Business Subcontracting Plan, clause of this contract.

* * * * *

(g) In those subcontracting plans which specifically identify small businesses, the Contractor shall notify the Administrative Contracting Officer of any substitutions of firms that are not small business firms, for the small business firms specifically identified in the subcontracting plan. Notifications shall be in writing and shall occur within a reasonable period of time after award of the subcontract. Contractor-specified formats shall be acceptable.

■ 24. Section 252.219–7004 is amended by revising the section heading, the clause title and date, and paragraph (d) to read as follows:

252.219–7004 Small business subcontracting plan (test program).

* * * * *

SMALL BUSINESS SUBCONTRACTING PLAN (TEST PROGRAM) (APR 2007)

* * * * *

(d) The failure of the Contractor or subcontractor to comply in good faith with (1) the clause of this contract entitled ''Utilization of Small Business Concerns,'' or (2) an approved plan required by this clause, shall be a material breach of the contract.

[FR Doc. E7–7906 Filed 4–25–07; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 222

RIN 0750–AF59

Defense Federal Acquisition Regulation Supplement; Wage Determinations (DFARS Case 2006–D043)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to update procedures for obtaining Department of Labor wage determinations for construction and service contracts. The DFARS amendments are consistent with changes made to the Federal Acquisition Regulation.

EFFECTIVE DATE: April 26, 2007.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0328; facsimile (703) 602–0350. Please cite DFARS Case 2006–D043.

SUPPLEMENTARY INFORMATION:

A. Background

Item IV of Federal Acquisition Circular 2005–10, published at 71 FR 36930 on June 28, 2006, amended the Federal Acquisition Regulation to implement the Wage Determinations OnLine internet Website as the source for obtaining Department of Labor wage determinations for construction and service contracts.

This final rule makes the following corresponding DFARS changes:

○ Revises the heading of sections 222.001 and 222.1008.

○ Relocates text addressing use of the Service Contract Act Directory of Occupations, from 222.1008–2 to 222.1008–1, and updates the text to reflect the replacement of Standard Form 98a with the electronic e98 process.

○ Removes obsolete text at 222.1008–7 and 222.1014.

In addition, this final rule adds DFARS section 222.404–2, which contains a reference to internal DoD procedures for obtaining clarification of proper application of construction wage rate schedules.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This rule will not have a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of DoD. Therefore, publication for public comment under 41 U.S.C. 418b is not required. However, DoD will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2006–D043.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply, because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 222

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR part 222 is amended as follows:

PART 222—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

■ 1. The authority citation for 48 CFR part 222 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

■ 2. Section 222.001 is amended by revising the section heading to read as follows:

222.001 Definitions.

* * * * *

■ 3. Section 222.404–2 is added to read as follows:

222.404–2 General requirements.

(c)(5) Follow the procedures at PGI 222.404–2(c)(5) when seeking clarification of the proper application of construction wage rate schedules.

■ 4. Section 222.1008 is revised to read as follows:

222.1008 Procedures for obtaining wage determinations.

■ 5. Section 222.1008–1 is added to read as follows:

222.1008–1 Obtaining wage determinations.

Follow the procedures at PGI 222.1008–1 regarding use of the Service Contract Act Directory of Occupations when preparing the e98.

222.1008–2, 222.1008–7, and 222.1014 [Removed]

■ 6. Sections 222.1008–2, 222.1008–7, and 222.1014 are removed.

[FR Doc. E7–7908 Filed 4–25–07; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 222 and 252

RIN 0750–AF65

Defense Federal Acquisition Regulation Supplement; Military Construction on Guam (DFARS Case 2006–D065)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to remove text addressing a statutory prohibition on the use of nonimmigrant aliens to perform work under contracts for military construction on Guam. The statutory prohibition was repealed by Section 2810 of the National Defense Authorization Act for Fiscal Year 2007.

EFFECTIVE DATE: April 26, 2007.

FOR FURTHER INFORMATION CONTACT: Ms. Felisha Hitt, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0310; facsimile (703) 602–0350. Please cite DFARS Case 2006–D065.

SUPPLEMENTARY INFORMATION:

A. Background

10 U.S.C. 2864 contained a prohibition on the performance of work by persons with nonimmigrant status under contracts for military construction on Guam. Section 2810 of the National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109–364) repealed 10 U.S.C. 2864. Therefore, this final rule revises DFARS Subpart 222.73 to remove references to the prohibition of 10 U.S.C. 2864. The statutory prohibition on the use of nonimmigrant aliens under contracts for base operations support on Guam (Pub. L. 105–85, Section 390) is still in effect and continues to be implemented in DFARS Subpart 222.73.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This rule will not have a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of DoD. Therefore, publication for public comment under 41 U.S.C. 418b is not required. However, DoD will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2006–D065.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply, because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 222 and 252

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR parts 222 and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 222 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 222—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

■ 2. Section 222.7300 is revised to read as follows:

222.7300 Scope of subpart.

This subpart—

(a) Implements Section 390 of the National Defense Authorization Act for Fiscal Year 1998 (Pub. L. 105–85); and

(b) Applies to contracts for base operations support on Guam that—

(1) Are awarded as a result of a competition conducted under OMB Circular A–76; and

(2) Are entered into or modified on or after November 18, 1997.

■ 3. Section 222.7301 is amended by revising paragraph (a) to read as follows:

222.7301 Prohibition on use of nonimmigrant aliens.

(a) Any alien who is issued a visa or otherwise provided nonimmigrant status under Section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)) is prohibited from performing work under a contract for base operations support on Guam.

* * * * *

■ 4. Section 222.7302 is revised to read as follows:

222.7302 Contract clause.

Use the clause at 252.222–7005, Prohibition on Use of Nonimmigrant Aliens—Guam, in solicitations and contracts subject to this subpart.

222.7303 [Removed]

■ 5. Section 222.7303 is removed.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.222–7005 [Amended]

■ 6. Section 252.222–7005 is amended in the introductory text by removing ''222.7303'' and adding in its place ''222.7302''.

[FR Doc. E7–7912 Filed 4–25–07; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 225, 232, and 252

Defense Federal Acquisition Regulation Supplement; Technical Amendments

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is making technical amendments to the Defense Federal Acquisition Regulation Supplement (DFARS) to reinstate text that was inadvertently omitted from a previous amendment and to update references within the DFARS text.

EFFECTIVE DATE: April 26, 2007.

FOR FURTHER INFORMATION CONTACT: Ms. Michele Peterson, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0311; facsimile (703) 602–0350.

SUPPLEMENTARY INFORMATION: This final rule amends DFARS text as follows:

○ *Section 225.7002–2.* Reinstates paragraphs (b)(1) through (5), which were inadvertently omitted from the interim rule published at 71 FR 58536 on October 4, 2006. These paragraphs appeared in section 225.7002–2 prior to the October 4, 2006, publication. Paragraph (b)(5) contains an update to a reference to corresponding text in the DFARS companion resource, Procedures, Guidance, and Information (PGI).

○ *Section 232.070.* Corrects a typographical error in a cross-reference.

○ *Section 252.212–7001.* Updates a reference to a contract clause to reflect the current clause date.

List of Subjects in 48 CFR Parts 225, 232, and 252

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR parts 225, 232, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 225, 232, and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 225—FOREIGN ACQUISITION

■ 2. Section 225.7002–2 is amended by adding paragraphs (b)(1) through (5) to read as follows:

225.7002–2 Exceptions.

* * * * *

(b) * * *

(1) The following officials are authorized, without power of redelegation, to make such a domestic nonavailability determination:

(i) The Under Secretary of Defense (Acquisition, Technology, and Logistics).

(ii) The Secretary of the Army.

(iii) The Secretary of the Navy.

(iv) The Secretary of the Air Force.

(2) The supporting documentation for the determination shall include—

(i) An analysis of alternatives that would not require a domestic nonavailability determination; and

(ii) A written certification by the requiring activity, with specificity, why such alternatives are unacceptable.

(3) Defense agencies shall follow the procedures at PGI 225.7002–2(b)(3) when submitting a request for a domestic nonavailability determination.

(4) If an official listed in paragraph (b)(1)(ii) through (iv) of this subsection makes a domestic nonavailability determination for the acquisition of titanium or a product containing titanium, that official shall—

(i) Notify the congressional defense committees at least 10 days before the award of a contract that relies on such a determination; and

(ii) Provide a copy of the notification and the determination to the Director, Defense Procurement and Acquisition Policy, as specified in PGI 225.7002–2(b)(4).

(5) Follow the procedures at PGI 225.7002–2(b)(5) for reciprocal use of domestic nonavailability determinations.

* * * * *

PART 232—CONTRACT FINANCING

232.070 [Amended]

■ 3. Section 232.070 is amended in paragraph (b), in the second sentence, by removing ''Subpart 204.1'' and adding in its place ''Subpart 201.4''.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.212–7001 [Amended]

■ 4. Section 252.212–7001 is amended in paragraph (b)(17) by removing ''(MAY 2006)'' and adding in its place ''(MAR 2007)''.

[FR Doc. E7–7914 Filed 4–25–07; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 070302052–7088–02; I.D. 021307B]

RIN 0648–AV09

Atlantic Highly Migratory Species; Atlantic Commercial Shark Management Measures

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

ACTION: Final rule.

SUMMARY: This final rule establishes the 2007 second and third trimester seasons commercial quotas for large coastal sharks (LCS), small coastal sharks (SCS), and pelagic sharks based on over- or underharvests from the 2006 second and third trimester seasons. In addition, this rule finalizes the opening and closing dates for the LCS commercial fishery based on adjustments to the trimester quotas. The final rule also opens the existing mid-Atlantic shark closed area for two weeks at the end of July.

DATES: This rule is effective May 1, 2007. The Atlantic commercial shark fishing season opening and closing dates and quotas for the 2007 second and third trimester seasons are provided in Table 1 under **SUPPLEMENTARY INFORMATION**.

ADDRESSES: For copies of the Final Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA), please write to Highly Migratory Species Management Division, 1315 East-West Highway, Silver Spring, MD 20910, or at (301) 713–1917 (fax). Copies are also available from the HMS Web site at *http://www.nmfs.noaa.gov/sfa/hms/.*

FOR FURTHER INFORMATION CONTACT: LeAnn Southward Hogan or Karyl Brewster-Geisz by phone: 301–713–2347 or by fax: 301–713–1917.

SUPPLEMENTARY INFORMATION:

Background

The Atlantic shark fishery is managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act

(Magnuson-Stevens Reauthorization Act). NMFS recently finalized a Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP), (October 2, 2006; 71 FR 58058), that consolidated and replaced previous FMPs for Atlantic Billfish and Atlantic Tunas, Swordfish, and Sharks. The Consolidated HMS FMP is implemented by regulations at 50 CFR part 635. Currently, the Atlantic shark annual quotas, with the exception of pelagic sharks, are split among three regions based on historic landings. Consistent with 50 CFR 635.27(b)(1)(iii) and (iv), the annual LCS quota (1,017 mt dw) is split among the three regions as follows: 52 percent to the Gulf of Mexico, 41 percent to the South Atlantic, and 7 percent to the North Atlantic. The annual SCS quota (454 mt dw) is split among the three regions as follows: 10 percent to the Gulf of Mexico, 87 percent to the South Atlantic, and 3 percent to the North Atlantic. The regional quotas for LCS and SCS are divided equally between the trimester seasons in the South Atlantic and the Gulf of Mexico, and according to historical landings in the North Atlantic.

Consistent with 50 CFR 635.27(b)(1)(vi), any over- or underharvest in a given region from the 2006 second and third trimester seasons will be carried over to the 2007 second and third trimester seasons in that region.

On March 8, 2007 (72 FR 10480), NMFS published a proposed rule that examined the regional quotas and proposed season lengths for the 2007 second and third trimester seasons for LCS, SCS, and pelagic sharks managed under the Consolidated HMS FMP. NMFS analyzed three LCS and four SCS alternatives for adjusting regional trimester quotas and other management measures based on the over- and underharvests that occurred in the LCS and SCS fisheries in the South Atlantic and Gulf of Mexico regions during the 2006 second and third trimester seasons. Information regarding these alternatives was provided in the preamble of the proposed rule and is not repeated here.

Response to Comments

Comments on the proposed rule are summarized below, together with NMFS' reponses.

Comment 1: NMFS received several comments in support of the LCS no action alternative, alternative 1, to open the LCS season on July 6. Commenters preferred a July 6 opening in the South Atlantic region because an August 1 opening would conflict with the spiny lobster fishery opening. Specifically these commenters felt that a July opening would avoid gear conflicts with spiny lobster traps and would allow spiny lobster fishermen to fish for sharks even if it was a two-week season. NMFS also received several comments in support of merging the 2007 second and third trimesters in the South Atlantic and Gulf of Mexico region. Finally, NMFS received a comment stating that the LCS 2007 second and third trimesters should remain closed and that the available quota be carried forward to the 2008 first trimester.

Response: Based on comments received, NMFS will implement the preferred alternatives for LCS in the South Atlantic and the Gulf of Mexico regions, alternatives 2 and 3, which would merge the 2007 second and third trimester seasons. However, due to comments received regarding concerns over the August 1st opening date in the South Atlantic region, NMFS has recalculated the opening and closing dates and will modify the opening date of the LCS merged trimester in the South Atlantic region to July 15, 2007. Based on average catch rates in July, the available quota for the merged season will likely be taken in just over four weeks; therefore the merged season in the South Atlantic region will close on August 15, 2007. Because of historically high catch rates in July if the merged season was to open on July 6, as in the past, the 163.7 mt dw of available quota would likely be taken in 3 weeks. Therefore, in order to allow for a longer merged season, NMFS modified the opening from August 1 to July 15. The commenters who suggested keeping the 2007 second and third seasons closed were concerned that the first season in 2008 will be closed due to the large overharvest in the first season of 2006. While the combined quota from the 2007 merged second and third seasons would eliminate the overharvest from the first season in 2006, keeping this combined season closed would have negative socioeconomic impacts to fishermen who fish during this time period. The trimester seasons were implemented in Amendment 1 to the 1999 FMP for Atlantic Tunas, Swordfish and Sharks to assist with managing seasonal fisheries, pupping seasons, and bycatch concerns. The trimester seasons also provide more open seasons spread across the calendar year.

Comment 2: NMFS received comments in opposition to the SCS preferred alternative, alternative 7, to reallocate the base quota percentages in the South Atlantic and Gulf of Mexico regions and to transfer a portion of the South Atlantic region's underharvest to cover the Gulf of Mexico region's overharvest. Opposition stemmed in part from fears that the South Atlantic region's quota would be permanently transferred to the Gulf of Mexico region. The commenters were also concerned about the possible misidentification of SCS being caught in the Gulf of Mexico region. NMFS also received a comment in support of the reallocation of the SCS base quota percentages since the Gulf of Mexico region's allocation of quota has been insufficient in the past.

Response: The current regional percent allocations of SCS were established in 2003 under Amendment 1 to the Atlantic Tunas, Swordfish, and Sharks FMP, and were amended in 2004 based on additional landings data from 2002 and 2003. Alternative 7 would modify the percent allocations to more evenly distribute the SCS quota among the Gulf of Mexico and South Atlantic regions, as recent landings in the Gulf of Mexico region indicate a change in the fishery and an increase in landings in this region. Landings information received from dealer reports during the 2006 second and third seasons indicate that the SCS species caught in the Gulf of Mexico region are about fifty percent blacknose and twenty-five percent finetooth sharks. In the South Atlantic region, dealer reports indicated that the SCS species caught are over seventy percent sharpnose sharks. Over the last three years, 33 percent of all SCS landed have been landed in the Gulf of Mexico. The South Atlantic region has not fully utilized its SCS quota and has accumulated large underharvests that are greater in total than the entire annual quota for all the regions. The new baseline quota allocations are similar to the landings in both regions reported during 2006. Redistributing the SCS more equally should help prevent future quota overharvests and fishery closures in the Gulf of Mexico region, which in turn should reduce potential future economic and social costs associated with unexpected closures. The commercial shark fishing industry in the South Atlantic region may perceive the reallocation of quota percentages as both a social and economic burden. However, alternative 7 would not require a reduction in fishing effort or landings of SCS in the South Atlantic region relative to current fishing levels. Additionally, sufficient quota would still be available to the South Atlantic region to provide for future limited fishery expansion. The adjusted South Atlantic regional quota for the second and third seasons are 291.6 mt dw and 297.5 mt dw, which is 64.2 percent and 65.5 percent of the

total annual quota for SCS, respectively. NMFS is currently undertaking a SCS stock assessment that is scheduled to be completed in the fall of 2007. Future SCS management decisions will be based, in large part, on the results of this stock assessment.

Comment 3: NMFS received a comment stating that sharks are overfished and quotas should be cut fifty percent this year and ten percent each year thereafter. NMFS also received a comment in support of managing porbeagle sharks under the Convention on International Trade of Endangered Species of Wild Fauna and Flora (CITES).

Response: The purpose of this rulemaking is to adjust quotas based on over- and underharvests from the previous year, not to reanalyze the overall management measures for sharks, which is being done in amendment 2 to the Consolidated HMS FMP. Based on the results of the 2005 Canadian porbeagle shark stock assessment, the 2006 dusky shark stock assessment, and the 2005/2006 LCS stock assessment, NMFS has determined that a number of shark stocks and/or species are overfished and an amendment to the Consolidated HMS FMP is needed to implement management measures to rebuild overfished stocks and prevent overfishing consistent with the mandates of the Magnuson-Stevens Act. On November 7, 2006, NMFS published a Notice of Intent, (71 FR 65086), to amend the Consolidated HMS FMP and recently presented a predraft to the Advisory Panel for comments. The purpose of the amendment is to enact management measures that will rebuild sandbar, dusky, and porbeagle shark populations; provide an opportunity for the sustainable harvest of blacktip sharks, particularly in the Gulf of Mexico where the stock has been declared rebuilt; and to end and/or prevent overfishing of Atlantic sharks. NMFS will be reexamining quotas and other management measures in that amendment. With regard to CITES, Germany, on behalf of the European Union has proposed listing the porbeagle shark under Appendix II of CITES. The United States is considering this and other CITES proposals. These proposals will be addressed at the CITES fourteenth meeting of the Conference of Parties held in The Hague, June 13–15, 2007.

Comment 4: NMFS received several comments concerning the accuracy of regional landings and reporting information and concern regarding the misidentification of species.

Response: The current dealer reporting regulations at 50 CFR 635.5(b)(1)(ii) state that reports of Atlantic sharks received by dealers from U.S. vessels on the first through the 15th of each month must be postmarked no later than the 25th of that month. Reports of sharks received on the 16th through the last day of each month must be postmarked not later than the 10th of the following month. NMFS has forwarded information about potential violations to NOAA Fisheries Office of Law Enforcement, and is reviewing internal processes to improve compliance with reporting requirements. Additionally, the upcoming shark amendment also includes measures to improve reporting. In order to minimize shark identification problems in the regions, in the Consolidated HMS FMP, NMFS implemented mandatory Atlantic shark identification workshops required for all federally permitted Atlantic shark dealers. These workshops are currently being held monthly throughout the South Atlantic and Gulf of Mexico regions and should help shark misidentification problems and lead to more accurate regional species reporting. NMFS relies on fishermen and dealers for accurate and timely reporting, and incomplete or non-submitted data make it difficult for the Agency to effectively monitor quotas and establish future seasons based on these landings.

Comment 5: NMFS received several comments stating that managing sharks in three different regions is not working, and that management of sharks in one region would be more effective. Conversely, NMFS received a comment stating that North Carolina should be removed from the South Atlantic region and that there should be a Mid-Atlantic quota, and that NMFS should get more regionally specific about what is being caught where and when.

Response: This rule does not address the trimester seasons or shark fishing regions that were established in Amendment 1 to the 1999 FMP for Atlantic Tunas, Swordfish and Sharks and the subsequent rulemaking (November 30, 2004, 69 FR 69537). The trimester seasons were implemented to provide fishermen with more fishing opportunities later in the year (September through December) when they were traditionally not allowed to fish under the semi-annual seasons, and to protect large pregnant female sharks and their pups from excessive fishing pressure. The regional quota allocations were designed to provide each region its own quota based on historical landings, providing the ability to manage commercial shark fishing with greater resolution. Under the current regime, regions that did not experience an overharvest are not penalized by quota reductions for overharvests that may occur in another region. In the amendment to the Consolidated HMS FMP that is currently underway, NMFS may consider changes to existing regional definitions and quota allocations for the regions. NMFS will consider this and other comments received during scoping at that time.

Comment 6: NMFS received a comment stating that blacktip sharks should be removed from the LCS complex and managed separately. NMFS also received a comment supporting an endorsement for the gillnet fishery.

Response: As described above, the purpose of this rulemaking is to adjust quotas based on over- and underharvests from the previous year, not to reanalyze the overall management measures for sharks. The purpose of the shark amendment to the Consolidated HMS FMP is to enact management measures that will rebuild sandbar, dusky, and porbeagle shark populations; provide an opportunity for the sustainable harvest of blacktip sharks, particularly in the Gulf of Mexico region where the stock is rebuilt; and to end and/or prevent overfishing of Atlantic sharks. The removal of blacktip sharks from the LCS complex and an endorsement for the gillnet fishery are both alternatives that may be considered in the amendment to the Consolidated HMS FMP.

Comment 7: NMFS received a comment stating that the Agency should fully analyze the cumulative socio-economic impacts to fishermen.

Response: NMFS realizes that most participants in HMS fisheries also depend on non-HMS species fisheries. For example, bottom longline participants also target reeffish, snapper/grouper, and golden tilefish either on the same trip or at different times of the year. NMFS analyzed the ecological and socio-economic impacts of each alternative considered in the Final EA for this rulemaking only and determined that the preferred management measures would not have significant ecological or socio-economic impacts. In addition, as a result of comments received regarding the spiny lobster fishery, NMFS changed the final action. Additionally, in the upcoming amendment to the Consolidated HMS FMP, NMFS will include a full analysis of socio-economic impacts of the management measures in the Atlantic shark fishery as well as the reeffish,

snapper/grouper, tilefish, and other fisheries, as appropriate.

Comment 8: NMFS received a comment stating that the Agency should declare the shark fishery an economic disaster.

Response: Under the Magnuson-Stevens Act at Sec.312 (16 U.S.C. 1861a), the Secretary of Commerce can determine whether there is a commercial fishery failure due to a fishery resource disaster as a result of (A) natural causes; (B) man-made causes beyond the control of fishery managers to mitigate through conservation and management measures, including regulatory restrictions (including those imposed as a result of judicial action) imposed to protect human health or the marine environment; or (C) undetermined causes. NMFS is currently reviewing these criteria during implementation of the Magnuson-Stevens Reauthorization Act and has not made any determination at this time with regard to the Atlantic shark fishery.

Changes to the Proposed Rule

NMFS has made a change from the March 8, 2007, proposed rule regarding the opening and closing dates for the 2007 second and third merged season in the South Atlantic region. In the proposed rule, NMFS proposed to open the merged 2007 second and third season on August 1, 2007, and to close it on September 15, 2007. This was based on available quotas, historic catch rates, and dealer data on the amount of quota taken during a closure. The August 1 start date was proposed because of lower catch rates in August versus July, therefore allowing for a longer 6 week continuous season. However, due to concerns regarding an August 1 opening date in the South Atlantic region and the overlap with the August 1 opening date of the spiny lobster fishery in the South Atlantic region, the LCS preferred alternative, alternative 2, has been modified. Based on the average July and August LCS catch rates in the South Atlantic region, NMFS calculates that approximately 69.6 percent of the merged second and third season quota (163.7 mt dw) would likely be taken by the second week of August. Historic dealer data also indicate that, on average, approximately 2.3 percent of available quota is taken during a closure from May through August. If the catch rates in 2007 are similar to average catch rates in the second and third season from 2003–2006 and landings after a closure remain consistent, 71.9 percent (69.6 percent + 2.3 percent) of the merged second and third trimester quota would be caught by the second week of August, and 105.6 percent (103.3 percent + 2.3 percent) would be taken by the third week of August. Because of historically high catch rates in July if the merged season was to open on July 6, as in the past, the 163.7 mt dw of available quota would likely be taken in 3 weeks. Therefore, in order to allow for a longer merged season, NMFS modified the opening from August 1 to July 15. The combined second and third trimester season in the South Atlantic region would be open for just over four weeks (Table 1). This continuous season would afford more flexibility in addressing market conditions for LCS, and thus potentially allow for greater profits. The positive aspects of merging the two seasons include reduced operating costs since fishermen will only need to prepare the vessel once instead of twice and they are more likely to have a viable market for LCS given that the season is longer. NMFS is closing the season on August 15 (Table 1), when only 71.9 percent of the available quota will likely be taken to avoid overharvest that may occur due to potential increased effort in the South Atlantic region because this region is currently closed to LCS fishing.

Final Fishing Season Notification and Quotas for the 2007 Second and Third Trimester Seasons

The final opening and closing dates and quotas for the 2007 LCS and SCS second and third trimester seasons are provided in Tables 1 and 2, respectively.

TABLE 1.—FINAL LCS SEASON LENGTHS AND QUOTAS FOR THE SECOND AND THIRD TRIMESTER SEASONS OF 2007

Region	Final merged 2nd and 3rd trimester opening dates	Final merged 2nd & 3rd trimester closing dates	Final merged 2nd & 3rd trimester quotas
South Atlantic	July 15, 2007	August 15, 2007	163.70mt dw; 360,893 lb dw.
Gulf of Mexico	September 1, 2007	September 22, 2007	83.1 mt dw; 183,202 lb dw.
North Atlantic	July 6, 2007—2nd trimester	July 31, 2007—2nd trimester	69.0 mt dw; 152,117 lb dw.
	Closed 3rd trimester	Closed 3rd trimester	CLOSED.

TABLE 2.—FINAL SCS AND PELAGIC SHARK SEASON LENGTHS AND QUOTAS FOR THE SECOND AND THIRD TRIMESTER SEASON OF 2007

2007 2nd trimester	Opening dates	Closing dates	2007 2nd tri. adjusted quota
SCS South Atlantic (49%)	May 1, 2007	To be determined as necessary	291.6 mt dw; 642,861 lb dw.
SCS Gulf of Mexico (48%)	May 1, 2007	To be determined as necessary	72.6 mt dw; 160,054 lb dw.
SCS North Atlantic (3%)	May 1, 2007	To be determined as necessary	36.2 mt dw; 79,807 lb dw.
Blue Sharks	May 1, 2007	To be determined as necessary	91.0 mt dw; 200,619 lb dw.
Porbeagle	May 1, 2007	To be determined as necessary	30.7 mt dw; 67,681 lb dw.
Pelagic Sharks	May 1, 2007	To be determined as necessary	162.7 mt dw; 358,688 lb dw.
2007 3rd trimester	**Opening dates**	**Closing dates**	**2007 3rd tri. adjusted quota**
SCS South Atlantic (49%)	September 1, 2007	To be determined as necessary	297.5 mt dw; 655,869 lb dw.
SCS Gulf of Mexico (48%)	September 1, 2007	To be determined as necessary	80.4 mt dw; 177,250 lb dw.
SCS North Atlantic (3%)	September 1, 2007	To be determined as necessary	29.4 mt dw; 64,815 lb dw.
Blue Sharks	September 1, 2007	To be determined as necessary	91.0 mt dw; 200,619 lb dw.
Porbeagle	September 1, 2007	To be determined as necessary	30.7 mt dw; 67,681 lb dw.
Pelagic Sharks	September 1, 2007	To be determined as necessary	162.7 mt dw; 358,688 lb dw.

Classification

NMFS has determined that this action is consistent with the Magnuson-Stevens Act, including the national standards, and other applicable law.

Pursuant to 5 U.S.C. 553(d)(3), the Assistant Administrator finds good cause to waive the 30-day delay in effective date for the May 1, 2007, start of the 2007 second trimester season for LCS, SCS, pelagic, blue, and porbeagle sharks (50 CFR 635.27(b)(1)(i)).

Updated landings reports for LCS, SCS, pelagic, blue, and porbeagle sharks for the 2006 second and third trimester seasons just became available in mid January 2007. Due to the discovery of under and late dealer reporting in November 2006, NMFS had to expend considerable effort in December and January to obtain, verify and document accurate landings data for the production of the landings reports that could be used to make over- and underharvest adjustments to the quotas consistent with 50 CFR 635.27(b)(1)(vi).

Based on that data, NMFS determined it needed to implement these measures in a timely manner to address the overharvest that occurred in 2006 and to prevent serious damage to the fishery resource by having regulations in place by the start of the second trimester fishing season, May 1, 2007. If this final rule is not in place by May 1, 2007, the baseline quotas for these species, which are higher than the 2007 adjusted quotas, would come into place as a default. The LCS default baseline quotas would be 138.9 mt dw for the South Atlantic region and 176.1 mt dw for the Gulf of Mexico region, compared to the lower LCS adjusted quotas of 83.2 mt dw for the South Atlantic region and 33.2 mt dw for the Gulf of Mexico region. If the higher default baseline quotas are in place on May 1, it is likely that the fishermen will harvest the entire available quota for the second season, leading to an unnecessary overharvest of Atlantic Sharks. These overharvests would result in damage to the fishery resource and future reductions in available quotas and fishing opportunities.

In addition, historically, the LCS second semi-annual or trimester season has opened in July instead of May 1. The time period between April and July is the time during which pregnant female sandbar sharks and other LCS species begin to pup and prohibited dusky sharks start to pup mainly between South Carolina and North Carolina. If this final action is not in place by May 1, the higher default baseline quotas will come into place and fishermen will begin to fish during months that are typically closed to LCS shark fishing due to the pupping season. By having the final action in place by May 1, the LCS fishing season will not open until July, which allows these critical pupping months to remain closed to shark fishing giving overfished sharks a greater opportunity to rebuild.

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

In compliance with Section 604 of the Regulatory Flexibility Act, a Final Regulatory Flexibility Analysis (FRFA) was prepared for this rule. The FRFA analyzes the anticipated economic impacts of the preferred actions and any significant alternatives to the final rule portion of this action that could minimize economic impacts on small entities. Each of the statutory requirements of Section 604 of the Regulatory Flexibility Act has been addressed, and a summary of the FRFA is below. The full FRFA and analysis of economic and ecological impacts, are available from NMFS (see **ADDRESSES**).

Section 604(a)(1) of the Regulatory Flexibility Act requires the Agency to state the objective and need for the rule. As stated earlier, the objective of this rule is to establish the quotas and season length for the 2007 second and third seasons of the Atlantic shark fishery consistent with the Consolidated HMS FMP and the rebuilding plan established in the 2003 Amendment 1 to the Atlantic Tunas, Swordfish, and Sharks FMP. NMFS needs to implement this action in order to maintain fishing mortality at the levels designated in the 2003 Amendment 1 to the 1999 FMP for Atlantic Tunas, Swordfish, and Sharks to prevent overfishing of the fishery resource.

Section 604(a)(2) of the Regulatory Flexibility Act requires the Agency to summarize significant issues raised by the public comment in response to the Initial Regulatory Flexibility Analysis (IRFA), a summary of the Agency's assessment of such issues, and a statement of any changes made as a result of the comments. The IRFA was done as part of the draft EA for the 2007 second and third season Atlantic commercial shark management measures. NMFS did not receive any comments specific to the IRFA. NMFS received an economic comment regarding the overlap of the shark fishery with the lobster fishery in the South Atlantic region that stated that the July 6 opening in the South Atlantic region would be better than the proposed August 1st opening because the spiny lobster fishery opens August 1st. Specifically, the commenters felt that a July opening would avoid gear conflicts with spiny lobster traps and would allow spiny lobster fishermen to fish for sharks even if it was a two week season.

As a result of comments received regarding concerns over the August 1 opening date in the South Atlantic region as proposed, NMFS will modify the opening date for the preferred LCS alternative in the South Atlantic region in the final rule. Based on the average July and August LCS catch rates and dealer data in the South Atlantic region, NMFS calculates, based on a July 15 start date, that approximately 71.9 percent of the merged second and third trimester quota would be caught by the second week of August, and 105.6 percent would be taken by the third week of August. Therefore, the combined second and third trimester season in the South Atlantic region would be open for just over four weeks. NMFS is closing the merged season on August 15 (Table 1), when only 71.9 percent of the available quota will likely be taken to avoid overharvest that may occur due to potential increase in effort in the South Atlantic region because this region is currently closed.

Section 604(a)(3) of the Regulatory Flexibility Act requires the Agency to describe and provide an estimate of the number of small entities to which the rule will apply. NMFS considers all HMS permit holders to be small entities because they either had gross receipts less than $3.5 million for fish-harvesting, gross receipts less than $6.0 million for charter/party boats, or 100 or fewer employees for wholesale dealers. These are the Small Business Association size standards for defining a small versus large business entity in this industry. As of January 2007, there were a total of 552 commercial permit holders in the Atlantic shark fishery (235 directed and 314 incidental permits). Comparing 2005 logbook data with permit holders indicates that there were 86 active vessels in the Gulf of Mexico region, 46 active vessels in the South Atlantic region, and 6 active vessels in the North Atlantic region. More information regarding the numbers of small entities involved in the fishery and their locations can be found in Chapter 6 of the EA (see **ADDRESSES**).

Section 604(a)(4) of the Regulatory Flexibility Act requires the Agency to describe the projected reporting, recordkeeping, and other compliance requirements of the final rule, including an estimate of the classes of small entities which would be subject to the requirements of the report or record. None of the alternatives considered for this final rule would result in additional

reporting, recordkeeping, and compliance requirements.

Section 604(a)(5) of the Regulatory Flexibility Act requires the Agency to describe the steps taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes. Additionally, the Regulatory Flexibility Act (5 U.S.C. 603(c)(1)–(4)) lists four general categories of ''significant'' alternatives that would assist an agency in the development of significant alternatives. These categories of alternatives are:

- Establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;
- Clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;
- Use of performance rather than design standards; and
- Exemptions from coverage of the rule for small entities.

As noted earlier, NMFS considers all permit holders in this fishery to be small entities. In order to meet the objectives of this final rule, consistent with the Magnuson-Stevens Act, NMFS cannot exempt small entities or change the reporting requirements only for small entities. Thus, there are no alternatives discussed that fall under the first and fourth categories described above. In addition, none of the alternatives considered would result in additional reporting or compliance requirements (category two above). NMFS does not know of any performance or design standards that would satisfy the aforementioned objectives of this rulemaking while, concurrently, complying with the Magnuson-Stevens Act.

As described below, NMFS analyzed seven different alternatives in this final rulemaking and provides justification for selection of the preferred alternatives to achieve the desired objective.

The alternatives included: Maintain existing procedures for LCS quota management (alternative 1, No Action), merge the second trimester season quota with the third trimester season quota in the South Atlantic and open the combined season July 15, 2007 (modified alternative 2), merge the second trimester season quota with the third trimester season quota in the Gulf of Mexico region and open the combined season September 1, 2007 (alternative 3), maintain the existing procedures for SCS quota management (alternative 4, No Action), transfer a portion of the South Atlantic region's 2007 second trimester SCS underharvest to the Gulf of Mexico region (alternative 5), transfer a portion of the South Atlantic region's 2007 second trimester SCS underharvest to the Gulf of Mexico region as well as give the Gulf of Mexico region additional SCS quota for the 2007 second trimester season (alternative 6), and reallocate the SCS regional quota percentages in the South Atlantic region from 87 percent to 49 percent and in the Gulf of Mexico region from 10 percent to 48 percent and transfer a portion of the South Atlantic region's 2007 second trimester SCS underharvest to the Gulf of Mexico region (alternative 7). Merging the second and third trimester seasons for LCS for both the South Atlantic (alternative 2) and the Gulf of Mexico (alternative 3) regions and also reallocating the SCS regional quota percentages between the South Atlantic and Gulf of Mexico regions for the second and third trimesters while also transferring a portion of the South Atlantic's regional second trimester underharvest to the Gulf of Mexico (alternative 7) are the preferred alternatives.

Alternatives Considered for LCS

Alternative 1 is considered the no action alternative since it would maintain existing procedures for addressing regional trimester over- and underharvests of LCS when establishing the regional quotas and seasons for the second and third trimesters of 2007 and it would also open the mid-Atlantic shark closed area in July, subject to available quota for the second trimester in 2007. This alternative is not preferred in part because it would result in negative economic impacts for the South Atlantic region and Gulf of Mexico region, compared to the preferred alternative.

The no action alternative does not create any new economic burdens on the shark commercial industry that were not included in previous rulemaking. Regardless, the unexpected magnitude of the 2006 second trimester overharvest would result in no commercial fishing for LCS in the entire Gulf of Mexico region during the second trimester of 2007 since the available adjusted quota would be taken in approximately two days. Furthermore, overharvest during the second trimester in 2006 in the South Atlantic region would result in a reduced second trimester quota of 83.2 mt dw and therefore the fishing season would be adjusted and shortened to last only from July 6 to July 20, 2007.

If not for the overharvest in 2006, the second trimester quota allocation would have been 138.9 mt of LCS in the South Atlantic region. Instead, the adjusted quota under this alternative would be 83.2 mt dw, which is 55.7 mt dw less than it would have been under the base quota allocation. To estimate the value of changes in revenues from the 2007 available quota, the median ex-vessel prices from 2003 to 2006 for each region were used to forecast 2007 shark prices since this multi-year average smoothes out temporary market fluctuations. Using a median ex-vessel price of $0.48 per pound dressed weight of LCS and $12.28 per pound for shark fin as reported on HMS dealer reports from 2003 to 2006 for the South Atlantic region and adjusted for inflation, the value of the 55.7 mt dw reduction from the baseline quote allocation would have been approximately $55,996 for LCS flesh (95 percent of the quota weight) and $75,398 for shark fins (based on the 5 percent shark fin to carcass regulation). Therefore, the 2006 overharvest is estimated to have a direct revenue impact on South Atlantic regional commercial shark fishing activity of approximately $131,393. However, it should be noted that due to the overharvest, fishermen received more revenue in the 2006 second trimester than previously expected. Since the actual prices received for the 2006 second trimester are available, those prices were used to calculate the ''extra'' revenues generated from the overharvest in the second trimester of 2006. Using the median ex-vessel prices for the second trimester of 2006 of $0.40 and $10.00 for LCS flesh and shark fins, respectively, for the South Atlantic region, the estimated revenue for the second trimester in 2006 from the 55.7 mt dw in overharvest was $108,162. Due to the extra landings in 2006, a shortened second trimester for 2007 would result in disrupted revenue flows and result in negative economic impacts.

If not for the overharvest in the second trimester of 2006 in the Gulf of Mexico region, the second trimester quota available would have been 176.1 mt of LCS in the Gulf of Mexico region. However, due to the overharvest, the adjusted quota is 33.2 mt for LCS. Because of the small size of this quota, no fishing season is feasible due to safety at sea concerns and potential derby fishing conditions. Using a median ex-vessel price of $0.44 for LCS and $17.05 for shark fin as reported on HMS dealer reports from 2003 to 2006 for the Gulf of Mexico region and adjusted for inflation, the value of the 176.1 mt dw baseline quota for the second trimester of 2007 is approximately $162,282 for LCS fresh (95 percent of the quota weight) and $330,969 for shark fins (based on the 5

percent shark fin to carcass regulation). Therefore, the 2006 overharvest is estimated to have a direct revenue impact on Gulf of Mexico regional commercial shark fishing activity of approximately $493,251. Using the median ex-vessel prices for the second trimester of 2006 of $0.40 and $13.00 for LCS flesh and shark fins, respectively, for the Gulf of Mexico region, the estimated revenue for the second trimester in 2006 from the 142.9 mt dw (176.1—33.2 mt dw) in overharvest was $324,491. However, a closure during the second trimester of 2007 would result in disrupted revenue flows and result in negative economic impacts.

The quota for the second trimester of 2007 is not impacted by overharvests in the North Atlantic region. However, in the 2007 third trimester, the North Atlantic region would be closed to fishing because of overharvest in the third trimester of 2006. The base quota allocation for the third trimester would have been 5.7 mt dw if not for the overharvest. Using an average between the median ex-vessel price in the South Atlantic and the Gulf of Mexico regions from 2003 to 2006 adjusted for inflation, the approximate value of this quota allocation would have been $14,709. This minor economic impact is offset by the extra revenue received sooner as a result of the 2.5 mt dw overharvest in the third trimester worth $6,451. However, it should also be noted that the third season was closed in 2006.

During the third trimester of 2006, there was also an overharvest in the South Atlantic region. This resulted in the base quota allocation being reduced from 138.9 mt dw to an adjusted quota of 80.5 mt dw for the third trimester. Using a similar calculation as before, the economic impact of the overharvest would be a reduced third quarter value of revenues of approximately $137,762. However, it should be noted that fishermen received revenue sooner under the 2006 third trimester overharvest than they normally would have received. Using the median ex -vessel prices for the third trimester of 2006 of $0.45 and $8.00 for LCS flesh and shark fins, respectively, for the South Atlantic region, the estimated revenue for the third trimester in 2006 from the 58.4 mt dw in overharvest was $100,425.

During the third trimester of 2006, there was also an overharvest in the Gulf of Mexico region. This resulted in the base quota allocation being reduced from 176.1 mt dw to an adjusted quota of 49.9 mt dw for the third trimester. Using a similar calculation as above, the economic impact of the overharvest would be a reduced third quarter value of revenues of approximately $353,482. However, it should be noted that due to the overharvest, fishermen received more revenue in the 2006 third trimester than previously expected. Using the median ex-vessel prices for the third trimester of 2006 of $0.40 and $17.00 for LCS flesh and shark fins, respectively for the Gulf of Mexico region, the estimated revenue for the third trimester in 2006 from the 126.2 mt dw in overharvest was $342,214. Despite this extra revenue in 2006, a shortened third trimester for 2007 would result in disrupted revenue flows and result in negative economic impacts.

Overall, the economic impact of reduced 2007 LCS quota for the South Atlantic, Gulf of Mexico, and North Atlantic regions for the second and third trimesters of 2007 would result in a total economic impact of $1,130,597 in reduced revenues. However, this is partially offset by the extra revenues generated in the second and third trimesters of 2006 estimated to be worth $881,644. Some of the impacts from these reduced revenues might be mitigated somewhat for vessels that can fish in other regions or fisheries. However, these opportunities will likely be limited and result in additional costs associated with adjusting current fishing practices.

Alternative 2, the modified preferred alternative, which would merge the second trimester season in the South Atlantic region with the third trimester season quota in the South Atlantic region, could minimize the economic costs associated with the South Atlantic regional overharvest. The 83.2 mt dw adjusted quota for the second trimester would be combined with the 80.5 mt dw adjusted quota for the third trimester in the South Atlantic to provide a combined 163.7 mt dw season starting on July 15, 2007, that would remain open until August 15, 2007.

There does not appear to be any significant seasonality to LCS and shark fin ex-vessel prices. Therefore, revenues under this alternative would likely be at least the same as having two separate seasons. The combined seasons under the modified Alternative 2 would provide for a total of just over four weeks to fish the LCS quota in the South Atlantic region versus five weeks (split into two seasons) under the no action alternative. This continuous season would afford more flexibility in addressing market conditions for LCS, and thus potentially allow for greater profits. Starting the season in July opens the mid-Atlantic shark closure to the South Atlantic region. This could have positive economic benefits, especially since catch rates have been historically higher in July than in August. The positive aspects of merging the two seasons include reduced operating costs since fishermen will only need to prepare the vessel once instead of twice and they are more likely to have a viable market for LCS given the longer season.

Alternative 3 is similar to Alternative 2 in that it merges the second trimester season with the third trimester season quota, but is instead for the Gulf of Mexico region. The merged season would combine the second trimester season quota of 33.2 mt dw with the third trimester season quota of 49.9 mt dw to create a three week long season starting September 1, 2007, that would have 83.1 mt dw of quota. This preferred alternative would have the benefit of extending the third season by one week versus under Alternative 1. Since Alternative 3 has the same start date as Alternative 1, there would not be any impact on that portion of the Gulf of Mexico region. Alternative 3 also allows the 33.2 mt dw quota of the second season to be fished. Under Alternative 1, the season for that 33.2 mt dw of quota would have been closed. Using a median ex-vessel price of $0.44 for LCS and $17.05 for shark fin reported HMS Dealer reports from 2003 to 2006 for the Gulf of Mexico region and adjusted for inflation, the value of harvesting this 33.2 mt dw of quota would be approximately $92,992 in revenue. In addition, by providing for a three week combined fishing season, this alternative would afford more flexibility in addressing market conditions for LCS.

Alternatives Considered for SCS

Alternative 4 is considered the no action alternative since it would maintain existing procedures for addressing regional trimester over- and underharvests for SCS when establishing the regional quotas and seasons for the second and third trimesters of 2007. No change in economic impacts would be realized in the North Atlantic and South Atlantic regions since that region would be open, with ample quota, throughout the entire second and third trimesters of 2007 under the status quo. This alternative is not preferred, as it would result in greater negative economic impacts for the Gulf of Mexico region, compared to the preferred alternative.

The no action alternative would not create any new economic burdens on the SCS commercial industry that were not included in previous rulemaking. Regardless, the size of the 2006 second trimester overharvest in the Gulf of Mexico region would result in no commercial fishing for SCS in the entire

Gulf of Mexico region during the second trimester of 2007. Even after a ten percent quota transfer from the South Atlantic second season underharvest, the 25.87 mt dw of transferred quota is not sufficient to address the 41.2 mt dw of overharvest in the Gulf of Mexico region during the second trimester season of 2006.

If not for the overharvest in 2006, the 2007 second trimester quota allocation would have been 15.1 mt dw of SCS in the Gulf of Mexico region. Instead, the adjusted quota under Alternative 4 would be negative 26.1 mt dw resulting in a closed fishing season. Using a median ex-vessel price of $0.44 per pound dw for SCS and $17.05 per pound for shark fin reported HMS dealer reports from 2003 to 2006 for the Gulf of Mexico region and adjusted for inflation, the value of this harvest (15.1 mt dw) would have been approximately $13,915 for SCS flesh (95 percent of the quota weight) and $28,380 for shark fins (based on the 5 percent shark fin to carcass regulation). Therefore, the 2006 overharvest is estimated to have a direct revenue impact on Gulf of Mexico regional commercial shark fishing activity of approximately $42,295. However, it should be noted that due to the overharvest, fishermen received more revenue in the 2006 second trimester than previously expected.

Alternative 5 would transfer a portion of the South Atlantic's regional 2007 second trimester SCS underharvest (41.2 mt dw) to the Gulf of Mexico region to cover the Gulf of Mexico's regional 2006 second trimester overharvest. The Gulf of Mexico would then have the equivalent of their base quota of 15.1 mt dw for the 2007 second trimester. This would eliminate the economic impact of a closure in the Gulf of Mexico region in 2007 unlike under the no action alternative. This additional quota transfer would likely not provide enough quota to prevent an overharvest during the 2007 second trimester. The South Atlantic region would still have an adjusted third trimester quota of 349 mt dw, which is much greater than the amount that region actually harvested in the second season of 2006. The only economic impacts would come from potential future impacts to the South Atlantic region as a result of the 41.2 mt dw transfer of their underhavest to the Gulf of Mexico region if, in the future, the South Atlantic harvests more SCS than is accommodated by their lowered adjusted quota.

Alternative 6 would transfer a portion of the South Atlantic region's 2007 second trimester SCS underharvest (41.2 mt dw) to the Gulf of Mexico region to cover the Gulf of Mexico region's 2006 second trimester SCS overharvest as well as give the Gulf of Mexico region additional SCS quota of 15.1 mt dw from the South Atlantic region for a total of 30.2 mt dw for the 2007 second trimester. This additional quota transfer would likely not provide enough quota to prevent an overharvest during the 2007 second trimester. However, this additional quota (15.1 mt dw) would provide the Gulf of Mexico region with an additional $42,294 in potential revenue from SCS. It would also further reduce the underharvest carry forward of SCS in the South Atlantic as a result of the larger transfer. There could be future economic impacts in the South Atlantic region if SCS catches increase in that region in the future.

Alternative 7 would take a different approach. Under Alternative 7, NMFS would reallocate the SCS regional quota percentages in the South Atlantic region from 87 percent to 49 percent and in the Gulf of Mexico region from 10 percent to 48 percent for both the 2007 second and third trimester seasons and in the future. In addition, there would also be transfer of underharvest in the South Atlantic region's 2007 second trimester quota to cover the Gulf of Mexico region's second trimester overharvest. This alternative is the preferred alternative.

There would be no change in the total base quota available for all regions in the second and third trimester season under this alternative. The adjusted 2007 second and third trimester regional quota would stay the same for the North Atlantic region. The key change would involve the quota amounts for South Atlantic and Gulf of Mexico regions. The 2007 second trimester quota in the South Atlantic region would decrease from 390.2 mt dw (Alternative 4) to 291.6 mt dw of SCS and the 2007 third trimester quota would decrease from 354.9 mt dw (Alternative 4) to 297.5 mt dw. Using the 2003 to 2006 median ex-vessel prices of $0.67 lbs dw for flesh and the 2003 to 2006 median ex-vessel prices for shark fin of $12.28 for SCS in the South Atlantic region, there would be a decrease of $200,425 in potential revenues for the 2007 second trimester season and a $158,245 decrease in potential revenues in the 2007 third trimester season. However, it should be noted that the South Atlantic region has not harvested SCS in amounts approaching even these lowered trimester quota levels in the past few years. Under this alternative, the regional quotas for the South Atlantic region for the 2007 second and third seasons are 291.6 mt dw, and 297.5 mt dw which is 64.2 percent and 65.5 percent of the total annual quota for SCS, respectively.

The 2007 second trimester quota in the Gulf of Mexico region would go from closed under the Alternative 4 (No Action) scenario in the second trimester season to 72.6 mt dw of SCS under this alternative. In addition, the 2007 third trimester quota would increase from 22.9 mt dw to 80.4 mt dw. Using the 2003 to 2006 median ex-vessel prices of $0.44 lbs dw and the 2003 to 2006 median ex-vessel prices for shark fin of $17.05 for SCS in the Gulf of Mexico region, there would be an increase of $203,350 in potential revenues for the second trimester season and $161,506 increase in potential revenues in the third trimester season for the Gulf of Mexico region. This reallocation of quota would allow the SCS fishery to remain open in the Gulf of Mexico region and would prevent future overharvest of quota in that region while not leading to an overharvest in the South Atlantic region.

Overall, Alternative 7 would increase revenues for SCS by transferring quota from a region of underharvest to a region that is currently overharvesting their SCS quota. The reallocation of regional quota percentages would provide greater regional equity in future base quota allocations. This would help mitigate overharvesting of the quota in the Gulf of Mexico region. However, there could be future impacts to the South Atlantic region as a result of the reallocation of the SCS regional quota percentage to the Gulf of Mexico region if in the future the South Atlantic harvests more than this lower regional quota allocation percentage.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: April 23, 2007.

Samuel D. Rauch III,

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

■ For reasons set out in the preamble, 50 CFR part 635 is amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

■ 1. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

■ 2. In § 635.27, paragraphs (b)(1)(i), (b)(1)(iv), (b)(1)(vi)(A) introductory text, are revised to read as follows:

§ 635.27 Quotas.

* * * * *

(b) * * *

(1) * * *

(i) *Fishing seasons.* The commercial quotas for large coastal sharks, small coastal sharks, and pelagic sharks will be split among three fishing seasons: January 1 through April 30, May 1 through August 31, and September 1 through December 31. NMFS may consider merging any of the fishing seasons pursuant to paragraph (b)(1)(vi) of this section.

* * * * *

(iv) *Small coastal sharks.* The annual commercial quota for small coastal sharks is 454 mt dw, unless adjusted pursuant to paragraph (b)(1)(vi) of this section. This annual quota is split among the regions as follows: 48 percent to the Gulf of Mexico, 49 percent to the South Atlantic, and 3 percent to the North Atlantic.

* * * * *

(vi) * * *

(A) NMFS will adjust the next year's fishing season quotas for large coastal, small coastal, and pelagic sharks to reflect actual landings during any fishing season in any particular region. For example, a commercial quota underharvest or overharvest in the fishing season in one region that begins January 1 will result in an equivalent increase or decrease in the following year's quota for that region for the fishing season that begins January 1. NMFS may consider merging any of the fishing seasons and relevant quotas in any region when there is limited available quota in one or more seasons.

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[FR Doc. E7–8029 Filed 4–25–07; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070213032–7032–01; I.D. 042007A]

Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish and Pelagic Shelf Rockfish for Trawl Catcher Vessels Participating in the Rockfish Entry Level Fishery in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for northern rockfish and pelagic shelf rockfish for trawl catcher vessels participating in the rockfish entry level fishery in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2007 total allowable catch (TAC) of northern rockfish and pelagic shelf rockfish allocated to trawl catcher vessels participating in the rockfish entry level fishery in the Central Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), April 24, 2007, through 2400 hrs, A.l.t., September 1, 2007.

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

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

In accordance with § 679.83(a)(1)(i), allocations of entry level rockfish to trawl catcher vessels participating in the rockfish entry level fishery in the Central Regulatory Area are first made from the Pacific ocean perch TAC. Trawl catcher vessels participating in the rockfish entry level program are allocated northern rockfish and pelagic shelf rockfish only if the amount of Pacific ocean perch available for allocation is less than the total allocation allowable for the trawl catcher vessels. NMFS has determined that the 2007 TAC of Pacific ocean perch meets or exceeds the total allocation of rockfish allowable for the trawl catcher vessels. Therefore, the 2007 TACs of northern rockfish and pelagic shelf rockfish allocated to trawl catcher vessels participating in the entry level rockfish fishery in the Central Regulatory Area are 0 mt.

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2007 TACs of northern rockfish and pelagic shelf rockfish allocated to trawl catcher vessels participating in the entry level rockfish fishery in the Central Regulatory Area will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 0 mt. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for northern rockfish and pelagic shelf rockfish for trawl catcher vessels participating in the rockfish entry level fishery in the Central Regulatory Area of the GOA.

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

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of northern rockfish and pelagic shelf rockfish for trawl catcher vessels participating in the rockfish entry level fishery in the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of April 20, 2007.

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

This action is required by § 679.20 and § 679.83 and is exempt from review under Executive Order 12866.

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

Dated: April 23, 2007.

James P. Burgess

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

[FR Doc. 07–2063 Filed 4–23–07; 2:10 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 72, No. 80
Thursday April 26, 2007

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM373 Special Conditions No. 25–07–09–SC]

Special Conditions: Boeing Model 787–8 Airplane; Composite Fuselage In-Flight Fire/Flammability Resistance

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Boeing Model 787–8 airplane. This airplane will have novel or unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The fuselage of the Boeing Model 787–8 series airplane will be made of composite materials rather than conventional aluminum. While the regulations include flame propagation standards for some materials commonly found in inaccessible areas of the airplane, they do not yet incorporate standards for materials used to construct the fuselage. Therefore, special conditions are needed to address this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards. Additional special conditions will be issued for other novel or unusual design features of the Boeing Model 787–8 airplanes.

DATES: Comments must be received on or before June 11, 2007.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM–113), Docket No. NM373, 1601 Lind Avenue SW., Renton, Washington 98057–3356; or delivered in duplicate to the Transport Airplane Directorate at the above address. All comments must be marked Docket No. NM373. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Jeff Gardlin, FAA, Airframe/Cabin Safety, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–2136; facsimile (425) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive as well as a report summarizing each substantive public contact with FAA personnel concerning these proposed special conditions. 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 notice between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change the proposed special conditions based on 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 back to you.

Background

On March 28, 2003, Boeing applied for an FAA type certificate for its new Boeing Model 787–8 passenger airplane. The Boeing Model 787–8 airplane will be an all-new, two-engine jet transport airplane with a two-aisle cabin. The maximum takeoff weight will be 476,000 pounds, with a maximum passenger count of 381 passengers.

Type Certification Basis

Under provisions of 14 CFR 21.17, Boeing must show that Boeing Model 787–8 airplanes (hereafter referred to as ''the 787'') meet the applicable provisions of 14 CFR part 25, as amended by Amendments 25–1 through 25–117, except §§ 25.809(a) and 25.812, which will remain at Amendment 25–115. If the Administrator finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for the 787 because of a novel or unusual design feature, special conditions are prescribed under provisions of 14 CFR 21.16.

In addition to the applicable airworthiness regulations and special conditions, the 787 must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of part 36. In addition, the FAA must issue a finding of regulatory adequacy pursuant to section 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

Special conditions, as defined in § 11.19, are issued in accordance with § 11.38 and become part of the type certification basis in accordance with § 21.17(a)(2).

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

Novel or Unusual Design Features

In-flight fires have originated in inaccessible areas of aircraft where thermal/acoustic insulation located adjacent to the aluminum aircraft skin has been the path for flame propagation and fire growth. Although these insulation materials were required to comply with the basic ''Bunsen burner'' requirement of title 14 Code of Federal Regulations (CFR) sections 25.853(a) and 25.855(d), these incidents revealed unexpected flame spread along the insulation film covering material of the thermal/acoustic insulation. In all cases, the ignition source was relatively modest and, in most cases, was

electrical in origin (for example an electrical short circuit, arcing caused by chafed wiring, or a ruptured ballast case).

In September 2003, in an effort to limit use of materials that sustain or propagate a fire in inaccessible areas, the FAA promulgated 14 CFR 25.856(a), which requires that thermal/acoustic insulation material installed in the fuselage meet newly developed flame propagation test requirements. That rule was Amendment 25–111. These requirements were developed to address a realistic fire threat. We consider that threat generally applicable to the 787.

Conventional aluminum fuselage material does not contribute to in-flight fire propagation. As a result, there are no standards that address in-flight fire safety of the fuselage structure itself. The 787 will make extensive use of composite materials in the fabrication of the majority of the

- Wing,
- Fuselage skin,
- Stringers,
- Spars, and
- Most other structural elements of all major sub-assemblies of the airplane.

As a result of this extensive use of a new construction material, the fuselage cannot be assumed to have the fire resistance previously afforded by aluminum during the in-flight fire scenario mentioned above. These proposed special conditions would require that the 787 provide the same level of in-flight survivability as a conventional aluminum fuselage airplane. This includes its thermal/acoustic insulation meeting requirements of § 25.856(a). Resistance to flame propagation must be shown, and all products of combustion that may result must be evaluated for toxicity and found acceptable.

Applicability

As discussed above, these proposed special conditions are applicable to the 787. Should Boeing apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design features, these proposed special conditions would apply to that model as well under the provisions of § 21.101.

Conclusion

This action affects only certain novel or unusual design features of the 787. It is not a rule of general applicability, and it affects only the applicant that applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these Special Conditions is as follows:

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

The Proposed Special Conditions

Accordingly, the Administrator of the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for the Boeing Model 787–8 airplane.

In addition to the requirements of 14 CFR 25.853(a) governing material flammability, the following special conditions apply:

The 787 composite fuselage structure must be shown to be resistant to flame propagation under the fire threat used to develop 14 CFR 25.856(a). If products of combustion are observed beyond the test heat source, they must be evaluated and found acceptable.

Issued in Renton, Washington, on April 18, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–7840 Filed 4–25–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28016; Directorate Identifier 2006–NM–227–AD]

RIN 2120–AA64

Airworthiness Directives; Learjet Model 31, 31A, 35, 35A (C–21A), 36, 36A, 55, 55B, and 55C Airplanes, and Model 45 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Learjet Model 31, 31A, 35, 35A (C–21A), 36, 36A, 55, 55B, and 55C airplanes, and Model 45 airplanes. This proposed AD would require inspecting for unsealed gaps on the pylon side of the engine firewall and cleaning/sealing any unsealed gap; and, for certain airplanes, inspecting for unsealed gaps of the pylon trailing edge and cleaning/sealing any gap. This proposed AD results from a report that unsealed gaps (penetration points) of the engine firewall were discovered during production. We are proposing this AD to prevent penetration of flammable liquids or fire through the engine firewall into the engine pylon, which could lead to fire inside the airplane.

DATES: We must receive comments on this proposed AD by June 11, 2007.

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

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

Contact Learjet, Inc., One Learjet Way, Wichita, Kansas 67209–2942, for the service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: James Galstad, Aerospace Engineer, Systems and Propulsion Branch, ACE–116W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4135; fax (316) 946–4107.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2007–28016; Directorate Identifier 2006–NM–227–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that web site, anyone can find and read the

comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov.*

Examining the Docket

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

Discussion

We have received a report indicating that the engine firewall sealing application on certain Learjet Model 45 airplanes does not meet engineering standards, as unsealed gaps (penetration points) of the engine firewall were discovered during production. Further investigation revealed that the same condition could be present on Model 31, 31A, 35, 35A (C–21A), 36, 36A, 55, 55B, and 55C airplanes. Such gaps could include those provided for bleed air, anti-ice, fuel, and fire extinguishing systems, as well as engine mounts, control cables, access panels, and others not described. This condition, if not corrected, could result in penetration of flammable liquids or fire through the engine firewall into the engine pylon, which could lead to fire inside the airplane.

Relevant Service Information

We have reviewed the service bulletins specified in the following table. For all airplanes, the service bulletins describe procedures for inspecting for unsealed gaps on the pylon side of the engine firewall and cleaning/sealing any unsealed gap. For Model 45 airplanes only, Service Bulletin 45–54–3 also describes procedures for inspecting for unsealed gaps on the pylon trailing edge and cleaning/sealing any unsealed gap. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

APPLICABLE SERVICE INFORMATION

Learjet airplane model	Service bulletin	Revision level	Date
31/31A	Bombardier Service Bulletin 31–54–2	1	August 21, 2006.
45	Bombardier Service Bulletin 45–54–3	2	August 15, 2003.
35/35A (C–21A) and 36/36A	Learjet Service Bulletin 35/36–54–3	Original	March 16, 2001.
55/55B/55C	Learjet Service Bulletin 55–54–3	Original	March 16, 2001.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. For this reason, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

There are about 1,243 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 945 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this proposed AD, at an average labor rate of $80 per work hour. Parts and materials may be supplied from operator stores or procured locally.

ESTIMATED COSTS TO PERFORM INSPECTION AND MODIFICATIONS

Learjet airplane model	Work hours	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
31/31A	2	$160	173	$27,680
35/35A (C–21A)	2	160	507	81,120
36/36A	2	160	42	6,720
45	5	400	102	40,800
55/55B/55C	2	160	121	19,360

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

LEARJET: Docket No. FAA–2007–28016; Directorate Identifier 2006–NM–227–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by June 11, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Learjet Model 31, 31A, 35, 35A (C–21A), 36, 36A, 55, 55B, and 55C airplanes, and Model 45 airplanes; certificated in any category; as identified in the service information specified in Table 1 of this AD.

TABLE 1.—APPLICABLE SERVICE INFORMATION

Learjet airplane model	Service bulletin	Revision level	Date
31/31A	Bombardier Service Bulletin 31–54–2	1	August 21, 2006.
45	Bombardier Service Bulletin 45–54–3	2	August 15, 2003.
35/35A (C–21A) and 36/36A	Learjet Service Bulletin 35/36–54–3	Original	March 16, 2001.
55/55B/55C	Learjet Service Bulletin 55–54–3	Original	March 16, 2001.

Unsafe Condition

(d) This AD results from a report that unsealed gaps (penetration points) of the engine firewall were discovered during production. We are issuing this AD to prevent penetration of flammable liquids or fire through the engine firewall into the engine pylon, which could lead to fire inside 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.

Inspecting, Cleaning, and Sealing of Gaps in Engine Firewall

(f) Within 12 months after the effective date of this AD, do the actions described in paragraphs (f)(1) and (f)(2) of this AD, in accordance with the applicable service information specified in Table 1 of this AD.

(1) For all airplanes: Inspect for unsealed gaps on the pylon side of the engine firewall and clean and seal any unsealed gap.

(2) For Learjet Model 45 airplanes only: Inspect the engine pylon trailing edge for unsealed gaps, and clean and seal any unsealed gap.

Credit for Actions Done Using Previous Service Information

(g) Actions accomplished before the effective date of this AD according to Bombardier Service Bulletin 31–54–2, dated March 16, 2001; or Bombardier Service Bulletin 45–54–3, dated March 16, 2001; or Revision 1, dated December 12, 2001; as applicable; are considered acceptable for compliance with the corresponding action specified in this AD.

Alternative Methods of Compliance (AMOCs)

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

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

Issued in Renton, Washington, on April 19, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–8001 Filed 4–25–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26353; Directorate Identifier 2006–NM–189–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–1A11 (CL–600), CL–600–2A12 (CL–601), CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604) Airplanes

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

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: The FAA is revising an earlier NPRM for an airworthiness directive (AD) that applies to certain Bombardier Model CL–600–1A11 (CL–600) airplanes, CL–600–2A12 (CL–601) airplanes, and CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604) airplanes. The original NPRM would have required inspecting to identify the part number and serial number of the selector valves of the nose landing gear (NLG) and the nose gear door; and doing related investigative and corrective actions if necessary. The original NPRM resulted from reports of uncommanded partial retractions of the NLG. This action revises the original NPRM by adding airplanes to the applicability.

We are proposing this supplemental NPRM to prevent internal leakage of the selector valve, which, under certain conditions, could result in an uncommanded retraction of the NLG with consequent damage to the airplane and possible serious injury to ground personnel.

DATES: We must receive comments on this supplemental NPRM by May 21, 2007.

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

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

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

FOR FURTHER INFORMATION CONTACT: Daniel Parrillo, 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) 228–7305; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this supplemental NPRM. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''Docket No. FAA–2006–26353; Directorate Identifier 2006–NM–189–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this supplemental NPRM. We will consider all comments received by the closing date and may amend this supplemental NPRM in light of those comments.

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

Examining the Docket

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

Discussion

We proposed to amend 14 CFR part 39 with a notice of proposed rulemaking (NPRM) for an airworthiness directive (AD) (the ''original NPRM''). The original NPRM applies to certain Bombardier Model CL–600–1A11 (CL–600) airplanes, CL–600–2A12 (CL–601) airplanes, and CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604) airplanes. The original NPRM was published in the **Federal Register** on November 20, 2006 (71 FR 67079). The original NPRM proposed to require inspecting to identify the part number and serial number of the selector valves of the nose landing gear (NLG) and the nose gear door, and doing related investigative and corrective actions if necessary.

Actions Since Original NPRM Was Issued

Since the original NPRM was issued, Bombardier has determined that additional airplanes are subject to the unsafe condition.

Relevant Service Information

Bombardier has issued Service Bulletin 604–32–021, Revision 02, dated February 20, 2007 (for Model CL–600–2B16 (CL–604) airplanes). The service bulletin adds airplanes to the effectivity; however, Revision 02 is technically identical to Revision 01, dated February 20, 2006. We referred to Revision 01 as the appropriate source of service information for doing the actions specified in the original NPRM. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

FAA's Determination and Proposed Requirements of the Supplemental NPRM

Certain changes discussed above expand the scope of the original NPRM; therefore, we have determined that it is necessary to reopen the comment period to provide additional opportunity for public comment on this supplemental NPRM.

Difference Between Supplemental NPRM and Canadian Airworthiness Directive

Although Canadian airworthiness directive CF–2006–16, dated July 6, 2006, applies to certain airplanes as identified in Service Bulletin 604–32–021, Revision 01, this supplemental NPRM would apply to those airplanes and certain additional airplanes, as identified in Service Bulletin 604–32–021, Revision 02. This difference has been coordinated with TCCA.

Costs of Compliance

This proposed AD would affect about 502 airplanes of U.S. registry.

The inspection to determine the manufacturer P/N and S/N of the selector valve(s) would take about 1 work hour per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $40,160, or $80 per airplane.

The general visual inspection of the selector valve(s), if accomplished, would take about 1 work hour per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $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 proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

BOMBARDIER, INC. (Formerly Canadair): Docket No. FAA–2006–26353; Directorate Identifier 2006–NM–189–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by May 21, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bombardier Model CL–600–1A11 (CL–600) airplanes, CL–600–2A12 (CL–601) airplanes, and CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604) airplanes; certificated in any category; having serial numbers (S/Ns) as identified in the service bulletins specified in Table 1 of this AD, as applicable.

TABLE 1.—BOMBARDIER SERVICE BULLETINS

Service Bulletin	Revision level	Date
600–0721 (for Model CL–600–1A11 (CL–600) airplanes)	01	February 20, 2006.
601–0558 (for Model CL–600–2A12 (CL–601) airplanes, and CL–600–2B16 (CL–601–3A and CL–601–3R) airplanes).	01	February 20, 2006.
604–32–021 (for Model CL–600–2B16 (CL–604) airplanes)	02	February 20, 2007.

Unsafe Condition

(d) This AD results from reports of uncommanded partial retractions of the nose landing gear (NLG). We are issuing this AD to prevent internal leakage of the selector valve, which, under certain conditions, could result in an uncommanded retraction of the NLG with consequent damage to the airplane and possible serious injury to ground personnel.

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 Corrective Actions

(f) Within 500 flight hours or 12 months after the effective date of this AD, whichever occurs first, inspect to determine the manufacturer part number (P/N) and S/N of the selector valves of the NLG and nose gear door. A review of airplane maintenance records is acceptable in lieu of this inspection if the S/Ns of the selector valves can be conclusively determined from that review. For any subject selector valve having Tactair Fluid Controls P/N 750006000 and a S/N from 0001 through 0767 inclusive, before further flight, do related investigative (including a general visual inspection for proper installation of the lock wire of the end cap) and corrective actions; in accordance with the applicable service bulletins identified in Table 1 of this AD.

Note 1: Operators should be aware that selector valves having Bombardier P/N 601R75146–1 may be supplied by different manufacturers and have different manufacturer part numbers. Only airplanes having selector valves manufactured by Tactair Fluid Controls, having P/N 750006000, are subject to the investigative and corrective actions specified in paragraph (f) of this AD.

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.''

Note 3: The service bulletins identified in Table 1 of this AD refer to Tactair Fluid Controls Service Bulletin SB750006000–1, Revision A, dated September 6, 2005, as an additional source of service information for doing the related investigative and corrective actions required by this AD.

Actions Accomplished According to Previous Issue of Service Bulletin

(g) Actions accomplished before the effective date of this AD according to Bombardier Service Bulletin 604–32–021, Revision 01, dated February 20, 2006 (for Model CL–600–2B16 (CL–604) airplanes), are considered acceptable for compliance with the corresponding actions specified in this AD.

Alternative Methods of Compliance (AMOCs)

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

(2) 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–2006–16, dated July 6, 2006, also addresses the subject of this AD.

Issued in Renton, Washington, on April 19, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–7979 Filed 4–25–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–27680; Directorate Identifier 2007–CE–026–AD]

RIN 2120–AA64

Airworthiness Directives; AEROTECHNIC Vertriebs-u. Service GmbH Honeywell CAS67A ACAS II Systems Appliances

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) 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:

It was detected by the STC holder that in earlier installations of the ACASII system there were no isolation diodes installed in the Heading and Attitude Valid lines. The absence of an isolation diode in the valid lines can prevent the valid flag to come up even if a gyro fault exists. The problem has only been detected for Heading Valid lines but could equally affect the Altitude Valid lines.

With installation of the ACASII, the heading and attitude valid lines have to be connected to the TPU67A. On valid state, the signals are +28VDC. On invalid, the signals are open. This condition of direct connection (without an isolation diode installed) of the valid lines to the TPU67A, if not corrected, could cause the TPU67A to feed current into the open stated valid lines. This prevents the flag to appear even if the gyro is invalid, providing the flight crew with erroneous navigation information.

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 May 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:* Go to *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: 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. 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 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–2007–27680; Directorate Identifier 2007–CE–026–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 European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD No. 2007–0059 dated March 5, 2007 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products.

The MCAI states:

It was detected by the STC holder that in earlier installations of the ACASII system there were no isolation diodes installed in the Heading and Attitude Valid lines. The absence of an isolation diode in the valid lines can prevent the valid flag to come up even if a gyro fault exists. The problem has only been detected for Heading Valid lines but could equally affect the Attitude Valid lines.

With installation of the ACASII, the heading and attitude valid lines have to be connected to the TPU67A. On valid state, the signals are +28VDC. On invalid, the signals are open. This condition of direct connection (without an isolation diode installed) of the valid lines to the TPU67A, if not corrected, could cause the TPU67A to feed current into the open stated valid lines. This prevents the flag to appear even if the gyro is invalid, providing the flight crew with erroneous navigation information.

For the reasons stated above, this Airworthiness Directive (AD) requires the installation of isolation diodes into the signal lines to the TPU67A to prevent reverse feed of the valid lines.

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

Relevant Service Information

Aerotechnic Vertiebs -u. Service GmbH has issued Service Bulletin No. DO228–119780–0104, Revision 2, dated December 21, 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 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

The FAA is not aware of any airplanes on the U.S. Registry that have the affected equipment installed. All airplanes with this equipment included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action at this time. However, the FAA considers this rule necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Registry.

Should an affected airplane be imported and placed on the U.S. Registry, accomplishment of the required action would take approximately 8 work-hours at an average labor rate of $80 per work-hour. Required parts would cost about $50 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, the total cost impact of this AD would be $690 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 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:

AEROTECHNIC Vertriebs-u. Service GmbH: Docket No. FAA–2007–27680; Directorate Identifier 2007–CE–026–AD.

Comments Due Date

(a) We must receive comments by May 29, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Honeywell CAS67A ACAS II systems that are installed on, but not limited to, DORNIER LUFTFAHRT GmbH Models Dornier 228–100, Dornier 228–101, Dornier 228–200, Dornier 228–201, and Dornier 228–212 airplanes that:

(1) Had Supplemental Type Certificate No. SA1310 installed prior to January 31, 2005; and

(2) Are certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 34: Navigation.

Reason

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

It was detected by the STC holder that in earlier installations of the ACAS II system there were no isolation diodes installed in the Heading and Attitude Valid lines. The absence of an isolation diode in the valid lines can prevent the valid flag to come up even if a gyro fault exists. The problem has only been detected for Heading Valid lines but could equally affect the Attitude Valid lines.

With installation of the ACAS II, the heading and attitude valid lines have to be connected to the TPU67A. On valid state, the signals are +28VDC. On invalid, the signals are open. This condition of direct connection (without an isolation diode installed) of the valid lines to the TPU67A, if not corrected, could cause the TPU67A to feed current into the open stated valid lines. This prevents the flag to appear even if the gyro is invalid, providing the flight crew with erroneous navigation information.

For the reasons stated above, this Airworthiness Directive (AD) requires the installation of isolation diodes into the signal lines to the TPU67A to prevent reverse feed of the valid lines.

Actions and Compliance

(f) Unless already done, within 100 flight hours time-in-service (TIS) after the effective date of this AD, modify the Honeywell CAS67A ACAS II System Installation following Aerotechnic Service Bulletin No. DO228–119780–0104, Revision 2, dated December 21, 2006.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, 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. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (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

(h) Refer to MCAI European Aviation Safety Agency (EASA) AD No. 2007–0059, dated March 5, 2007; and Service Bulletin No. DO228–119780–0104 Revision 2, dated December 21, 2006, for related information.

Issued in Kansas City, Missouri, on April 20, 2007.

Charles L. Smalley,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–7993 Filed 4–25–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28015; Directorate Identifier 2006–NM–210–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–300, 747–400, 747–400D, and 747SR Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) that applies to all Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–300, 747–400, 747–400D, and 747SR series airplanes. The existing AD currently requires repetitive inspections for cracking of the station 800 frame assembly, and repair if necessary. This proposed AD would revise certain applicabilities and compliance times in the existing AD. This proposed AD results from several reports of cracks of the station 800 frame assembly on airplanes that had accumulated fewer total flight cycles than the initial inspection threshold in the original AD. We are proposing this AD to detect and correct fatigue cracks that could extend and fully sever the frame, which could result in development of skin cracks that could lead to rapid depressurization of the airplane.

DATES: We must receive comments on this proposed AD by June 11, 2007.

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

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

Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Ivan Li, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6437; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''Docket No. FAA–2007–28015; Directorate Identifier 2006–NM–210–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

On May 31, 2006, we issued AD 2006–12–12, amendment 39–14638 (71 FR 33595, June 12, 2006), for all Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–300, 747–400, 747–400D, and 747SR series airplanes. That AD requires repetitive inspections for cracking of the station 800 frame assembly, and repair if necessary. That AD resulted from several reports of cracks of the station 800 frame assembly on airplanes that had accumulated fewer total flight cycles than the initial inspection threshold in an existing AD that AD 2006–12–12 superseded. We issued AD 2006–12–12 to detect and correct fatigue cracks that could extend and fully sever the frame, which could result in development of skin cracks that could

lead to rapid depressurization of the airplane.

Actions Since Existing AD Was Issued

Since we issued AD 2006–12–12, errors have been found in the applicability of paragraphs (f) and (g), and the compliance times in Tables 1 and 2 of that AD. Therefore, we have made the following changes:

- We have removed the Model 747–200F from paragraphs (f) and (g) of this NPRM. The Model 747–200F was not included in the applicability of AD 2006–12–12 because the Model 747–200F is not subject to the unsafe condition.
- We have added the Model 747SR to paragraphs (f) and (g) of this NPRM and added a new Table 2 to accommodate it. These airplanes were identified in the main applicability in paragraph (c) of AD 2006–12–12.
- We have removed the Model 747–100B SUD from paragraphs (f) and (g) of this NPRM because they are not subject to the requirements of AD 2001–14–22 (the AD that was superseded by AD 2006–12–12).
- We have revised the thresholds in paragraphs (f)(2), (f)(3), (h)(2), and (h)(3) of this NPRM to correct an inadvertent error in the compliance times.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to develop on other airplanes of the same type design. For this reason, we are proposing this AD, which would supersede AD 2006–12–12 and would retain the requirements of the existing AD. This proposed AD would also revise certain applicabilities and compliance times in the existing AD.

Costs of Compliance

There are about 900 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 156 airplanes of U.S. registry.

The repetitive inspections would take between 12 and 14 work hours per airplane, depending on the airplane configuration. The average labor rate is $80 per work hour. Based on these figures, the estimated cost of the currently required actions is between $149,760 and $174,720, or between $960 and $1,120 per airplane, per inspection cycle.

The repetitive inspections of the expanded area would take between 18 and 20 work hours per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the new actions specified in this proposed AD for U.S. operators is between $224,640 and $249,600, or between $1,440 and $1,600 per airplane, per inspection cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–14638 (71 FR 33595, June 12, 2006) and adding the following new airworthiness directive (AD):

Boeing: Docket No. FAA–2007–28015; Directorate Identifier 2006–NM–210–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by June 11, 2007.

Affected ADs

(b) This AD supersedes AD 2006–12–12.

Applicability

(c) This AD applies to all Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–300, 747–400, 747–400D, and 747SR series airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from several reports of cracks of the station 800 frame assembly on airplanes that had accumulated fewer total flight cycles than the initial inspection threshold in the existing AD. We are issuing this AD to detect and correct fatigue cracks that could extend and fully sever the frame, which could result in development of skin cracks that could lead to rapid depressurization 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.

Requirements of AD 2006–12–12 With Revised Appicabilities and Thresholds

Repetitive Inspections

(f) For Boeing Model 747–100, 747–100B, 747–200B, 747–200C, and 747SR series airplanes, as identified in Boeing Alert Service Bulletin 747–53A2451, including Appendix A, dated October 5, 2000: Do detailed, surface high-frequency eddy current (HFEC), and open-hole HFEC inspections, as applicable, for cracking of the station 800 frame assembly (including the inner chord strap, angles, and exposed web) between stringers 14 and 18, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2451, including Appendix A, dated October 5, 2000; or Boeing Alert Service Bulletin 747–53A2451, Revision 1, dated November 10, 2005; after the effective date of this AD, only Revision 1 of the service bulletin may be used. Except as provided by paragraph (g) of this AD, do the inspection at the applicable time specified in Table 1 or Table 2 of this AD, as applicable, and repeat the inspections thereafter at intervals not to exceed 3,000

flight cycles until the initial inspections required by paragraph (h) of this AD are accomplished.

TABLE 1.—COMPLIANCE TIMES FOR BOEING MODEL 747–100, 747–100B, 747–200B, AND 747–200C SERIES AIRPLANES

Total flight cycles as of August 30, 2001 (the effective date of AD 2001–14–22, amendment 39–12333, which was superseded by AD 2006–12–12)	Do the inspection in paragraph (f) of this AD at this time
(1) Fewer than 19,000	Before the accumulation of 19,000 total flight cycles, or within 1,500 flight cycles after August 30, 2001, whichever comes later.
(2) 19,000 or more, but 24,250 or fewer	Within 1,500 flight cycles or 12 months after August 30, 2001, whichever comes first.
(3) 24,251 or more	Within 750 flight cycles or 12 months after August 30, 2001, whichever comes first.

TABLE 2.—COMPLIANCE TIMES FOR BOEING MODEL 747SR SERIES AIRPLANES

Total flight cycles as of the effective date of this AD	Do the inspection in paragraph (f) of this AD at this time
(4) Fewer than 19,000	Before the accumulation of 19,000 total flight cycles, or within 1,500 flight cycles after the effective date of this AD, whichever comes later.
(5) 19,000 or more, but 24,250 or fewer	Within 1,500 flight cycles or 12 months after the effective date of this AD, whichever comes first.
(6) 24,251 or more	Within 750 flight cycles or 12 months after the effective date of this AD, whichever comes first.

Adjustments to Compliance Time: Cabin Differential Pressure

(g) For Boeing Model 747–100, 747–100B, 747–200B, and 747–200C series airplanes, as identified in Boeing Alert Service Bulletin 747–53A2451, including Appendix A, dated October 5, 2000, that were inspected before July 17, 2006 (the effective date of AD 2006–12–12); and for Boeing Model 747SR airplanes, as identified in Boeing Alert Service Bulletin 747–53A2451, that were inspected before the effective date of this AD: Except as provided by paragraph (i) of this AD, for the purposes of calculating the compliance threshold and repetitive interval for the actions required by paragraph (f) of this AD, the number of flight cycles in which cabin differential pressure is at 2.0 pounds per square inch (psi) or less need not be counted when determining the number of flight cycles that have occurred on the airplane, provided that the flight cycles with momentary spikes in cabin differential pressure above 2.0 psi are included as full pressure cycles. For this provision to apply, all cabin pressure records must be maintained for each airplane: No fleet-averaging of cabin pressure is allowed.

Repetitive Inspections of Expanded Area at a New Reduced Threshold

(h) For all airplanes, at the applicable time specified in Table 3 of this AD, except as provided by paragraph (i) of this AD, do the following inspections of the station 800 frame assembly in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2451, Revision 1, dated November 10, 2005: A detailed inspection for cracking of the inner chord strap, angles, and exposed web adjacent to the inner chords on the station 800 frame between stringer 14 and stringer 18; and surface HFEC and open-hole HFEC inspections for cracking of the inner chord strap and angles. Do the initial inspections at the applicable time specified in Table 3 of this AD, and repeat the inspections thereafter at intervals not to exceed 3,000 flight cycles. Accomplishing the initial inspections required by this paragraph terminates the inspection requirements of paragraph (f) of this AD.

TABLE 3.—REVISED COMPLIANCE TIMES

Total flight cycles as of July 17, 2006—	Do the inspections in paragraph (h) of this AD at this time—
(1) Fewer than 16,000	Before the accumulation of 16,000 total flight cycles, or within 1,500 flight cycles after July 17, 2006, whichever comes later.
(2) 16,000 or more, but 21,250 or fewer	Within 1,500 flight cycles after July 17, 2006, or within 1,000 flight cycles after the effective date of this AD, whichever comes later.
(3) 21,251 or more	Within 750 flight cycles after the July 17, 2006 or within 500 flight cycles after the effective date of this AD, whichever comes later.

Adjustments to Compliance Time: Cabin Differential Pressure

(i) For the purposes of calculating the compliance threshold and repetitive interval for actions required by paragraphs (f) and (h) of this AD, for Boeing Model 747–100, 747–100B, 747–200B, and 747–200C series airplanes, on or after July 17, 2006; and for Boeing Model 747SR series airplanes, on or after the effective date of this AD: All flight cycles, including the number of flight cycles in which cabin differential pressure is at 2.0 psi or less, must be counted when determining the number of flight cycles that have occurred on the airplane. However, for airplanes on which the repetitive interval for the actions required by paragraph (f) of this AD have been calculated in accordance with paragraph (g) of this AD by excluding the number of flight cycles in which cabin differential pressure is at 2.0 pounds psi or less: Continue to adjust the repetitive inspection interval in accordance with paragraph (g) of this AD until the initial inspections required by paragraph (h) of this AD are accomplished. Thereafter, no adjustment to compliance times based on paragraph (g) of this AD is allowed.

Repair

(j) If any cracking is detected during any inspection required by paragraph (f) or (h) of this AD, and the service bulletin specifies to contact Boeing for appropriate action: Before further flight, repair using a method approved in accordance with the procedures specified in paragraph (l) of this AD.

No Report Required

(k) Although the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2451, including Appendix A, dated October 5, 2000; and Boeing Alert Service Bulletin 747–53A2451, Revision 1, dated November 10, 2005; describe procedures for reporting certain information to the manufacturer, this AD does not require that report.

Alternative Methods of Compliance (AMOCs)

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

(2) 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) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane.

(4) AMOCs approved previously in accordance with AD 2001–14–22, are approved as AMOCs for the corresponding provisions of paragraphs (f) and (j) of this AD.

(5) AMOCS approved previously in accordance with AD 2006–12–12, are approved as alternative methods of compliance with this AD.

Issued in Renton, Washington, on April 19, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–7978 Filed 4–25–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28017; Directorate Identifier 2007–NM–005–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A310–203, A310–204, A310–222, A310–304, A310–322, and A310–324 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

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

* * * some structural areas have been identified for which existing recommended SB (service bulletin) needs to be rendered mandatory.

As a consequence, and because it has been shown that the torque applied to the tension bolts connecting the beam (stringer 49) to the forward and aft beam extension at FR11 and FR17 may be insufficient, this AD renders mandatory the replacement of those tension bolts, in order to limit the risks of damage or corrosion of the specified areas.

Damage or corrosion of the specified areas could result in reduced structural integrity of the airplane. The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by May 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: Tom Stafford, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1622; 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 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–2007–28017; Directorate Identifier 2007–NM–005–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2006–0367, dated December 5, 2006 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

During the A310 life extension exercise performed by Airbus, the Airlines Representatives and the Airworthiness Authorities, some structural areas have been identified for which existing recommended SB (service bulletin) needs to be rendered mandatory.

As a consequence, and because it has been shown that the torque applied to the tension bolts connecting the beam (stringer 49) to the forward and aft beam extension at FR11 and FR17 may be insufficient, this AD renders mandatory the replacement of those tension bolts, in order to limit the risks of damage or corrosion of the specified areas.

Damage or corrosion of the specified areas could result in reduced structural integrity of the airplane. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Airbus has issued Service Bulletin A310–53–2045, Revision 05, dated July 20, 2006. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This AD and the MCAI or Service Information

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

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a NOTE within the proposed AD.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 29 products of U.S. registry. We also estimate that it would take about 9 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Required parts would cost about $886 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 $46,574, or $1,606 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:

AIRBUS: Docket No. FAA–2007–28017; Directorate Identifier 2007–NM–005–AD.

Comments Due Date

(a) We must receive comments by May 29, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A310–203, A310–204, A310–222, A310–304, A310–322, and A310–324 airplanes, certificated in any category, manufacturing serial numbers 283 through 434 inclusive. Airplanes which have received application of Airbus Service Bulletin A310–53–2045 at original issue up to Revision 05 are not affected by this AD.

Subject

(d) Fuselage.

Reason

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

During the A310 life extension exercise performed by Airbus, the Airlines Representatives and the Airworthiness Authorities, some structural areas have been identified for which existing recommended SB (service bulletin) needs to be rendered mandatory.

As a consequence, and because it has been shown that the torque applied to the tension bolts connecting the beam (stringer 49) to the forward and aft beam extension at FR11 and FR17 may be insufficient, this AD renders mandatory the replacement of those tension bolts, in order to limit the risks of damage or corrosion of the specified areas.

Damage or corrosion of the specified areas could result in reduced structural integrity of the airplane.

Actions and Compliance

(f) Unless already done, do the following actions at the applicable time specified in paragraph (f)(1) or (f)(2) of this AD: Rework the structure between frame 11 and frame 17 of the nose landing gear well of the fuselage in accordance with the instructions of Airbus Service Bulletin A310–53–2045, Revision 05, dated July 20, 2006.

(1) For Model A310–300 airplanes: Prior to accumulation of 35,000 total flight cycles from first flight of the airplane, or within 30 days after the effective date of this AD, whichever occurs later.

(2) For Model A310–200 airplanes: Prior to the accumulation of 40,000 total flight cycles from the first flight of the airplane, or within 30 days after the effective date of this AD, whichever occurs later.

(3) Actions done before the effective date of this AD in accordance with Airbus Service Bulletin A310–53–2045, dated March 11, 1988; Revision 1, dated June 16, 1988; Revision 2, dated September 7, 1988; Revision 3, dated October 4, 1989; or Revision 4, dated April 20, 1990; is acceptable for compliance with the requirements of this AD.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to *ATTN:* Tom Stafford, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1622; 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.

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

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2006–0367, dated December 5, 2006; and Airbus Service Bulletin A310–53–2045, Revision 05, dated July 20, 2006; for related information.

Issued in Renton, Washington, on April 19, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–7998 Filed 4–25–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2007–27850; Airspace Docket No. 07–ASO–5]

RIN 2120–AA66

Proposed Amendment to Restricted Areas R–3702A and R–3702B Fort Campbell, KY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the designated altitudes of restricted areas R–3702A and R–3702B, Fort Campbell, KY, to better accommodate training requirements and provide greater access to the airspace for nonparticipating aircraft flying through the area above 10,000 feet MSL.

DATES: Comments must be received on or before June 11, 2007.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify FAA Docket No. FAA–2007–27850 and Airspace Docket No. 07–ASO–05, at the beginning of your comments. You may also submit comments through the Internet at *http://dms.dot.gov*.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2007–27850 and Airspace Docket No. 07–ASO–05) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://dms.dot.gov*.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2007–27850 and Airspace Docket No. 07-ASO–05.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the **Federal Register's** Web page at *http://www.gpoaccess.gov/fr/index.html*.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, 1601 Lind Avenue, #14, SW., Renton, WA 98055.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

R–3702A and R–3702B were established to contain a variety of hazardous activities involving both ground-based and aircraft weapons systems. Currently, R–3702A extends from ground level up to and including 6,000 feet MSL. R–3702B overlies R–3702A and extends from 6,000 feet MSL to Flight Level (FL) 220. A third subdivision, restricted area R–3702C,

overlies R–3702A and B, and extends from FL 220 to FL 270, but is not affected by this proposed action.

Hazardous training operations conducted in these areas only require restricted airspace up to 10,000 feet MSL. However, under the current configuration, R–3702A only extends up to 6,000 feet MSL. Therefore, to provide protection when hazardous training operations are being conducted at 10,000 feet MSL and below, R–3702B must also be activated. This results in periods when the airspace between 11,000 feet MSL and FL 220 is being unnecessarily restricted and unavailable for transit by nonparticipating aircraft. Resetting the altitude boundary between R–3702A and R–3702B at 10,000 feet MSL instead of 6,000 feet MSL, would permit more efficient airspace management and allow air traffic control (ATC) to provide better service to civil aircraft in that area.

The Proposal

The FAA is proposing to amend Title 14 Code of Federal Regulations (14 CFR) part 73 to realign the designated altitudes of restricted areas R–3702A and R–3702B at Fort Campbell, KY. The proposal would change the designated altitudes for R–3702A from ''surface to 6,000 feet MSL,'' to ''surface to 10,000 feet MSL.'' In addition, the designated altitudes for R–3702B would be changed from ''6,000 feet MSL to FL 220,'' to ''10,000 feet MSL to FL 220.'' The proposed change would permit Fort Campbell to conduct training that involves hazardous operations not exceeding 10,000 feet MSL without unnecessarily restricting aircraft from transiting the area at higher altitudes. This change would allow ATC to provide better service to nonparticipating aircraft in the area.

Section 73.37 of Title 14 CFR part 73 was republished in FAA Order 7400.8N, dated February 16, 2007.

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

Environmental Review

This proposal will be subject to the appropriate environmental analysis in accordance with FAA Order 1050.1E, Environmental Impacts: Policies and Procedures, prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

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

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

§ 73.37 [Amended]

2. Section 73.37 is amended as follows:

* * * * *

R–3702A Fort Campbell, KY [Amended]

Under Designated altitudes, by removing the words ''Surface to 6,000 feet MSL,'' and inserting the words ''Surface to 10,000 feet MSL.''

* * * * *

R–3702B Fort Campbell, KY [Amended]

Under Designated altitudes, by removing the words ''6,000 feet MSL to FL 220,'' and inserting the words ''10,000 feet MSL to FL 220.''

* * * * *

Issued in Washington, DC, April 20, 2007.

Paul Gallant,

Acting Manager, Airspace and Rules Group.

[FR Doc. E7–8020 Filed 4–25–07; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 3

RIN 3038–AC37

Registration of Intermediaries

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is proposing to amend Commission Regulation 3.10 to require certain registered intermediaries, *i.e.*, futures commission merchants (''FCMs''), introducing brokers (''IBs''), commodity pool operators (''CPOs''), commodity trading advisors (''CTAs'') and leverage transaction merchants (''LTMs''), to complete an online annual review of their registration information maintained with the National Futures Association (''NFA''). The proposed amendment (''Proposed Amendment'') would ensure that NFA will have accurate and current information about such registrants. The Commission's proposal (''Proposal'') also includes a technical and conforming amendment to Commission Regulation 3.33(f), which regulation is cross-referenced in the Proposed Amendment.

DATES: Comments must be received on or before May 29, 2007.

ADDRESSES: Comments on the Proposal should be sent to Eileen Donovan, Acting Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Comments may be sent by facsimile transmission to (202) 418–5521, or by e-mail to *secretary@cftc.gov.* Reference should be made to ''Proposal Regarding the Registration of Intermediaries.'' Comments also may be submitted by connecting to the Federal eRulemaking Portal at *http://www.regulations.gov* and following the comment submission instructions.

FOR FURTHER INFORMATION CONTACT: Helene D. Schroeder, Special Counsel, Compliance and Registration Section, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, telephone number: (202) 418–5450; facsimile number: (202) 418–5528; and electronic mail: *hschroeder@cftc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

A. The Regulatory Framework

Sections 4d, 4f(a)(1), 4m and 4n(1) of the Commodity Exchange Act (''Act'') [1] require the registration of firms seeking to act as intermediaries for exchange-traded futures.[2] The statutory framework for registration procedures is

[1] 7 U.S.C. 1 *et seq.* (2000). The Act can be accessed at *http://www.access.gpo.gov/uscode/title7/chapter1_.html.*

[2] Section 4c of the Act provides the Commission with plenary authority over commodity options.

set forth in Section 4f(a)(1) of the Act for FCMs and IBs,[3] and in Section 4n(a)(1) for CPOs and CTAs.[4] Additionally, Section 19 of the Act grants the Commission plenary authority over leverage transactions.[5]

Pursuant to these statutory and other regulatory provisions, a person seeking to register as an intermediary must file an application that contains the information and facts that are deemed necessary by the Commission.[6] Sections 4f and 4n further provide that, unless renewed, the person's registration will expire automatically each year, or at such other time (not less than one year from the date of issuance) as the Commission by rule, regulation or order may prescribe.[7]

Section 17(o)(1) of the Act authorizes the Commission to require any registered futures association to perform any portion of its registration functions under the Act with respect to each member of the association,[8] and Section 8a(10) permits the Commission to authorize any person to perform any registration functions under the Act, in accordance with rules adopted by such person and submitted to the Commission for approval.[9] The Commission has exercised this authority by delegating to NFA, the sole registered futures association, its authority to process applications for registration of intermediaries.[10]

Part 3 of the Commission's Regulations [11] contains the regulations relating to the registration of intermediaries and other futures industry professionals. Commission Regulation 3.10(a) specifies that an application for registration as an FCM, IB, CPO, CTA or LTM must be on a Form 7–R, completed and filed with NFA in accordance with the instructions thereto.[12] Commission Regulation 3.31(a)(1) imposes a continuing obligation on registrants to update their registration information.[13] Specifically, Commission Regulation 3.31(a)(1) requires each FCM, IB, CTA, CPO or LTM to promptly correct any deficiency or inaccuracy that is contained in the person's Form 7–R or any Form 8–R filed on behalf of a principal or an associated person that no longer renders accurate and current the information contained therein. It further specifies that each such correction must be made on a Form 3–R and must be prepared and filed with NFA in accordance with the instructions thereto.

To further ensure that registration information remained accurate and current, Commission Regulation 3.10(d), which was revoked in 2002, required FCMs, IBs, CPOs, CTAs and LTMs to file the Form 7–R with NFA annually on a date specified by NFA. In accordance with that regulation, NFA sent each FCM, IB, CPO, CTA and LTM a pre-printed paper copy of the registrant's Form 7–R to review. If the information in the printout was inaccurate, the registrant was required to correct the information and return the printout with the corrections to NFA.[14]

B. Implementation of NFA's Online Registration System

In light of technological advancements and improvements, NFA altered its registration procedures in 2002 by shifting from paper-based registration to an online or electronic registration system. Pursuant to the updated procedures, NFA requires, with limited exception,[15] that all registration (and membership) forms, including the completed Form 7–R and 3–R, must be filed with NFA electronically through NFA's online registration system.

In June 2002, the Commission deleted the requirement for firms to review annually registration information as specified by Commission Regulation 3.10(d).[16] The Commission determined that, because such persons were already under an ongoing obligation pursuant to Commission Regulation 3.31(a) to update their registration information to correct deficiencies and inaccuracies, the continuation of the annual paper updating process was redundant and resulted in unnecessary costs to both NFA and the registrant.[17] Further, because NFA was implementing an online system for the intake of registration documents, the Commission believed it made little sense for NFA to continue receiving annual paper updates of such registration forms.

In the period since the elimination of Regulation 3.10(d), NFA has experienced some problems with the registration information provided by certain intermediaries. Further, the Commission and NFA recently have arranged for firms to designate an enforcement contact to be the recipient of communications from the Commission relating to enforcement issues. It is important to maintain an up-to-date list of such contacts. In addition, although the Commission has seen no evidence of security breaches of registration information, an annual review of information in the registration database should enhance the overall safety of such data.

NFA has devoted significant resources toward developing an online registration update protocol for firms to review and update their registration records. The protocol is designed to provide a straightforward process by which registrants can review and modify their existing registration information.[18] In addition to providing an updated list of users, the protocol will require registrants to provide updated disciplinary, branch office and firm contact information. The Proposed Amendment is intended to facilitate NFA's efforts in implementing this new

[3] 7 U.S.C. 6f(a)(1).

[4] 7 U.S.C. 6n(1).

[5] 7 U.S.C. 23. Commission Regulation 31.5, 17 CFR 31.5 (2006), was promulgated under this provision and along with Regulation 3.10, 17 CFR 3.10, governs the registration of LTMs. The Commission's regulations can be accessed at *http://www.access.gpo.gov/nara/cfr/waisidx_06/17cfrv1_06.html.*

[6] In the case of FCMs and IBs, the application must provide the ''names and addresses of the managers of all branch offices, and the names of such officers and partners, if a partnership, and the names of such officers, directors, and stockholders, if a corporation, as the Commission may direct.'' With regard to CPOs and CTAs, the application must contain identifying information, education and business affiliations of controlling persons thereof, the manner of giving advice and rendering of analyses or reports, the basis upon which the applicant is or will be compensated and such other information as the Commission may require to determine whether the applicant is qualified for registration.

[7] In this regard, Section 4f(a)(1) provides in pertinent part as follows: ''Each registration shall expire on December 31 of the year for which issued or at such other time, not less than one year from the date of issuance, as the Commission may by rule, regulation, or order prescribe, and shall be renewed upon application therefor unless the registration has been suspended (and the period of such suspension has not expired) or revoked pursuant to the provisions of this Act.''

Section 4n(2) additionally provides: ''Each registration under this section shall expire on the 30th day of June of each year, or at such other time, not less than one year from the effective date thereof, as the Commission may by rule regulation, or order prescribe, and shall be renewed upon application therefor subject to the same requirements as in the case of an original application.''

[8] 7 U.S.C. 21(o)(1).

[9] 7 U.S.C. 12a(10).

[10] 54 FR 19556 (May 8, 1989) (LTMs); 49 FR 39593 (Oct. 9, 1984) (FCMs, CPOs and CTAs); and 48 FR 35158 (Aug. 3, 1983) (IBs).

[11] 17 CFR part 3.

[12] 17 CFR 3.10(a).

[13] 17 CFR 3.31(a)(1).

[14] Regulation 3.10(d) also provided that the failure to file the Form 7–R within 30 days following the date specified by NFA would be deemed to be a request for withdrawal from registration.

[15] For example, NFA requires that any securities broker or dealer that is registered with the Securities and Exchange Commission that becomes a notice-registered FCM or IB must submit a hardcopy version of its Form 7–R.

[16] 67 FR 38869 (June 6, 2002).

[17] *Id.* at 38871.

[18] For example, a firm could modify the title given for a particular principal of a firm, but it could not identify a new principal, as this would require separate application.

protocol and ensure that NFA is in possession of current and accurate information regarding intermediaries. All firms remain subject to their obligations under Regulation 3.31(a)(1) to promptly correct any deficiency or inaccuracy in a Form 7–R or Form 8–R filed by the firm.

II. Proposal

The Proposed Amendment, which would set forth an annual review requirement, would be added as new paragraph (d).[19] As proposed, the new paragraph would provide that each FCM, IB, CPO, CTA and LTM, in accordance with procedures established by NFA, must complete an online annual review of the registration information maintained by NFA. Pursuant to procedures established by NFA, registrants would be expected to correct any deficiencies or inaccuracies contained therein.

The Proposed Amendment also would provide that the failure to complete the review and update within 30 days of the date established by NFA for completion would be deemed to be a request for withdrawal from registration. As further provided therein, NFA would be required to process the request in accordance with the existing procedures for withdrawal of registration set forth in Commission Regulation 3.33(f).

Commission Regulation 3.33(f) establishes the date on which a request for withdrawal of registration will become effective unless the Commission or NFA take certain actions as specified therein.[20] When the Commission deleted the requirement for registrants to conduct an annual paper updating process by revoking Commission Regulation 3.10(d) in 2002, the Commission did not make a conforming change to Commission Regulation 3.33(f). Specifically, the Commission did not remove unnecessary language that cross-referenced the revoked provision. That language, which appears as the introductory phrase of Commission Regulation 3.33(f) provides as follows: ''Except as otherwise provided in Regulation 3.10(d).'' This introductory phrase will continue to be unnecessary if the Proposed Amendment is adopted. Accordingly, the Commission's Proposal also includes a technical and conforming amendment to Commission Regulation 3.33(f) to remove the introductory language. As proposed, the text would begin with the language following the introductory phrase: ''A request for withdrawing of registration.'' The residual text in Commission Regulation 3.33(f) would remain intact.

III. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA'')[21] requires that agencies, in proposing regulations, consider the impact of those regulations on small businesses. The Proposed Amendment would affect persons that are registered as FCMs, IBs, CPOs, CTAs and LTMs. The Commission has previously established certain definitions of ''small entities'' to be used by the Commission in evaluating the impact of its regulations on such entities in accordance with the RFA.[22] The Commission previously determined that registered FCMs, CPOs and LTMs are not small entities for the purpose of the RFA.[23] With respect to the remaining persons, CTAs and IBs, the Commission does not believe that the economic impact of the Proposed Amendment will be significant. First, the information that would be required under the Proposed Amendment already is required to be collected under the existing registration framework. Second, the Proposed Amendment and NFA's new protocol will focus each registrant on the specific areas that must be reviewed and, if needed, updated. Third, the Proposed Amendment will permit review and updating via electronic means in keeping with the current registration procedures. Accordingly, in accordance with Section 3(a) of the RFA,[24] the Chairman, on behalf of the Commission, certifies that the proposed rules will not have a significant economic impact on a substantial number of small entities. However, the Commission invites the public to comment on this finding.

B. Cost-Benefit Analysis

Section 15(a) of the Act[25] requires the Commission to consider the costs and benefits of its action before issuing a new regulation under the Act. By its terms, Section 15(a) does not require the Commission to quantify the costs and benefits of a new regulation or to determine whether the benefits of the proposed regulation outweigh its costs. Rather, Section 15(a) simply requires the Commission to ''consider the costs and benefits'' of its action.

Section 15(a) further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission, in its discretion, may choose to give greater weight to any one of the five enumerated areas and determine that, notwithstanding its costs, a particular regulation is necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the Act.

The Proposed Amendment concerns the registration of certain intermediaries, in particular, FCMs, IBs, CPOs, CTAs and LTMs. Specifically, the Proposed Amendment will require these intermediaries to complete an online annual review of their registration information, including disciplinary information, firm contacts and lists of authorized users. By ensuring that NFA, the self-regulatory organization that oversees the activities of these registrants, will have accurate and current information regarding registrants, the Proposed Amendment will maximize the protection of market participants and the public.

Such intermediaries already are under an ongoing obligation to provide updated information to NFA pursuant to Commission Regulation 3.31(a)(1). The Proposed Amendment would require these registrants to comply with an online review protocol established by NFA. This protocol would provide a straightforward process for registrants to electronically update their registration information. It would focus and guide registrants on the particular areas that need updating. By facilitating NFA's efforts to adopt this protocol, the Proposed Amendment also should result in efficiency enhancements for registrants and NFA.

The Proposed Amendment should have no effect on the following three enumerated areas: (1) Efficiency, competitiveness or the financial integrity of futures markets; (2) price discovery; and (3) sound risk management practices.

After considering these factors, the Commission has determined to issue the Proposed Amendment discussed above. The Commission invites public comment on its application of the cost-benefit provision. Commenters also are invited to submit any data that they may have quantifying the costs and benefits

[19] Paragraph (d) of Regulation 3.10 had been reserved.

[20] Commission Regulation can be accessed at the Web site provided in footnote 5. *See also* NFA Registration Rule 601(c).

[21] 5 U.S.C. 601 *et seq.*

[22] 47 FR 18618 (Apr. 30, 1982).

[23] 47 FR 18618, 18619.

[24] 5 U.S.C. 605(b).

[25] 7 U.S.C. 19(a).

of the Proposed Amendment with their comment letters.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (''PRA'') imposes certain obligations on federal agencies, including the Commission, in connection with their conducting or sponsoring any collection of information as defined by the PRA.[26] The Proposed Amendment would require intermediaries to conduct an annual review of their registration information maintained with NFA. The information that would be reviewed in accordance with the Proposed Amendment is part of an approved collection of information. Moreover, the Proposed Amendment would not result in any material modifications to this approved collection. Accordingly, for purposes of the PRA, the Commission certifies that the requirements of the PRA are inapplicable to the Proposed Amendment.

List of Subjects in 17 CFR Part 3

Administrative practice and procedure, Brokers, Commodity Futures, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Commission proposes to amend 17 CFR part 3 as follows:

PART 3—REGISTRATION

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

Authority: 5 U.S.C. 522, 522b; 7 U.S.C. 1a, 2, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6m, 6n, 6o, 6p, 8, 9, 9a, 12, 12a, 13b, 13c, 16a, 18, 19, 21, 23.

2. Section 3.10 is amended by adding paragraph (d) to read as follows:

§ 3.10 Registration of futures commission merchants, introducing brokers, commodity trading advisors, commodity pool operators and leverage transaction merchants.

* * * * *

(d) On a date to be established by the National Futures Association, and in accordance with procedures established by the National Futures Association, each registrant as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator or leverage transaction merchant shall, on an annual basis, review and update registration information maintained with the National Futures Association. The failure to complete the review and update within thirty days following the date established by the National Futures Association shall be deemed to be a request for withdrawal from registration, which shall be processed in accordance with the provisions of § 3.33(f).

3. Section 3.33 is amended by revising paragraph (f) introductory text to read as follows:

§ 3.33 Withdrawal from registration.

* * * * *

(f) A request for withdrawal from registration will become effective on the thirtieth day after receipt of such request by the National Futures Association, or earlier upon written notice from the National Futures Association (with the written concurrence of the Commission) of the granting of such request, unless prior to the effective date:

* * * * *

Issued in Washington, DC, on April 23, 2007, by the Commission.

Eileen Donovan,

Acting Secretary of the Commission.

[FR Doc. E7–8025 Filed 4–25–07; 8:45 am]

BILLING CODE 6351–01–P

[26] 26 44 U.S.C. 3501 *et seq.*

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 260 and 284

[Docket Nos. RM07–10–000 and AD06–11–000]

Transparency Provisions of Section 23 of the Natural Gas Act; Transparency Provisions of the Energy Policy Act

April 19, 2007.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: In order to implement its authority under section 23 of the Natural Gas Act, which was added by section 316 of the Energy Policy Act of 2005 (EPAct 2005), the Commission proposes to revise its regulations to: require that intrastate pipelines post daily the capacities of, and volumes flowing through, their major receipt and delivery points and mainline segments in order to make available the information needed to track daily flows of natural gas throughout the United States; and require that buyers and sellers of more than a *de minimis* volume of natural gas report annual numbers and volumes of relevant transactions to the Commission in order to make possible an estimate of the size of the physical U.S. natural gas market, assess the importance of the use of index pricing in that market, and determine the size of the fixed-price trading market that produces the information. These revisions would facilitate price transparency in markets for the sale or transportation of physical natural gas in interstate commerce.

DATES: Comments are due June 11, 2007. Reply comments are due July 10, 2007.

ADDRESSES: You may submit comments identified by Docket No. RM07–10–000, by one of the following methods:

- *Agency Web Site: http://ferc.gov.* Follow the instructions for submitting comments via the eFiling link found in the Comment Procedures Section of the preamble.
- *Mail:* Commenters unable to file comments electronically must mail or hand deliver an original and 14 copies of their comments to the Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426. Please refer to the Comment Procedures Section of the preamble for additional information on how to file paper comments.

FOR FURTHER INFORMATION CONTACT: Stephen J. Harvey (Technical), 888 First Street, NE., Washington, DC 20426, (202) 502–6372, *Stephen.Harvey@ferc.gov.*

Eric Ciccoretti (Legal), 888 First Street, NE., Washington, DC 20426, (202) 502–8493, *Eric.Ciccoretti@ferc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

1. The Federal Energy Regulatory Commission (Commission), in order to facilitate market transparency in natural gas markets, proposes to revise its regulations to: (a) Require daily posting of some natural gas flow information by intrastate pipelines; and (b) require annual filings by buyers and sellers of natural gas in U.S. wholesale markets (that transact more than *de minimis* volumes) of aggregate annual purchase and sales information. These proposals exercise expanded Commission authority under section 23 of the Natural Gas Act,[1] which was added by the Energy Policy Act of 2005 (EPAct 2005) to require reporting from entities not under the Commission's traditional jurisdiction.[2] At this time, as discussed infra, due to other market-related Commission initiatives, we do not propose additional regulations for transparency in electricity markets.

2. The first proposal, designed to make available the information needed to track daily flows of natural gas throughout the United States, would

[1] *To be codified at* 15 U.S.C. 717t–2.

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

create a requirement that intrastate pipelines post daily to the Internet the capacities of, and volumes flowing through, their major receipt and delivery points and mainline segments. Postings would be required within 24 hours from the close of the gas day on which gas flows, *i.e.*, on or before 9 a.m. central clock time for flows occurring on the gas day that ended 24 hours before.

3. The second proposal, designed to permit the annual estimate of (a) The size of the physical domestic natural gas market, (b) the use of index pricing in that market, (c) the size of the fixed-price trading market that produces price indices from the subset reported to index publishers, and (d) the relative size of major traders, would create an annual requirement that buyers and sellers of more than a *de minimis* volume of natural gas report numbers and volumes of relevant transactions to the Commission. As part of this proposal, the Commission would require each holder of blanket marketing certificate authority or blanket unbundled sales services certificate authority to notify the Commission as to whether it reports its transactions to publishers of electricity or natural gas price indices and whether any such reporting complies with certain standards. Currently, a holder of a blanket marketing certificate or a blanket unbundled sales service certificate is required to notify the Commission only when it changes its practice regarding such reporting. This part of the proposal would make notifications of reporting status more reliable.

II. Background

4. The Commission's market-oriented policies for the wholesale electric and natural gas industries require that interested persons have broad confidence that reported market prices accurately reflect the interplay of legitimate market forces. Without confidence in the basic processes of price formation, market participants cannot have faith in the value of their transactions, the public cannot believe that the prices they see are fair, and it is more difficult for the Commission to ensure that jurisdictional prices are ''just and reasonable.'' [3]

5. The performance of Western electric and natural gas markets early in the decade shook confidence in posted market prices for energy. In examining these markets, the Commission's staff found, inter alia, that some companies submitted false information to the publishers of natural gas price indices, so that the resulting reported prices were inaccurate and untrustworthy.[4] As a result, questions arose about the legitimacy of published price indices, remaining even after the immediate crisis passed. Moreover, market participants feared that the indices might have become even more unreliable, since reporting (which has always been voluntary) declined to historically low levels in late 2002.

6. The Commission recognized staff concerns about price discovery in electric and natural gas markets as early as January 2003, when, prior to passage of EPAct 2005, the Commission made use of its existing authority under the Natural Gas Act and the Federal Power Act to restore confidence in natural gas and electricity price indices. The Commission expected that, over time, improved price discovery processes would naturally increase confidence in market performance. On July 24, 2003, the Commission issued a *Policy Statement on Electric and Natural Gas Price Indices* (Policy Statement) that explained its expectations of natural gas and electricity price index developers and the companies that report transaction data to them.[5] On November 17, 2003, the Commission adopted behavior rules for certain electric market participants in its *Order Amending Market-Based Rate Tariffs and Authorizations* relying on section 206 of the Federal Power Act to condition market-based rate authorizations,[6] and for certain natural gas market participants in *Amendments to Blanket Sales Certificates*, relying on section 7 of the Natural Gas Act to condition blanket marketing certificates.[7] The behavior rules bar false statements and require certain market participants, if they report transaction data, to report such data in accordance with the Policy Statement. These participants must also notify the Commission whether or not they report prices to price index developers in accordance with the Policy Statement.[8] On November 19, 2004, the Commission issued an order that addressed issues concerning prices indices in natural gas and electricity markets and adopted specific standards for the use of price indices in jurisdictional tariffs.[9]

7. In the Policy Statement, among other things, the Commission directed staff to continue to monitor price formation in wholesale markets, including the level of reporting to index developers and the amount of adherence to the Policy Statement standards by price index developers and by those who provide data to them.[10] In adhering to this directive, Commission staff documented improvements in the number of companies reporting prices from back offices, adopting codes of conduct, and auditing their price reporting practices.[11] These efforts resulted in significant progress in the amount and quality of both price reporting and the information provided to market participants by price indices.[12] Further, in conformance with this directive, Commission staff recently concluded audits of three natural gas market participants with blanket certificate authority that were data providers subject to § 284.403 of the Commission's regulations.[13]

[3] *See* sections 4 and 5 of the Natural Gas Act, 15 U.S.C. 717c, 717d (2000); sections 205 and 206 of the Federal Power Act, 16 U.S.C. 824d, 824e (2000).

[4] See *Initial Report on Company-Specific Separate Proceedings and Generic Reevaluations; Published Natural Gas Price Data; and Enron Trading Strategies—Fact Finding Investigation of Potential Manipulation of Electric and Natural Gas Prices*, Docket No. PA02–2–000 (August 2003).

[5] *Price Discovery in Natural Gas and Electric Markets, Policy Statement on Natural Gas and Electric Price Indices*, 104 FERC ¶ 61,121 (Policy Statement). Subsequently, in the same proceeding, the Commission issued an *Order on Clarification of Policy Statement on Natural Gas and Electric Price Indices*, 105 FERC ¶ 61,282 (Dec. 12, 2003) (Order on Clarification of Policy Statement) and an *Order on Further Clarification of Policy Statement on Natural Gas and Electric Price Indices*, 112 FERC ¶ 61,040 (July 6, 2005) (Order on Further Clarification of Policy Statement).

[6] *Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations*, 105 FERC ¶ 61,218, at P 1, *superseded in part by Compliance for Public Utility Market-Based Rate Authorization Holders*, Order No. 674, 71 FR 9695 (Feb. 27, 2006), FERC Stats. and Regs. ¶ 31,208 (2006).

[7] *Amendments to Blanket Sales Certificates*, Order No. 644, 68 FR 66,323 (Nov. 26, 2003), FERC Stats. and Regs. ¶ 31,153, at P 1 (2003) (citing 15 U.S.C. 717f (2000)), *reh'g denied*, 107 FERC ¶ 61,174 (2003) (Order No. 644–A).

[8] Certain portions of the behavior rules were rescinded in *Amendments to Codes of Conduct for Unbundled Sales Service and for Persons Holding Blanket Marketing Certificates*, Order No. 673, 71 FR 9709 (Feb. 27, 2006), FERC Stats. and Regs. ¶ 31,207 (2006). The requirement to report transaction data in accordance with the Policy Statement and to notify the Commission of reporting status were retained in renumbered sections. 18 CFR 284.288(a), 284.403(a).

[9] *Price Discovery in Natural Gas and Electric Markets*, 109 FERC ¶ 61,184, at P 73 (2004).

[10] Policy Statement at P 43.

[11] Federal Energy Regulatory Commission, Report on Natural Gas and Electricity Price Indices, at 2, Docket Nos. PL03–3–004 *et al.* (2004).

[12] *See, e.g.*, General Accounting Office, Natural Gas and Electricity Markets: Federal Government Actions to Improve Private Price Indices and Stakeholder Reaction (December 2005).

[13] *See* April 5, 2007 letter issued to Anadarko Energy Services Co. in Docket No. PA06–11–000 by Susan J. Court, Director, Office of Enforcement, and attached Audit of Price Index Reporting Compliance; April 5, 2007 letter issued to BG Energy Merchants, LLC. in Docket No. PA06–12–000 by Susan J. Court and attached Audit of Price Index Reporting Compliance; April 5, 2007 letter issued to Marathon Oil Co. in Docket No. PA06–13–000 by Susan J. Court, and attached Audit of Price Index Reporting Compliance.

8. Congress recognized that the Commission might need expanded authority to mandate additional reporting to improve market confidence through greater price transparency and included in the Energy Policy Act of 2005 (EPAct 2005) [14] authority for the Commission to obtain information on wholesale electric and natural gas prices and availability. Under the Federal Power Act [15] and the Natural Gas Act,[16] the Commission has long borne a responsibility to protect wholesale electric and natural gas consumers. EPAct 2005 emphasized the Commission's responsibility for protecting the integrity of the markets themselves as a way of protecting consumers in an active market environment. In particular, Congress directed the Commission to facilitate price transparency ''having due regard for the public interest, the integrity of [interstate energy] markets, [and] fair competition.'' [17] In the new transparency provisions of section 23 of the Natural Gas Act and section 220 of the Federal Power Act, Congress provided that the Commission may, but is not obligated to, prescribe rules for the collection and dissemination of information regarding the wholesale, interstate markets for natural gas and electricity, and authorized the Commission to adopt rules to assure the timely dissemination of information about the availability and prices of natural gas and natural gas transportation and electric energy and transmission service in such markets.

9. Consistent with the directive to facilitate price transparency in natural gas and electric markets as well as to explore options for action under EPAct 2005's expansion of the Commission's authority, Commission staff met with interested entities in the summer of 2006. On September 26, 2006, staff conducted a workshop to review sources of energy market information with interested persons and to lay the groundwork for a technical conference held on October 13, 2006. In that conference, ideas for potential policy actions by the Commission were identified.[18]

10. Based on those efforts, in this Notice of Proposed Rulemaking (NOPR), the Commission sets out two proposals regarding collection and dissemination of information about natural gas wholesale markets. The Commission does not propose action with respect to electric markets at this time. The Commission has recently addressed and is currently addressing electric market transparency in other proceedings. For example, in its final rule reforming the Open Access Transmission Tariff, the Commission referred to its authority under the electric transparency provisions to ''promote greater transparency in the provision of transmission service * * *'' [19] In that order, the Commission increased the transparency of a transmission provider's transmission planning,[20] the transparency of its calculations of Available Transfer Capability,[21] and the transparency of its business rules and practices.[22] These reforms are consistent with the electric transparency provisions because they will ''provide information about the availability and prices of wholesale * * * transmission service'' to ''users of transmission services'' among others, as contemplated in the electric transparency provisions.[23] Furthermore, in the recently-initiated wholesale competition review, the Commission is reviewing a variety of market-related electricity issues in a series of public conferences evaluating the state of competition in wholesale power markets.[24] In the first conference, held February 27, 2007, among other issues, the Commission and panelists considered price transparency in the context of competition in the wholesale markets.[25] As a separate matter, we note that wholesale electric transactions under market-based rates are submitted to the Commission and made publicly available through the Electric Quarterly Reports.[26] Further, in organized electricity markets, Regional Transmission Organizations (RTOs) and Independent System Operators (ISOs) provide transparency by publishing the results of auction markets and by posting spot market and day-ahead prices at pre-established intervals. The RTOs also provide additional information concerning the electric system capacity markets and financial transmission rights that provide further transparency concerning the RTO/ISO-administered markets.[27] For these reasons, we do not believe that additional action is needed at this time to implement the new electric transparency provisions of section 220 of the Federal Power Act.

III. Legal Context

11. With the passage of EPAct 2005, Congress affirmed a commitment to competition in wholesale natural gas and electricity markets as national policy, the fifth major Federal law in the last 30 years to do so.[28] As part of this commitment to competition, in the transparency provisions, Congress charged the Commission with assuring the integrity of the wholesale markets and assuring fair competition by facilitating price transparency in those markets. It also significantly strengthened the Commission's regulatory tools in the transparency provisions, specifically, in new section 220 of the Federal Power Act and new section 23 of the Natural Gas Act.

12. In new section 23(a)(1) of the Natural Gas Act, Congress provided the Commission's mandate:

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

[15] 16 U.S.C. 824 *et seq.*

[16] 15 U.S.C. 717 *et seq.*

[17] Section 23(a)(1) of the Natural Gas Act, *to be codified at* 15 U.S.C. 717t-2(a)(1); *see also* section 220 of the Federal Power Act, *to be codified at* 16 U.S.C. 824t (identical language). Section 316 of EPAct 2005 added section 23 to the Natural Gas Act (natural gas transparency provisions); section 1281 of EPAct 2005 added section 220 to the Federal Power Act (electric transparency provisions) (together, the transparency provisions).

[18] At the conference, the Commission convened two panels: (a) A panel of seven market participants to discuss price transparency in markets for the sale or transportation of physical natural gas in interstate commerce; and, (b) a panel of four market participants regarding price transparency in markets for the sale and transmission of electric energy in interstate commerce. See *Transparency Provisions of the Energy Policy Act of 2005, Program for the Technical Conference*, Docket No. AD06–11–000 (Oct. 6, 2006). In addition, for each panel, about ten representatives of information providers, such as price index publishers, attended to provide comment and answer questions.

[19] *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 FR 12266 (March 15, 2007), FERC Stats. and Regs. ¶ 31,241 (2007), at P 80.

[20] *Id.* at P 69, 83.

[21] *Id.* at P 84.

[22] *Id.* at P 88.

[23] Section 220(a)(2) of the Federal Power Act, *to be codified at* 16 U.S.C. 824t(a)(2).

[24] See, *e.g.*, *Conference on Competition In Wholesale Power Markets*, Docket No. AD07–7–000.

[25] See, *e.g.*, Transcript of Feb. 27, 2007 Conference, *Conference on Competition in Wholesale Power Markets*, Docket No. AD07–7–000, at 123, 153–154, 244–249.

[26] *Revised Public Utility Filing Requirements*, Order No. 2001, 67 FR 31043 (May 8, 2002), FERC Stats. & Regs. ¶ 31,127 (2002), *reh'g denied*, Order No. 2001–A, 100 FERC ¶ 61,074, *reh'g denied*, Order No. 2001–B, 100 FERC ¶ 61,342, *order directing filing*, Order No. 2001–C, 101 FERC ¶ 61,314 (2002), *order directing filing*, Order No. 2001–D, 102 FERC ¶ 61,334 (2003).

[27] Comments of ISO/RTO Council, Docket No. AD06–11–000 (filed Oct. 5, 2006) (describing information provided by ISOs and RTOs).

[28] *See* Energy Policy Act of 1992, Pub. L. No. 102–486, 106 Stat. 2776 (1992), codified as amended in scattered sections of 16 U.S.C.; Natural Gas Wellhead Decontrol Act of 1989, Pub. L. No. 101–60, 103 Stat. 157 (1989), codified in scattered section of 15 U.S.C.; Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601–2645 (2000); Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3442 (2000).

The Commission is directed to facilitate price transparency in markets for the sale or transportation of physical natural gas in interstate commerce, having due regard for the public interest, the integrity of those markets, fair competition, and the protection of consumers.[29]

In new section 23(a)(2) of the Natural Gas Act, Congress left to the Commission's discretion whether to enact rules to carry out this mandate and provided that any rules implementing the transparency provisions provide for public dissemination of the information gathered:

The Commission may prescribe such rules as the Commission determines necessary and appropriate to carry out the purposes of this section. The rules shall provide for the dissemination, on a timely basis, of information about the availability and prices of natural gas sold at wholesale and in interstate commerce to the Commission, State commissions, buyers and sellers of wholesale natural gas, and the public.[30]

13. In new section 23(a)(3) of the Natural Gas Act, Congress contemplated that the transparency provisions would differ from other provisions in the Natural Gas Act, both as to the entities covered by the Commission's jurisdiction and the possible involvement of third parties in implementing the rules. That section reads, with emphasis added:

The Commission may—

(A) Obtain the information described in paragraph (2) [*i.e.*, information about the availability and prices of natural gas sold at wholesale and interstate commerce] from *any market participant;* and

(B) Rely on *entities other than the Commission* to receive and make public the information, subject to the disclosure rules in subsection (b).[31]

By using the term ''any market participant,'' Congress deliberately expanded the universe subject to the Commission's transparency authority beyond the entities subject to the Commission's rate and certificate jurisdiction under other parts of the Natural Gas Act. The term ''market participant'' is not defined in the Natural Gas Act and is not on its face limited to otherwise jurisdictional entities.

14. Congress could have limited the scope of entities subject to the Commission's transparency authority by referring to ''natural gas company'' as defined in the Natural Gas Act[32] or by referring to section 1, 3, or 7 of the Natural Gas Act.[33] The former approach would have excluded intrastate pipelines from the Commission's transparency authority. The latter approach would have entailed the jurisdictional limitations of those sections, which exclude from the Commission's jurisdiction first sales, sales of imported natural gas, sales of imported liquefied natural gas, and sales and transportation by entities engaged in production and gathering, local distribution, ''Hinshaw'' pipelines, or vehicular natural gas.[34] These limitations do not apply to the Commission's transparency authority. Given Congress's use of the term ''market participant,'' the Commission's transparency authority includes any person or form of organization, including, for instance, natural gas producers, processors and users.

15. The Commission's authority to obtain information from ''any market participant'' is not plenary. In the natural gas transparency provisions, Congress limited that authority in two respects: the scope of the markets at issue and the type of information to obtain and disseminate. First, Congress directed the Commission to ''facilitate price transparency in markets for the sale or transportation of physical natural gas in interstate commerce * * *.''[35] Thus, any information collected and disseminated must be for the purpose of price transparency in those markets. We do not interpret this language to limit the Commission to obtaining information only about physical natural gas sales or transportation in those markets, provided that the information obtained and disseminated pertains to price transparency in those markets. Second, Congress provided that any rules ''provide for the dissemination, on a timely basis, of information about the availability and prices of natural gas sold at wholesale and in interstate commerce * * *.''[36] Thus, the Commission's authority is limited to ''information about the availability and prices of natural gas sold at wholesale and in interstate commerce.''[37] Again, this language does not limit the type of information the Commission could collect to implement its mandate, provided that such information is ''about'' (*i.e.*, pertains to) the ''availability and prices of natural gas sold at wholesale and in interstate commerce.'' For instance, some transportation or sales of natural gas is not in interstate commerce, but, nonetheless, would affect the availability and prices of natural gas at wholesale and in interstate commerce.

16. The natural gas transparency provisions further provide that the Commission shall ''rely on existing price publishers and providers of trade processing services to the maximum extent possible.''[38] Thus, Congress authorized the Commission to rely on third parties to collect and disseminate transparency information. The Commission does not herein authorize or empower third parties to collect or disseminate information. Nonetheless, we expect that third parties may use the information collected pursuant to the proposals in this NOPR and repackage it, if sufficient demand for such services arises in the information marketplace.[39]

17. Also, in the transparency provisions, Congress cautioned the Commission in providing for any

[29] *To be codified* at 15 U.S.C. 717(v)(a)(1). The electric transparency provisions of the Federal Power Act are nearly identical as to the electric wholesale markets. Section 220 of the Federal Power Act, *to be codified* at 16 U.S.C. 824t. Because our proposals herein address natural gas transparency, we do not analyze the electric transparency provisions, although we expect that analysis of electric transparency provisions would be substantially similar.

[30] *To be codified* at 15 U.S.C. 717t–2(a).

[31] *To be codified at* 15 U.S.C. 717t–2(a)(3).

[32] Section 2(6) of the Natural Gas Act, 15 U.S.C. 717a(6).

[33] 15 U.S.C. 717, 717b, 717f.

[34] Section 1(b)-(d) of the Natural Gas Act, 15 U.S.C. 717(b)-(d); section 3 of the Natural Gas Act, 15 U.S.C. 717b; section 7(f) of the Natural Gas Act, 15 U.S.C. 717f(f); see, also, section 601(a) of the Natural Gas Policy Act, 15 U.S.C. 3431(a). The Commission has previously explained that the Natural Gas Policy Act of 1978 (NGPA or Natural Gas Policy Act) and the Natural Gas Wellhead Decontrol Act of 1989 narrowed its jurisdiction under the Natural Gas Act:

Under the NGPA, first sales of natural gas are defined as any sale to an interstate or intrastate pipeline, LDC [Local Distribution Company] or retail customer, or any sale in the chain of transactions prior to a sale to an interstate or intrastate pipeline or LDC or retail customer. NGPA Section 2(21)(A) sets forth a general rule stating that all sales in the chain from the producer to the ultimate consumer are first sales until the gas is purchased by an interstate pipeline, intrastate pipeline, or LDC. Once such a sale is executed and the gas is in the possession of a pipeline, LDC, or retail customer, the chain is broken, and no subsequent sale, whether the sale is by the pipeline, or LDC, or by a subsequent purchaser of gas that has passed through the hands of a pipeline or LDC, can qualify under the general rule as a first sale on natural gas. In addition to the general rule, NGPA Section 2(21)(B) expressly excludes from first sale status any sale of natural gas by a pipeline, LDC, or their affiliates, except when the pipeline, LDC, or affiliate is selling its own production.

Order No. 644 at P 14.

[35] Section 23(a)(1) of the Natural Gas Act, *to be codified at* 15 U.S.C. 717t-2(a)(1).

[36] Section 23(a)(2) of the Natural Gas Act, *to be codified at* 15 U.S.C. 717t-2(a)(2).

[37] *Id.*

[38] Section 23(a)(4) of the Natural Gas Act, *to be codified at* 15 U.S.C. 717t-2(a)(4).

[39] We reiterate here our comments made previously regarding price index publishers, data hubs, and other trade processing services: we do not ''endors[e] any particular entity or approach, but continue to encourage industry participants to find optimal solutions to better wholesale price formation.'' *Order on Further Clarification of the Policy Statement* at P 11.

dissemination of information pursuant to the transparency provisions to ensure that ''consumers and competitive markets are protected from the adverse effects of potential collusion or other anticompetitive behaviors by untimely disclosure of transaction-specific information.'' [40]

18. Finally, new section 23(d)(2) of the natural gas transparency provisions mandates an exemption from any reporting for ''natural gas producers, processors, or users who have a *de minimis* market presence * * *.'' [41] This paragraph does not exempt all producers and all processors from reporting, but exempts only producers that have a *de minimis* market presence and only processors that have a *de minimis* market presence.

IV. Reporting of Flow Volume and Capacity by Intrastate Pipelines

A. Proposal

19. The Commission proposes that in order to make available the information needed to track daily flows of natural gas throughout the United States, each intrastate pipeline would be required to post daily to the Internet the capacities of, and volumes flowing through, their major receipt and delivery points and mainline segments. Postings would be required within 24 hours from the close of the gas day on which gas flowed, *i.e.*, at or before 9 a.m. central clock time for flow that occurred on the gas day that ended 24 hours before. To illustrate, the volume of gas that flowed through a receipt point from 9 a.m. central clock time on Monday through 9:00 a.m. central clock time on Tuesday would be reported as a daily flow volume for that gas day and must be reported by 9 a.m. Wednesday central clock time. The Commission would implement this proposal by adding a new § 284.14 to its regulations.

20. As explained in greater detail below, by adding information on intrastate pipeline flows to the information already available from interstate pipelines, the Commission, market participants, and the public could develop a better understanding of daily supply and demand conditions that directly affect U.S. wholesale natural gas markets. While distinctions between intrastate and interstate natural gas markets may be meaningful from a legal perspective, they are not meaningful from the perspective of market price formation. The U.S. natural gas market produces geographically diverse prices through the direct influence of supply, demand and transportation availability, but without ever differentiating interstate from intrastate commerce. Consequently, this proposal to increase information from intrastate pipelines would directly ''facilitate price transparency for the sale * * * of physical natural gas in interstate commerce'' as authorized in the natural gas transparency provisions.[42]

B. Legal Considerations

21. As discussed above, the natural gas transparency provisions provide the authority for the Commission to obtain information from otherwise non-jurisdictional entities, including intrastate pipelines. The proposal to require intrastate pipelines to post flow information raises the additional issue whether such information qualifies as ''information about the availability and prices of natural gas sold at wholesale in interstate commerce.'' [43] If not, the Commission would be foreclosed from requiring the posting.

22. The Commission believes that the information covered by the instant proposal qualifies as ''information about the availability and prices of natural gas sold at wholesale and in interstate commerce.'' Notwithstanding their intrastate status, most major intrastate pipelines today transport or buy and sell wholesale natural gas that eventually enters or at least impacts the interstate natural gas market. Further, supply and demand in intrastate markets have a direct effect on prices of gas destined for interstate markets because both intrastate and interstate consumers draw on the same sources of supply. This is the case because of the statutory, regulatory and market changes that have taken place in the last three decades.

23. In 1978, in the Natural Gas Policy Act, Congress allowed an intrastate pipeline to transport natural gas in interstate commerce on behalf of any interstate pipeline or local distribution company served by an interstate pipeline, without losing its intrastate status.[44] Congress likewise permitted an intrastate pipeline to sell natural gas to any interstate pipeline or any local distribution company served by any interstate pipeline, without losing its intrastate status.[45] In addition, at the same time that the Commission issued Order No. 636 in 1992, it promulgated a new subpart of Part 284 (revised several times in the past 15 years) that provides blanket authority to any person who is not an interstate pipeline (including intrastate pipelines) to make sales for resale of natural gas in interstate commerce.[46] This authorization is a limited jurisdiction certificate, which means that the holder does not become subject to the panoply of Natural Gas Act regulation by exercising its rights under the certificate.[47]

24. The market understandably reacted to these statutory and regulatory changes since 1978. As relevant here, and explained in greater detail below, natural gas sold at or destined to be sold at wholesale in the interstate market is frequently exchanged or the transactions consummated at market hubs where interstate and intrastate pipelines are interconnected (*e.g.*, Waha, Katy, Houston Ship Channel, and Carthage in Texas and at Henry Hub in Louisiana). Prices formed at these hubs are, in effect, prices for wholesale transactions in interstate commerce, even if a portion of the gas priced at each market hub is consumed intrastate. In addition, transfer of natural gas can take place directly between parties who ship gas on both intrastate and interstate pipelines at any pipeline interconnection.

C. Discussion

25. Currently, through the availability of information regarding daily scheduled flows of natural gas through interstate pipelines, market participants have an increased, daily understanding of natural gas markets, including regional conditions and the pipeline capacity available to resolve different geographic supply/demand balances. This is due in part to Order No. 637, where the Commission required posting of capacity and scheduled volume information on interstate pipelines with

[40] Section 23(b)(2) of the Natural Gas Act, *to be codified at* 15 U.S.C. 717t–2(b)(2).

[41] Section 23(d)(2) of the Natural Gas Act, *to be codified at* 15 U.S.C. 717t–2(d)(2).

[42] Section 23(a)(1) of the Natural Gas Act, *to be codified at* 15 U.S.C. 717t–2(a)(1).

[43] Section 23(a)(2) of the Natural Gas Act, *to be codified at* 15 U.S.C. 717t–2(a)(2).

[44] *See* section 311(a)(2) of the Natural Gas Policy Act, 15 U.S.C. 3371(a)(2); *see also* 18 CFR part 284, subpart C (Certain Transportation by Intrastate Pipelines).

[45] *See* section 311(b) of the Natural Gas Policy Act, 15 U.S.C. 3371(b); *see also* 18 CFR part 284, subpart D (Certain Sales by Intrastate Pipelines).

[46] *Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol,* Order No. 636, 57 FR 13267 (Apr. 16, 1992), FERC Stats. & Regs. ¶ 30,939 (1992), *order on reh'g,* Order No. 636–A, 57 FR 36128 (Aug. 12, 1992), FERC Stats & Regs. ¶ 30,950 (1992), *order on reh'g,* Order No. 636–B, 61 FERC ¶ 61,272 (1992), *order on reh'g,* 62 FERC ¶ 61,007 (1993), *aff'd in part and remanded in part sub nom United Distribution Cos. v. FERC,* 88 F.3d 1104 (D.C. Cir. 1996), *order on remand,* Order No. 636–C, 78 FERC ¶ 61,186 (1997).

[47] *See* 18 CFR part 284, subpart L (Certain Sales for Resale by Non-interstate Pipelines).

the direct intention of allowing shippers to monitor capacity availability.[48] Accordingly, interstate pipelines must post available capacity information, specifically:

The availability of capacity at receipt points, on the mainline, at delivery points, and in storage fields, whether the capacity is available directly from the pipeline or through capacity release, the total design capacity of each point or segment on the system; the amount scheduled at each point or segment whenever capacity is scheduled, and all planned and actual service outages or reductions in service capacity.[49]

In Order No. 637, the Commission anticipated that such postings would provide useful information regarding supply and demand fundamentals:

The changes to the Commission's reporting requirements will enhance the reliability of information about capacity availability and price that shippers need to make informed decisions in a competitive market as well as improve shippers' and the Commission's ability to monitor marketplace behavior to detect, and remedy anticompetitive behavior.[50]

26. Today, interested market participants as well as commercial vendors retrieve this information from the Web sites of interstate pipelines to obtain schedule information that is then used to estimate a variety of supply and demand conditions including geographic and industrial sector consumption, storage injections and withdrawals and regional production in almost real-time.[51] Market participants have come to rely on this information to help price transactions. Commission staff has also come to rely on this information to perform its oversight and enforcement functions. In fact, observers believe that this information posting has contributed to market transparency by revealing the underlying volumetric (or availability) drivers behind price movements.[52]

27. Notwithstanding the contribution of posted interstate schedule information to the transparency of price and availability of natural gas, this information cannot provide a complete picture of natural gas flows in the United States—or even those flows directly relevant to the pricing of natural gas flowing in interstate commerce. Several major U.S. natural gas pricing points sit at the confluence of multiple interstate and intrastate pipelines. A recent study by the Department of Energy's Energy Information Administration (EIA) identified 28 national market centers or pricing hubs, of which 13 are served by a combination of interstate and intrastate pipelines.[53] The table below shows the capacity of interstate and intrastate pipelines connected to each of these 13 hubs.

TABLE 1.—INTER- AND INTRASTATE PIPELINE DELIVERY CAPACITY AT SELECTED U.S. NATURAL GAS PRICING POINTS

Hub name	State	Receipt and delivery capacity	
		Interstate pipelines (MMcfd)	Intrastate pipelines (MMcfd)
Carthage	TX	1,120	1,355
Henry Hub	LA	2,770	1,215
Katy—Enstore	TX	1,370	3,815
Katy—DEFS	TX	260	2,360
Mid Continent	KS	1,112	627
Moss Bluff	TX	1,050	1,800
Nautilus	LA	1,200	1,350
Perryville	LA	3,652	350
Aqua Dulce	TX	855	835
Waha—Lone Star	TX	810	1,140
Waha—Encina	TX	525	800
Waha—El Paso	TX	1,165	1,660
Waha—DEFS	TX	300	1,850

Source: Unpublished Energy Information Administration update to March 2005 of information presented in Natural Gas Market Centers and Hubs: A 2003 Update, October 2003.

28. Many of these pricing points are closely connected to other regions of the United States, influencing prices across the country. The figure below shows the location and flow patterns of natural gas moving between intrastate and interstate markets through several of these pricing points.

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[48] *Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services*, Order No. 637, 65 FR 10156, at 10204–10205, (Feb. 25, 2000), FERC Stats. & Regs. ¶ 31,091, at 31,320–31,321 (2000); *order on reh'g*, Order No. 637–A, 65 FR 35706 (June 5, 2000), FERC Stats. & Regs. ¶ 31,099 (2000); *order on reh'g*, Order No. 637–B, 65 FR 47284 (Aug. 2, 2000), *affirmed in relevant part, Interstate Natural Gas Ass'n of America v. FERC*, 285 F.3d 18 (D.C. Cir. 2002), *order on remand*, 101 FERC ¶ 61,127, *order on reh'g*, 106 FERC ¶ 61,088, *aff'd sub nom. American Gas Ass'n v. FERC*, 428 F.3d 255 (D.C. Cir. 2005) (Order No. 637).

[49] 18 CFR 284.13(d).

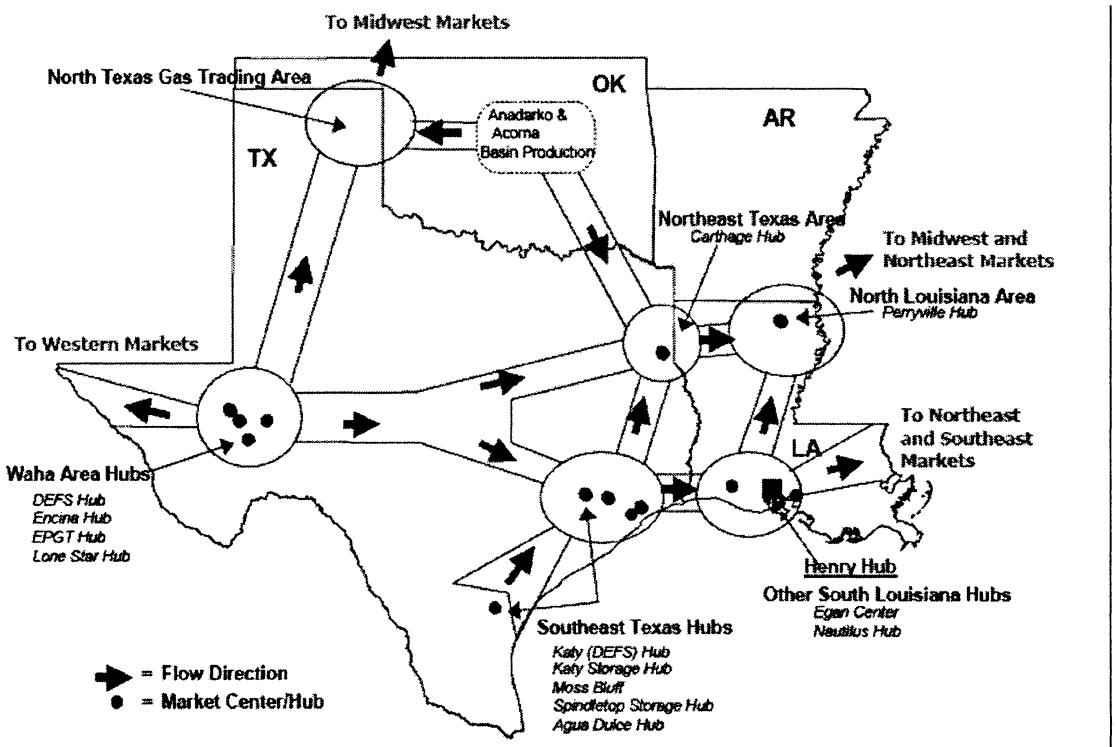
[50] Order No. 637, 65 FR at 10169.

[51] *See, e.g.*, Comments of Bentek Energy, LLC., Docket No. AD06–11–000 (filed Oct. 10, 2006).

[52] *See, e.g.*, Comments of Platt's, at p. 11–13, Docket No. AD06–11–000 (information regarding the supply and demand of natural gas explains prices and such information is available from interstate pipelines, but not intrastate pipelines).

[53] Department of Energy, Energy Information Administration, Natural Gas Market Centers and Hubs: A 2003 Update, Oct. 2003, *http://www.eia.doe.gov/pub/oil_gas/natural_gas/feature_articles/2003/market_hubs/mkthubs03.pdf.*

Figure 1
Texas and Louisiana Market Hubs and Their Connection to Other Regions in the United States



Note: DEFS = Duke Energy Field Services Co; EPGT = EPGT Texas Pipeline Co.
Source: Energy Information Administration, Office of Oil and Gas, Natural Gas Division, Natural Gas Market Hubs Database, as of August 2003.

29. One pricing point directly connected to both interstate and intrastate pipelines is Henry Hub, Louisiana, the location for delivery of natural gas under the New York Mercantile Exchange's (NYMEX) futures contract. Monthly settlement of NYMEX's Henry Hub natural gas future contract has become important in determining a variety of monthly index prices used to set natural gas prices in a variety of transactions, some in interstate commerce, particularly along the East Coast and Gulf Coast of the United States. The nature of this influence is detailed in Commission staff's *2006 State of the Markets Report*.[54]

30. Purchasers of natural gas in interstate commerce draw on the same sources of supply as users and buyers of natural gas in intrastate commerce. For example, much of the recent Barnett Shale development in the Fort Worth basin flows into intrastate systems before moving into interstate markets. In total, slightly more than 40 percent of total on-shore production in Texas is connected to interstate pipelines, less than 60 percent in Louisiana and less than 80 percent in Oklahoma.[55] Though daily volume flowing from intrastate into interstate pipelines can be estimated, the supply dynamics that make these volumes available cannot.

31. Send-out from current liquefied natural gas (LNG) terminals—Cove Point, Elba Island, Everett and Lake Charles—is observable through interstate receipt point flow postings. Of seven approved, but not yet operational, terminals in Texas and Louisiana, all would discharge in whole or in part to intrastate pipelines.[56]

32. The Commission proposes to require posting of actual flow information from intrastate pipelines rather than scheduled volumes, as it does for interstate pipelines. Intrastate pipelines operate in different regulatory and business contexts from interstate pipelines, making scheduled volumes less helpful in estimating movement of natural gas. For example, interstate pipelines primarily operate as open access transporters, not as sellers of natural gas. Scheduled volumes represent the communication that must occur between the shipper and the pipeline to conduct most of their business. As a consequence, interstate receipt, transportation and delivery schedules, as updated before and

[54] Federal Energy Regulatory Commission, 2006 State of the Markets Report, at 48–50 (Jan. 2007), *http://www.ferc.gov/market-oversight/market-oversight.asp*, (follow link to the State of the Markets Full Report).

[55] BENTEK Energy, LLC analysis of supply scheduled into interstate pipelines compared with EIA data from its table Natural Gas Gross Withdrawals and Production for Texas and Oklahoma available at *http://tonto.eia.doe.gov/dnav/ng/ng_prod_sum_dcu_NUS_m.htm.*

[56] Texas Railroad Commission, Onshore LNG Supply Terminal Projects Proposed for Texas (June 28, 2006), *http://www.rrc.state.tx.us/commissioners/carrillo/press/LNGprojects.html.*

through the delivery day, reflect actual flows on their systems as well.[57] In contrast, intrastate pipelines often sell gas directly to customers under a variety of regulatory regimes. Much of such gas can flow without being scheduled, especially for customers' variable requirements. Similarly, many direct pipeline purchases from the wellhead and from smaller gathering systems need not be scheduled. Given the different business models, and the likelihood that scheduling information on intrastate pipelines would be unhelpful, we conclude that actual flow information, posted after-the-fact, would be needed to develop an understanding of these flows.

33. The daily posting of flow information by intrastate pipelines would provide several benefits to the functioning of natural gas markets in ways that would protect the integrity of physical, interstate natural gas markets, protect fair competition in those markets and consequently serve the public interest by better protecting consumers. First, by providing a more complete picture of supply and demand fundamentals, these postings would improve market participants' ability to assess supply and demand and to price physical natural gas transactions. Second, during periods when the U.S. natural gas delivery system is disturbed, for instance due to hurricane damage to facilities in the Gulf of Mexico, these postings would provide market participants a clearer view of the effects on infrastructure, the industry, and the economy as a whole. Finally, these postings would allow the Commission and other market observers to identify and remedy potentially manipulative activity. We discuss each of these points in turn.

34. First, the proposed daily intrastate pipeline capacity and volume postings would improve market participants' ability to assess supply and demand and price physical natural gas transactions by providing a more complete picture of supply and demand fundamentals.[58] As discussed above and noted in comments filed in these proceedings, interstate pipeline information does not provide a complete picture of the supply and demand fundamentals that apply to interstate commerce because much of the natural gas in the U.S. is moved through the intrastate pipeline system.[59]

35. Second, the proposed daily intrastate pipeline capacity and volume postings would provide market participants—and the Commission in its market oversight efforts—a clearer view of the effects on infrastructure, the industry, and the economy as a whole during periods when the U.S. natural gas delivery system is disturbed. For example, after landfall of hurricanes Katrina and Rita in late 2005, even the most interested of governmental and commercial market observers were not able to obtain complete information regarding the extent of the damage at production facilities.[60] By monitoring receipt and delivery points for production facilities on interstate pipelines, market participants were able to obtain only a limited sense of production facility output.[61] Similarly, market participants, State commissions and others were unable to assess effects on natural gas consumption in the Gulf Coast, including consumption by the petrochemical industry, for some period. The significance and duration of these effects on this industry—vulnerable to energy price and availability disruptions—remain unclear. This proposal would allow interested governmental and private parties to gain a much better picture of disruptions in natural gas flows in the case of future hurricanes in the Gulf region.[62]

36. Third, the proposed daily intrastate pipeline capacity and volume postings would allow the Commission and other market observers to identify and remedy potentially manipulative activity more actively by tracking price movement in the context of natural gas flows.[63] In particular, information regarding availability on intrastate pipelines could be used to track manipulative or unduly discriminatory behavior intended to cause harm to consumers by distorting market prices in interstate commerce. For example, Commission staff overseeing markets routinely check for unused interstate pipeline capacity between geographically distinct markets with substantially different prices as a sign that flows may be managed to manipulate prices. Given the importance of intrastate pipeline connections to 13 major pricing hubs, including Henry Hub, as discussed above, the lack of flow information on intrastate pipelines hinders the Commission's market oversight and enforcement efforts.

37. This benefit comports with EPAct 2005, in which Congress directed the Commission to facilitate price transparency in physical, interstate natural gas markets ''with due regard for the public interest, the integrity of those markets, fair competition, and the protection of consumers.''[64] By this language, Congress intended that the improvement of Commission market oversight activities is a legitimate justification for proposing rules under the natural gas transparency provisions. Monitoring and preventing manipulative or unduly discriminatory activity would meet the Commission's responsibility for ensuring the integrity of the physical interstate natural gas markets. The proposal to make intrastate pipeline information available to the public would assist the Commission in fulfilling that responsibility.

D. Solicitation of Comments

38. The Commission seeks comments on its proposal to be codified in subpart A of part 284 of the Commission's regulations that intrastate pipelines be required to post daily to the Internet the capacities of, and volumes flowing through their major receipt and delivery

[57] In the case of ''no-notice'' service, *see* 18 CFR 284.7(a)(4), interstate pipeline schedules do not reflect flows. Consequently, information about interstate flows in areas using no-notice service is less useful.

[58] See, *e.g.*, Comments of Platt's, at p. 11, Docket No. AD06–11–000 (filed Nov. 1, 2006) (explaining that, to understand prices, ''the marketplace must look to * * * information on [the] availability of and demand for natural gas * * *.'').

[59] See Comments of Platt's, at p. 13, Docket No. AD06–11–000 (filed Nov. 1, 2006) (stating that much of the fundamental supply and demand data is missing from natural gas markets and advocating for reporting by intrastate pipelines).

[60] See, *e.g.*, Transcript of the Oct. 13, 2006 Technical Conference (Tr.), at 25, *Transparency Provisions of the Energy Policy Act of 2005*, Docket No. AD06–11–000 (Comments of Sheila Rappazzo, Chief of Policy Section of the Office of Gas and Water of the New York State Department of Public Service).

[61] Tr. at 25 (Comments of Sheila Rappazzo) (describing how after the 2005 hurricanes data availability differed widely).

[62] Along these lines, this proposal is consistent with a recent Commission final rule and a proposed survey by EIA. On August 23, 2006, the Commission revised its reporting regulations to require jurisdictional natural gas companies to report damage to facilities due to a natural disaster or terrorist activity that results in a reduction in pipeline throughput or storage deliverability. *Revision of Regulations to Require Reporting of Damage to Natural Gas Pipeline Facilities*, Order No. 682, 71 FR 51098 (Aug. 29, 2006), FERC Stats. and Regs. ¶ 31,227 (2006), *order on reh'g*, 118 FERC ¶ 61, (2007). On January 30, 2007, EIA proposed to survey natural gas processing plants ''to monitor their operational status and assess operations of processing plants during a period when natural gas supplies are disrupted.'' *Agency Information Collection Activities*, 72 FR 4248 (Jan. 30, 2007). The purpose of the survey would be to ''inform the public, industry, and the government about the status of supply and delivery activities in the area affected by the disruption.'' *Id.*

[63] See Prohibition of Energy Market Manipulation, Order No. 670, 71 FR 4244 (Jan. 26, 2006), FERC Stats. & Regs. ¶ 31,202 (2006) (implementing section 4A of the Natural Gas Act, *to be codified at* 15 U.S.C. 717c–1, which prohibits natural gas market manipulation), *reh'g denied*, 114 FERC ¶ 61,300 (2006).

[64] Section 23(a)(1) of the Natural Gas Act, *to be codified at* 15 U.S.C. 717t–2(a)(1).

points and mainline segments.[65] In particular, the Commission seeks comment on whether market participants believe that the posting of flow information on intrastate pipelines would provide valuable additional information on supply and demand fundamentals for interstate markets and whether such information would be sufficient. The Commission also seeks comment on the burden this proposal would impose on intrastate pipelines. Those providing burden estimates should provide support for their estimate and compare that estimate to the burden currently borne by interstate pipelines that report capacity availability pursuant to § 284.13(d) of the Commission's regulations.

39. The Commission seeks comment on how to define ''major'' receipt and delivery points and mainline segments on intrastate systems. The Commission does not wish to include extremely small points connected to one or a few customers, which it would consider burdensome and possibly even anti-competitive in certain cases.

40. The proposal does not make an exception for intrastate pipelines transporting *de minimis* volumes. Although the natural gas transparency provisions mandate that the Commission create an exception from reporting requirements for ''natural gas producers, processors, or users who have a *de minimis* market presence,'' they do not mandate a *de minimis* exception for natural gas pipelines.[66] The Commission seeks comment on whether the Commission should create a *de minimis* threshold under which certain intrastate pipelines should not be required to report or should create a method for certain intrastate pipelines to seek waiver of these requirements. How would such a *de minimis* threshold be measured, for instance, by throughput volume? The Commission also seeks comment on whether the proposed flow posting requirements should apply to all intrastate pipelines, or whether it should be limited to intrastate pipelines in states where a significant percentage of supply and demand information is not observable through current interstate pipeline posting requirements.

41. The Commission seeks comment on the difference in approach applied to intrastate and interstate pipelines by requiring intrastate pipelines to post actual natural gas flows instead of scheduled flows. Should the Commission require intrastate pipelines to post information about capacity availability at major points on a daily basis, similar, or identical, to the information that interstate pipelines are required to post under § 284.13(c)? Is it possible to determine major intrastate pipeline flows using schedule information?

42. Regarding the method of posting, the Commission seeks comment on the format for posting flow information by intrastate pipelines, including whether intrastate pipelines should follow the standards of the North American Energy Standards Board. If not, what additional accommodations would need to be made for their different operations? Further, how would § 284.12, which outlines formatting requirements for interstate pipeline postings be modified to accommodate intrastate pipelines and to accommodate posting of flow information as opposed to scheduling information? Also, the timing in the proposal requires the posting of flow information within 24 hours from the close of the gas day on which gas flows (*i.e.*, on or before 9 a.m. central clock time for flows occurring on the gas day that ended 24 hours before). Does this timing create an undue burden? Is it sufficiently timely?

43. Finally, the Commission seeks comment on whether it should revise the posting requirements applicable to interstate pipelines provided in § 284.13(d)(1) of the Commission's regulations.[67] Since those posting requirements were mandated, have there been changes in technology or the marketplace that justify changing the posting requirements for interstate pipelines? In addition to current posting requirements, should interstate pipelines be required to post actual flow information as we propose to require intrastate pipelines to do? Would posting of actual flow information provide useful information regarding actual capacity use, for instance, by providing information regarding no-notice service?

V. Annual Reporting of Natural Gas Transactions

A. Proposal

44. The Commission proposes that buyers and sellers of more than a *de minimis* volume of natural gas be required to report aggregate numbers and volumes of relevant transactions in an annual filing using an electronic form to be provided by the Commission on its Internet Web page. This proposal would be codified at § 260.401 of the Commission's regulations. This information would provide regularly an estimate of (a) the size of the physical domestic natural gas market, (b) the use of index pricing in that market, (c) the size of the fixed-price trading market that produces price indices, and (d) the relative size of major traders. Although the natural gas transparency provisions authorize the Commission to require reporting of detailed transaction-by-transaction information, the Commission proposes obtaining this more limited set of information designed to assess the market. The requirement would be applied to companies both traditionally jurisdictional to the Commission and others. This form would also serve to identify users of blanket certificates and document their reporting status as required under § 284.403(c) and § 284.288(a), discussed further below. A proposed form for the report is set forth in Appendix A.[68]

45. Under the proposed reporting requirement, certain natural gas buyers and sellers would identify themselves to the Commission and report summary information about physical natural gas transactions for the previous calendar year including: (a) Their total amount of physical[69] natural gas transactions by number and volume; (b) the breakdown of their transactions by purchases and sales; (c) the number and volume breakdown of their purchases and sales by whether they were conducted in monthly or daily spot markets; and (d) the number and volume breakdown of their purchases and sales by type of pricing, in particular whether that pricing was fixed or indexed.

[65] The Commission is not proposing to amend subparts C and D of part 284, because those subparts govern interstate transactions by intrastate pipelines under the authority of the Natural Gas Policy Act. The instant proposal is based on the Commission's Natural Gas Act jurisdiction as amended by EPAct 2005.

[66] Section 23(d)(2) of the Natural Gas Act, *to be codified at* 15 U.S.C. 717t–2(d)(2).

[67] 18 CFR 284.13(d)(1).

[68] Pursuant to § 375.314(f) and (g), the Director of the Office of Enforcement or the Director's designee, could deny or grant waivers of the requirements of this form and could act on requests for extensions of time to file the form. 18 CFR 375.314(f) and (g). The Commission anticipates directing staff to make changes to the format of the form. *Cf. Revised Public Utility Filing Requirements*, 106 FERC ¶ 61,281 (2004) (directing staff to make future changes to the Electric Quarterly Reports).

[69] Although the standard contract for the most significant natural gas futures market traded on the New York Mercantile Exchange (NYMEX) requires physical delivery, the vast majority of those transactions do not go to delivery. For the purposes of this proposal, and despite the particulars of the futures contract language, we intend to explicitly exclude volumes of futures transactions from consideration. Indeed, information about volumes of futures transactions is already publicly available through a variety of commercial means or directly through NYMEX at *http://www.nymex.com*, so collection of the information would be redundant and unnecessary.

46. In addition, a natural gas seller would be required to state whether it operates under blanket certificate authority under § 284.402 of the Commission's regulations, and whether it reports transactions to price index publishers and whether any such reporting complies with the standards provided in § 284.403(a). Similarly, an interstate pipeline would be required to state whether it operates under blanket certificate authority under § 284.284 of the Commission's regulations, and whether it reports transactions to price index publishers and whether any such reporting complies with the standards provided in § 284.288(a).[70]

B. Legal Considerations

47. The Commission intends ''physical natural gas transaction'' to mean a sale or purchase of natural gas with an obligation to deliver or receive physically, even if the natural gas is not physically transferred due to some offsetting or countervailing trade. Thus, with one explicit exception, even if the transaction does not go to physical delivery, it would still be included as a physical transaction. The exception is physically settled futures contracts. The Commission would require such a contract to be reported only if it actually goes to delivery. Although the language of the natural gas transparency provisions address sales of natural gas, it does not limit the Commission from seeking information about natural gas purchases as well as sales. They are simply different sides of the same transaction. Congress directed the Commission to ''facilitate price transparency in markets for the sale * * * of physical natural gas in interstate commerce,'' but that language does not limit the Commission to seeking information regarding only sales.[71] Purchases of physical natural gas are also a part of such markets; there is no market for the sale of natural gas that does not include purchases. Nor does the natural gas transparency provision language that provides for the ''dissemination * * * of information about the availability and prices of natural gas *sold* at wholesale and interstate commerce'' restrict the Commission.[72] As a practical matter, information regarding purchases of natural gas is necessary to evaluate the reliability of information regarding sales of natural gas. Both types of information are necessary to obtain a useful gauge of price transparency in natural gas markets.

48. Further, in its Policy Statement, the Commission states that data providers should provide both sale and purchase information to price index developers.[73] As the Policy Statement and related Commission initiatives were major Commission proceedings regarding this topic, we can presume that Congress was aware of this Policy Statement when it wrote the transparency provisions and, thus, contemplated that the Commission would continue its practice of seeking both sale and purchase information in facilitating price transparency.

49. The proposed public nature of the filings would comport with the transparency provisions which require that any such rules ''provide for the dissemination, on a timely basis, of information * * * to the public.''[74] The transparency provisions further direct the Commission to ''rely on [existing price publishers and providers of trade processing services] to the maximum extent possible.''[75] By requiring public filings by market participants, the Commission would provide an opportunity for trade publications and commercial vendors to aggregate the information and provide any analysis should a desire for such services arise in the energy information marketplace.

C. Discussion

50. Because of the way transactions currently take place in the natural gas industry, there is no way to estimate in even the broadest terms the overall size of the natural gas market or its breakdown by types of contract provision, including pricing and term (*e.g.*, spot or longer term forwards).[76] More particularly, there is no way to determine important volumetric relationships between the fixed-price day-or month-ahead transactions that form price indices or to determine the use of price indices themselves. As noted by the price index developer Platt's, the question of what is the total size of the traded market has ''hung over the gas market for years.''[77] Without the most basic of volumetric information, the Commission has been hampered in its oversight and its ability to assess the adequacy of price-forming transactions. Market participants are likewise unable to evaluate their use of indexed transactions. Typically, market participants rely on index-price transactions as a way to reference market prices without taking on the risks of active trading. These market participants rely on index prices, often whether or not those prices are derived from a robust market of fixed-price transactions.

51. Price formation in natural gas markets makes no distinction between transactions that are jurisdictional to the Commission under the Natural Gas Act absent new section 23 of that statute and those that are not. As discussed above, generally, while the Commission's traditional jurisdiction arising from sections 3 through 10 of the Natural Gas Act is limited to ''natural gas compan[ies],''[78] this limitation is not applicable to the Commission's jurisdiction under new section 23 of the Natural Gas Act,[79] the natural gas transparency provisions. As a consequence, in order to assess the size and structure of U.S. natural gas markets, information is required from transacting companies whether or not they fall under the Commission's traditional jurisdiction.

52. Notwithstanding Congress's broadening of the scope of the Commission's jurisdiction in new section 23 of the Natural Gas Act with respect to transparency, Congress also mandated that the Commission exempt ''natural gas producers, processors or users who have a *de minimis* market presence [from compliance] with the reporting requirements of this section.''[80] In establishing a *de minimis* threshold for reporting, which would apply to all market participants, the Commission seeks to require reporting from only those market participants whose transactions could have an effect on the price for the sale of physical natural gas in interstate commerce and to obtain reporting from a sufficient number of market participants to ensure, in the aggregate, an accurate picture of the physical natural gas market as a whole. To this end, we propose to define such a *de minimis* market participant as a market

[70] The Commission recognizes that few if any interstate natural gas pipelines still make wholesale sales. Nevertheless, if they were to sell gas at wholesale in interstate commerce, they would be subject to the proposed rule. More relevant, of course, is the fact that all of their affiliates making wholesale sales in interstate commerce would be subject to the proposed rule.

[71] Section 23(a)(1) of the Natural Gas Act, *to be codified at* 15 U.S.C. 717t–2(a)(1).

[72] Section 23(a)(2) of the Natural Gas Act, *to be codified at* 15 U.S.C. 717t–2(a)(2) (emphasis added).

[73] Policy Statement on Price Indices at P 34.

[74] Section 23(a)(2) of the Natural Gas Act, *to be codified at* 15 U.S.C. 717t–2(a)(2).

[75] Section 23(a)(4) of the Natural Gas Act, *to be codified at* 15 U.S.C. 717t–2(a)(4).

[76] In its supplemental comments, Platt's provided information regarding its use of physical basis transactions in compiling monthly indices. Supplemental Comments of Platt's, *Transparency Provisions of the Energy Policy Act,* Docket No. AD06–11–000 (filed Feb. 23, 2007).

[77] Comments of Platt's, at 6, *Transparency Provisions of the Energy Policy Act,* Docket No. AD06–11–000, (filed Nov. 1, 2006).

[78] *See*, 15 U.S.C. 717b–717i (2000).

[79] *To be codified at* 15 U.S.C. 717t–2.

[80] Section 23(d)(2) of the Natural Gas Act, *to be codified at* 15 U.S.C. 717t–2(d)(2).

participant that engages in physical natural gas transactions that amount by volume to *less* than 2,200,000 MMBtus annually.[81] This figure is based on the rather simple calculation of one-ten thousandth (1/10,000th) of the annual physical volumes consumed in the United States, which is approximately 22 trillion cubic feet (Tcf) (or roughly 22,000,000,000 MMBtus).[82] Consequently, a *de minimis* market participant would trade the equivalent of less than one standard NYMEX futures contract per day. Although a market participant that contracts for 1/10,000th of the nation's annual physical volume may appear to have little effect on natural gas prices, that participant may be transacting only at one location and, thus, have a much greater pricing effect there. Although we do not expect annual physical volumes consumed in the United States to remain constant, the figure of 22 Tcf is a useful snapshot of consumption and a useful starting-point for setting the *de minimis* exemption.

53. The proposed reporting requirement would also shift the notification regarding the index reporting practices of companies selling under blanket certificates to this annual form and away from the prior practice of a letter notification upon a change in company policy. Consequently, if a market participant makes use of its blanket certificate authority, even if its sales are *de minimis*, it would still be required to report, but only its identification information, whether it reports transaction information to price index publishers, and whether any such reporting complies with the regulations governing reporting to price index publishers. This proposal would be codified at § 284.403(a) for blanket marketing certificate holders and at § 284.288(a) for interstate pipelines with unbundled sales service certificates. The Commission would impose these requirements on all blanket certificate holders regardless of size.[83]

54. In Order No. 644, the Commission required each holder of blanket marketing certificate authority to notify the Commission whether it engages in reporting of its transactions to publishers of electricity or natural gas price indices according to the standards set out in the Commission's Policy Statement on Price Indices.[84] Pursuant to § 284.403(a) of the Commission's regulations, if a holder of a blanket marketing certificate changes its reporting standards, it is required to report that change to the Commission.[85] Pursuant to § 284.288(a) of the Commission's regulations, if an interstate pipeline that holds blanket unbundled sales service certificate, it is similarly required to report that change to the Commission.

55. Several data providers asked for clarification as to whether they may report certain classes of products traded, but not others. In one instance, related to electricity, the data provider was reporting all transactions other than next-hour electric transactions.[86] We clarify that a data provider remains eligible for the safe harbor provisions if it reports certain products but not others, provided that it provides all of the same type of transactions and that it notifies the Commission which products it will report in its annual filing or other notification. A data provider would be required to notify the commission of any change in the types of products it reports within 15 days of any such change. We intend to reiterate this clarification in the preamble of any final rule issued in these proceedings.

56. At the October 13, 2006 technical conference, several participants called for mandatory reporting of all fixed-price transactions.[87] Mandatory reporting would appear to provide additional benefits in that it could assist in determining whether the price indices are an accurate reflection of underlying fixed-price trading. Market participants, State commissions, and this Commission could gain a clearer sense of the volume and number of natural gas transactions that form prices by location and duration. For the following reasons, however, we believe that mandatory reporting is not appropriate at this time.

57. First, mandatory reporting of certain transactions would create an incentive for wholesale buyers and sellers to consider structuring transactions based on avoiding reporting requirements rather than simply on the economics of the transaction. Even very subtle shifts in the form of transactions could easily make them non-reportable in any pre-defined system. For instance, if the Commission required reporting of fixed-price, day-ahead transactions, market participants could create two-day transactions, achieve substantially the same economic result and avoid reporting.

58. Second, buyers and sellers might shift away from fixed-price transactions to indexed-price transactions. Fixed-price transactions could easily decrease to the point that indices that rely on them would no longer represent reliable indicators of the market. Such indices would likely become more volatile as they moved more in response to fewer transactions. At the October 13, 2006 technical conference, several panelists raised similar concerns and advocated against mandatory price reporting.[88]

59. Third, broad availability of detailed transaction data might prove to be anticompetitive. By contrast, our proposal herein is intended to adhere to the requirement provided in section 23 of the Natural Gas Act that the Commission ''shall seek to ensure that consumers and competitive markets are protected from the adverse effects of potential collusion or other anticompetitive behaviors that can be facilitated by untimely public disclosure of transaction-specific information.'' [89] In its comments in these proceedings, the Department of Justice echoed this caution, stating that the Commission ''may be able to achieve the benefits of

[81] Proposed 18 CFR 284.401 (defining *de minimis* market participant). The Commission proposes to define a market participant as ''any buyer or seller that engaged in physical natural gas transactions for the previous calendar year.'' Proposed 18 CFR 284.401.

[82] Department of Energy, Energy Information Administration, Natural Gas Summary, Data Series: Total Consumption, 2006, *http://tonto.eia.doe.gov/dnav/ng/ng_sum_lsum_dcu_nus_a.htm.*

[83] The Commission makes this proposal under section 4, 5 and 7 of the Natural Gas Act, 15 U.S.C. 717c, 717d, and 717f (2000), and, thus, is not required to create a *de minimis* exception for holders of blanket marketing certificates or for interstate pipelines that have blanket unbundled sales services certificates.

[84] Order No. 644 at P 70–72.

[85] 18 CFR 284.403(a).

[86] See, Pinnacle West Capital Corporation and Pinnacle West Marketing and Trading Co., LLC, *Investigation of Terms and Conditions of Market-Based Rate Tariffs and Authorizations*, Docket No. EL01–118–000 (filed Feb. 12, 2007).

[87] Tr. at 13–14 (Ms. Lewis-Raymond on behalf of the American Gas Association) (calling for mandatory reporting of fixed-price trades); Tr. at 18–19 (Mr. Les Fyock on behalf of the American Public Gas Association (APGA)) (calling for mandatory price reporting); Comments of the APGA, *Transparency Provisions of the Energy Policy Act*, Docket No. AD06–11–000 (filed Nov. 1, 2006) (same).

[88] See, *e.g.*, Tr. at 12–13 (Mr. Christopher Conway on behalf of Conoco-Phillips Gas and Power, the Natural Gas Supply Association, and the Independent Producers Association of America) (asserting that mandatory price reporting could drive market participants away from reportable transactions, thereby, possibly reducing liquidity); Tr. at 35–36, 38–39 (Mr. Alex Strawn on behalf of the Process Gas Consumers Group) (asserting that mandatory reporting of fixed price transactions would drive market participants to use index-price transactions, thereby, reducing liquidity); Comments of Independent Petroleum Association of America, at p. 3, *Transparency Provisions of the Energy Policy Act*, Docket No. AD06–11–000 (filed Nov. 1, 2006) (mandatory reporting would push market participants away from reportable transactions and cause them to do more index-price transactions); Comments of Natural Gas Supply Association, *Transparency Provisions of the Energy Policy Act*, Docket No. AD06–11–000 (filed Nov. 1, 2006) (similar).

[89] Section 23(b)(2) of the Natural Gas Act, *to be codified at* 15 U.S.C. 717t–2(b)(2).

transparency while limiting its potential harm by aggregating, masking, and lagging the release of such information.'' [90] The Commission's proposal would not provide for the collection and disclosure of ''transaction-specific information.'' The proposal is intended to avoid facilitating anti-competitive behavior in several ways: (i) Reported information would not include specific price information; (ii) reported information would be aggregated information over a period of one year and not transaction-specific information; and (iii) reported information would be made on an aggregated, national level, and not by point or even region.

60. The Commission also does not propose that market participants report information regarding their financially-settled transactions nor regarding their physically-settled futures contracts that do not go to delivery.[91] The Commission has noted significant interactions among financial, futures and physical natural gas markets.[92] The most direct and important influence of this type on physical markets is from the futures market, which is regulated by the Commodities Futures Trading Commission (CFTC). The CFTC actively monitors that market, and communicates regularly with the Commission regarding market matters.[93]

61. By obtaining the number and volume of transactions conducted for each market participant, the Commission, market participants and others would be able to determine the overall level of activity of market participants in the physical natural gas market. In particular, the information would provide regularly an estimate of (a) The size of the physical U.S. domestic natural gas market, (b) the use of index pricing in that market, (c) the size of the fixed-price trading market that produces price indices, and (d) the relative sizes of major traders.

62. The information provided through the Commission's proposal would improve the understanding of index pricing by interested entities, including the market participants and State energy regulators who use them. The number and volume break-down of transactions by price type, fixed-price or index-price, should permit an overall assessment of the ratio of index-using transactions to price-forming transactions, *i.e.*, fixed-price transactions. At present, we do not know how much fixed-price transactions are a part of the universe of natural gas transactions, although they may be the minority of natural gas transactions.[94]

63. As noted in the introduction, the Commission has taken several steps to restore confidence in natural gas index prices and their formation.[95] By obtaining information regarding the extent that market participants make fixed-price transactions, market participants would be able to evaluate their confidence in the index prices that are formed by those fixed-price transactions. By collecting sales and purchases information, results could also be cross-checked to ensure that information was accurate. In effect, total sales should roughly equal total purchases, with some allowance for *de minimis* buyers and sellers.

64. The Commission also proposes to require a holder of blanket market certificates or an interstate pipeline with an unbundled sales service certificate to notify the Commission annually about its reporting of transaction information to price index publishers and whether any such reporting conforms to the Policy Statement. After the Policy Statement's notification requirement took effect, we observed that blanket marketing certificate holders may have overlooked this requirement and we provided the opportunity for blanket marketing certificate holders to notify the Commission by August 1, 2005 of their reporting status.[96] Based on Commission staff's experience monitoring price indices and adherence to the Policy Statement, as discussed in the introduction, the Commission believes that notification on an annual basis would make the information more reliable. As a further benefit, notifying companies would have the opportunity to review their practices in coordination with their response to the data collection proposal described above.

D. Solicitation of Comments

65. The Commission seeks comment on this proposal, including whether market participant responses to the questions would provide useful information to market participants, State commissions, this Commission and the public in understanding the natural gas market, the price formation process, and the use of price indices.

66. In particular, the Commission encourages market participants to review the questions (in draft form at Appendix A) and determine whether they would result in useful information for understanding the prices and availability of physical natural gas in interstate commerce. What adjustments might improve these questions? What alternative or additional questions might add sufficient information to justify additional burden on filers? Does the format for responses ensure consistency for aggregation and analysis? The Commission anticipates holding meetings, if needed, to consider the details of this annual filing requirement.

67. The Commission seeks comment on its proposed definition of a *de minimis* market participant. Is this threshold sufficiently low to permit a comprehensive picture of the U.S. wholesale natural gas market? Is it sufficiently high so that persons or municipalities not able to prices of natural gas in interstate commerce are not required to report? Is there another, more effective bright-line measure that allows market participants to determine easily whether they are exempt? Further, the Commission seeks comment on the burden this proposal would impose on market participants. For instance, is it unduly burdensome for market participants to file the information by February 15 of each year?

68. The Commission seeks comments on its proposal that buyers and sellers of more than a *de minimis* volume of

[90] Comments of the Department of Justice, Antitrust Division, *Transparency Provisions of the Energy Policy Act*, Docket No. AD06–11–000 (filed Jan. 25, 2007). The Department of Justice's comments focused on the electricity markets, although it did note that the same general considerations that applied to electricity markets also applied to natural gas markets.

[91] See, *e.g.*, Tr. at 22–24, Comments of Industrial Energy Consumers of America, (arguing that because the physical and financial natural gas markets are linked, the Commission and the Commodity Futures Trading Commission should make Over-the-Counter markets more transparent.)

[92] Federal Energy Regulatory Commission, 2006 State of the Markets Report, at 48–50 (Jan. 2007), *http://www.ferc.gov/market-oversight/market-oversight.asp*, (follow link to the State of the Markets Full Report).

[93] In the transparency provisions, Congress mandated that this Commission and the CFTC conclude a memorandum of understanding relating to information sharing to include ''provisions ensuring that information requests to markets within the respective jurisdiction of each agency are properly coordinated to minimize duplicative information requests, and provisions regarding the treatment of proprietary trading information.'' Section 23(c)(1) of the Natural Gas Act, 15 U.S.C. 717t–2(c)(1); *see also* section 220(c)(1) of the Federal Power Act, 16 U.S.C. 824t(c)(1) (identical language). The Commission and the CFTC entered into the memorandum of understanding on October 12, 2005. *Memorandum of Understanding Between FERC and the CFTC Regarding Information Sharing And Treatment Of Proprietary Trading And Other Information*, available at *http://www.ferc.gov/legal/maj-ord-reg/fed-sta/ene-pol-act.asp* (follow ''Interagency/Tribal,'' then, ''MOU'').

[94] Tr. at 32 (Comments of Ms. Jane Lewis-Raymond, American Gas Association) (surmising that we currently cannot know the amount of fixed-price transactions and the amount of fixed-price trades that make up an index).

[95] *See supra*, notes 5–11.

[96] Order on Further Clarification of Policy Statement at P 21.

natural gas be required to report aggregate numbers and volumes of relevant transactions in an annual filing with the Commission. Does information regarding purchases of natural gas at wholesale ''facilitate price transparency in markets for the sale and transportation of physical natural gas in interstate commerce,'' as provided in the natural gas transparency provisions? [97]

69. The Commission seeks comment on whether reporting information aggregated by calendar year is adequate. Would a monthly breakdown create an undue burden compared to providing the information by calendar year? Would it provide a better understanding of the physical natural gas market given the seasonal nature of the market?

70. The Commission seeks comment on the proposed modifications to the notification requirements regarding reporting of transactions to publishers of price indices imposed on those entities who hold blanket marketing certificates in proposed § 284.403(a) and imposed on intrastate pipelines with blanket unbundled sales service certificates in proposed § 284.288(a). Also, as currently codified, those sections refer to the procedural requirements for reporting to publishers of price indices ''set forth in the Policy Statement on Electric and Natural Gas Price Indices, issued by the Commission in PL03–3–000 and any clarifications thereto.'' [98] Instead of referring to policy statements in that proceeding for the procedural requirements, should the Commission codify in the regulations the procedural requirements that such reporting entities must follow in reporting transactions to publishers of electric and natural gas price indices?

71. The Commission seeks comment on making public participant responses to these questions through public filing requirements. Commenters who suggest an alternate method, such as aggregating data received before disseminating it to the public, should address whether such an approach meets the objectives of the statute sufficiently.

72. The Commission seeks comment on whether, in lieu of this proposal, to require mandatory, detailed transaction reporting by market participants. Commenters should address the burdens and benefits of such an approach. Commenters supporting mandatory reporting of transactions should address the cautions set forth in the natural gas transparency provisions and echoed by the Department of Justice in the discussion above. If detailed transaction reporting were mandatory, could these concerns be addressed by making the reporting non-public, aggregating the reported information, and disseminating publicly only the aggregated information (either by the Commission or, as contemplated in the natural gas transparency provisions, by other entities) subject to sufficient disclosure rules? [99]

VI. Information Collection Statement

73. The Office of Management and Budget (OMB) regulations require it to approve certain reporting and recordkeeping (information collection) requirements imposed by an agency.[100] In this NOPR, the Commission makes two proposals that would require the posting or collection of information.[101] The Commission is submitting notification of these proposed information collection requirements to OMB for its review and approval under section 3507(d) of the Paperwork Reduction Act of 1995.[102]

74. The proposal to require intrastate pipelines to post flow information would impose an information collection burden on intrastate pipelines. We presume that intrastate pipelines already collect flow information for receipt and delivery points and, thus, the burden that would be imposed by this proposed requirement is only for the posting of this information in the required format.[103] The proposal to require market participants to file annually a form regarding their physical natural gas transactions would impose an information collection burden on market participants. Again, we presume that market participants already collect transaction information and, thus, the burden imposed by this proposed requirement is only for completing and submitting the form.

75. OMB regulations require OMB to approve certain information collection requirements imposed by agency rule. The Commission is submitting notification of this proposed rule to OMB.

Public Reporting Burden: The start-up and annual burden estimates for complying with this proposed rule are as follows:

Data collection	Number of respondents	Number of responses per respondent (per year)	Estimated annual burden hours per respondent (hours)	Total annual hours for all respondents	Estimated start-up burden per respondent (hours)
Part 284 FERC–xxx:					
Intrastate Pipeline Postings	179	365	183	32,757	160
Annual Reporting Requirement	1,500	1	4	6,000	40
Total				38,757	

The total annual hours for collection (including recordkeeping) for all respondents is estimated to be 38,757.

Information Collection Costs: The average annualized cost for each respondent is projected to be the following (savings in parenthesis):

[97] Section 23(a)(1) of the Natural Gas Act, *to be codified at* 15 U.S.C. 717t–2(a)(1).

[98] 18 CFR 284.403(a); *see, also*, 18 CFR 284.288(a) (identical language).

[99] Section 23(a)(3)(B) and (b) of the Natural Gas Act, *to be codified at* 15 U.S.C. 717t–2(a)(3)(B) and (b).

[100] 5 CFR 1320.11.

[101] The OMB regulations cover both the collection of information and the posting of information. 5 CFR 1320.3(c). Thus, the proposal to post information would create an information collection burden.

[102] 44 U.S.C. 3507(d).

[103] See 5 CFR 1320.3(b)(2) (''The time, effort, and financial resources necessary to comply with a collection of information that would be incurred by persons in the normal course of their activities (*e.g.*, in compiling and maintaining business records) will be excluded from the ''burden'' if the agency demonstrates that the reporting, recordkeeping, or disclosure activities needed to comply are usual and customary.'')

	Annualized capital/ startup costs (10 year amortization)	Annual costs	Annualized costs total
FERC–xxx:			
Intrastate Pipeline Postings	$1,600	$18,300	$19,900
Transaction Reporting Requirement	400	400	800

Title: FERC–xxx.

Action: Proposed Information Posting and Information Filing.

OMB Control No:

Respondents: Business or other for profit.

Frequency of Responses: Daily posting requirements and annual filing requirements.

Necessity of the Information: The daily posting of flow information by intrastate pipelines is necessary to provide information regarding the price and availability of natural gas to market participants, State commissions, the FERC and the public. The annual filing of transaction information by market participants is necessary to provide information regarding the size of the physical natural gas market, the use of the natural gas spot markets and the use of fixed and index price transactions.

Internal Review: The Commission has reviewed the requirements pertaining to natural gas pipelines and natural gas market participants and determined they are necessary to provide price and availability information regarding the sale of natural gas in interstate markets.

76. These requirements conform to the Commission's plan for efficient information collection, communication, and management within the natural gas industry. The Commission has assured itself, by means of internal review, that there is specific, objective support for the burden estimates associated with the information posting requirements. The Commission seeks comment on these estimates.

77. Interested persons may obtain information on the reporting requirements by contacting: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, [Attention: Michael Miller, Office of the Chief Information Officer], phone: (202) 502–8415, fax: (202) 208–2425, e-mail: *Michael.Miller@ferc.gov*. Comments on the requirements of the proposed rule also may be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission].

78. Comments on the requirements of the proposed rule may also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission] (202) 395–4650 or *oira_submission@omb.eop.gov.*

VII. Environmental Analysis

79. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[104] The actions taken here fall within categorical exclusions in the Commission's regulations for information gathering, analysis, and dissemination, and for sales, exchange, and transportation of natural gas that requires no construction of facilities.[105] Therefore, an environmental assessment is unnecessary and has not been prepared in this rulemaking.

VIII. Regulatory Flexibility Act Analysis

80. The Regulatory Flexibility Act of 1980 (RFA) generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities.[106] The two proposals in this NOPR will not have a significant economic impact on a substantial number of small entities.

81. The proposal to require daily postings by intrastate pipelines will not impact small entities. Natural gas pipelines are classified under NAICS code, 486210, Pipeline Transportation of Natural Gas.[107] A natural gas pipeline is considered a small entity for the purposes of the Regulatory Flexibility Act if its average annual receipts are less than $6.5 million.[108] The Commission does not believe that any intrastate pipeline has receipts less than $6.5 million. Thus, the daily posting proposal will not impact small entities.

82. The proposal to require annual reporting of physical natural gas transactions will have minimal impact on small entities.[109] By incorporating a *de minimis* exemption into the regulations, the Commission has reduced the number of small entities subject to the requirements; *de minimis* entities without blanket certificates will not be required to report. This reporting proposal will affect small entities but the burden on them will be minimal. For each entity, small or otherwise, that is required to comply with the annual reporting requirement, the Commission estimates that the compliance would require a one-time cost of approximately $4,000 and an annual cost thereafter of $400. Although some costs would increase for market participants with a greater number of transactions, we expect that that increase would be likely offset because such entities would have already compiled information regarding their transactions in the aggregate. The Commission bases its one-time cost estimate on an assumption that it would take approximately one person one week to set up the reporting and file the report initially and that their time costs $100 per hour. The Commission bases its annual estimate on an assumption that it would take one person four hours to compile the information and that his or her time costs $100 per hour. On an annualized basis, costs would amount to approximately $1,200 per entity. This amount is not a significant burden on small entities. The Commission seeks comment on its Regulatory Flexibility Act analysis and the assumptions on which it is based.

IX. Comment Procedures

83. The Commission invites interested persons to submit comments on the

[104] Order No. 486, *Regulations Implementing the National Environmental Policy Act*, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986–1990 ¶ 30,783 (1987).

[105] 18 CFR 380.4(a)(5) and (a)(27).

[106] 5 U.S.C. 601–612.

[107] This industry comprises establishments primarily engaged in the pipeline transportation of natural gas from processing plants to local distribution systems. 2002 North American Industry Classification System (NAICS) Definitions, *http://www.census.gov/epcd/naics02/def/ND486210.HTM.*

[108] See Table of Small Business Size Standards, U.S. Small Business Administration (effective July 31, 2006), available at *http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sstd_tablepdf.pdf.*

[109] For the purposes of analyzing the impact of the proposed filing requirement on small entities, the Commission classifies market participants under the NAICS category of ''Natural Gas Distribution,'' Code 221210, which includes gas marketers, and establishments engaged in gas distribution. Under that classification, a small entity is any entity with less than 500 employees. See Table of Small Business Size Standards, U.S. Small Business Administration (effective July 31, 2006), available at *http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sstd_tablepdf.pdf.*

matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due June 11, 2007. Reply comments are due July 10, 2007. Comments must refer to Docket No. RM07–10–000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments. Comments may be filed either in electronic or paper format.

84. Comments may be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov.* The Commission accepts most standard word processing formats and requests commenters to submit comments in a text-searchable format rather than a scanned image format. Commenters filing electronically do not need to make a paper filing. Commenters that are not able to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

85. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

X. Document Availability

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

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

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

List of Subjects

18 CFR Part 260

Natural gas; Reporting and recordkeeping requirements.

18 CFR Part 284

Continental Shelf; Incorporation by reference; Natural gas; Reporting and recordkeeping requirements.

By direction of the Commission.

Philis J. Posey,

Deputy Secretary.

In consideration of the foregoing, the Commission proposes to amend parts 260 and 284 Chapter I, Title 18, Code of Federal Regulations, to read as follows.

PART 260—STATEMENTS AND REPORTS (SCHEDULES)

1. The authority citation for part 260 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352.

2. Section 260.401 is added to read as follows:

§ 260.401 FERC Form No. [X], Annual Reporting of Natural Gas Transactions and Blanket Certificate Authorities.

Unless otherwise exempted or granted a waiver by Commission rule or order, each natural gas market participant that is not a *de minimis* market participant as defined in § 284.401 of this chapter and each *de minimis* market participant that holds a blanket marketing certificate under § 284.402 of this chapter or a blanket unbundled sales service certificate under § 284.284 of this chapter must file with the Commission by February 15, 2008, and by February 15 of each year thereafter, a report, FERC Form No. [X], for the prior calendar year. Every such report must be prepared in conformance with the Commission's software and guidance posted and available for downloading from the FERC Web site (*http://www.ferc.gov*).

PART 284—CERTAIN SALES AND TRANSPORATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

3. The authority citation for part 284 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352; 43 U.S.C. 1331–1356.

4. Section 284.14 is added to read as follows:

§ 284.14 Intrastate pipeline flow information.

An intrastate pipeline must provide on a daily basis on an Internet Web site and in downloadable file formats, in conformity with § 284.12 of this chapter, access to information on flowing volumes and capacities at each major receipt point, mainline segment, and delivery point on its pipeline. This information must be posted within 24 hours from the close of the gas day on which gas flows, *i.e.*, on or before 9:00 a.m. central clock time for flows occurring on the gas day that ended 24 hours before.

5. In § 284.288, paragraph (a) is revised to read as follows:

§ 284.288 Code of conduct for unbundled sales service.

(a) To the extent Seller engages in reporting of transactions to publishers of electricity or natural gas indices, Seller shall provide accurate and factual information, and not knowingly submit false or misleading information or omit material information to any such publisher, by reporting its transactions in a manner consistent with the procedures set forth in the *Policy Statement on Natural Gas and Electric Price Indices,* issued by the Commission in Docket No. PL03–3–000 and any clarifications thereto. Seller shall notify the Commission as part of its annual reporting requirement in § 260.401 of this chapter whether it reports its transactions to publishers of electricity and natural gas indices. Seller shall notify the Commission within 15 days of any subsequent change to its transaction reporting status. In addition, Seller shall adhere to such other standards and requirements for price reporting as the Commission may order.

* * * * *

6. In § 284.401, definitions of ''*de minimis* market participant'' and ''market participant'' are added in alphabetical order to read as follows:

§ 284.401 Definitions.

* * * * *

De minimis market participant. For purposes of this subpart, a *de minimis* market participant is a market participant that engaged in physical natural gas transactions that by volume amounted to less than 2,200,000 MMBtus for the previous calendar year.

Market participant. For purposes of this subpart, a market participant is any buyer or seller that engaged in physical natural gas transactions the previous calendar year.

7. In § 284.403, paragraph (a) is revised to read as follows:

§ 284.403 Code of conduct for persons holding blanket marketing certificates.

(a) To the extent Seller engages in reporting of transactions to publishers of electricity or natural gas indices, Seller shall provide accurate and factual information, and not knowingly submit false or misleading information or omit material information to any such publisher, by reporting its transactions in a manner consistent with the procedures set forth in the *Policy Statement on Natural Gas and Electric Price Indices*, issued by the Commission in Docket No. PL03–3–000 and any clarifications thereto. Seller shall notify the Commission as part of its annual reporting requirement in § 260.401 of this chapter whether it reports its transactions to publishers of electricity and natural gas indices. Seller shall notify the Commission within 15 days of any subsequent change to its transaction reporting status. In addition, Seller shall adhere to such other standards and requirements for price reporting as the Commission may order.

* * * * *

Note: The following Appendix will not be published in the *Code of Federal Regulations.*

Appendix A to Notice of Proposed Rulemaking—Transparency Provisions of Section 23 of the Natural Gas Act; Transparency Provisions of the Energy Policy Act of 2005, Docket Nos. RM07–10–000 and AD06–11–000: Proposed FERC Form No. [X]

Provide accurate and complete responses to the following questions.

	Purchases by number	Purchases by volume (TBtu/Bcf)	Sales by number	Sales by volume (TBtu/Bcf)
A. How much physical gas,* did you transact in the prior calendar year?				
B. Of the amount reported in Row A, what number and volume are transacted for next-day delivery?				
C. Of these next-day transactions, what number and volume are priced at a fixed price?				
D. Of these next-day transactions, what number and volume are priced at an index price?				
E. Of the amount reported in Row A, what number and volume are transacted for delivery in the next month?				
F. Of your transactions for delivery in the next month, what number and volume are priced at a fixed price during bid week? **				
G. Of your transactions for delivery in the next month, what number and volume are priced at an index price?				
H. Of your transactions for delivery beyond next-day or month, what number and volume are priced using next-day or next-month index prices?				

* Notwithstanding its physical delivery provisions, for the purposes of this form, exclude NYMEX futures contracts or any other physically-settled futures contract unless the contract actually goes to delivery.

** Bid week is defined as the last 5 working days prior to the delivery month. Please include those transactions in this row.

[FR Doc. E7–7822 Filed 4–25–07; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 1051

[EPA–HQ–OAR–2006–0858; FRL–8305–7]

RIN 2060–A035

Exhaust Emission Test Procedures for All-Terrain Vehicles

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: In a rule published November 8, 2002, EPA promulgated new emission standards for recreational vehicles beginning in model year 2006. This included a newly regulated class of nonroad vehicles/engines commonly referred to as all-terrain vehicles. In that rulemaking, a temporary provision was included allowing manufacturers to certify all-terrain vehicles over a steady-state, engine-based, duty cycle for exhaust emissions prior to the 2009 model year in lieu of the transient, chassis-based, Federal Test Procedure which was effective for 2006 and later model years. In this rulemaking we are proposing to extend the availability of this temporary provision for in some cases up to an additional six model years, after which the chassis-based Federal Test Procedure would become the only available test cycle. More specifically, manufacturers would have to certify exhaust emission engine families representing not less than 50 percent of their U.S.-directed production on the Federal Test Procedure in model year 2014 and 100 percent in 2015. Manufacturers with only one all-terrain vehicle exhaust emission engine engine family would not be required to use the Federal Test Procedure until the 2015 model year. For those manufacturers who have not yet done so, this will allow additional time to certify to the previously promulgated Federal Test Procedure-based emission standards using either contract facilities or by obtaining in-house capability.

DATES: Written comments must be received by May 29, 2007. Request for a public hearing must be received by May 11, 2007. If we receive a request for a public hearing, we will publish information related to the timing and location of the hearing and the timing of a new deadline for public comments.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2006–0858, by one of the following methods:

- *www.regulations.gov*: Follow the on-line instructions for submitting comments.
- *E-mail: a-and-r-docket@epa.gov.*
- *Fax:* (202) 566–1741.

• *Mail:* Environmental Protection Agency, Mail Code: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include two copies.

• *Hand Delivery:* EPA Docket Center (Air Docket), U.S. Environmental Protection Agency, EPA West Building, 1301 Constitution Avenue, NW., Room: 3334, Mail Code: 6102T, 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.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2006–0858. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

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 EPA Docket Center, EPA/DC, EPA West, Room 3334, 1301 Constitution Avenue, 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 Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Michael Samulski, Assessment and Standards Division, Office of Transportation and Air Quality, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: (734) 214–4532; fax number: (734) 214–4050; e-mail address: *samulski.michael@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

In the ''Rules and Regulations'' section of this **Federal Register**, we are making these revisions as a direct final rule without prior proposal because we view these revisions as noncontroversial and anticipate no adverse comment.

We have explained our reasons for these revisions in the preamble to the direct final rule. If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment on the rule, we will withdraw the direct final rule. We will address all public comments in a subsequent final rule based on this proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

II. Does This Action Apply to Me?

This action will affect companies that manufacture and certify all-terrain vehicles in the United States.

Category	NAICS code [a]	Examples of potentially affected entities
Industry	336999	Snowmobiles and all-terrain vehicle manufacturers.
Industry	421110	Independent commercial importers of vehicles and parts.

[a] North American Industry Classification System (NAICS).

To determine whether particular activities may be affected by this action, you should carefully examine the regulations. You may direct questions regarding the applicability of this action as noted in **FOR FURTHER INFORMATION CONTACT**.

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

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

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

• Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

• Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

• Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

• Describe any assumptions and provide any technical information and/or data that you used.

• If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

• Provide specific examples to illustrate your concerns, and suggest alternatives.

• Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

• Make sure to submit your comments by the comment period deadline identified.

IV. Summary of Rule

In a rule published November 8, 2002, EPA promulgated new emission standards for all terrain vehicles (ATVs) beginning in model year 2006. In that rulemaking, a temporary provision was included allowing manufacturers to certify ATV exhaust emissions over a steady-state, engine-based, duty cycle prior to the 2009 model year in lieu of the transient, chassis-based, Federal Test Procedure (FTP) which was effective for 2006 and later model years. In the interim the manufacturers, the California Air Resources Board, and EPA were to work together to assess the in-use operating characteristics of ATVs, determine whether the nature of this operation was transient or steady state and, if workable, develop and agree upon an emission test cycle which could replace both the engine-based steady state option and the primary approach, the chassis-based FTP. This work did not result in a mutually satisfactory outcome and agreement could not be reached on an alternate testing approach. Therefore, as prescribed in the 2002 final rule, the chassis-based FTP is to be the sole procedure for exhaust emissions certification in the long term.

As stated above, in the original rulemaking the steady state option expired for the 2009 model year. While many manufacturers have certified using the FTP not all have done so, since there was the possibility of a replacement cycle. To provide appropriate certainty and lead time, in this rulemaking we are proposing to extend the availability of this temporary provision for an additional six model years, after which the chassis-based FTP would become the only available approach. More specifically, we are proposing that manufacturers would have to certify exhaust emission engine families representing not less than 50 percent of their U.S.-directed production on the FTP in model year 2014 and 100 percent in 2015. Manufacturers with only one ATV exhaust emission engine family would not be required to use the FTP until the 2015 model year. For those manufacturers who have not yet done so, this will allow additional time to certify on the FTP by using contract facilities or by obtaining the in-house capability and if a large manufacturer acquires the capability to run the production line testing program.

EPA does not expect that this revision will have any adverse cost impact to the manufacturers in the long term. The requirement was promulgated as part of the 2002 final rule and many off-shore manufacturers and importers have already complied using excess inhouse capability or contract facilities. We expect this extension will help to ensure compliance costs are minimized and that the emission reductions identified in the 2002 rule are achieved. Even the J1088 test cycle has reduced emissions significantly by eliminating ATVs powered by high emitting two-stroke engines as a new product offering. Adopting the FTP will help to ensure robust emission control in ATVs using 4-stroke engines by including consideration of transient operation and vehicle/engine operation over a wider variety of conditions than that seen in the J1088 cycle.

For additional discussion of the proposed rule changes, see the direct final rule EPA has published in the ''Rules and Regulations'' section of today's **Federal Register**. This proposal incorporates by reference all the reasoning, explanation, and regulatory text from the direct final rule.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This proposed rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the Executive Order. This proposed rule merely gives an extension of time in which a temporary optional test duty cycle may be used. There are no new costs associated with this proposed rule relative to the original final rule.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. This proposed rule does not include any new collection requirements, as it merely gives an extension of time in which a temporary optional test duty cycle may be used. There are no new paperwork requirements associated with this rule. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations 40 CFR 1051; 1200 Pennsylvania Ave., NW., Washington, DC 20460 or by calling (202) 566–1672.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

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

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

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the rule on small entities.'' 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive

economic effect on all of the small entities subject to the rule.

This proposed rule would give an extension of time in which a temporary optional test duty cycle may be used. We have therefore concluded that today's proposed rule will relieve regulatory burden for all affected small entities and will not have a significant economic impact on a substantial number of small entities if the rule. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

This proposed rule contains no federal mandates for state, local, or tribal governments or the private sector as defined by the provisions of Title II of the UMRA. The proposed rule imposes no enforceable duties on any of these governmental entities. Nothing in the proposed rule would significantly or uniquely affect small governments. EPA has determined that this proposed rule contains no federal mandates that may result in expenditures of more than $100 million to the private sector in any single year. Thus, this rule is not subject to the requirements of sections 2020 and 205 of the UMRA. This proposed rule merely gives an extension of time in which a temporary optional test duty cycle may be used. EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. See the direct final rule EPA has published in the ''Rules and Regulations'' section of today's **Federal Register** for a more extensive discussion of UMRA policy.

E. Executive Order 13132: Federalism

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This proposed rule would give an extension of the time in which a temporary optional test duty cycle may be used. Thus, Executive Order 13132 does not apply to this rule.

See the direct final rule EPA has published in the ''Rules and Regulations'' section of today's **Federal Register** for a more extensive discussion of Executive Order 13132.

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

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This proposed rule does not uniquely affect the communities of Indian Tribal Governments. Further, no circumstances specific to such communities exist that would cause an impact on these communities beyond those discussed in the other sections of this rule. This proposed rule would give an extension of the time in which a temporary optional test duty cycle may be used. Thus, Executive Order 13175 does not apply to this rule. See the direct final rule EPA has published in the ''Rules and Regulations'' section of today's **Federal Register** for a more extensive discussion of Executive Order 13132.

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

This proposed rule is not subject to the Executive Order because it is not economically significant, and does not involve decisions on environmental health or safety risks that may disproportionately affect children. See the direct final rule EPA has published in the ''Rules and Regulations'' section of today's **Federal Register** for a more extensive discussion of Executive Order 13045.

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

This proposed rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866. This proposed rule would give an extension of the time in which a temporary optional test duty cycle may be used.

I. National Technology Transfer and Advancement Act

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

This proposed rule does not involve technical standards. This proposed rule would merely give an extension of the time in which a temporary optional test duty cycle may be used. Therefore, EPA is not considering the use of any voluntary consensus standards. See the direct final rule EPA has published in the ''Rules and Regulations'' section of today's **Federal Register** for a more extensive discussion of NTTAA policy.

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

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. See the direct final rule EPA has published in the ''Rules and Regulations'' section of today's **Federal Register** for a more extensive discussion of Executive Order 13045.

K. Statutory Authority

The statutory authority for this action comes from section 213 of the Clean Air Act as amended (42 U.S.C. 7547). This action is a notice of proposed rulemaking subject to the provisions of Clean Air Act section 307(d). See 42 U.S.C. 7607(d).

List of Subjects in 40 CFR Part 1051

Environmental protection, Air pollution control, Exhaust emission testing, Recreational vehicle, All-terrain vehicle.

Dated: April 19, 2007.

Stephen L. Johnson,

Administrator.

[FR Doc. 07–2068 Filed 4–25–07; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA–B–7715]

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	#Depth in feet above ground. *Elevation in feet (NGVD) +Elevation in feet (NAVD)	
				Existing	Modified
City of Lynchburg, Virginia					
Virginia	City of Lynchburg	Burton Creek	Confluence with Blackwater Creek	*660	+660
			Approximately 1800 feet upstream of Wards Ferry Road.	None	+758
		Burton Creek Tributary No. 1.	Confluence with Burton Creek	None	+758
			Approximately 1.0 mile upstream of confluence with Burton Creek.	None	+870
		Burton Creek Tributary No. 2.	Confluence with Burton Creek Tributary No. 1.	None	+767
			Approximately 950 feet upstream of Wade Lane.	None	+844
		Burton Creek Tributary No. 3.	Confluence with Burton Creek	None	+758
			Approximately 2300 feet upstream of confluence with Burton Creek.	None	+841
		Burton Creek Tributary No. 4.	Confluence with Burton Creek	None	+755
			Approximately 0.5 mile upstream of Wards Ferry Road.	None	+836

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) +Elevation in feet (NAVD)	
				Existing	Modified
		Burton Creek Tributary No. 5.	Confluence with Burton Creek	None	+755
			Approximately 850 feet upstream of confluence with Burton Creek.	None	+768
		Burton Creek Tributary No. 6.	Confluence with Burton Creek	None	+720
			Approximately 1250 feet upstream of confluence with Burton Creek.	None	+757
		Rock Castle Creek	Confluence with Burton Creek	*722	+740
			Just upstream of Wards Ferry Road	*814	+810
		Rock Castle Creek Tributary No. 4.	Confluence with Rock Castle Creek	None	+758
			Approximately 1500 feet upstream of railroad spur.	None	+843
		Rock Castle Creek Tributary No. 5.	Confluence with Rock Castle Creek	None	+740
			Approximately 200 feet upstream of Lynchburg Expressway.	None	+783
		Rock Castle Creek Tributary No. 6.	Confluence with Rock Castle Creek	None	+740
			Approximately 800 feet upstream of Edgewood Drive.	None	+804

*National Geodetic Vertical Datum.
#Depth in feet above ground.
+North American Vertical Datum.

ADDRESSES

City of Lynchburg

Maps are available for inspection at 900 Church Street, 2nd Floor Planning Division, Lynchburg, VA 24504.
Send comments to The Honorable Joan Foster, Mayor, 900 Church Street, Lynchburg, VA 24504.

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground		Communities affected
		Effective	Modified	
Hancock County, Kentucky, and Incorporated Areas				
Ohio River	Daviess County Line	None	+392	City of Hawesville.
	Breckinridge County Line	None	+407	City of Lewisport, Hancock County (Unincorporated Areas).

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

City of Hawesville

Maps are available for inspection at 385 Main Street, Hawesville, KY 42348.
Send comments to The Honorable Charles King, Mayor, City of Hawesville, 395 Main Street, P.O. Box 157, Hawesville, KY 42348.

City of Lewisport

Maps are available for inspection at 590 Old Mill Road, Lewisport, KY 42351.
Send comments to The Honorable Chad Gregory, Mayor, City of Lewisport, 1010 Market Street, Lewisport, KY 42351.

Hancock County (Unincorporated Areas)

Maps are available for inspection at 385 Main Street, Hawesville, KY 42348.
Send comments to The Honorable Jack McCaslin, Hancock County, P.O. Box 580, Hawesville, KY 42348.

Waukesha County, Wisconsin, and Incorporated Areas				
Ashippun River	At Pennsylvania Avenue	None	*854	Waukesha County (Unincorporated Areas).
	Ashippun Lake	None	*871	
	At Norwegian Road	None	*915	

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground		Communities affected
		Effective	Modified	
Bark River	Drumlin Trail	None	*848	Waukesha County (Unincorporated Areas). City of Delafield, Village of Dousman, Village of Hartland, Village of Merton.
	At North Road	None	*973	
Butler Ditch	Hampton Road	*752	*750	City of Brookfield.
	Lilly Road	*759	*757	
Deer Creek	Pinehurst Drive	*838	*837	City of New Berlin, City of Brookfield.
	Harcove Drive	*871	*870	
Dousman Ditch	Gebhardt Road	*828	*825	City of Brookfield.
	Lake Road	*830	*831	
Fox River	River Road	*826	*827	Village of Menomonee Falls, City of Brookfield.
	Lannon Road	*887	*886	
Lake Nagawicka	Lake Nagawicka	*891	*893	City of Delafield.
Mukwonago River	South Rochester Street	*784	*786	Waukesha County (Unincorporated Areas), Village of Mukwonago.
	Eagle Springs Lake	None	*822	
Pewaukee Lake	Pewaukee Lake	*855	*854	Village of Pewaukee.
Quietwood Creek	Woods Road	None	*781	City of Muskego.
	Janesville Road	None	*800	
Rosenow Creek	Lake Street	None	*861	Waukesha County (Unincorporated Areas), City of Oconomowoc.
	Brown Street	None	*873	
South Branch	Bugline Trail	*938	*941	Waukesha County (Unincorporated Areas).
Sussex Creek	Mary Hill Road	None	*955	Village of Sussex.
South Branch Underwood Creek.	At Interstate I–94	*722	*723	City of Brookfield.
Sussex Creek	Duplainville Road	*838	*835	Village of Sussex.
	Main Street	*922	*924	City of Pewaukee. Waukesha County (Unincorporated Areas).
Sussex Creek Tributary 1	Weyer Road	None	*845	Waukesha County (Unincorporated Areas).
	Lisbon Road	None	*859	
Underwood Creek	UPS Service Road	*725	*724	City of Brookfield, Village of Elm Grove.
	Pilgrim Road	*821	*819	
Upper Namahbin Lake	Upper Namahbin Lake	*872	*874	Waukesha County (Unincorporated Areas).
Upper/Lower Phantom Lake	Upper/Lower Phantom Lake	*792	*794	Waukesha County (Unincorporated Areas).

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

City of Brookfield

Maps are available for inspection at 2000 N. Calhoun Road, Brookfield, WI 53005.
Send comments to Mr. Mike Theis, Community Development Director, 2000 N. Calhoun Road, Brookfield, WI 53005.

City of Delafield

Maps are available for inspection at 500 Genesee Street, Delafield, WI 53018.
Send comments to Mr. Matt Carlson, Administrator, 500 Genesee Street, Delafield, WI 53018.

City of Muskego

Maps are available for inspection at W182 S8200 Racine Avenue, Muskego, WI 53150–0749.
Send comments to Mr. Jeff Muenkel, Planning Director, PO Box 0749, Muskego, WI 53150–0749.

City of New Berlin

Maps are available for inspection at 3805 South Casper Drive, New Berlin, WI 53151.
Send comments to Mr. Greg Kessler, Community Development Director, 3805 South Casper Drive, New Berlin, WI 53151.

City of Oconomowoc

Maps are available for inspection at 174 E. Wisconsin Avenue, Oconomowoc, WI 53066.
Send comments to Mr. Jason Gallo, Planning Director, PO Box 27, Oconomowoc, WI 53066.

City of Pewaukee

Maps are available for inspection at W240N3065 Pewaukee Road, Pewaukee, WI 53072.
Send comments to Mr. Harland Clinkenbeard, Planning Director, W240N3065 Pewaukee Road, Pewaukee, WI 53072.

Waukesha County (Unincorporated Areas)

Maps are available for inspection at 515 W. Moorland Blvd., Waukesha, WI 53188.
Send comments to Mr. Dick Mace, Planning and Zoning Manager, 1320 Pewaukee Road, Waukesha, WI 53188.

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground		Communities affected
		Effective	Modified	

Village of Dousman

Maps are available for inspection at 118 S. Main Street, Dousman, WI 53118.
Send comments to Mr. Bruce Kaniewski, Zoning Administrator, 118 S. Main Street, Dousman, WI 53118.

Village of Elm Grove

Maps are available for inspection at 13600 Juneau Blvd., Elm Grove, WI 53122.
Send comments to Mr. Austin Eich, Zoning and Planning Administrator, 13600 Juneau Blvd., Elm Grove, WI 53122.

Village of Hartland

Maps are available for inspection at 210 Cottonwood Avenue, Hartland, WI 53029.
Send comments to Mr. Scott Hussinger, Zoning Administrator, 210 Cottonwood Avenue, Hartland, WI 53029.

Village of Menomonee Falls

Maps are available for inspection at W156 N8480 Pilgrim Road, Menomonee Falls, WI 53051–3140.
Send comments to Mr. William Freislenben, Director of Community Development, W156 N8480 Pilgrim Road, Menomonee Falls, WI 53051–3140.

Village of Merton

Maps are available for inspection at 28343 Sussex Road, Merton, WI 53056.
Send comments to Mr. Thomas Nelson, Administrator, 28343 Sussex Road, PO Box 13, Merton, WI 53056.

Village of Mukwonago

Maps are available for inspection at 440 River Crest Court, Mukwonago, WI 53149.
Send comments to Mr. Joseph J Hankovich, Zoning Administrator, 440 River Crest Court, PO Box 206, Mukwonago, WI 53149.

Village of Pewaukee

Maps are available for inspection at 235 Hickory Street, Pewaukee, WI 53072.
Send comments to Mr. Scott Gosse, Village Administrator, 235 Hickory Street, Pewaukee, WI 53072.

Village of Sussex

Maps are available for inspection at N64 W23760 Main Street, Sussex, WI 53089.
Send comments to Mr. Evan Teich, Administrator, N64 W23760 Main Street, Sussex, WI 53089.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: April 16, 2007.

David I. Maurstad,

Federal Insurance Administrator of the National Flood Insurance Program, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E7–7973 Filed 4–25–07; 8:45 am]

BILLING CODE 9110–12–P

Notices

Federal Register
Vol. 72, No. 80
Thursday, April 26, 2007

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

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Financial Information Security Request Form

AGENCY: Forest Service, USDA.

ACTION: Notice, request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the extension of a currently approved information collection; Financial Information Security Request Form.

DATES: Comments must be received in writing on or before June 25, 2007 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Financial Management, Mail Stop 1149, Forest Service, USDA, 1400 Independence Ave., SW., Washington, DC 20250–1149.

Comments also may be submitted via facsimile to 703–605–5117 or by e-mail to: *vwilliams@fs.fed.us*.

The public may inspect comments received at USDA Forest Service, Rosslyn Plaza, Building C, 1601 N. Kent Street, Arlington, VA during normal business hours. Visitors are encouraged to call ahead to 703–605–4767 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: Vanetta Williams, Financial Management, 703–605–4767. Individuals who use TDD may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Title: Financial Information Security Request Form.

OMB Number: 0596–0204.

Expiration Date of Approval: 9/30/2007.

Type of Request: Extension of a currently approved collection.

Abstract: The majority of the Forest Service's financial records are in databases stored at the National Finance Center (NFC). The Forest Service uses employees and contractors to maintain these financial records. The employees and contractors must have access to NFC to perform their duties.

The Forest Service uses an electronic form, FS–6500–214—Financial Information Security Request, to apply to NFC for access for a specific employee or contractor. Due to program management decisions and budget constraints, it has been determined that contractors will need to complete and submit the form. No Forest Service employees are available to complete and submit the form requesting contractor access to NFC.

The contractor and the Forest Service Lotus Notes Database provide the information necessary to complete form FS–6500–214. The contractor verifies completion of two courses within the last year: Privacy Act Basics and IT (Information Technology) Security. The contractor then enters the Lotus Notes short name assigned by the Forest Service. Using the Lotus Notes short name, the screen is populated with information that the contractor can change if incorrect: Name, work email, work telephone number, and job title. The contractor checks the box for a nonfederal employee and provides the expiration date of the contract. The contractor then selects the databases and actions needed. Based on the database(s) selected, the contractor provides additional information regarding the financial systems, work location, access scope, etc. Once the form is submitted to the client security officer, a one-page agreement automatically prints, which the contractor and client security officer sign. The agreement is a certification statement that acknowledges the contractor's recognition of the sensitive nature of the information and agrees to use the information only for authorized purposes. The information collected is shared with those managing or overseeing the financial systems used by the Forest Service, this includes auditors.

Estimate of Annual Burden: 10 minutes.

Type of Respondents: Contracted employees.

Estimated Annual Number of Respondents: 50.

Estimated Annual Number of Responses per Respondent: 3.

Estimated Total Annual Burden on Respondents: 150.

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (2) 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) 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 the use of 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 request for Office of Management and Budget approval.

Dated: April 20, 2007.

Hank Kashdan,

Deputy Chief, Business Operations.

[FR Doc. E7–8027 Filed 4–25–07; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office for Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995, Public Law 104–13.

Bureau: International Trade Administration (ITA).

Title: Application for Designation of a Fair.

OMB Number: 0625–0228.

Agency Form Number: ITA–4135P.

Type of Request: Regular submission.

Burden Hours: 100.

Number of Respondents: 200.

Average Time per Response: 30 minutes.

Needs and Uses: The International Trade Administration's Tourism Industries Office offers trade fair guidance and assistance to trade fair organizers, trade fair operators, and other travel and trade oriented groups. These fairs open doors to promising travel markets around the world. The ''Application for Designation of a Fair'' is a questionnaire that is prepared and signed by an organizer to begin the certification process. It asks the fair organizer to provide details such as the date, place, and sponsor of the fair, as well as license, permit, and corporate backers, and countries participating.

To apply for the U.S. Department of Commerce sponsorship, the fair organizer must have all of the components of the application in order. Then, with the approval, the organizer is able to bring in their products in accordance with Customs laws. Articles which may be brought in include, but are not limited to, actual exhibit booths, exhibit items, pamphlets, brochures, and explanatory material in reasonable quantities relating to the foreign exhibits at a fair, and material for use in constructing, installing, or maintaining foreign exhibits at a fair.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–389–3897.

Copies of the above information collection proposal can be obtained by writing Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th & Constitution Avenue, NW., Washington, DC 20230; E-mail: *dHynek@doc.gov.*

Written comments and recommendations for the proposed information collection should be sent within 30 days of the publication of this notice in the **Federal Register** to David Rostker, OMB Desk Officer, *David_Rostker@omb.eop.gov* or Fax (202) 395–7285.

Dated: April 23, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–8008 Filed 4–25–07; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Industry and Security (BIS).

Title: Short Supply Regulations—Unprocessed Western Red Cedar.

Agency Form Number: None.

OMB Approval Number: 0694–0025.

Type of Request: Regular submission.

Burden: 35 hours.

Average Time Per Response: 1 hour.

Number of Respondents: 35.

Needs and Uses: The information is collected as supporting documentation for License Exception Western Red Cedar (WRC) and applications to export WRC logs to enforce the Export Administration Act's prohibition against the export of such logs from State or Federal lands.

Affected Public: Business or other for-profit organizations.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, e-mail address, *David_Rostker@omb.eop.gov*, or Fax number, (202) 395–7285.

Dated: April 23, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–8009 Filed 4–25–07; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–816]

Certain Corrosion–Resistant Carbon Steel Flat Products from the Republic of Korea; Notice of Amended Final Results of the Twelfth Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On March 20, 2007, the Department of Commerce (the Department) published its final results of the twelfth administrative review for certain corrosion–resistant carbon steel flat products (CORE) from the Republic of Korea (Korea) for the period from August 1, 2004, through July 31, 2005. We are amending our final results to correct a ministerial error made in the calculation of the dumping margin for Union Steel Manufacturing Co., Ltd. (Union), pursuant to section 751 (h) of the Tariff Act of 1930, as amended (the Act).

EFFECTIVE DATE: April 26, 2007.

FOR FURTHER INFORMATION CONTACT: Jolanta Lawska, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–8362.

SUPPLEMENTARY INFORMATION:

Background

On March 20, 2007, the Department published its final results of the twelfth administrative review for CORE from Korea for the period from August 1, 2004, through July 31, 2005. *See Notice of Final Results of the Twelfth Administrative Review of the Antidumping Duty Order on Certain Corrosion–Resistant Carbon Steel Flat Products from the Republic of Korea*, 72 FR 13086 (March 20, 2007) (*Final Results*), and accompanying Issues and Decision Memorandum from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration.

On March 20, 2007, pursuant to 19 CFR 351.224(c), United States Steel Corporation (U.S. Steel) submitted comments alleging a ministerial error, and requesting that the Department correct this alleged ministerial error. Specifically, U.S. Steel alleged that the Department failed to use Union's actual weight–based gross unit price in calculating the dumping margin.

Scope of the Order

This order covers cold–rolled (cold–reduced) carbon steel flat–rolled carbon steel products, of rectangular shape, either clad, plated, or coated with corrosion–resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron–based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090. Included in this order are corrosion–resistant flat–rolled products of non–rectangular cross-section where such cross-section is achieved subsequent to the rolling process (i.e., products which have been ''worked after rolling'') – for example, products which have been beveled or rounded at the edges. Excluded from this order are flat–rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (''terne plate''), or both chromium and chromium oxides (''tin–free steel''), whether or not painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating. Also excluded from this order are clad products in straight lengths of 0.1875 inch or more in composite thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness. Also excluded from this order are certain clad stainless flat–rolled products, which are three–layered corrosion–resistant carbon steel flat–rolled products less than 4.75 millimeters in composite thickness that consist of a carbon steel flat–rolled product clad on both sides with stainless steel in a 20%-60%-20% ratio. These HTSUS item numbers are provided for convenience and customs purposes. The written descriptions remain dispositive.

Amended Final Results of Review

After analyzing U.S. Steel's comments, we have determined, in accordance with section 751(h) of the Act and 19 CFR 351.224, that the Department has made a ministerial error in the final results calculation for Union in this administrative review. For a detailed discussion of the ministerial error, *see* Memorandum from Jolanta Lawska to James Terpstra, re: Amended Final Results in the 04/05 Administrative Review on Corrosion–Resistant Carbon Steel Flat Products from Korea, at page 2, dated April 4, 2007 (*Ministerial Error Memo*).

Therefore, in accordance with section 751(h) of the Act, we are amending the final results of the antidumping duty administrative review of CORE from Korea for the period August 1, 2004, to July 31, 2005. As a result of correcting the ministerial error discussed in the *Ministerial Error Memo*, Union's weighted–average dumping margin increased from 1.45 percent to 1.46 percent. For the remaining respondents, the weighted–average dumping margins remain the same. *See Final Results*.

Duty Assessment and Cash Deposit Requirements

The Department will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions directly to CBP 15 days after the date of publication of the amended final results of this review, where injunctions are not in place.

Further, the following cash–deposit requirements will be effective upon publication of these final amended results of the administrative review for shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final amended results, as provided by section 751(a)(2)(C) of the Act: (1) for subject merchandise exported by Union, the cash–deposit rate will be 1.46 percent (2) for Dongbu Steel Co., Ltd., Hyundai HYSCO, and Pohang Iron & Steel Company, Ltd., the cash deposit rate will remain as established in the *Final Results*. These deposit requirements shall remain in effect until further notice.

These amended final results of administrative review and notice are issued and published in accordance with sections 751(a)(1) and (h), and 777(i)(1) of the Act, and 19 CFR 351.224.

Dated: April 19, 2007.

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–8016 Filed 4–25–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–845, A–580–858, A–588–868]

Glycine from India, Japan, and the Republic of Korea: Initiation of Antidumping Duty Investigations

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: April 26, 2007.

FOR FURTHER INFORMATION CONTACT: Scott Lindsay (India), Toni Page (Japan), or Dmitry Vladimirov and Janis Kalnins (Republic of Korea), AD/CVD Operations, Office 6 and Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0780, (202) 482–1398, (202) 482–0665, or (202) 482–1392 respectively.

SUPPLEMENTARY INFORMATION:

The Petitions

On March 30, 2007, the Department of Commerce (the Department) received petitions concerning imports of glycine from India (*Indian Petition*), Japan (*Japanese Petition*), and the Republic of Korea (Korea) (*Korean Petition*) (collectively, the Petitions), filed in proper form by Geo Specialty Chemicals, Inc. (Petitioner). *See* the Petitions for the Imposition of Antidumping Duties on Imports of Glycine from India, Japan, and the Republic of Korea filed on March 30, 2007. On April 5, 2007, the Department issued a request for additional information and clarification of certain areas of the Petitions. Based on the Department's request, Petitioner filed Petition Supplements on April 3, 12, 13, 17, and 18, 2007. In the April 18, 2007, Petition Supplement, Petitioner confirmed the final scope language. In addition, Petitioner submitted certain revisions to their cost calculations for India, Japan and Korea. We note that, although this revised cost data

contained minor errors, Petitioner's revisions to that data were generally consistent with the revisions made by the Department. *See* ''Cost of Production and Constructed Value section,'' below. Also based on the Department's request, the Petitioner refiled certain submissions to correct (1) the designation of information that may not be released under APO and (2) their request for business proprietary treatment of certain information on April 10 and 13, 2007.

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), Petitioner alleges that imports of glycine from India, Japan, and Korea are being, or are likely to be, sold in the United States at less than fair value, within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

Period of Investigation (POI)

In accordance with section 351.204(b) of the Department's regulations, because the petition was filed on March 30, 2007, the proposed period of investigation for India, Japan and Korea is January 1, 2006 through December 31, 2006, as this includes the four most recently completed fiscal quarters as of February 2007.

Scope of the Investigations

The merchandise covered by each of these three investigations is glycine, which in its solid (*i.e.*, crystallized) form is a free–flowing crystalline material. Glycine is used as a sweetener/taste enhancer, buffering agent, reabsorbable amino acid, chemical intermediate, metal complexing agent, dietary supplement, and is used in certain pharmaceuticals. The scope of each of these investigations covers glycine in any form and purity level. Although glycine blended with other materials is not covered by the scope of each of these investigations, glycine to which relatively small quantities of other materials have been added is covered by the scope. Glycine's chemical composition is $C_2H_5NO_2$ and is normally classified under subheading 2922.49.4020 of the Harmonized Tariff Schedule of the United States (HTSUS).

The scope of each of these investigations also covers precursors of dried crystalline glycine, including, but not limited to, glycine slurry (*i.e.*, glycine in a non–crystallized form) and sodium glycinate. Glycine slurry is classified under the same HTSUS subheading as crystallized glycine (2922.49.4020) and sodium glycinate is classified under subheading HTSUS 2922.49.8000.

While HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of these investigations is dispositive.

Comments on the Scope of the Investigations

During our review of the Petitions, we discussed the scope with Petitioner to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments within 20 calendar days of the publication of this notice. Comments should be addressed to Import Administration's Central Records Unit (CRU), Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determinations.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed by an interested party on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if (1) the domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like product and (2) the domestic producers or workers who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the petition.

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC) is responsible for determining whether ''the domestic industry'' has been injured and must also determine what constitutes a domestic like product in order to define the industry. While the Department and the ITC must apply the same statutory definition regarding the domestic like product, they do so for different purposes and pursuant to separate and distinct authority. *See* section 771(10) of the Act. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the domestic like product, such differences do not render the decision of either agency contrary to law.[1]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation,'' *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

With regard to domestic like product, Petitioner does not offer a definition of domestic like product distinct from the scope of each investigation. Based on our analysis of the information submitted in the petitions, we have determined that the domestic like product consists of all grades of glycine, as well as sodium glycinate, which is defined in the ''Scope of the Investigations'' section above, and we have analyzed industry support in terms of the domestic like product.

We received no expression of opposition to these petitions from any member of the domestic industry. Petitioner accounts for a sufficient percentage of the total production of the domestic like product, and the requirements of section 732(c)(4)(A) are met. Accordingly, the Department determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. *See* ''Office of AD/CVD Operations Initiation Checklist for the Antidumping Duty Petition on Glycine from India,'' at Attachment II (April 19, 2007) (*India AD Initiation Checklist*), ''Office of AD/CVD Operations Initiation Checklist for the Antidumping Duty Petition on Glycine from Japan,'' at Attachment II (April 19, 2007) (*Japan AD Initiation Checklist*), and ''Office of AD/CVD Operations Initiation Checklist for the Antidumping Duty Petition on Glycine from Korea,'' at Attachment II (April 19, 2007) (*Korea AD Initiation Checklist*), on file in the CRU.

[1] *See USEC, Inc. v. United States*, 25 CIT 49, 55-56 (January 24, 2001) (citing *Algoma Steel Corp. v. United States*, 12 CIT 518 (June 8, 1988)).

Allegations and Evidence of Material Injury and Causation

Petitioner alleges that the U.S. industry producing the domestic like product is materially injured, or is threatened with material injury, by reason of the individual and cumulated imports of the subject merchandise sold at less than normal value (NV). Petitioner contends that the industry's injured condition is illustrated by the decline in customer base, market share, domestic shipments, prices, financial performance, and lost sales. We have assessed the allegations and supporting evidence regarding material injury and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See* the country–specific *Initiation Checklists* at Attachment III.

Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate these investigations on imports of glycine from India, Japan, and Korea. The sources of data for the deductions and adjustments relating to the U.S. price as well as NV for India, Japan, and Korea are also discussed in the country–specific *Initiation Checklists*. Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determinations, we will reexamine the information and revise the margin calculations, if appropriate.

Export Price (EP)

Petitioner calculated EP using information from sales the company lost to Indian, Japanese, and Korean exporters. When based on lost sale prices, Petitioner adjusted U.S. prices for home market inland freight, international freight, U.S. inland freight, distributor mark–up, and credit expenses. *See Indian Petition* at page 28, *Japanese Petition* at page 30, and *Korean Petition* at pages 31–32.

Petitioner also calculated EP from Korea using the free–on-board (FOB) foreign–port average unit customs values (AUVs) for 2006 for import data obtained from the U.S. International Trade Commission data website. Petitioner used the HTSUS subheading under which all three grades of subject merchandise (pharmaceutical, technical, and food) are imported (2922.49.4020). Petitioner provided shipment data from PIERS Global Intelligence Services for the same HTSUS subheading to demonstrate that most entries of glycine from Korea during 2006 were of ''pure food grade'' glycine. *See* Volume II of the Petitions at Exhibit DOC–15. Petitioner made an adjustment to the AUV–based EP from Korea for foreign inland freight.

Revisions to Export Price (EP)

Based on our review of the information contained in the Petitions, we recalculated net EP (when based on a price quotation) by excluding an adjustment to EP for U.S. credit expenses. We also recalculated net EP (when based on a price quotation) by revising the reported amount associated with a distributor's mark–up to reflect the percentage mark–up. Petitioner stated that this mark–up was an average mark–up for glycine sales in the United States. *See* Volume II of the Petitions at Exhibits DOC–27 through DOC–29; also April 13, 2007, Petition Supplement at Exhibits L, M, and N. *See Initiation Checklists*.

Normal Value (NV)

India and Japan

Petitioner stated that, since it does not sell glycine in the Indian, Japanese, or Korean markets, it does not have specific knowledge of how glycine is sold, marketed, or packaged in those domestic markets. Petitioner was able to determine domestic Indian and Japanese prices for glycine by obtaining price quotations, through an economic consultant, from Indian and Japanese manufacturers of glycine. *See* memoranda ''Telephone Call to Market Research Firm Regarding the Antidumping Petition on Glycine from India,'' and ''Telephone Call to Market Research Firm Regarding the Antidumping Petition on Glycine from Japan,'' dated April 19, 2007. These price quotations identified specific terms of sale and payment terms. Petitioner made adjustments for home market credit for Indian sales. Petitioner did not make adjustment for home market credit to Japanese prices. *See* Volume II of the Petitions at Exhibits DOC–17–18 and 22–23.

Revisions to Normal Value

Based on our review of the information contained in the Petitions, we recalculated NV for India and Japan (when based on price quotations) by excluding the adjustment for home market and U.S. credit expenses. *See India AD Initiation Checklist* and *Japan AD Initiation Checklist*.

Sales Below Cost Allegation for India and Japan

Petitioner has provided information demonstrating reasonable grounds to believe or suspect that certain sales of glycine in India and Japan were made at prices below the fully absorbed cost of production (COP), within the meaning of section 773(b) of the Act, and has requested that the Department conduct country–wide sales below COP investigations. An allegation of sales below COP in a petition need not be specific to individual exporters or producers. *See* Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103–316, Vol. 1 (1994) at 833. Thus, Commerce will consider allegations of below–cost sales in the aggregate for a foreign country. *Id*. Further, section 773(b)(2)(A) of the Act requires that the Department have ''reasonable grounds to believe or suspect'' that below–cost sales have occurred before initiating such an investigation. Reasonable grounds exist when an interested party provides specific factual information on costs and prices, observed or constructed, indicating that sales in the foreign market in question are at below–cost prices. *Id*.

As described in the section below on ''Cost of Production and Constructed Value,'' the Department calculated a country–specific COP for a certain grade of glycine for India and Japan. Based upon a comparison of price quotations for sales of that same grade glycine in India and Japan and the country–specific COP of the product, we find reasonable grounds to believe or suspect that sales of glycine in India and Japan were made below the COP, within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, the Department is initiating country–wide cost investigations with regard to both India and Japan. Because it alleged sales below cost, pursuant to sections 773(a)(4), 773(b) and 773(e) of the Act, Petitioner also based NV for Indian and Japanese sales of a certain grade glycine on constructed value (CV).

Korea

Petitioner claimed that, despite extensive efforts to determine prices in Korea, it was not able to obtain usable price information for calendar year 2006 either for sales of glycine in Korea or for sales of glycine by Korean producers/exporters in third countries. *See e.g.*, *Korean Petition* at pages 27 and 35 and April 19, 2007; as well as Memorandum to File, ''Telephone Call to Market Research Firm Regarding the

Antidumping Petition on Glycine from Korea'' (April 19, 2007). Consequently, Petitioner relied on COP and CV information in determining NV for Korea. *See* ''Cost of Production and Constructed Value,'' section below.

Cost of Production and Constructed Value

As noted above, Petitioner was unable to obtain usable price information for Korea; therefore, the appropriate basis for normal value for comparison to EP from Korea is CV. Also, as discussed above, Petitioner has established that certain sales of glycine in India and Japan were made at prices below the fully absorbed COP, within the meaning of section 773(b) of the Act. As such, CV was used for India and Japan when the home market prices for a certain grade glycine used in the cost comparisons fell below the COP. The calculation of COP and CV for each of the three countries is set forth below.

India

Pursuant to section 773(b)(3) of the Act, COP consists of the cost of manufacturing (COM); selling, general and administrative (SG&A) expenses; financial expenses; and packing expenses. To calculate the COM, Petitioner multiplied the usage quantity of each input needed to produce one metric ton (MT) of glycine by the value of that input. Petitioner obtained all of the quantity and value data it used to calculate the COM from public sources. Petitioner obtained the input usage factors from the public record of the 1997–1998 administrative review of glycine from the People's Republic of China (PRC). The producer in the 1997–1998 review produced glycine by the same production method that producers in India use. The petitioner obtained the values for the inputs from various public sources. Petitioner calculated factory overhead, SG&A and the financial expense rate based on the Indian surrogate ratios that the Department used in the preliminary results of the 2005–2006 administrative review of glycine from the PRC. Where we used CV to determine NV, Petitioner added an amount for profit from the same financial statements.

We adjusted Petitioner's calculation of SG&A to apply the rate to COM inclusive of factory overhead. We did not include a separate financial expense amount as petitioner did because the SG&A ratio already included financial expense. See the *India AD Initiation Checklist* for a full description of Petitioner's methodology and the adjustments the Department made to those calculations.

Japan

Pursuant to section 773(b)(3) of the Act, COP consists of COM; SG&A expenses; financial expenses; and packing expenses. To calculate the COM, Petitioner multiplied the usage quantity of each input needed to produce one MT of glycine by the value of that input. Petitioner obtained all of the quantity and value data it used to calculate the COM from public sources. As it did for the allegation involving India, Petitioner obtained the input usage factors from the public record of the 1997–1998 administrative review of glycine from the PRC. The producer in the 1997–1998 review produced glycine by the same production method that producers in Japan use. Petitioner obtained the values for the inputs from various public sources. Petitioner calculated average factory overhead, SG&A and the financial expense rate based on current financial statements of a Japanese producer of glycine. Where we used CV to determine NV, Petitioner added an amount for profit from the same financial statements.

We adjusted Petitioner's calculation of SG&A to apply the rate to COM inclusive of factory overhead. *See Japan AD Initiation Checklist* for a full description of Petitioner's methodology and the adjustments the Department made to those calculations.

Korea

Petitioner calculated the Korean COP using the same methodology to calculate COM as it used for Japan and India. That is, Petitioner calculated the Korean COM by multiplying the usage quantity of each input needed to produce one MT of glycine by the value of that input. Petitioner obtained all of the quantity and value data it used to calculate the COM from public sources. Petitioner obtained the input usage factors from the public record of the 1997–1998 administrative review of glycine from the PRC. The respondent in the 1997–1998 Chinese review produced glycine by the same production method that producers in Korea use. Petitioner obtained the values for the inputs from various public sources. Petitioner calculated factory overhead, SG&A and the financial expense rate based on the financial statements of a Korean producer of lysine and threonine, amino acids which use production methods similar to glycine. Because Petitioner used CV for NV for Korea, it added an amount for profit in accordance with section 773(e)(2) of the Act. The profit rate was based on the financial statements of the same Korean producer of lysine and threonine. *See Korea AD Initiation Checklist*.

We adjusted Petitioner's calculated factory overhead to eliminate double counting of depreciation and amortization. We applied the SG&A rate to COM inclusive of factory overhead. We also adjusted Petitioner's calculation of the financial expense ratio to include interest income as a reduction to financial expense. *See Korea AD Initiation Checklist* for a full description of Petitioner's methodology and the adjustments the Department made to those calculations.

Fair Value Comparisons

Based on the data provided by Petitioner, and adjusted by the Department as described above, there is sufficient basis to find that imports of glycine from India, Japan, and Korea are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of EP to home market prices and CV in India and Japan, and to CV for Korea, which were calculated in accordance with section 773(a)(4) of the Act, the dumping margins for glycine range from 5.67 to 121.62 percent for India, 70.21 to 280.57 percent for Japan, and 138.37 to 138.83 for Korea.

Initiation of Antidumping Duty Investigations

Based upon the examination of the Petitions on glycine from India, Japan, and Korea, the Department finds that the Petitions meet the requirements of section 732 of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of glycine from India, Japan, and Korea are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act, unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act, copies of the public versions of the Petitions have been provided to the representatives of the Governments of India, Japan, and Korea. We will attempt to provide a copy of the public version of the Petitions to the foreign producers/exporters named in the Petitions.

International Trade Commission Notification

We have notified the International Trade Commission of our initiations, as required by section 732(d) of the Act.

Preliminary Determination by the International Trade Commission

The International Trade Commission will preliminarily determine, no later than May 14, 2007, whether there is a reasonable indication that imports of glycine from India, Japan, and/or Korea are materially injuring, or threatening material injury to, a U.S. industry. A negative ITC determination with respect to any of the investigations will result in that investigation being terminated; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: April 19, 2007.

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–8017 Filed 4–25–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–818]

Lemon Juice from Argentina: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to a petition filed by Sunkist Growers, Inc. (Petitioner), the U.S. Department of Commerce (the Department) is conducting an antidumping duty investigation of sales to the United States of lemon juice from Argentina for the period July 1, 2005 through June 30, 2006. *See Notice of Initiation of Antidumping Duty Investigations: Lemon Juice from Argentina and Mexico*, 71 FR 61710 (October 19, 2006) (*Initiation Notice*). The Department preliminarily determines that lemon juice from Argentina is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are listed in the ''Suspension of Liquidation'' section of this notice. Moreover, we preliminarily determine that critical circumstances exist with regard to imports of lemon juice from Argentina. *See* the ''Critical Circumstances'' section below. Interested parties are invited to comment on this preliminary determination.

EFFECTIVE DATE: April 26, 2007.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley or Joshua Reitze, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3148, or (202) 482–0666, respectively.

SUPPLEMENTARY INFORMATION:

Case History

This investigation was initiated on October 19, 2006. *See Initiation Notice*. Since the initiation of the investigation, the following events have occurred. On November 6, 2006, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that imports of the products subject to this investigation are materially injuring an industry in the United States producing the domestic like product. *See Lemon Juice from Argentina and Mexico*, 71 FR 66795 (November 16, 2006) (*ITC Preliminary Determination*).

On November 7, 2006, the Department selected Citrusvil, S.A. (Citrusvil) and S.A. San Miguel A.G.I.C.y F. (San Miguel) as the respondents in this investigation. *See* ''Respondent Selection'' section below. On November 7, 2006, the Department issued a letter providing interested parties an opportunity to comment on a proposed set of model–match criteria. We received comments in response to this letter from Petitioner, Citrusvil, and San Miguel on November 13, 2006. Based on our analysis of these submissions, we determined the appropriate model–match characteristics. *See Memorandum to Barbara E. Tillman, Director, Office 6, and Laurie Parkhill, Director, Office 5, ''Antidumping Duty Investigations of Lemon Juice from Argentina and Mexico: Selection of Model Matching Criteria''* (November 20, 2006).

The Department issued sections A - D of the questionnaire to Citrusvil and San Miguel on November 20, 2006.[1] Citrusvil submitted its response to section A on December 18, 2007. Citrusvil submitted its response to sections B and C on January 17, 2007, and its section D response on January 22, 2007. San Miguel submitted its response to section A on December 14, 2006, responses to sections B and C on January 16, 2007, and its response to section D on March 12, 2007.

On January 5, 2007, Petitioner submitted comments on Citrusvil's section A response. The Department issued a supplemental section A questionnaire to Citrusvil on January 16, 2007. We received Citrusvil's supplemental section A response on January 26, 2007. On January 31, 2007, Petitioner submitted a German–specific, sales–below-cost allegation. Citrusvil did not rebut this allegation. On February 1, 2007, we issued a supplemental section D questionnaire to Citrusvil, to which Citrusvil responded on February 23, 2007. On February 9, 2007, and again on March 6, 2007, Petitioner submitted comments on Citrusvil's section D response. On January 30, 2007, Petitioner submitted comments on Citrusvil's section B and C response. The Department issued a supplemental section B and C questionnaire to Citrusvil on February 5, 2007. We received Citrusvil's supplemental section B and C response on March 9, 2007. Citrusvil submitted corrections to its section B and C response on April 4, 2007. On February 9, 2007, Petitioner submitted comments concerning possible affiliation issues between Citrusvil and its German sales agent. On February 16, 2007, the Department sent a general supplemental questionnaire to Citrusvil, to which Citrusvil responded on March 12, 2007. On March 15, we sent Citrusvil a second supplemental section D questionnaire, to which Citrusvil responded on April 5, 2007. On March 23, 2007, we sent Citrusvil a request for additional sales information, to which Citrusvil partially responded on April 9, 2007.

Petitioner submitted its comments on San Miguel's section A response on January 29, 2007. On January 12, 2007, the Department issued a supplemental section A questionnaire to San Miguel. Petitioner filed a sales–below-cost allegation on January 24, 2007 with respect to San Miguel's sales in Argentina. On February 23, 2007, Petitioner submitted comments to San Miguel's section B and C response. The Department issued a supplemental section A to San Miguel on January 16, 2007, supplemental sections B and C on January 31, 2007, and a supplemental section D on March 16, 2007. San Miguel responded to the supplemental section A on January 23, 2007, supplemental sections B and C on

[1] Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (this section is not applicable to respondents in non-market economy (NME) cases). Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production (COP) of the foreign like product and the constructed value (CV) of the merchandise under investigation.

March 1, 2007, and supplemental section D on April 5, 2007.

On February 1, 2007, Petitioner requested that the Department extend the preliminary determination in this investigation from February 28, 2007 to April 19, 2007. On February 16, 2007, the Department postponed the preliminary determination to April 19, 2007 pursuant to section 733(c) of the Act. *See Postponement of Preliminary Determinations of Antidumping Duty Investigations: Lemon Juice from Argentina and Mexico*, 72 FR 7606 (February 16, 2007).

On March 26, 2007, April 9, 2007, and April 10, 2007, Petitioner submitted comments in anticipation of the preliminary determination. On March 16, 2007, the Department granted Petitioner an extension of time until March 27, 2007 to file its allegation of targeted dumping. On March 27, 2007, Petitioner submitted a targeted dumping allegation for San Miguel. On April 13, 2007, San Miguel submitted comments in response to Petitioner's allegation. Although this allegation was timely, the Department did not have sufficient time to fully analyze it for purposes of this preliminary determination pursuant to section 777A(d)(1)(B) of the Act. We intend to fully consider this issue for purposes of our final determination.

Finally, on March 30, 2007, Petitioner alleged that critical circumstances existed with regard to imports of lemon juice from Argentina and Mexico. On April 4, 2007, the Department issued letters to Citrusvil and San Miguel, requesting that the respondents provide shipment data for purposes of the Department's critical circumstances inquiry. On April 11, 2007, Citrusvil and San Miguel submitted the requested shipment data. For further information on the Department's preliminary critical circumstances determination, *see* ''Critical Circumstances'' section below.

Respondent Selection

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. Section 777A(c)(2) of the Act gives the Department discretion, when faced with a large number of producers/exporters, to limit its examination to a reasonable number of such companies if it is not practicable to examine all companies. Where it is not practicable to examine all known producers/exporters of subject merchandise, this provision permits the Department to investigate either (A) a sample of exporters, producers, or types of products that is statistically valid based on the information available to the Department at the time of selection or (B) producers/exporters accounting for the largest volume of the merchandise under investigation that can reasonably be examined. In the petition, Petitioner identified nine potential producers and exporters of lemon juice in Argentina: Citrusvil, San Miguel, Vicente Trapani S.A., Citromax S.A.C.I (Citromax), Litoral Citrus S.A., COTA S.A., La Moraleja S.A., Jugos Minerva (Molinos Rio de la Plata), and Jugos Minerva (S.C. Johnson & Son de Argentina S.A.I.C.). The Department determined that it was unable to investigate all nine of these named producers/exporters. *See Memorandum to Barbara E. Tillman, Director, Office 6, ''Antidumping Duty Investigation on Lemon Juice from Argentina - Respondent Selection''*, (November 7, 2006) (*Respondent Selection Memorandum*).

Based on our analysis of import data obtained from U.S. Customs and Border Protection (CBP), we selected two producers/exporters, Citrusvil and San Miguel as the mandatory respondents in this investigation because they were the largest Argentine producers/exporters of lemon juice to the United States, accounting for the vast majority of imports into the United States. For a complete analysis of the respondent selection, *see Respondent Selection Memorandum*. Therefore, pursuant to section 777A(c)(2)(B) of the Act, the Department has calculated individual dumping margins for each of the two selected producers/exporters.

Period of Investigation

The period of investigation (POI) is July 1, 2005 through June 30, 2006. This period corresponds to the four most recent fiscal quarters prior to the month of filing of the petition (*i.e.*, September 2006) involving imports from a market economy, and is in accordance with the Department's regulations. *See* 19 CFR 351.204(b)(1).

Scope of Investigation

The merchandise covered by this investigation includes certain lemon juice for further manufacture, with or without addition of preservatives, sugar, or other sweeteners, regardless of the GPL (grams per liter of citric acid) level of concentration, brix level, brix/acid ratio, pulp content, clarity, grade, horticulture method (*e.g.*, organic or not), processed form (*e.g.*, frozen or not–from-concentrate), FDA standard of identity, the size of the container in which packed, or the method of packing.

Excluded from the scope are: (1) lemon juice at any level of concentration packed in retail–sized containers ready for sale to consumers, typically at a level of concentration of 48 GPL; and (2) beverage products such as lemonade that typically contain 20% or less lemon juice as an ingredient.

Lemon juice is classifiable under subheadings 2009.39.6020, 2009.31.6020, 2009.31.4000, 2009.31.6040, and 2009.39.6040 of the Harmonized Tariff Schedule of the United States (HTSUS). While HTSUS subheadings are provided for convenience and U.S. Customs and Border Patrol purposes, our written description of the scope of this investigation is dispositive.

Scope Issue

In the *Initiation Notice*, the Department set aside a period for parties to submit comments on the scope of the investigations on Argentina and Mexico. On November 1, 2006, Citromax submitted comments stating that organic lemon juice should be excluded from the scope of the investigations. On November 8, 2006, Petitioner responded to Citromax's November 1, 2006, scope comments, arguing that organic lemon juice should remain within the scope of the investigations. On March 21, 2007, the Department issued a decision that organic lemon juice is included within the scope of the investigations on lemon juice from Argentina and Mexico. For a detailed discussion of our decision, *see Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, ''Scope Issue in the Antidumping Duty Investigations on Lemon Juice from Argentina and Mexico''* (March 21, 2007).

Date of Sale

It is the Department's practice to use invoice date as the date of sale. However, the Secretary ''may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.'' *See* 19 CFR 351.401(i); *see also Allied Tube and Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090–92 (CIT 2001).

Citrusvil reported date of purchase order as the date of sale for all sales in the U.S. market that involved purchase orders; otherwise, it reported invoice date. *See* Citrusvil January 17, 2007, section B and C response at C–7. Citrusvil reported contract date for all sales to Germany[2] that involved short- or long–term contract agreements; for

[2] We have preliminarily determined that Germany is Citrusvil's comparison market. *See* ''Selection of Comparison Market'' section below.

the remaining sales, Citrusvil reported purchase order date as date of sale. *See* Citrusvil January 17, 2007 section B and C response at B–7. Citrusvil reported that these dates were the earliest dates on which the material terms of sale (*i.e.*, price and quantity) were fixed, and that these terms never change after these dates. Because the material terms of sale are established when the purchase order is issued or contracts are signed, and because Citrusvil has stated that the terms of sale never changed after they were established, we are using the dates of sale as reported by Citrusvil.

San Miguel reported invoice date as date of sale for all sales in both markets, stating that the material terms of sale indicated in other documents sometimes change before invoices are issued. It provided two examples of such changes. First, it referred to a purchase order issued by a U.S. customer requiring multiple shipments. This customer later requested that San Miguel cancel some of the shipments ordered. While San Miguel agreed and these shipments were therefore never shipped nor invoiced, the fact that the buyer felt compelled to ask San Miguel to cancel indicates that the parties considered the purchase order binding. In the second example, San Miguel reached an agreement via email regarding the per–unit price of shipments to a U.S. customer, but the price stated in the purchase order, issued subsequent to the exchange of emails, is different from that indicated in the email agreement. However, this change occurred between the date of an email agreement and the resulting purchase order, not between the purchase order and invoice. *See* San Miguel March 1, 2007 supplemental section B and C response, at 2–4. Accordingly, we preliminarily find that the two examples of changes in material terms of sale prior to invoice provided by San Miguel are not sufficient to show actual changes in material terms between purchase order date and invoice date, nor do they support a conclusion that the parties at issue consider purchase orders to be non–binding.

Moreover, San Miguel's description of its production and distribution process indicates that the use of invoice date as date of sale for all sales may be distortive, given the significant lag time between purchase order date and invoice date. The record indicates that invoices can be issued up to several months after purchase orders are received. As such, the material terms of sale are set much earlier in the process than invoice date would indicate.

Thus, for all sales involving purchase orders to the United States and comparison markets, the Department preliminarily determines that purchase order is the appropriate date of sale, as the evidence on the record demonstrates that the material terms of sale set forth in the purchase orders are not subject to change. For sales in which a purchase order is not generated, we will use the earliest of shipment or invoice date. Because purchase order date is not yet on the record for all sales reported by San Miguel, we are using the earliest of shipment or invoice date as date of sale for purposes of this preliminary determination. The Department has requested that San Miguel provide, prior to verification, revised U.S. and comparison market sales databases using purchase order date as date of sale.

Fair Value Comparisons

To determine whether sales of lemon juice to the United States were made at LTFV, we compared export price (EP) or constructed export price (CEP) to normal value (NV) or constructed value (CV), as described in the ''U.S. Price,'' ''Normal Value,'' and ''Constructed Value'' sections below.

U.S. Price

Section 772(a) and (b) of the Act defines EP and CEP:

> The term ''export price'' means the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c).
>
> The term ''constructed export price'' means the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d).

For purposes of this investigation, Citrusvil classified all of its U.S. sales as CEP sales. Citrusvil stated that, although it is not affiliated with any companies in the United States, its sales occurred after importation into the United States and are thus CEP sales. The record evidence indicates, however, that, based on purchase order date, Citrusvil's sales to the United States were made prior to importation. Accordingly, we preliminarily determine that all of Citrusvil's U.S. transactions were EP sales.

We calculated the EP for Citrusvil in accordance with section 772(c)(2) of the Act. We made appropriate deductions from gross unit price for Argentine inland freight and warehousing, Argentine brokerage and handling, international freight and insurance, U.S. brokerage and handling, U.S. freight and warehousing, U.S. duties, a fee paid to the regional government of Tucuman, and an export tax paid to the Argentine government. *See Analysis Memorandum for Lemon Juice from Argentina: Citrusvil*, April 19, 2007 (*Citrusvil Analysis Memorandum*).

San Miguel reported that most of its U.S. sales took place prior to importation. It noted, however, that a small number of those sales were made after importation. According to San Miguel, these sales were made to the U.S. customer out of inventory held in a refrigerated warehouse located in the United States. Thus, because these sales were made after importation, they cannot be classified as EP sales and we are treating them as CEP sales.

We calculated the EP for San Miguel in accordance with section 772(c)(2) of the Act. We made appropriate deductions for billing adjustments (or added billing adjustments in some cases), Argentine inland freight and warehousing, Argentine brokerage and handling, international freight and insurance, U.S. brokerage and handling, U.S. freight and warehousing, U.S. duties, a fee paid to the regional government of Tucuman, and an export tax paid to the Argentine government. San Miguel claimed another U.S. price adjustment: a per–sale reimbursement received from the Argentine government under its Reintegro program. In past proceedings involving merchandise from Argentina, we have accounted for these reimbursements by making an adjustment to cost of manufacturing (COM), and will do so here as well. *See*, *e.g.*, *Notice of Final Results and Recision in Part of Antidumping Duty Administrative Review; Oil Country Tubular Goods, Other Than Drill Pipe, From Argentina*, 68 FR 13262, 13263 (March 19, 2003), and accompanying *Issues and Decision Memorandum* at *Comment 5*; *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Cold–Rolled Carbon Steel Flat Products From Argentina*, 67 FR 62138 (October 3,

2002), and accompanying *Issues and Decision Memorandum* at *Comment 1*.

We calculated CEP for the small number of San Miguel's sales as discussed above in accordance with section 772(d)(1) of the Act. For CEP, we would normally deduct direct selling expenses and indirect selling expenses related to commercial activity in the United States in accordance with section 772(d)(1) of the Act; however, for San Miguel we only made a deduction for its credit expenses. These credit expenses covered the time between the date of shipment from Buenos Aires until the date payment was received. Deducting U.S. inventory carrying costs would impermissibly double count a portion of these credit expenses, because the number of days between date of shipment from Buenos Aires and payment date includes the number of days the CEP sales spent in U.S. inventory. *See* 19 CFR 351.401(b)(2). Also, because there was no affiliate acting on San Miguel's behalf in the United States, there are no U.S. indirect selling expenses to deduct, except for a few sales involving commissions paid to unaffiliated parties (in which case we deducted commissions from the U.S. price). All expenses related to the U.S. warehousing of these CEP sales are accounted for in the U.S. warehousing expense field reported by San Miguel and deducted from price as a movement expense. *See Analysis Memorandum for Lemon Juice from Argentina: San Miguel*, April 19, 2007 (*San Miguel Analysis Memorandum*).

Normal Value

A. Selection of Comparison Market

Section 773(a)(1) of the Act directs the Department to calculate NV based on the price at which the foreign like product is first sold in the home market, provided that the merchandise is sold in sufficient quantities (or value, if quantity is inappropriate), and that there is no particular market situation that prevents a proper comparison with the export price. Under the statute, the Department will normally consider quantity (or value) insufficient if it is less than five percent of the aggregate quantity (or value) of sales of the subject merchandise to the United States. *See* section 773(a)(1)(C) of the Act.

Citrusvil's sales in Argentina were less than five percent of its sales to the United States; therefore, we found that Citrusvil did not have a viable home market for lemon juice to serve as the basis for comparison market sales in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404. Citrusvil reports that it makes sales throughout Europe either to exclusive sales agents who then sell to unaffiliated customers (channel 1) or through the same exclusive agents to unaffiliated customers (channel 2). *See* Citrusvil December 18, 2006 section A response at 2, 11. In both sales channels, Citrusvil controls the terms of sale which normally are made on a Free Carrier (FCA) Rotterdam basis. Under FCA sales terms, title and risk transfer from Citrusvil to the agent who collects payment from (and releases the merchandise to) the ultimate customer in sales designated as channel 1 by Citrusvil. In sales designated as channel 2 sales by Citrusvil, title and risk transfer directly to the unaffiliated customers after that customer pays Citrusvil. *See* Citrusvil January 17, 2007, section B and C response, at B–8. In both sales channels, it appears that the customer (rather than Citrusvil) is responsible for any inland delivery within Europe.

To determine the most appropriate third country market for comparison purposes, the Department examined the record evidence, including statements by Citrusvil. Initially Citrusvil claimed that it does not know with certainty to which European country its product is ultimately delivered. However, Citrusvil also stated that it believes the address on its invoice is the best indication of where the merchandise is ultimately delivered, and that customers with facilities in more than one country request that the invoice be issued to the address where the product is delivered. *See* Citrusvil December 18, 2006 section A response, at A–2. Because the information we have gathered with respect to Citrusvil and its agents indicates that at the time of price and quantity negotiations, Citrusvil has knowledge of the first unaffiliated customer and the country in which such customer is located, we believe that it is appropriate to classify the sales shipped to Rotterdam based on the customer and its country of location.

Classifying the sales as described above, we find that Germany is Citrusvil's largest third country market for sales of foreign like product. We further find that there are no significant differences in product comparability with respect to Citrusvil's sales to Germany and sales to other third country markets and merchandise sold to the United States. As such, we preliminarily determine that Germany is the appropriate comparison market. *See* ''Calculation of Normal Value Based on Comparison Market Prices'' and ''Calculation of Normal Value Based on Constructed Value'' sections below.

San Miguel's sales of lemon juice in Argentina were sufficient to find the home market a viable for comparison purposes. Accordingly, we calculated NV for San Miguel based on sales prices to Argentine customers. *See* ''Calculation of Normal Value Based on Comparison Market Prices'' and ''Calculation of Normal Value Based on Constructed Value'' sections below.

B. Cost of Production Analysis

In the petition, Petitioner alleged that Argentine producers/exporters made sales in the comparison market at less than the cost of production (COP). In the allegation, Petitioner used the Netherlands as the comparison market, arguing that Argentina was not a viable market. Based on these allegations, and in accordance with section 773(b)(2)(A)(i) of the Act, we found reasonable grounds to believe or suspect that lemon juice sales were made in the comparison market at prices below the COP and initiated a country–wide sales–below-cost investigation. *See Initiation Notice*.

After reviewing Citrusvil's section A response, we determined that Citrusvil's sales to Argentina did not meet the viability threshold. Based on the section A response, however, it was unclear what the appropriate third–country comparison market was. As reported by Citrusvil, virtually all of its sales to Europe are shipped FCA Rotterdam. It claimed Germany as the proper comparison market based on the volume of sales to customers located in Germany. As discussed above, the Department has now determined that Germany is the most appropriate third–country market for comparison purposes. Although the sales–below-cost allegation from the petition involved shipments to the Netherlands–including, presumably, merchandise subsequently shipped to Germany–we informed the parties that the sales–below-cost allegation in the petition was still viable. *See Letter from the Department to Citrusvil* (December 22, 2007) stating that the ''allegation was made using shipment data to Rotterdam. The Rotterdam data did not exclude transhipments to other points in Europe, and thus should have included any transhipments to Germany.'' Citrusvil did not object to this request and submitted section D of its questionnaire response on January 22, 2007. Further, as noted above in the ''Case History'' section of this notice, on January 31, 2007, Petitioner submitted a German–specific, sales–below-cost allegation, which Citrusvil did not rebut.

The petition compared COP to the FOB Rotterdam value of shipments to

the Netherlands. Citrusvil reports that it ships virtually everything sold to all countries in Europe to the Netherlands, on an FCA basis, at which point the product is claimed by customers and transported to different countries in Europe. Germany is the location of the customer for most of these shipments. Thus, because sales to Germany are subsumed in any shipments to the Netherlands, the petition allegation covered sales to Germany. As such, there was sufficient evidence on the record to continue our sales–below-cost investigation once we had determined that Germany was the appropriate comparison market.

This decision is consistent with Department precedent. *See*, *e.g.*, *Preliminary Determination of Sales at Less Than Fair Value; Aramid Fiber Formed of Poly–Phenylene Terephthalamide From the Netherlands*, 58 FR 65699 (December 16, 1993) unchanged in the final determination, (*Notice of Final Determination of Sales at Less Than Fair Value: Aramid Fiber Formed of Poly–Phenylene Terephthalamide From the Netherlands*, 59 FR 23684 (May 6, 1994)), in which the Department ''reanalyzed petitioner's sales below cost allegation in light of our determination'' that the Netherlands was not the proper comparison market, and determined that there was ''sufficient evidence on the record to continue our sales below cost investigation.''

After reviewing San Miguel's section A response, we determined that Argentina was in fact a viable market for that company, and notified parties that the previous sales–below-cost allegation was no longer viable for San Miguel. *See Letter from the Department to San Miguel* (December 20, 2007). Petitioner subsequently filed a timely new sales–below-cost allegation on January 24, 2007 with respect to San Miguel's sales in Argentina. After determining that the new allegation demonstrated reasonable grounds to believe that San Miguel's sales in Argentina were below cost, we initiated a new sales–below-cost investigation of that company. *See Memorandum to Barbara E. Tillman, Director, Office 6, ''Petitioner's Allegation of Sales Below the Cost of Production for S.A. San Miguel A.G.I.C.I.y F.''* (February 12, 2007).

1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated a weighted–average COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for the home market general and administrative (G&A) expenses, including interest expenses and packing expenses. For Citrusvil, we relied on the COP data submitted in its cost questionnaire responses, except as noted below:

- We adjusted the fresh lemon input costs to value the lemons transferred from the packing to processing plant at the average fresh lemon cost actually incurred or paid based on the company's normal books and records.
- For reporting to the Department, Citrusvil allocated fresh lemon costs to lemon co–products using a net realizable value (NRV) methodology. We note that an NRV methodology relies upon relative sales values at the split off point (*i.e.*, when separate products are first identifiable in the production process) as a means of allocating joint costs when multiple products are processed simultaneously from the same raw material. However, because the fresh lemon cost allocation is based on sales values and because the Petitioner has alleged that Citrusvil's POI sales values may not represent a fair value for the merchandise under consideration, we revised the company's reported allocation to rely upon sales data prior to the POI, *i.e.*, a period for which no allegation of dumping has been lodged (in this case, July 1, 2004 to June 30, 2005).
- We revised the reported G&A expense rate to include other operating expenses.

For further details regarding these adjustments, *see Memorandum to Neal M. Halper, Director, Office of Accounting, ''Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination - Citrusvil, S.A.''* (April 19, 2007) (*Citrusvil COP Memo*).

For San Miguel, we relied on the COP data submitted in its cost questionnaire responses, except as noted below:

- We revised San Miguel's reported lemon costs. For self–grown lemons, we allocated the growing costs to the lemons based on volume. For self–grown and purchased lemons harvested by San Miguel, we valued the harvesting costs at the actual costs incurred by San Miguel. For purchased lemons either harvested by San Miguel or delivered by the suppliers, we used the actual POI average purchase price.
- We recalculated the by–product offset amount by using the POI production quantities instead of the POI sales quantities
- For reporting to the Department, San Miguel allocated fresh lemon costs to lemon co–products using an NRV methodology. Because the fresh lemon cost allocation is based on sales values and because the Petitioner has alleged that San Miguel's POI sales values may not represent a fair value for the merchandise under consideration, we revised the company's reported allocation of fresh lemon costs and indirect processing costs to co–products, which was based on the POI sales data, to reflect sales data prior to the POI (in this case, July 1, 2004 to June 30, 2005).
- We used San Miguel's company–wide G&A and net financial expense rates instead of the industrial division's G&A and net financial expense rates.
- We revised the company–wide G&A and net financial expense rates by deducting by–product revenues and packing expenses from the cost of sales denominator.
- We made a deduction to COM for estimated Reintegro rebates received by San Miguel.

For further details regarding these adjustments, *see Memorandum to Neal M. Halper, Director, Office of Accounting, ''Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination - San Miguel''* (April 19, 2007) (*San Miguel COP Memo*).

2. Test of Comparison Market Sales Prices

We compared the weighted–average COPs for both companies to their comparison market sales prices of the foreign like product, under section 773(b) of the Act, to determine whether these sales had been made at prices below the COP within an extended period of time (*i.e.*, a period of one year) in substantial quantities, and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. On a model–specific basis, we compared the COP to the German (for Citrusvil) and Argentine (for San Miguel) market prices, less any applicable movement charges, discounts, rebates, and direct and indirect selling expenses (excluding imputed expenses), commissions, and packing.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of the respondent's sales of a given product during the POI are at prices less than the COP, we do not disregard any below–

cost sales of that product, because we determine that in such instances the below–cost sales were not made in substantial quantities. Where 20 percent or more of the respondent's sales of a given product during the POI are at prices less than the COP, we determine that the below–cost sales represent substantial quantities within an extended period of time, in accordance with section 773(b)(1)(A) of the Act. In such cases, we also determine whether such sales were made at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act.

We found that more than 20 percent of Citrusvil's comparison market sales of a given product during the POI were at prices below the COP, and, in addition, the below–cost sales of the product were at prices which would not permit recovery of all costs within a reasonable time period, in accordance with section 773(b)(2)(D) of the Act. We therefore excluded these sales and used the remaining sales, if any, as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

We also found that more than 20 percent of San Miguel's comparison market sales of a given product during the POI were at prices below the COP, and, in addition, the below–cost sales of the product were at prices which would not permit recovery of all costs within a reasonable time period, in accordance with section 773(b)(2)(D) of the Act. We therefore excluded these sales and used the remaining sales, if any, as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

C. Calculation of Normal Value Based on Comparison Market Prices

Citrusvil

Citrusvil has an exclusive sales agreement with its agent in the German market. Due to the nature of the arrangement between the two companies, pursuant to section 771(33)(g) of the Act, we preliminarily find that Citrusvil and its agent are affiliated via an agent–principle agreement/relationship. *See, e.g., Stainless Steel Sheet and Strip in Coils from Taiwan: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 6682 (February 13, 2002) and accompanying *Issues and Decision Memorandum* at *Comment 23*, upheld in *Chia Far Industrial Factory Co. v. United States*, 343 F. Supp. 2d 1344, 1356 (CIT 2004) (''when there exists a principal who has the potential to control pricing and/or the terms of sale through the end–customer, Commerce will find agency and thus affiliation''). Thus, the appropriate sales for comparison purposes in this investigation are the sales from Citrusvil to the first unaffiliated customers in Germany. Since much of our analysis with respect to the relationship between Citrusvil and its agent involves business proprietary information, a full discussion of the bases for our finding of affiliation is set forth in the *Citrusvil Analysis Memorandum*.

For those sales made directly to the customer, with Citrusvil's agent acting as intermediary (the channel 2 sales described in the ''Selection of Comparison Market'' section above), the price charged by Citrusvil to the customer is the starting price. Pursuant to section 773(a)(6)(B) of the Act, we deducted home market freight, warehousing and insurance expenses. We also made circumstances of sale (COS) adjustments reflecting differences between direct selling expenses (credit expense) incurred on third–country and U.S. sales, in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We also made adjustments for any differences in packing between domestic and U.S. sales, pursuant to section 773(a)(6)(B)(ii) of the Act, and any differences between the variable costs of the U.S. product and the matching home market product (the ''DIFMER'' adjustment), pursuant to section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411.

For sales made by Citrusvil to its affiliated agent (the channel 1 sales described in the ''Selection of Comparison Market'' section above), which in turn sells to the first unaffiliated customer, we find that Citrusvil failed to provide the correct downstream sales information. Section 776(a)(2) of the Act provides that if an interested party or any other person: (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i) of the Act, the Department shall, subject to section 782(d) of the Act, use the facts otherwise available in reaching the applicable determination under this title. In applying facts otherwise available, section 776(b) of the Act provides that the Department may use an inference adverse to the interests of a party that has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794–96 (August 30, 2002).

With respect to adverse inferences, our practice, as reflected in the Statement of Administrative Action, is ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See* Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Rep. No. 103–316, (1994) (''SAA'') at 870. Furthermore, ''affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.'' *See Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1377 (Fed. Cir. 2003); *Antidumping Countervailing Duties: Final Rule*, 62 FR 27296, 27340 (May 19, 1997).

With respect to Citrusvil's channel 1 sales to Germany, we preliminarily find that the application of facts otherwise available is appropriate. The Department's original questionnaire, issued to Citrusvil on November 20, 2006, states that ''if you sold to an affiliate that resold the merchandise to an unaffiliated party in the comparison market, report the affiliate's resales during the POI to unaffiliated customers rather than your sales to the affiliate.'' *See* Department November 20, 2006, questionnaire, at B–2. On February 9, 2007, Petitioner argued that it appeared that Citrusvil might be affiliated with its German agent. On February 16, 2007, we issued a supplemental questionnaire in which we requested more detailed information on the relationship between Citrusvil and its German agent. *See* Department February 16, 2007, General Supplemental questionnaire, at 1–3. Based on Citrusvil's response and our analysis of the agreement, there was sufficient information to indicate affiliation. On March 23, 2007, in an additional supplemental questionnaire to Citrusvil, the Department specifically requested that Citrusvil report the downstream sales of its German sales agent. On April 6, 2007, Citrusvil responded that it was not able to obtain the requested information from its agent. Citrusvil explained that it made several attempts (including phone calls and e–mails) to convince its agent to supply the requested information. However, Citrusvil reported that its agent was not willing to open its books to foreign authorities. *See* Citrusvil

April 6, 2007, third supplemental section B and C response, at Exhibit 1. The use of facts available is warranted under 776(a)(2)(A) of the Act as Citrusvil and its affiliated agent have withheld information requested by the Department.

Moreover, in accordance with section 776(b) of the Act, we have applied an adverse inference for purposes of calculating Citrusvil's channel 1 prices in Germany. The record of this investigation shows that Citrusvil has sufficient control over its agent and the sales at issue to comply with our request for channel 1 sales information. *See* Citrusvil March 12, 2007, Second Supplemental section B and C response, at Exhibit 2. These parties are bound through an exclusive principle–agent relationship, and Citrusvil has indicated on the record that it controls the final terms of all sales involving its agent, including channel 1 sales. *See* Citrusvil January 26, 2007, Supplemental section A response, at Exhibit 5. Moreover, while Citrusvil argues that it made every effort to obtain the necessary information, it failed to submit any documentary evidence to support its claims. For example, in its April 6, 2007, submission Citrusvil states that it sent e–mails to its agent regarding the need for this information, but did not submit copies of any such e–mails on the record of this proceeding.

The Department has consistently demonstrated willingness to accommodate Citrusvil's difficulties in collecting requested information in a timely manner throughout the course of this proceeding. In fact, the Department granted Citrusvil an extension to submit the downstream sales at issue. *See Letter from the Department to Citrusvil* (April 2, 2007). Citrusvil, however, failed to provide the downstream sales information by the extended deadline and failed to substantiate its claims that it made significant efforts to obtain the information.

Therefore, we conclude that Citrusvil has not cooperated to the best of its ability with respect to channel 1 sales, and thus, pursuant to section 776(b) of the Act, we have used an adverse inference in selecting among the facts available with respect to such sales. Specifically, we have used the highest net price per control number (CONNUM) as the basis for normal value for all channel 1 sales. Because much of our analysis involves business proprietary information, a full discussion of the bases for our finding of affiliation and the specific application of partial adverse facts available is set forth in the *Citrusvil Analysis Memorandum*.

As a result, for such sales, the Department has relied on facts available with an adverse inference. As AFA, to determine NV for these sales, the Department has used the highest NV per CONNUM in lieu of the price paid to Citrusvil's agent. The Department intends, however, following this preliminary determination, to provide an additional opportunity to Citrusvil to submit the requested sales information to the first unaffiliated customer in Germany.

San Miguel

For San Miguel, starting with prices paid by its Argentine customers, we added or subtracted billing adjustments, where appropriate, and subtracted early payment discounts, Argentine inland freight, warehousing, and insurance expenses, and a fee paid to the regional government of Tucuman. For home market sales compared to EP sales, we made COS adjustments for differences between credit expenses incurred on Argentine and U.S. sales in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. In accordance with section 772(c)(2) of the Act, for home market sales compared to CEP sales, we only deducted Argentine credit expenses from home market price, because U.S. credit expenses were deducted from U.S. price, as noted above. We also made adjustments for any differences in packing between domestic and U.S. sales and for DIFMER pursuant to section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411.

D. Calculation of Normal Value Based on Constructed Value

Section 773(a)(4) of the Act provides that, where NV cannot be based on comparison market sales, NV may be based on constructed value (CV). Accordingly, for sales of lemon juice for which we could not determine the NV based on comparison market sales, either because there were no useable sales of a comparable product or all sales of the comparable products failed the COP test, we based NV on CV.

Section 773(e) of the Act provides that CV shall be based on the sum of the cost of materials and fabrication for the imported merchandise, plus amounts for SG&A expenses, profit, and U.S. packing costs. We calculated the cost of materials and fabrication based on the methodology described in the ''Cost of Production Analysis'' section, above. We based SG&A, interest expense, and profit on the actual amounts incurred and/or realized in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the comparison market, in accordance with section 773(e)(2)(A) of the Act.

For comparison with EP sales, we made adjustments to CV for differences in COS in accordance with section 773(a)(6)(C)(iii) and 773(a)(8) of the Act and 19 CFR 351.410. For CV compared to CEP sales, we only deducted domestic direct selling expenses from home market price, as U.S. direct selling expenses were deducted from U.S. price, as noted above.

E. Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Act, to the extent practicable, we determine NV based on sales in the home market at the same level of trade (LOT) as U.S. sales. *See* 19 CFR 351.412. The NV or CV LOT is the level of the starting–price sale in the home market or comparison market. For EP, the U.S. LOT is based on the starting price, which is usually from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer in the home market in accordance with 19 CFR 351.412(c). *See, e.g., Light–Walled Rectangular Pipe and Tube From Mexico: Notice of Final Determination of Sales at Less Than Fair Value*, 69 FR 53677 (September 2, 2004), and accompanying *Issues and Decisions Memorandum* at *Comment 14*. If the comparison market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act.

In the current investigation, Citrusvil claimed one LOT in the German market and one similar LOT in the U.S. market. Citrusvil did not request an LOT adjustment. Citrusvil maintains that its selling functions do not vary by market. Citrusvil's narrative description of its sales and distribution process indicate that its sales functions involve inventory maintenance, freight service arrangements, advertising, negotiating sales terms, and arranging for domestic and foreign warehousing. It did not indicate a significant variance, however, among these common expense items according to market, channel of distribution, customer, or some other variable, nor do we see any reason to conclude that there is such variance. *See* Citrusvil December 18, 2006 section A response, at A–13. Based on the

selling functions performed, we preliminarily determine that Citrusvil did not sell at different LOTs in the German and U.S. markets. After examining the selling functions for the one LOT reported in the United States, and the one reported LOT reported in the German market, we determine that these sales were all made at the same LOT.

San Miguel claimed one LOT in the Argentine market and one LOT in the U.S. market. San Miguel did not request an LOT adjustment. Given the selling functions chart submitted by San Miguel and its narrative description of its sales and distribution process, it would appear its significant sales functions involve negotiating sales and delivery, providing customer–specific packaging, arranging transportation, and arranging for domestic and foreign warehousing. It did not indicate a significant variance, however, among these common expense items according to market, channel of distribution, customer, or some other variable, nor do we see any reason to conclude that there is such variance. *See* San Miguel December 14, 2006, section A response, at A–15 - A–19. After examining the selling functions for the one LOT reported in the United States, and the one reported LOT reported in the Argentine market, we determine that these sales were all made at the same LOT.

Currency Conversions

We made currency conversions into U.S. dollars in accordance with section 773A of the Act based on exchange rates in effect on the dates of the U.S. sales, as obtained from the Federal Reserve Bank (the Department's preferred source for exchange rates).

Critical Circumstances

On March 30, 2007, Petitioner filed a timely allegation pursuant to section 733(e) of the Act that critical circumstances exist in the antidumping duty investigations of lemon juice from Argentina and Mexico. In addition, Petitioner requested that the Department request CBP to compile information on an expedited basis regarding entries of subject merchandise. *See* 19 CFR 351.206(g). In its allegation, Petitioner contends that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to lemon juice from Argentina because the importers in this case knew or should have known that exporters were selling lemon juice at less than fair value and that there was likely to be material injury by reason of such sales; and that there have been a massive imports of lemon juice over a relatively short period. Since this allegation was filed at least 20 days prior to the deadline for the Department's preliminary determination, we must issue our preliminary critical circumstances determination not later than the date of the preliminary determination. *See* 19 CFR 351.206(c)(2)(i); *see also* Policy Bulletin 98.4; ''Change in Policy Regarding Timing of Issuance of Critical Circumstances Determinations'' (63 FR 55364 (October 15, 1998)) for a further discussion of our practice.

Petitioner contends that, in determining whether there is a reasonable basis to believe or suspect that an importer should have known that the exporter was selling lemon juice from Argentina at less than fair value, the Department normally considers margins of 25 percent or more for EP sales and 15 percent or more for CEP transactions sufficient to impute knowledge of dumping. *See, e.g.*, *Notice of Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances: Wax and Wax/Resin Thermal Transfer Ribbons From Japan*, 68 FR 71072, 71076–77 (December 22, 2003) unchanged in the final determination, (*Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Wax and Wax/Resin Thermal Transfer Ribbons From Japan*, 69 FR 11834 (March 12, 2004)). Petitioner contends that the estimated dumping margin from the initiation of 102.46 for Argentina is well above the 25 percent sufficient to impute knowledge. *See Initiation Notice*.

Petitioner contends that, in determining whether there have been massive imports, the Department normally considers imports during the comparison period that have increased 15 percent or more compared to the base period to be massive. *See* 19 CFR 351.206(h)(2). The petition for this case was filed on September 21, 2006. Petitioner provided import data from the ITC's ''Dataweb'' (http://dataweb.usitc.gov/) comparing subject imports in July through September 2006 to subject imports in the period October through December 2006. Petitioner calculated that subject imports from Argentina surged 147 percent. *See* Petitioner's March 30, 2007 Critical Circumstances Allegation at 5, Exhibit 1.

Section 733(e)(1) of the Act provides that the Department will preliminarily determine that critical circumstances exist if there is a reasonable basis to believe or suspect that: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise; or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales; and, (B) there have been massive imports of the subject merchandise over a relatively short period. Section 351.206(h)(1) of the Department's regulations provides that, in determining whether imports of the subject merchandise have been ''massive,'' the Department normally will examine: (i) the volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, 19 CFR 351.206(h)(2) provides that an increase in imports of 15 percent during a ''relatively short period'' of time may be considered ''massive.'' Further, 19 CFR 351.206(i) defines ''relatively short period'' as normally being the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed) and ending at least three months later.

To determine whether there is a history of injurious dumping of the merchandise under investigation, in accordance with section 733(e)(1)(A)(i) of the Act, the Department normally considers evidence of an existing antidumping duty order on the subject merchandise in the United States or elsewhere to be sufficient. *See, e.g.*, *Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cut–To-Length Carbon Quality Steel Plate Products from Indonesia*, 64 FR 41206 (July 29, 1999) unchanged in the final determination, (*Final Determination of Sales at Less Than Fair Value: Certain Cut–to-Length Carbon–Quality Steel Plate Products from Indonesia*, 64 FR 73164 (December 29, 1999)). With regard to imports of lemon juice from Argentina, Petitioner makes no specific mention of a history of dumping for Argentina. There have been no dumping orders issued by the United States or by any other country on lemon juice from Argentina. For this reason, the Department does not find a history of injurious dumping of the subject merchandise from Argentina pursuant to section 733(e)(1)(A)(i) of the Act.

To determine whether the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there

was likely to be material injury by reason of such sales in accordance with section 733(e)(1)(A)(ii) of the Act, the Department normally considers margins of 25 percent or more for EP sales, or 15 percent or more for CEP transactions, sufficient to impute knowledge of dumping. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from Indonesia*, 71 FR 15162 (March 27, 2006) unchanged in the final determination, (*Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Certain Lined Paper Products from Indonesia*, 71 FR 47171 (August 16, 2006)).

For Citrusvil and San Miguel, we determine that there is a sufficient basis to find that the importer should have known that the exporter was selling the subject merchandise at less than its fair value pursuant to section 733(e)(1)(A)(ii) of the Act, because the calculated margins are greater than 25 percent for both companies' sales. Consequently, we have imputed knowledge of dumping with regard to both respondents.

Regarding the companies subject to the ''all others'' rate, it is the Department's normal practice to conduct its critical circumstances analysis for these companies based on the experience of investigated companies. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Steel Concrete Reinforcing Bars From Turkey*, 62 FR 9737, 9741 (March 4, 1997). However, the Department does not automatically extend an affirmative critical circumstances determination to companies covered by the ''all others'' rate. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from Japan*, 64 FR 30574 (June 8, 1999) (*Stainless Steel from Japan*). Instead, the Department considers the traditional critical circumstances criteria with respect to the companies covered by the ''all others'' rate. Consistent with *Stainless Steel from Japan*, the Department has, in this case, applied the traditional critical circumstances criteria to the ''all others'' category for the antidumping investigation of certain lemon juice from Argentina.

The dumping margin for the ''all others'' category in the instant case exceeds the 25 percent threshold necessary to impute knowledge of dumping. Therefore, we find there is a reasonable basis to impute to importers, knowledge of dumping for the companies covered by the ''all others'' rate. Consequently, we preliminarily find that knowledge of dumping exists with regard to the companies subject to the ''all others'' rate.

In determining whether there is a reasonable basis to believe or suspect that an importer knew or should have known that there was likely to be material injury by reason of dumped imports, consistent with section 733(e)(1)(A)(ii) of the Act, the Department normally will look to the preliminary injury determination of the ITC. *See, e.g., Stainless Steel from Japan*, 64 FR at 30578. On November 16, 2006, the ITC preliminarily found material injury to the domestic industry due to imports of lemon juice from Argentina and Mexico, which are alleged to be sold in the United States at less than fair value and, on this basis, the Department may impute knowledge of likelihood of injury to these respondents. *See ITC Preliminary Report*.

In determining whether there are ''massive imports'' over a ''relatively short period,'' pursuant to section 733(e)(1)(B) of the Act, the Department normally compares the import volumes of the subject merchandise for at least three months immediately preceding the filing of the petition (*i.e.*, the ''base period'') to a comparable period of at least three months following the filing of the petition (*i.e.*, the ''comparison period''). Imports normally will be considered massive when imports during the comparison period have increased by 15 percent or more compared to imports during the base period.

The Department requested and obtained from both respondents monthly shipment data from June 2006 through March 2007 in order to determine whether imports were massive. We also relied on U.S. import data found on the ITC's Dataweb for imports through January 2007 (*i.e.*, the latest month for which complete data exist at the time of this preliminary determination).

We have used a period of four months as the period for comparison in preliminarily determining whether imports of the subject merchandise have been massive. We believe that a four-month period is most appropriate as the basis for analysis because using four months captures all data available at this time, based on October 2006 as the beginning of the comparison period. Additionally, a four-month period properly reflects the ''relatively short period'' set forth in the statute for determining whether imports have been massive. *See* section 733(e)(1)(B) of the Act. It is our practice to base the critical–circumstances analysis on all available data, using base and comparison periods of no less than three months. *See Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from India*, 69 FR 47111 (Aug. 4, 2004) unchanged in the final determination, (*Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From India*, 69 FR 76916 (December 23, 2004)); and *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 69 FR 20594 (Apr. 16, 2004), and accompanying *Issues and Decision Memorandum* at *Comment 3*. Therefore, we have used all available data in our critical–circumstances analysis for the preliminary determination.

San Miguel provided shipment data from June 2006 through January 2007. San Miguel's shipment data indicate that its shipments increased by more than 15 percent between the four-month base and comparison periods. However, San Miguel argued that this increase is due largely to issues of ''timing.'' Our analysis of San Miguel's 2005 and 2006 monthly shipment data leads us to reject this argument. However, because the details of our analysis are business proprietary, complete discussion can be found in the *Memorandum to Barbara E. Tillman, Director, Office 6, ''Critical Circumstances Allegation*,'' (April 19, 2007) (*Critical Circumstances Memorandum*). Based on our analysis of San Miguel's shipment data for 2005 and 2006, we have determined that San Miguel's shipments increased by more than 15 percent between the four-month base and comparison periods. *See Critical Circumstances Memorandum*.

Citrusvil reported shipment data for June 2006 through March 2007. Citrusvil's reported shipment data do not indicate that its shipments increased by more than 15 percent between the four-month base and comparison periods. However, our analysis of Citrusvil's reported shipment data leads us to question the reliability of that data.[3] For a discussion of the BPI details

[3] We intend to issue a supplemental questionnaire to Citrusvil requesting that it correct the deficiencies and resubmit its data in time for verification and use in the final determination. For

of this analysis, *see Critical Circumstances Memorandum*. Because we have determined that Citrusvil's shipment data are unreliable, we have relied on ITC data to determine whether Citrusvil's imports increased by more than 15 percent between the four-month base and comparison periods. *See Critical Circumstances Memorandum*; *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Critical Circumstances Determination: Certain Orange Juice from Brazil*, 70 FR 49557, 49565–66 (August 24, 2005) (*Orange Juice from Brazil*) (basing the evaluation of massive imports on ITC Dataweb information for all companies because company–specific information was not submitted with sufficient time to use in the analysis). We adjusted the ITC data to account for shipments of lemon juice exported by San Miguel, because San Miguel's information is the only reliable company–specific information on the record with which we could make a relevant adjustment. After adjusting the data to account for shipments of lemon juice exported by San Miguel, the data indicate an increase in imports greater than 15 percent. *See Critical Circumstances Memorandum*. As such, we find that imports have increased by more than 15 percent between the four-month base and comparison periods.

We have examined the information on the record to determine whether the increase in San Miguel's and Citrusvil's imports into the United States during the comparison period are consistent with seasonal patterns related to the growing season for lemons and the corresponding production cycle for lemon juice. We analyzed import data for the relevant base and comparison periods for 2003 through 2006 and find that imports do not show a pattern of seasonality. *See Critical Circumstances Memorandum*. As such, we preliminarily determine that the surge in imports is not due to seasonality.

As noted above, the Department does not automatically extend an affirmative critical circumstances determination to companies covered by the ''all others'' rate. Therefore, with respect to whether imports were massive in this case for the ''all others'' category, we considered the experience of Citrusvil and San Miguel. As discussed above, we preliminarily find that imports from Citrusvil and San Miguel have been massive over a relatively short period of time. Since our normal practice of conducting the critical circumstances analysis of companies in the all–others category is based on the experience of the investigated companies, we determine that there have been massive imports of lemon juice in the all–others category. In addition, we also examined ITC data for the four-month base and comparison periods noted above. *See Orange Juice from Brazil*, 70 FR at 49565–66. As explained above, we adjusted the ITC data to account for shipments of lemon juice exported by San Miguel. After this adjustment, the ITC data indicate an increase in imports greater than 15 percent. *See Critical Circumstances Memorandum*.

In summary, we preliminarily find that Citrusvil, San Miguel and the companies subject to the ''all others'' rate satisfy the imputed knowledge of injury and dumping criteria under section 733(e)(1)(A)(ii) of the Act and the massive imports criterion under section 733(e)(1)(B) of the Act. Given the analysis summarized above, we preliminarily determine that critical circumstances exist for all imports of lemon juice into the United States produced in and exported from Argentina.

Verification

In accordance with section 782(i) of the Act, we will verify the questionnaire responses of Citrusvil and San Miguel before making our final determination.

Preliminary Determination

We preliminarily determine that the following weighted–average dumping margins exist for the period July 1, 2005 through June 30, 2006:

Producer/Exporter	Weighted–Average Margin (Percentage)
Citrusvil	128.50%
San Miguel	85.64%
All Others	113.52%

Suspension of Liquidation

In accordance with section 733(d) of the Act, we will instruct CBP to suspend liquidation of all entries of lemon juice from Argentina that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Additionally, because we have made an affirmative preliminary determination of critical circumstances, we will instruct CBP to suspend liquidation of entries made on or after 90 days prior to the date of publication of this notice in accordance with section 733(e)(2) of the Act. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted–average margin, as indicated in the chart above, as follows: (1) the rates for exports from the mandatory respondents will be the rates we have determined in this preliminary determination as outlined above; (2) if the exporter is not a firm identified in this investigation, but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 113.52 percent. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

In accordance with 19 CFR 351.224(b), the Department will disclose to interested parties the calculations performed in this preliminary determination within five days of the date of the public announcement.

Public Comment

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs either 50 days after the date of publication of this notice or ten days after the issuance of the verification reports, whichever is later. *See* 19 CFR 351.309(c)(1)(i). Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days after the deadline for the submission of case briefs. *See* 19 CFR 351.309(d). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. *See* 19 CFR 351.309(c)(2), (d)(2). Executive summaries should be limited to five pages total, including footnotes. *See id*.

In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. If a request for a hearing is made, we will tentatively hold the hearing two days after the deadline for submission of rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a time and in a room to be determined. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled date.

Interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the date of publication of this notice. Requests should contain: 1) the party's name,

the final determination, we will reevaluate our critical circumstances determination for Citrusvil and the companies subject to the ''all others'' rate in light of Citrusvil's revised shipment data.

address, and telephone number; 2) the number of participants; and 3) a list of the issues to be discussed. At the hearing, oral presentations will be limited to issues raised in the briefs. *See* 19 CFR 351.310(c). Unless the Department receives a request for a postponement pursuant to section 735(a)(2) of the Act, the Department will make its final determination no later than 75 days after the date of this preliminary determination. *See* section 735(a)(1) of the Act.

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of the Department's preliminary affirmative determination. In addition, we are making available to the ITC all non–privileged and non–proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration. If the final determination in this proceeding is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of lemon juice from Argentina materially injure, or threaten material injury to, the U.S. industry. *See* section 735(b)(2) of the Act.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: April 19, 2007.

Joseph A. Spetrini,

Deputy Assistant Secretaryfor Import Administration.

[FR Doc. E7–8015 Filed 4–25–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–835]

Notice of Preliminary Determinations of Sales at Less Than Fair Value and of Critical Circumstances in Part: Lemon Juice from Mexico

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: We preliminarily determine that imports of lemon juice from Mexico are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended. In addition, we preliminarily determine that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to the imports of lemon juice from Mexico for one respondent. Interested parties are invited to comment on this preliminary determination. We will make our final determination within 75 days after the date of this preliminary determination.

FOR FURTHER INFORMATION CONTACT: George Callen or Minoo Hatten, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0180 or (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 11, 2006, the Department of Commerce (the Department) initiated antidumping investigations of lemon juice from Argentina and Mexico. See *Initiation of Antidumping Duty Investigations: Lemon Juice from Argentina and Mexico*, 71 FR 61710 (October 19, 2006) (*Initiation Notice*). The Department set aside a period for all interested parties to raise issues regarding product coverage. The Department encouraged all interested parties to submit such comments within 20 days from publication of the initiation notice, that is, by November 8, 2006. See *Initiation Notice*; see also *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19,1997) (*Final Rule*).

On November 6, 2006, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that imports of lemon juice from Argentina and Mexico are materially injuring the U.S. industry and the ITC notified the Department of its findings. See *Lemon Juice From Argentina and Mexico, Investigation Nos. 731–TA–1105 1106 (Preliminary)*, 71 FR 66795 (November 16, 2006) (*ITC Preliminary Report*).

On February 8, 2007, we postponed the deadline for the preliminary determinations under section 733(c)(1)(A) of the Tariff Act of 1930, as amended (the Act), by 50 days to April 19, 2007. See *Postponement of Preliminary Determinations of Antidumping Duty Investigations: Lemon Juice from Argentina and Mexico*, 72 FR 7606 (February 16, 2007).

On March 30, 2007, Sunkist Growers Inc. (the petitioner) alleged that, in accordance with 19 CFR 351.206, critical circumstances existed with regard to imports of lemon juice from Argentina and Mexico.

Period of Investigation

The period of investigation (POI) is July 1, 2005, through June 30, 2006. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition.

Scope of Investigation

The merchandise covered by this investigation includes certain lemon juice for further manufacture, with or without addition of preservatives, sugar, or other sweeteners, regardless of the GPL (grams per liter of citric acid) level of concentration, brix level, brix/acid ratio, pulp content, clarity, grade, horticulture method (e.g., organic or not), processed form (e.g., frozen or not–from-concentrate), FDA standard of identity, the size of the container in which packed, or the method of packing.

Excluded from the scope are: (1) lemon juice at any level of concentration packed in retail–sized containers ready for sale to consumers, typically at a level of concentration of 48 GPL; and (2) beverage products such as lemonade that typically contain 20% or less lemon juice as an ingredient.

Lemon juice is classifiable under subheadings 2009.39.6020, 2009.31.6020, 2009.31.4000, 2009.31.6040, and 2009.39.6040 of the Harmonized Tariff Schedule of the United States (HTSUS). While HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Scope Comments

In accordance with the preamble to our regulations (see *Final Rule*), we set aside a period of time for parties to raise issues regarding product coverage in the Initiation Notice and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice*. We did not receive comments from any interested parties in the Mexico investigation. On November 1, 2006, we received comments from Citromax S.A.C.I. (Citromax), an interested party in the Argentina investigation. On November 8, 2006, the Department received rebuttal comments from the petitioner on the Citromax submission. As discussed further in the March 21, 2007, memorandum entitled ''Scope Issue in the Antidumping Duty Investigations on Lemon Juice from Argentina and Mexico'' on file in Import Administration's Central Records Unit (CRU), Room 1870, U.S. Department of Commerce, 14th Street and Constitution

Avenue, NW, Washington, DC 20230, we are continuing to include organic lemon juice in the scope of the antidumping duty investigations of lemon juice from Argentina and Mexico.

Respondent Selection

Section 777A(c)(1) of the Act directs the Department to calculate individual weighted–average dumping margins for each known exporter and producer of the subject merchandise. Section 777A(c)(2) of the Act also gives the Department discretion to examine a reasonable number of such exporters and producers when it is not practicable to examine all exporters and producers. In order to identify the universe of producers/exporters in Mexico to investigate for purposes of this less–than-fair–value investigation on lemon juice, we analyzed information from various sources, including data from U.S. Customs and Border Protection (CBP).

Using information obtained from the petition, an internet search, and a request to the U.S. Embassy in Mexico in addition to CBP statistical information on U.S. imports of lemon juice during the POI, we identified three respondents accounting for approximately 95 percent of the POI imports from Mexico: Citrofrut Veracruz (Citrofrut), Citrotam Internacional S.P.R. de R.L. (Citrotam), and Coca–Cola FEMSA, S.A. de C.V.[1] For a detailed analysis of our respondent–selection procedure, see ''Antidumping Duty Investigation on Lemon Juice from Mexico Respondent Selection,'' dated November 7, 2006, on file in the CRU.

Citrofrut

On November 20, 2006, we issued a questionnaire to Citrofrut requesting that it respond to section A of the questionnaire by December 11, 2006. Because Citrofrut did not respond by this due date, we sent a letter on December 13, 2006, in which we informed the company that we had not received a response from it despite confirmation from FedEx that Citrofrut had received the questionnaire. We informed Citrofrut further that, if it intended to respond to the questionnaire, it should do so by December 20, 2006. On December 14, 2006, Citrofrut submitted documentation demonstrating that it exports lime juice but not lemon juice from Mexico to the United States. The petitioner did not comment.

We find that the supporting documentation submitted by Citrofrut is sufficient to demonstrate its assertion that it only exports lime juice. On August 6, 2006, before the petition was filed, Citrofrut's broker in the United States filed post–summary adjustment documents with CBP to address the incorrect classification it had used on certain entries at the time of entry. We have confirmed that CBP has accepted the reclassification claim with respect to imports from Citrofrut. Therefore, we preliminarily determine that Citrofrut is no longer a mandatory respondent in the investigation of lemon juice from Mexico. If it begins to export lemon juice, its exports will be subject to the all–others cash–deposit rate.

Use of Adverse Facts Available

For the reasons discussed below, we determine that the use of adverse facts available (AFA) is appropriate for the preliminary determination with respect to Citrotam.

A. Use of Facts Available

Section 776(a)(2) of the Act provides that, if an interested party withholds information requested by the administering authority, fails to provide such information by the deadlines for submission of the information and in the form or manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act, significantly impedes a proceeding under this title, or provides such information but the information cannot be verified as provided in section 782(i), the administering authority shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination. Section 782(d) of the Act provides that, if the administering authority determines that a response to a request for information does not comply with the request, the administering authority shall promptly inform the responding party and provide an opportunity to remedy the deficient submission. Section 782(e) of the Act states further that the Department shall not decline to consider submitted information if all of the following requirements are met: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; (5) the information can be used without undue difficulties. On November 7, 2006, we mailed a package to Citrotam via Federal Express (FedEx) containing a copy of the respondent–selection memorandum and a request for model–match comments. Based on information we found on the internet we addressed the package to Citrotam's general manager (GM). FedEx reported that it was not able to deliver the package to Citrotam because it had been told that the company had moved from the location for which we had provided an address. We continued our efforts to locate Citrotam, including working with the U.S. Embassy in Mexico City, as well as obtaining contact information for Citrotam from the Embassy of Mexico in Washington, DC. We obtained information indicating that Citrotam is out of business and has been replaced by a new firm, Productos Naturales de Citricos (Pronacit), which may be using the former location of Citrotam to do business and has the same GM as Citrotam.

On November 21, 2006, after many attempts, when we finally contacted the GM, he confirmed that the new name for Citrotam is Pronacit. He also confirmed to the Embassy of Mexico in Washington, DC, that Citrotam had changed its name to Pronacit. See e–mail message dated December 12, 2006, attached to the Memorandum to the File entitled ''Efforts to Contact Citrotam Internacional, S.P.R. De R.L.,'' dated February 20, 2007 (Citrotam Memo). As discussed in detail in the Citrotam Memo, we made additional efforts to contact the GM to obtain an address for Pronacit. When FedEx was unable to deliver the package to the address provided by the GM to the Embassy of Mexico, we attempted to contact the GM again and spoke with the GM's assistant. On January 12, 2007, at the suggestion of the GM's assistant, we sent a letter to the assistant's residence containing questions pertaining to successor–in-interest status, as well as our antidumping duty questionnaire and other documents requesting that Citrotam/Pronacit respond by January 26, 2007. We confirmed that the package was delivered to the assistant's residence on January 16, 2007. We have received no response. See Citrotam Memo.

Citrotam/Pronacit failed to respond to our detailed requests for information regarding successorship. Pursuant to section 776(a) of the Act, we find that Citrotam/Pronacit withheld information that we requested, failed to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782, and significantly impeded a

[1] In an entry of appearance, dated November 15, 2006, The Coca-Cola Company and a subsidiary, The Coca-Cola Export Corporation, Mexico Branch (collectively Coca-Cola), clarified that it, rather than Coca-Cola FEMSA, S.A. de C.V., was the foreign producer and exporter of the subject merchandise under investigation.

proceeding under this title. Therefore, we are resorting to the use the facts otherwise available in reaching the applicable determination. We preliminarily find that the facts available, including statements from the GM, U.S. Embassy officials in Mexico, and Embassy of Mexico officials, support the conclusion that Pronacit is the successor to Citrotam. Moreover, because Citrotam/Pronacit failed to respond to any of our requests for information, we are relying on facts otherwise available to assign a dumping margin to Citrotam/Pronacit.

B. Application of Adverse Inferences for Facts Available

In selecting from among the facts otherwise available, section 776(b) of the Act provides that, if the administering authority finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority, in reaching the applicable determination under this title, the administering authority may use an inference adverse to the interests of that party in selecting from among the facts otherwise available. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Circular Welded Carbon–Quality Line Pipe From Mexico*, 69 FR 59892 (October 6, 2004); see also *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances in Part: Prestressed Concrete Steel Wire Strand From Mexico*, 68 FR 42378 (July 17, 2003).

Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' See *Statement of Administrative Action* accompanying the Uruguay Round Agreements Act, H. Doc. No. 103–316, at 870 (1994) (SAA). Furthermore, ''affirmative evidence of bad faith, or willfulness, on the part of a respondent is not required before the Department may make an adverse inference.'' See *Final Rule*.

Because we have preliminarily determined under section 776(a) of the Act that Pronacit is the successor to Citrotam and because, in refusing to respond to our requests for information, Citrotam/Pronacit has failed to cooperate to the best of its ability, we find that the application of an AFA rate for Citrotam/Pronacit is warranted in this preliminary determination.

The Department finds that Citrotam/Pronacit failed to cooperate to the best of its ability because it continued to be non–responsive despite numerous attempts to obtain information. See Citrotam Memo. Consequently, the Department has preliminarily determined that, in selecting from among the facts otherwise available, an adverse inference is warranted. See section 776(b) of the Act; see also *Notice of Final Determination of Sales at Less than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985 (July 12, 2000), where the Department applied total AFA because the respondents failed to respond to the antidumping questionnaire.

If, however, within 30 days after issuance of this preliminary determination, Pronacit is able to demonstrate on the record of the investigation that it is not the successor to Citrotam and cooperates fully during the remainder of the investigation, the Department may reconsider this issue for purposes of the final determination.

C. Selection of Information Used as Facts Available

Where the Department applies AFA because a respondent failed to cooperate by not acting to the best of its ability to comply with a request for information, section 776(b) of the Act authorizes the Department to rely on information derived from the petition, a final determination, a previous administrative review, or other information placed on the record. See also 19 CFR 351.308(c) and the SAA at 829–831. In this case, because we are unable to calculate a margin for Citrotam/Pronacit and because an adverse inference is warranted, we have assigned to Citrotam/Pronacit the highest product–specific margin, 205.37 percent, which we have calculated in this investigation based on the data reported by a respondent.

Date of Sale

Section 351.401(i) of the Department's regulations states that the Department will normally use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. The Department may use a date other than the date of invoice if the alternative better reflects the date on which the material terms of sales (*e.g.*, price and quantity) are established.

Coca–Cola stated in its responses that the essential terms of sale did not change once it accepted a purchase order but indicated that sometimes it received the purchase order after shipment had occurred. In its U.S. sales database, Coca–Cola reported sales based on invoice dates during the POI and, when shipment dates preceded invoicing, on shipment dates. Based on its comment that the essential terms of sale do not change once a purchase order is accepted, we asked Coca–Cola to report sales based on the purchase–order date or, when a shipment preceded the purchase–order date, the shipment date as date of sale. Because we did not receive this information in time for inclusion in this preliminary determination, we have used Coca–Cola's reported invoice date or, where the shipment preceded invoicing, the shipment date as the date of sale for the preliminary determination.

We will examine the information submitted by Coca–Cola with respect to its purchase order; we will also examine this issue at verification and incorporate our findings in our analysis for the final determination.

Fair–Value Comparisons

To determine whether Coca–Cola's sales of lemon juice from Mexico to the United States were made at less than fair value during the POI, we compared the export price or constructed export price (CEP) to normal value, as described in the ''U.S. Price'' and ''Normal Value'' sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared the weighted–average export prices and CEPs to normal value which, in this case, is constructed value (CV). In our comparisons, we offset the average–to-average comparisons of U.S prices and constructed values by any non–dumped comparisons. This approach comports with the methodology for investigations that we set forth in *Antidumping Proceedings: Calculation of the Weighted–Average Dumping Margin During an Antidumping Investigation; Final Modification*, 71 FR 77722 (December 27, 2006).

U.S. Price

Section 772(a) of the Act defines export price as the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter outside the United States to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c). During the POI, Coca–Cola produced and sold subject merchandise to the first unaffiliated purchaser in the United States prior to importation. For sales of this merchandise, we have applied the export–price methodology.

Section 772(b) of the Act defines CEP as the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d). In addition to export–price sales, Coca–Cola also had CEP sales because it sold some subject merchandise to the first unaffiliated purchaser in the United States after the date of importation of the merchandise. Thus, we have applied the CEP methodology to these sales.

We based export price and CEP on the packed price to unaffiliated purchasers in the United States. We made deductions, as appropriate, for billing adjustments. We also made deductions for any movement expenses in accordance with section 772(c)(2)(A) of the Act. Accordingly, we made deductions for foreign inland freight from the processing plant to the Mexican border and brokerage expenses incurred in Mexico for all sales. For CEP sales, we also made deductions for U.S. brokerage expenses, U.S. warehousing expenses, and inland freight from the central warehouse to the point of distribution.

In accordance with section 772(d)(1) of the Act and the SAA at 823–824, we calculated the CEP further by deducting selling expenses associated with economic activities occurring in the United States, which consisted of credit expenses. In accordance with section 772(d)(1) of the Act, we also deducted indirect selling expenses associated with economic activities occurring in the United States, which consisted of inventory carrying costs and the profit allocated to expenses deducted under section 772(d)(1) in accordance with sections 772(d)(3) and 772(f) of the Act. Because Coca–Cola reported expenses incurred on U.S. but not home–market sales, we calculated a CEP profit rate based on the expense information provided in its 2005 financial statement for sales of merchandise in all markets, pursuant to section 772(f)(2)(C)(iii) of the Act. We applied this rate to those selling expenses associated with economic activities occurring in the United States to obtain the profit amount we deducted from the sales price.

During the POI, Coca–Cola sold lemon juice to a U.S. affiliate that further processed the merchandise into beverage or beverage–base products in the United States prior to sale to unaffiliated customers. Coca–Cola requested that it not be required to respond to section E of our questionnaire concerning its further–processed merchandise and submitted data to support its claim that the U.S. value added for such sales is likely to exceed substantially the value of the imported subject merchandise. After reviewing its request, we found that the value added in the United States is likely to exceed substantially the value of the subject merchandise and that there is a sufficient quantity of U.S. sales of non–further-processed merchandise to provide a reasonable basis for comparison to normal value. Accordingly, we have implemented the special rule for value–added sales pursuant to section 772(e) of the Act and have not included the sales of further–processed merchandise in our margin calculations. See Memorandum from Minoo Hatten to Laurie Parkhill regarding the reporting of further–manufactured merchandise, dated March 19, 2007.

Normal Value

A. Home–Market Viability and Comparison–Market Selection

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating normal value (*i.e.*, the aggregate volume of home–market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared Coca–Cola's volume of home–market sales of the foreign like product to its volume of U.S. sales of the subject merchandise in accordance with section 773(a)(1)(C) of the Act. Because the volume of its home–market sales did not meet the five–percent threshold, we found that Coca–Cola's home market was not viable for price–comparison purposes. Moreover, Coca–Cola did not sell the foreign like product to any other country during the POI. Consequently, pursuant to section 773(a)(4) of the Act, we have based normal value on CV for all sales.

B. Level of Trade

As discussed in the ''Calculation of Normal Value Based on Constructed Value'' section below, we based CV selling expenses and profit on Coca–Cola's home–market sales of orange juice during the POI and CV general and administrative (GNA) expenses on its 2005 home–market sales of soft–drink concentrates. Coca–Cola has not provided level–of-trade information on any of its home–market sales and, thus, the record has insufficient information for us to perform a level–of-trade analysis for this preliminary determination.

C. Calculation of Normal Value Based on Constructed Value

We calculated CV in accordance with section 773(e) of the Act, which states that CV shall be based on the sum of a respondent's cost of materials and fabrication for the subject merchandise, plus amounts for selling, GNA expenses, profit, and U.S. packing costs. We relied on the submitted CV information for Coca–Cola except in certain instances. First, we have determined for the preliminary determination that lemon juice and lemon oil are co–products in Coca–Cola's processing of lemons. Thus, we have revised Coca–Cola's reported cost of manufacture for lemon juice to include a portion of the lemon–purchase costs and a portion of the common lemon–processing costs incurred before the split–off point in the production of lemon juice and lemon oil. In addition, we have revised Coca–Cola's reported costs for the production of lemon juice to include an allocable portion of the company's GNA expenses. For further discussion of these adjustments, see the Memorandum to Neal Halper from Mark Todd, ''Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination,'' dated April 19, 2007.

Because we have determined for purposes of this preliminary determination that Coca–Cola does not have a viable home market or third–country market, we have calculated Coca–Cola's selling expenses and profit based on section 773(e)(2)(B)(i) of the Act, which states that selling expenses and profit may be calculated based on ''actual amounts incurred by the specific exporter or producer. . . in connection with the production and sale, for consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise.'' We have determined for the preliminary determination that Coca–Cola's production and sale of orange juice in Mexico is merchandise in the same general category of products as lemon juice. Thus, we have revised the CV figures for Coca–Cola's lemon juice to include selling expenses and profit amounts that are based on Coca–Cola's production and sale of orange juice for consumption in Mexico.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on exchange rates in effect on the dates of the U.S.

sales, as certified by the Federal Reserve Bank.

All–Others Rate

Section 735(c)(5)(B) of the Act provides that, where the estimated weighted–average dumping margins established for all exporters and producers individually investigated are zero or *de minimis* or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated ''all others'' rate for exporters and producers not individually investigated. This provision contemplates that the Department may weight–average margins other than the zero, *de minimis*, or AFA margins to establish the all–others rate.

When the data does not permit the weight–averaging of such other margins, the SAA provides that the Department may use any other reasonable method. See SAA at 873. Coca–Cola is the only respondent in this investigation for which we have calculated a company–specific rate that is not based entirely on facts available. Therefore, for purposes of determining the ''all others'' rate and pursuant to section 735(c)(5)(A) of the Act, we are using the dumping margin we have calculated for Coca–Cola as indicated in the ''Preliminary Determination'' section below.

Critical Circumstances

A. Citrotam/Pronacit and Coca–Cola

On March 30, 2007, the petitioner requested that the Department make a finding that critical circumstances exist with respect to imports of lemon juice from Mexico. The petitioner alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to the subject merchandise.

Since this allegation was filed earlier than the deadline for the preliminary determination, we must issue our preliminary critical–circumstances determination not later than the preliminary determination. See 19 CFR 351.206(c)(2); see also Policy Bulletin 98/4 regarding *Timing of Issuance of Critical Circumstances Determinations*, 63 FR 55364 (October 15, 1998).

Section 733(e)(1) of the Act provides that the Department will preliminarily determine that critical circumstances exist if there is a reasonable basis to believe or suspect that (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales and (B) there have been massive imports of the subject merchandise over a relatively short period.

In determining whether the relevant statutory criteria have been satisfied, the Department considered the evidence presented in the petitioner's March 30, 2007, submission, exporter–specific shipment data submitted by Coca–Cola on April 9, 2007, and the ITC Preliminary Report.

To determine whether there is a history of injurious dumping of the merchandise under investigation, in accordance with section 733(e)(1)(A)(i) of the Act, the Department normally considers evidence of an existing antidumping duty order on the subject merchandise in the United States or elsewhere to be sufficient. *See Preliminary Determinations of Critical Circumstances: Steel Concrete Reinforcing Bars From Ukraine and Moldova*, 65 FR 70696 (November 27, 2000). See also *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances in Part: Certain Lined Paper Products From India*, 71 FR 19706 (April 17, 2006). The petitioner has made no statement concerning a history of dumping of lemon juice from Mexico. Moreover, we are not aware of any antidumping duty order on lemon juice from Mexico in any other country. Therefore, the Department finds no history of injurious dumping of lemon juice from Mexico pursuant to section 733(e)(1)(A)(i) of the Act.

To determine whether the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value, in accordance with section 733(e)(1)(A)(ii) of the Act, the Department normally considers margins of 25 percent or more for export–price sales or 15 percent or more for CEP transactions sufficient to impute knowledge of dumping. See *Preliminary Determination of Sales at Less Than Fair Value: Certain Cut–to-Length Carbon Steel Plate from the People's Republic of China*, 62 FR 31972, 31978 (June 11, 1997). For the reasons explained above, we have assigned a margin of 205.37 percent to Citrotam/Pronacit. Based on this margin, we have imputed importer knowledge of dumping for Citrotam/Pronacit. See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances: Wax and Wax/Resin Thermal Transfer Ribbons from Japan*, 68 FR 71077 (December 22, 2003) (TTR from Japan). With respect to Coca–Cola, because the preliminary dumping margin for Coca–Cola is 146.10 percent, we preliminarily determine that the knowledge criterion has been met.

In determining whether there is a reasonable basis to believe or suspect that an importer knew or should have known that there was likely to be material injury by reason of dumped imports, consistent with section 733(e)(1)(A)(ii) of the Act, the Department normally will look to the preliminary injury determination of the ITC. See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From Japan, 64 FR 30574, 30578 (June 8, 1999) (Stainless Steel from Japan). The ITC preliminarily found material injury to the domestic industry due to imports of lemon juice from Mexico, which are alleged to be sold in the United States at less than fair value, and, on this basis, the Department may impute knowledge of likelihood of injury to these respondents. See ITC Preliminary Report. Thus, we determine that the knowledge criterion for ascertaining whether critical circumstances exist has been satisfied.

Because Citrotam/Pronacit has met the first prong of the critical–circumstances test, according to section 733(e)(1)(A)(i) of the Act we must examine whether imports from Citrotam/Pronacit were massive over a relatively short period of time. Section 733(e)(1)(B) of the Act provides that the Department will preliminarily determine that critical circumstances exist if there is a reasonable basis to believe or suspect that there have been massive imports of the subject merchandise over a relatively short period.

Section 351.206(h)(1) of the Department's regulations provides that, in determining whether imports of the subject merchandise have been ''massive,'' the Department normally will examine the volume and value of the imports, seasonal trends, and the share of domestic consumption for which the imports accounted. In addition, 19 CFR 351.206(h)(2) provides that an increase in imports of 15 percent during the ''relatively short period'' of time may be considered ''massive.''

Section 351.206(i) of the Department's regulations defines ''relatively short period'' as normally being the period beginning on the date the proceeding begins (*i.e.*, the date on which the petition is filed) and ending at least

three months later. The Department's regulations also provide, however, that, if the Department finds that importers, exporters, or producers had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, the Department may consider a period of not less than three months from that earlier time.

Because there is no verifiable information on the record with respect to Citrotam/Pronacit's import volumes, we must use facts available in accordance with section 776(a) of the Act. Moreover, because Citrotam/Pronacit failed to cooperate to the best of its ability, pursuant to section 776(b) of the Act, we have used an adverse inference in applying facts available and determine that there were massive imports from Citrotam/Pronacit over a relatively short period. *See TTR from Japan*, 68 FR at 71077.

Accordingly, because all of the necessary criteria have been met, in accordance with section 733(e)(1) of the Act, we preliminarily find that critical circumstances exist with respect lemon juice imported from Citrotam/Pronacit.

On April 9, 2007, Coca–Cola filed monthly import data for shipments of subject merchandise to the United States for June 2006 through March 2007. Coca–Cola's reported shipment data show that its volume of shipments of lemon juice is greater than the Department's 15–percent threshold for finding that imports have been massive. Coca–Cola contends that its increase in imports can be explained by seasonal trends. We have examined the information on the record and find that the increase in Coca–Cola's shipments during the comparison period is consistent with seasonal patterns related to the growing season for lemons and the corresponding production cycle for lemon juice. We analyzed import data for the relevant base and comparison periods for 2003 through 2006 and find that shipments show a consistent pattern of seasonality. For a detailed discussion see memorandum from Minoo Hatten to Laurie Parkhill entitled ''Antidumping Duty Investigation on Lemon Juice From Mexico - Preliminary Determination of Critical Circumstances'' dated April 18, 2007. Therefore we determine that there were no massive imports from Coco–Cola over a relatively short period. We preliminarily find that critical circumstances do not exist with respect to lemon juice imported from Coca–Cola.

B. All Others

It is the Department's normal practice to conduct its critical–circumstances analysis of companies in the all–others group based on the experience of investigated companies. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Steel Concrete Reinforcing Bars from Turkey*, 62 FR 9737, 9741 (March 4, 1997), where the Department found that critical circumstances existed for the majority of the companies investigated and concluded that critical circumstances also existed for companies covered by the all–others rate. As we determined in *Notice of Final Determination of Sales at Less Than Fair Value: Hot–Rolled Flat–Rolled Carbon–Quality Steel Products from Japan*, 64 FR 24329 (May 6, 1999), applying that approach literally could produce anomalous results in certain cases. Thus, in deciding whether critical circumstances apply to companies covered by the all–others rate, the Department also considers the traditional critical–circumstances criteria.

First, in determining whether there is a reasonable basis to believe or suspect that an importer knew or should have known that the exporter was selling lemon juice at less than fair value, we look to the all–others rate. See *TTR from Japan*, 68 FR at 71077. The dumping margin for the all–others category, 146.10 percent, is greater than the 25–percent threshold necessary to impute knowledge of dumping consistent with section 733(e)(1)(A)(ii) of the Act. Second, based on the ITC's preliminary material–injury determination, we also find that importers knew or should have known that there would be material injury from the dumped merchandise consistent with 19 CFR 351.206. See ITC Preliminary Report.

Finally, in determining whether imports from the all–others category have been massive, where possible, we have followed our normal practice of conducting the critical–circumstances analysis of companies in this category based on the experience of the investigated companies. We are unable to base our determination on our findings for Citrotam/Pronacit because our determination for Citrotam/Pronacit was based on AFA. Consistent with *TTR from Japan*, we have not inferred adverse facts, that massive imports exist for all–others companies, because, unlike Citrotam/Pronacit, the all–others companies have not failed to cooperate to the best of their ability in this investigation. Therefore, an adverse inference with respect to shipment levels by the all–others companies is not appropriate.

In this case, we have considered the experience of Coca–Cola. As discussed above, we preliminarily find that imports from Coca–Cola have not been massive over a relatively short period of time. Since our normal practice of conducting the critical–circumstances analysis of companies in the all–others category is based on the experience of the investigated companies, we determine that there have been no massive imports of lemon juice from companies in the all–others category. In addition, to ensure that relying upon the experience of the investigated companies did not cause anomalous results, we also reviewed the import statistics. In the case of lemon juice we are able to rely on information on the ITC's website because, in this investigation, the HTSUS categories for merchandise within the scope of the investigation (except for one) include only subject merchandise. The import statistics for Mexico support the conclusion that there have not been massive imports from Mexico.

Consequently, the criteria necessary for determining affirmative critical circumstances with respect to the all–others category have not been met. Therefore, we have preliminarily determined that critical circumstances do not exist for imports of lemon juice from Mexico for companies in the all–others category.

We will make a final determination concerning critical circumstances for all producers and exporters of subject merchandise from Mexico when we make our final antidumping determination in this investigation.

Verification

As provided in section 782(i) of the Act, we intend to verify all information upon which we will rely in making our final determination for Coca–Cola.

Preliminary Determination

We preliminarily determine that the following weighted–average dumping margins exist for the period July 1, 2005, through June 30, 2006:

Manufacturer/Exporter	Weighted–Average Margin (percent)
The Coca–Cola Export Corporation, Mexico Branch	146.10
Citrotam Internacional S.P.R. de R.L.(Citrotam)/ Productos Naturales de Citricos (Pronacit)	205.37
All Others	146.10

Suspension of Liquidation

In accordance with section 733(d) of the Act, we will instruct CBP to suspend liquidation of all entries of lemon juice from Mexico that are entered, or

withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Additionally, for Citrotam/Pronacit, we will instruct CBP to suspend liquidation of entries made on or after 90 days prior to the publication of this notice in accordance with section 733(e)(2) of the Act. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted–average margin, as indicated in the chart above, as follows: (1) the rates for the mandatory respondents will be the rates we have determined in this preliminary determination; (2) if the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 146.10 percent. These suspension–of-liquidation instructions will remain in effect until further notice.

Disclosure

We will disclose the calculations used in our analysis to parties in this proceeding in accordance with 19 CFR 351.224(b).

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary determination of sales at less than fair value. If our final antidumping determination is affirmative, the ITC will determine whether the imports covered by that determination are materially injuring, or threatening material injury to, the U.S. industry. The deadline for the ITC's determination will be the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determination.

Public Comment

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs to the Department no later than seven days after the date of the issuance of the final verification report in this proceeding. Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days from the deadline for the submission of case briefs. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide us with a copy of the public version of such briefs on diskette. Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in an investigation, the hearing normally will be held two days after the deadline for submission of the rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. We will make our final determination within 75 days after the date of this preliminary determination.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: April 19, 2007.

Joseph A. Spetrini,

Deputy Assistant Secretaryfor Import Administration.

[FR Doc. E7–8019 Filed 4–25–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 070416085–7085–01; I.D. 040907A]

Fishing Capacity Reduction Program for the Longline Catcher Processor Subsector of the Bering Sea/Aleutian Islands (BSAI) Non-Pollock Groundfish Fishery

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

ACTION: Notice of BSAI Non-Pollock Groundfish Longline Catcher Processor Subsector reduction payment tender.

SUMMARY: NMFS issues this notice to inform the public about tendering reduction payments under the longline catcher processor subsector of the Bering Sea/Aleutian Islands (BSAI) non-pollock groundfish fishery. The Freezer Longline Conservation Cooperative (FLCC) conducted the offer and selection process, submitted the reduction plan, and accepted four offers to remove groundfish license limitation program (LLP) licenses. A successful referendum approved the reduction loan repayment fees of $35 million. Accordingly, NMFS is preparing to tender reduction payments to accepted offerors.

DATES: The public has until May 29, 2007 to inform NMFS of any holding, owning, or retaining claims that conflict with the representations of offers as presented by the FLCC.

ADDRESSES: Send questions about this notice to Leo Erwin, Chief, Financial Services Division, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3282.

FOR FURTHER INFORMATION CONTACT: Leo Erwin, (301) 713–2390.

SUPPLEMENTARY INFORMATION:

I. Background

Section 219(e) of the Consolidated Appropriations Act of 2005 established the BSAI non-pollock groundfish longline catcher processor subsector fishing capacity reduction program (program). The program was implemented after the proposed rule was published in the **Federal Register** on August 11, 2006 (71 FR 46364) and the final rule on September 29, 2006 (71 FR 57696). Persons wanting further program details should refer to these rules.

The program's objectives include promoting sustainable fishery management and maximum sustained reduction of fishing capacity from the longline catcher processor subsector at the least cost. This is a voluntary program in which, in return for reduction payments, offerors permanently relinquish their fishing licenses, surrender the fishing histories upon which those licenses' issuance were based, and permanently withdraw vessels from fishing.

NMFS finances the program's $35 million cost, which post-reduction BSAI non-pollock groundfish longline catcher processors repay over a 30–year term. The fee amount, expressed in cents per pound rounded up to the next one-tenth of a cent, will be based upon the annual principal and interest due on the loan and could be up to 5 percent of longline subsector BSAI Pacific cod landings. In the event that the total principal and interest due exceeds 5 percent of the ex-vessel Pacific cod revenues, an additional fee of one penny per pound will be assessed for pollock, arrowtooth flounder, Greenland turbot, skate, yellowfin sole and rock sole.

The FLCC received member offers and subsequently voted to accept four offers. The FLCC used the reduction contracts

NMFS published in the **Federal Register** (71 FR 57701). The FLCC submitted a fishing capacity reduction plan (plan) subsequently approved by NMFS. A referendum concerning the fees necessary for repayment of the $35 million loan followed the offer and acceptance process. Approval of the industry fee system required at least two-thirds of the votes cast in the referendum to be in favor before the program could be implemented and payment tendered.

II. Present Status

NMFS mailed ballots to 39 qualified referendum voters on March 21, 2007, after approving the plan. The voting period opened on March 21, 2007, and closed on April 6, 2007. NMFS received 34 timely and valid votes. All of the votes approved the fees. This exceeded the two-thirds minimum required for industry fee system approval. Consequently, this referendum was successful and approved the industry fee system. Accordingly, the reduction contracts are in full force and effect and NMFS is now preparing to tender and disburse reduction payments to selected offerors.

III. Purpose

NMFS publishes this notification to inform the public before tendering reduction payments to the four accepted offers. NMFS will tender reduction payments on May 29, 2007. When NMFS tenders a reduction payment to a selected offeror, the selected offeror must permanently stop all further fishing with each reduction license and reduction privilege vessel the offeror has relinquished. NMFS will then:

(a) Permanently revoke the groundfish reduction permit and any other reduction permit(s);

(b) Notify the National Vessel Documentation Center to permanently revoke the reduction privilege vessel's fisheries trade endorsement;

(c) Notify the U.S. Maritime Administration to make the reduction privilege vessel permanently ineligible for the approval of requests to place the vessel under a foreign country's authority; and

(d) Record that the reduction fishing history represented by any documented harvest fishing history accrued on, under, or as a result of the operation of the reduction privilege vessel and/or reduction fishing vessel, the groundfish reduction permit, and the reduction permit(s) which could ever qualify the offeror for any future limited access fishing license, fishing permit, or any other harvesting privilege of any kind shall never again be available to anyone for any fisheries purpose.

The selected offeror has, in accordance with the reduction contract agreed to notify all creditors or other parties with interests in the reduction privilege vessel and/or any of the reduction permit(s) specified in the reduction contract that the selected offeror has entered into the reduction contract with respect to such vessel and permit(s).

This notice provides the public (including creditors or other parties) 30 days from May 29, 2007 to advise NMFS in writing of any holding, owning, or retaining claims that conflict with the representations of offers as presented by the FLCC.

IV. Selected Offerors, Vessels, and Licenses

The table below establishes:

(a) The names of the selected offerors;

(b) The names and official numbers of the reduction privilege vessels whose worldwide fishing privileges the selected offerors relinquished; and

(c) The area endorsements and license numbers of the reduction permits the selected offerors relinquished.

Selected Offeror	Vessel Name and Official Number	Area Endorsements	License Number
Northern Aurora Fisheries, Inc.	Northern Aurora, 596308	BSAI groundfish, CPHAL	LLG 2678, FFP 1613
Horizon Fisheries, LLC	Horizon, 586183	BSAI groundfish, Central Gulf groundfish, Western Gulf groundfish, CPHAL, BSAI *Opilio* crab	LLG 3843, LLC 3844, FFP 1301
Western Queen Fisheries, LLC	Western Queen, 284906	BSAI groundfish, CPHAL	LLG 3936,FFP 2647
Ocean Prowler, LLC - Inactive License only	Not Applicable	BSAI groundfish, Cental Gulf groundfish, CPHAL	LLG 3961

Authority

The authority for this action is 5 U.S.C. 561, 16 U.S.C. 1801, 16 U.S.C. 1861a(b) through (e), 46 App. U.S.C. 1279f and 1279g, section 144(d) of Division B of Pub. L. 106–554, section 2201 of Pub. L. 107–20, section 205 of Pub. L. 107–117, Pub. L. 107–206, Pub. L. 108–7, Pub. L. 108–199, and Pub. L. 108–447.

Dated: April 20, 2007.

Samuel D. Rauch III,

Deputy Assistanat Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. E7–7935 Filed 4–25–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 020607A]

Taking of Marine Mammals Incidental to Specified Activities; Repair of the South Jetty at the Mouth of the Columbia River, Clatsop County, Oregon

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

ACTION: Notice of issuance of an incidental harassment authorization.

SUMMARY: In accordance with provisions of the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that an Incidental Harassment Authorization (IHA) to take marine mammals, by harassment, incidental to repair work on the South Jetty at the Mouth of the Columbia River (MCR) in Clatsop County, Oregon, has been issued to the U.S. Army Corps of Engineers (ACOE), Portland District for a period of 1 year.

DATES: This authorization is effective from April 15, 2007 until October 31, 2008.

ADDRESSES: A copy of the application, IHA, Environmental Assessment (EA), and/or the Biological Opinions may be obtained by writing to P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225, or by

telephoning the contact listed here (see FOR FURTHER INFORMATION CONTACT). The application and its related documents are also available at *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*.

FOR FURTHER INFORMATION CONTACT: Shane Guan, NMFS, (301)713–2289, ext 137, or Bridgette Lohrman, NMFS Oregon State Habitat Office, (503)230–5422.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and 101(a)(5)(D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

An authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as:

> any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Section 101(a)(5)(D) establishes a 45–day time limit for NMFS review of an application followed by a 30–day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On October 23, 2006, NMFS received a request from the ACOE Portland District for an IHA to take small numbers of Steller sea lions (*Eumetopias jubatus*), California sea lions (*Zalophus californianus*), and Pacific harbor seals (*Phoca vitulina richardsi*), by Level B harassment, incidental to conducting repair work on the MCR South Jetty in Clatsop County, Oregon. The propose of the proposed work is to ensure the continuing function of the South Jetty by repairing critical trunk portions of the jetty. The premise of the jetty repair is to repair the most vulnerable areas of the South Jetty, where the consequences of jetty failure is high and would rapidly and significantly degrade navigation through the MCR. The intent of the proposed project is three-fold: (1) Improve the stability of the foundation (toe) of the jetty as affected by scour, (2) Improve the side slope (above and below water) stability, and (3) Improve the dynamic stability of the jetty as affected by wave forces impinging on the jetty.

Interim repairs in 2007 at the MCR South Jetty consist of placing approximately 70,000 tons of stone on the north and south slopes of the jetty. A detailed description of these activities was published in the **Federal Register** on January 3, 2007 (72 FR 124). No change has been made to these proposed activities.

The proposed project is planned to occur from April through October, 2007. The contractor will work 7 days per week, sunrise to sunset depending on weather and wave conditions.

Comments and Responses

A notice of receipt and request for 30–day public comment on the application and the proposed authorization was published on January 3, 2007 (72 FR 124). One comment from a private citizen was received during the 30–day public comment period. The Marine Mammal Commission (the Commission) also provided for comments on the proposed action.

Comment: One private citizen opposes the project out of concern that marine mammals would be killed as a result of the ACOE's activity.

Response: As described in detail in the **Federal Register** notice of receipt of the application (72 FR 124, January 3, 2007), the request submitted by the ACOE only requests authorization to harass a small number of marine mammals as a result of planned construction activities and does not allow for lethal or Level A takes. No take by mortality, injury, or temporary hearing threshold shift of marine mammals is expected or authorized for this proposed activity. Incidental taking will be limited to a temporary and localized disturbance of animals from elevated sound levels and visual stimulus from construction activities from rehabilitation of the Columbia River South Jetty.

The Commission recommends that NMFS issue the IHA to the ACOE, provided that the monitoring and mitigation activities proposed in the previous notice (72 FR 124, January 3, 2007) are carried out as described.

Description of the Marine Mammals Potentially Affected by the Activity

The marine mammals most likely to be found in MCR area are the Eastern U.S. stock of Steller sea lions, California sea lions, and Pacific harbor seals. The Steller sea lion eastern stock is listed as threatened under the Endangered Species Act (ESA) and is designated as ''depleted'' under MMPA. The California sea lions and harbor seals are not ESA-listed, nor are they depleted. General information of these species and stocks are provided in the January 3, 2007, **Federal Register** (72 FR 124). Therefore, it is not repeated here. More detailed information on these species and stocks can be found in Caretta *et al.* (2006) and Angliss and Outlaw (2005), which is available at the following URL: *http://www.nmfs.noaa.gov/pr/pdfs/sars/po2005.pdf* and *http://www.nmfs.noaa.gov/pr/pdfs/sars/ak2005.pdf*, respectively.

Potential Effects on Marine Mammals and Their Habitat

ACOE and NMFS have determined that the proposed repair work at MCR South Jetty has the potential to result in behavioral harassment of those Steller sea lions, California sea lions, and Pacific harbor seals that may be present in the project vicinity.

The potential takes of these three marine mammal species will be from noise generated by operation of construction equipment and related activities, and from the presence of trucks, excavators, construction machinery, and personnel in the proximity to the animals.

The anticipated impact upon the sea lions and harbor seals include temporary disturbance and displacement of animals to other parts of the jetty or other nearby haul-outs

until work is discontinued. Other haul-outs are available for harbor seals throughout the Columbia River estuary, and for sea lions on other parts of the south jetty, the North Jetty, or rocky headlands in northern Oregon or southern Washington states. Observations in the past have shown that animals that are disturbed into the water did not leave the vicinity, instead, they would move to other parts of the jetty.

It has been observed that Steller sea lions moved into water when approached by a boat within 300 ft (91 m) or less, however, in other occasions there was no change in Steller sea lion behavior when approached within the same distance or less. It is also noted that majority of Steller sea lions use the far end of the jetty, which is broken off from the main stretch of the jetty and formed an island. It is estimated that maximum of 10% Steller sea lions at South Jetty will occur within range of disturbance, and none would occur within the range of disturbance during the first month. Therefore, the total number of Steller sea lion that potentially could be taken, calculated from the recorded data of Steller sea lion at South Jetty from 1995 - 2004, would be 204 animals.

California sea lions are known to use areas of the jetty more shoreward than Steller sea lions. It is assumed that all California sea lions and harbor seals hauled out in the vicinity of the proposed project would be taken by Level B harassment. Based on the average number of pinnipeds recorded on the MCR South Jetty between 1995 and 2004 (Hodder, 2005), it is estimated that a total of 336 California sea lions and 4 Pacific harbor seals would be taken by Level B harassment as a result of the proposed jetty repair work.

Repairing the South Jetty by adding more rocks will not reduce the availability or accessibility of habitat for Steller and California sea lions and harbor seals, as rock replacement would occur at the existing jetty footprint. Seals and sea lions use the existing tip of the jetty that is built of concrete blocks, and are easily able to climb up several vertical feet from one block to the next. The MCR South Jetty is not designated as critical habitat for the Steller sea lion under the ESA.

There is no subsistence harvest of marine mammals in the proposed project area, therefore, there will be no impact of the activity on the availability of the species or stocks of marine mammals for subsistence uses.

Mitigation and Monitoring

As a mitigation measure to reduce potential Level B harassment to marine mammals as a result of the proposed project, NMFS requires that during land-based rock placement at South Jetty, the contractor vehicles and personnel should avoid direct approach towards pinnipeds that are hauled out as much as possible. If it is absolutely necessary for the contractor to make movements towards pinnipeds, the contractor must approach in a slow and steady manner to reduce the behavioral harassment to the animals as much as possible.

The ACOE will monitor marine mammals before, during, and after the proposed South Jetty repair project in the MCR area. Steller and California sea lions and harbor seals in the MCR area will be monitored for 1 week before, during, and 4 and 8 weeks after the proposed construction work. Pinniped species, numbers, behavior, any observed disturbances during the jetty repair construction, and recolonization by pinnipeds of the project area after the construction activities will be noted.

Reporting

The ACOE will report the number of sea lions and seals present on the South Jetty for 1 week before starting work. During construction, the ACOE will provide weekly reports to NMFS which will include a summary of the previous week's numbers of sea lions and seals that may have been disturbed as a result of the jetty repair construction activities. These reports will provide dates, time, tidal height, number of pinnipeds on the haul road to the point of work and as far as one can see oceanward from the point of work, any observed disturbances, and the type of activities that caused the disturbances. The ACOE also will provide a description of construction activities at the time of observation. The ACOE will submit a report to NMFS within 90 days of completion of the 2007 phase of the project.

National Environmental Policy Act (NEPA)

In January, 2005, ACOE prepared the *Final Environmental Assessment Repair of North and South Jetties Mouth of the Columbia River, Clatsop County, Oregon and Pacific County, Washington* (EA). NMFS has reviewed this EA and determined that it satisfies the standards for an adequate statement under the NMFS regulations and is consistent with the Council on Environmental Quality's regulations and NOAA's Administrators Order 216–6 for implementing the procedural provisions of the NEPA (40 CFR sec. 1508.3). NMFS decided to adopt this EA and has issued a Finding of No Significant Impact statement. NMFS has determined that preparation of an environmental impact statement on this activity is not necessary.

ESA

The NMFS Northwest Regional Office (NWRO) prepared a Biological Opinion (BO) upon conducting a section 7 consultation with the ACOE in July 2004. In the BO, NMFS concluded that the proposed action is not likely to jeopardize the continued existence of thirteen species of ESA-listed salmonid fishes, Snake River (SR) fall-run Chinook salmon, SR spring/summer-run Chinook salmon, SR sockeye salmon, SR steelhead, Lower Columbia River (LCR) Chinook salmon, Upper Columbia River (UCR) spring-run Chinook salmon, Upper Willamette River (UMR) Chinook salmon, Columbia River chum salmon, Middle Columbia River steelhead, LCR steelhead, UWR steelhead, UCR steelhead, and LCR coho salmon, or destroy or adversely modify designated critical habitat.

On April 2, 2004, NMFS NWRO issued a ''may affect, but not likely to adversely affect'' determination for the effects to marine mammals and sea turtles listed under the ESA from the rehabilitation of the north and south jetties at the MCR area to the ACOE. On October 18, 2005, ACOE contacted NMFS to discuss new information regarding Steller sea lions hauling out on the South Jetty closer to the work site than previously observed. The ACOE requested NMFS' concurrence with a determination of ''may affect, but not likely to adversely affect'' Steller sea lions with regard to this new information. After conversations with NMFS concerning this determination, the ACOE initiated formal consultation for the Steller sea lion on November 30, 2005, for carrying out the rehabilitation of the South Jetty at the MCR. On September 27, 2006, NMFS NWRO issued a BO based on the reinitiation of an ESA section 7 consultation on Steller sea lions. In this BO, NMFS concluded that the proposed action is not likely to jeopardize the continued existence of the Eastern U.S. stock of Steller sea lion. The BO also concurred that no Steller sea lion critical habitat exists within the proposed action area.

Determinations

For the reasons discussed in this document and in previously identified supporting documents, NMFS has determined that the impact of jetty

repair construction at the MCR South Jetty should result, at worst, in the Level B harassment of small numbers of Steller sea lions, California sea lions, and Pacific harbor seals that haul-out in the vicinity of the proposed project area. While behavioral modifications, including temporarily vacating the area around the construction site, may be made by these species to avoid the resultant visual and acoustic disturbance, the availability of alternate areas within MCR and haul-out sites has led NMFS to determine that this action will have a negligible impact on Steller sea lion, California sea lion, and Pacific harbor seal populations in the area.

In addition, no take by Level A harassment (injury) or death is anticipated and harassment takes should be at the lowest level practicable due to incorporation of the mitigation measures mentioned previously in this document.

Authorization

NMFS has issued an IHA, pursuant to section 101(a)(5)(D) of the MMPA, to the ACOE for the potential harassment of small numbers of Steller sea lions, California sea lions, and harbor seals incidental to repair construction at the MCR South Jetty in Clatsop County, Oregon, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: April 17, 2007.

James H. Lecky,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E7–8028 Filed 4–25–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Board of Regents of the Uniformed Services University of the Health Sciences

AGENCY: Department of Defense, Uniformed Services University of the Health Sciences

ACTION: Quarterly meeting notice.

SUMMARY: On April 10, 2007 (72 FR 17881), the Department of Defense published a notice with the subject heading ''Department of Defense Task Force on the Future of Military Health Care'' which should have read ''Board of Regents of the Uniformed Services University of the Health Sciences''. This notice corrects the title for that notice. All other information remains unchanged.

FOR FURTHER INFORMATION AND BASE ACCESS PROCEDURES CONTACT: Janet S. Taylor, Designated Federal Officer.

Dated: April 23, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. 07–2072 Filed 4–24–07; 10:49 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Service Contracting (OMB Control Number 0704–0231)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. DoD invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection requirement for use through September 30, 2007. This proposal also includes 5 burden hours related to audit services, presently approved under OMB Control Number 0704–0187 for use through February 28, 2009. DoD proposes that OMB extend its approval for these collections for 3 additional years.

DATES: DoD will consider all comments received by June 25, 2007.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704–0231, using any of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail*: *dfars@osd.mil.* Include OMB Control Number 0704–0231 in the subject line of the message.
- *Fax*: (703) 602–0350.
- *Mail*: Defense Acquisition Regulations System, Attn: Ms. Amy Williams, OUSD(AT&L)DPAP(DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.
- *Hand Delivery/Courier*: Defense Acquisition Regulations System, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202–3402.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602–0328. The information collection requirements addressed in this notice are available on the World Wide Web at: *http://www.acq.osd.mil/dpap/dars/dfars/index.htm.* Paper copies are available from Ms. Amy Williams, OUSD(AT&L)DPAP(DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.

SUPPLEMENTARY INFORMATION:

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 237, Service Contracting, and the associated clauses at DFARS 252.237; DD Form 2063, Record of Preparation and Disposition of Remains; OMB Control Number 0704–0231.

Needs and Uses: This requirement provides for the collection of necessary information from contractors regarding the results of the embalming process under contracts for mortuary services. The information is used to ensure proper preparation of the body for shipment and burial. In addition, this requirement provides for the collection of information to enable a contracting officer to verify that the apparently successful offeror, in response to a solicitation for audit services, has the appropriate license for operation of its professional practice.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Annual Burden Hours: 405.

Number of Respondents: 810.

Responses Per Respondent: 1.

Annual Responses: 810.

Average Burden Per Response: .5 hour.

Frequency: On occasion.

Summary of Information Collection

The provision at DFARS 252.237–7000, Notice of Special Standards of Responsibility, requires the apparently successful offeror, in response to a solicitation for audit services, to provide the contracting officer with evidence that it is licensed by the cognizant licensing authority in the State or other political jurisdiction where the offeror operates its professional practice.

The clause at DFARS 252.237–7011, Preparation History, requires the contractor to submit information that briefly describes the results of the embalming process for each body prepared for burial under a DoD contract. DD Form 2063 is used for this purpose.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

[FR Doc. E7–7903 Filed 4–25–07; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 29, 2007.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, Washington, DC 20503. Commenters are encouraged to submit responses electronically by email to *oira_submission@omb.eop.gov* or via fax to (202) 395–6974. Commenters should include the following subject line in their response ''Comment: [insert OMB number], [insert abbreviated collection name, *e.g.*, ''Upward Bound Evaluation'']. Persons submitting comments electronically should not submit paper copies.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: April 20, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: Reinstatement.

Title: Private School Universe Survey.

Frequency: Biennially.

Affected Public: Not-for-profit institutions; Businesses or other for-profit.

Reporting and Recordkeeping Hour Burden:

Responses: 35,625.

Burden Hours: 8,467.

Abstract: The purposes of this data collection are to generate biennial data on the total number of private schools, teachers, and students; and to build an NCES universe frame of private schools to serve as a sampling frame for NCES surveys that include private schools. This survey is an ongoing project to improve NCES universe and sample data on private schools.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3268. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E7–8005 Filed 4–25–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL07–56–000]

Allegheny Electric Cooperative, Inc. Borough of Chambersburg, PA; City and Towns of Hagerstown, Thurmont, and Williamsport, MD; District of Columbia Office of the People's Counsel; Illinois Citizens Utility Board; Indiana Office of Utility Consumer Counsel; Maryland Office of People's Counsel; New Jersey Division of Rate Counsel; Office of the Attorney General of Virginia, Division of Consumer Counsel; Office of the Ohio Consumer's Counsel; Old Dominion Electric Cooperative; Pennsylvania Office of Consumer Advocate; PJM Industrial Customer Coalition; Southern Maryland Electric Cooperative, Inc.; State of Delaware, Division of the Public Advocate v. PJM Interconnection, L.L.C.; Notice of Designation of Commission Staff as Non-Decisional

April 20, 2007.

Effective April 19, 2007, Alan Haymes, of the Federal Energy Regulatory Commission (Commission), was designated as non-decisional staff in the above-captioned docket. As non-decisional staff, Mr. Haymes will not participate in an advisory capacity in deliberations on the issues pending therein. Separated non-decisional and advisory staffs are prohibited from communicating with one another concerning the deliberations set forth above.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–7984 Filed 4–25–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–402–000]

Great Lakes Gas Transmission Limited Partnership; Notice of Proposed Changes in FERC Gas Tariff

April 20, 2007.

Take notice that on April 18, 2007, Great Lakes Gas Transmission Limited Partnership (Great Lakes) tendered for filing as part of its FERC Gas Tariff the following tariff sheets, to become effective February 22, 2007:

Fourth Revised Sheet No. 0
Third Revised Sheet No. 50Q
Ninth Revised Sheet No. 65
Third Revised Sheet No. 85
Third Revised Sheet No. 86B
Fifth Revised Sheet No. 88

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.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–7981 Filed 4–25–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–167–002]

Petal Gas Storage, L.L.C.; Notice of Compliance Filing

April 20, 2007.

Take notice that on April 17, 2007, Petal Gas Storage, L.L.C. (Petal) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Second Substitute Second Revised Sheet No. 140, to become effective March 6, 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.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–7987 Filed 4–25–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–385–001]

Western Gas Resources, Inc., and Pioneer Natural Resources (USA), Inc.; Notice of Amendment

April 20, 2007.

Take notice that on April 9, 2007, Pioneer Natural Resources (USA), Inc. (Pioneer), 1400 Williams Square West, 5205 North O'Connor Boulevard, Irving, Texas, filed an amendment to Western Gas Resources, Inc.'s (WGR) pending May 26, 2006 application in Docket No. CP06–385–000. By this amendment, Pioneer seeks to become a joint applicant in the petition for clarification that the Midkiff Line, located in Texas and jointly owned by WGR and Pioneer, retains its non-jurisdictional status, or, alternatively, the request, pursuant to section 7(c) of the Natural Gas Act, that the Commission issue a limited jurisdiction certificate and waive certain regulatory requirements, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

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 email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Any questions regarding this application should be directed to Mr. Jefferson Rees, Pioneer Natural Resources, 5205 North O'Connor Blvd., Suite 200, Irving, Texas 75039; or e-mail: *jeff.rees@pxd.com*; phone: (972) 969–4040; or fax: (972) 969–3577.

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 on or before the comment date indicated below. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. 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.

Comment Date: May 11, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–7989 Filed 4–25–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–449–000]

Kinder Morgan Louisiana Pipeline LLC; Notice of Availability of the Final Environmental Impact Statement for the Proposed Kinder Morgan Louisiana Pipeline Project

April 20, 2007.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a final Environmental Impact Statement (EIS) on the natural gas pipeline facilities proposed by Kinder Morgan Louisiana Pipeline LLC (KMLP) in the above-referenced docket.

The final EIS was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed Project with the appropriate mitigating measures as recommended, would have limited adverse environmental impact. The final EIS also evaluates alternatives to the proposal, including system alternatives, major route alternatives, and route variations.

The final EIS addresses the potential environmental effects of the construction and operation of the following facilities:

- Leg 1—132.2 miles of 42-inch-diameter pipeline beginning within the Sabine Pass Liquefied Natural Gas (LNG) Terminal in Cameron Parish and extending northward and easterly through Calcasieu, Jefferson Davis, and Acadia Parishes until it connects with an existing Columbia Gulf Transmission interstate pipeline in Evangeline Parish, Louisiana.
- Leg 2—1.2 miles of 36-inch-diameter pipeline beginning within the Sabine Pass LNG Terminal and extending to a point of interconnection with the existing Natural Gas Pipeline Company of America pipeline just south of State Highway 82 in Cameron Parish, Louisiana.
- The Florida Gas Transmission (FGT) Lateral—2.3 miles of 24-inch-diameter pipeline extending eastwardly from Leg 1 at approximately milepost 110.60 until it connects with the existing FGT Company's Compressor Station No. 7 near the town of Williams in Acadia Parish, Louisiana.
- Associated mainline block valves, metering, tie-in, and pigging facilities.

The purpose of the proposed facilities is to deliver at least 3,395,000 decatherms (Dth) per day of regasified natural gas from the Sabine Pass LNG Terminal into the national pipeline and underground storage grid.

The final EIS has been placed in the public files of the FERC and is available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 502–8371.

Copies the final EIS have been mailed to Federal, State, and local agencies, public interest groups, individuals who have requested the final EIS, newspapers, and parties to this proceeding.

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 ''Documents and Filings'' tab, click on the ''eLibrary link,'' and select ''General Search.'' Enter the project docket number excluding the last three digits (i.e., CP06–449) in the ''Docket Number'' field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which 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/docs-filing/esubscription.asp*.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–7982 Filed 4–25–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

April 20, 2007.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of License to Modify Project Design.

b. *Project No.:* 11588–027.

c. *Date Filed:* January 26, 2007.

d. *Applicant:* Alaska Power and Telephone Company.

e. *Name of Project:* Kasidaya Creek Hydroelectric Project.

f. *Location:* On the Kasidaya Creek at Taiya Inlet, 3 miles south of the City of Scagway, and 12 miles northeast of the City of Haines, Alaska.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Glen D. Martin, Alaska Power and Telephone Company, 193 Otto Street, Port Townsend, WA 98368. Phone (360) 385–1733.

i. *FERC Contact:* Anumzziatta Purchiaroni at (202) 502–6191, and e-mail: *Anumzziatta.Purchiaroni@ferc.gov*.

j. *Deadline for filing comments, motions to intervene, and protest:* May 21, 2007.

All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project.

Further, if an 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 document on that resource agency. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

k. *Description of Request:* The licensee proposes to: (1) Move the diversion structure about 54 feet downstream from the authorized location, and change the height of the structure from 10 to 15 feet, which would change the surface area of the impoundment from 0.25 to about 0.30 acre, and its volume from 1.0 to 1.1 acre-feet; (2) extend the access road about 800 feet on the north side of Kasidaya Creek, cross over the creek with a 50-foot-long modular bridge, and then construct an additional 400 feet of road on the south side of the creek, to access the diversion structure; (3) instead of the authorized 675 foot-long tunnel between the diversion structure and the penstock, install a penstock that would be buried adjacent to the proposed extended access road; (4) install a pneumatic-operated gate instead of a spillway with a fixed concrete crest; (5) eliminate the quay at the marine access facilities; and (6) decrease the length of the jetty from 250 to 200 feet. The corridor of the proposed extension of the access road and penstock would be in the same vicinity of the upper segment of penstock that was originally proposed under the license. These modifications would require changing the amount of federal lands occupied by the project from 11.05 acres to 12.14 acres.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*, for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–7985 Filed 4–25–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12455–003]

Beltzville Hydroelectric Project; Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

April 20, 2007.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original License.

b. *Project No.:* 12455–003.

c. *Date filed:* December 29, 2006.

d. *Applicant:* Borough of Leighton, Pennsylvania.

e. *Name of Project:* Beltzville Hydroelectric Project.

f. *Location:* The project would be connected to the U.S. Army Corps of Engineers' Beltzville Dam, located on Pohopoco Creek, in the Borough of Leighton, Carbon County, Pennsylvania.

g. *Filed Pursuant to:* The Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. John Hanosek, P.E., Borough Manager, P.O. Box 29, Municipal Building, Second and South Street, Leighton, PA 18235, (610) 377–4002.

i. *FERC Contact:* Jack Hannula, (202) 502–8917 or *john.hannula@ferc.gov*.

j. *Deadline for filing motions to intervene and protests:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedures require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Motions to intervene and protests may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

k. This application has been accepted for filing, but is not ready for environmental analysis at this time.

l. *Description of Project:* The project would be located at the existing Corps of Engineers Beltzville Dam which is a 175-foot-high, 4,600-foot-long earth-fill dam with a 23-foot-high, 2,000-foot-long un-gated concrete spillway. The reservoir has 949 surface acres at a normal water surface elevation of 628.0 feet, mean sea level (msl).

The proposed Beltzville Hydroelectric Project would consist of: (1) A new, approximately 150-foot-long penstock connected to the downstream side of Beltsville Dam via an existing outlet conduit that would be modified to include a 78-inch diameter steel pipe

liner, a new 78-inch butterfly valve, Y-branch, and 84-inch slide gate: (2) The penstock would lead to a new 60-foot-long, 30-foot-wide powerhouse which would contain two generating units, a 1,700 kilowatt (kW) unit and a 900 kW generating unit; and (3) a 300-foot-long, 12-kilovolt transmission line. The estimated average annual generation would be 9,470 megawatt hours (MWh).

m. A copy of the application 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 ''eLibrary'' link. Enter the docket number (e.g., P–12455) excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified deadline date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified deadline date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests 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 protests or motions to intervene must be received on or before the specified comment date for the particular application.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'' or COMPETING APPLICATION;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

p. *Procedural Schedule:* The Commission staff proposes to issue one Environmental Assessment (EA) rather than a draft and final EA. Staff intend to allow 30 days for entities to comment on the EA, and will take into consideration all comments received on the EA before final action is taken on the application.

The application will be processed according to the following schedule. Revisions to the schedule will be made as appropriate.

Action	Date
Issuing Scoping document	May 2007.
Notice the Application is ready for environmental analysis	July 2007.
Notice availability of EA	January 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–7986 Filed 4–25–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP07–62–000]

AES Sparrows Point LNG, LCC; Notice of Technical Conference

April 20, 2007.

On Tuesday, May 8, 2007, at 9 a.m. (EDT), staff of the Office of Energy Projects will convene a cryogenic design and technical conference regarding the proposed Sparrows Point import terminal. The cryogenic conference will be held in the Homewood Suites at Baltimore/Washington International Airport. The hotel is located at 1181 Winterson Road, Linthicum, Maryland, 21090. For Homewood Suites details call 410–684–6100.

The conference will review the design of the LNG storage tanks and facility, instrumentation and controls, hazard detection and controls, spill containment, geotechnical topics, and other issues related to the operation of the proposed facility. Issues related to environmental impacts and LNG vessel transit are outside the scope of the conference.

In view of the nature of critical energy infrastructure information and security issues to be explored, the cryogenic conference will not be open to the public. Attendance at this conference will be limited to existing parties to the proceeding (anyone who has specifically requested to intervene as a party) and to representatives of interested Federal, State, and local agencies. Any person planning to attend the May 8th cryogenic conference *must register* by close of business on Monday, May 7, 2007. Registrations may be submitted either online at *https://www.ferc.gov/whats-new/registration/cryo-conf-form.asp* or by faxing a copy of the form (found at the referenced online link) to 202–208–0353. All attendees must sign a non-disclosure statement prior to entering the conference. For additional information regarding the cryogenic conference,

please contact Kandilarya Jacaman at 202–502–6365.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–7983 Filed 4–25–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–325–000]

Equitrans, L.P.; Notice of Technical Conference

April 20, 2007.

Take notice that the Commission will convene a technical conference in the above referenced proceeding on Friday, May 4, 2007, at 10 a.m. (EDT), in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's March 29, 2007 order [1] directed that a technical conference be held to address the issues raised by a March 1, 2007 filing of Equitrans, L.P. (Equitrans) to institute a surcharge to recover certain costs incurred by Equitrans under the Pipeline Safety Improvement Act of 2002 (PSIA).

The parties and the Commission Staff will have the opportunity to discuss all of the issues raised by the filing including, but not limited to, the validity of the costs Equitrans seeks to recover and the underlying support for these costs.

FERC 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 (866) 208–3372 (voice) or 202–502–8659 (TTY), or send a fax to 202–208–2106 with the required accommodations.

All interested persons are permitted to attend. For further information please contact Lisa T. Long by phone at (202) 502–8691 or via e-mail at *lisa.long@ferc.gov*.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–7988 Filed 4–25–07; 8:45 am]

BILLING CODE 6717–01–P

[1] *Equitrans, L.P.*, 118 FERC ¶ 61,258 (2007).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act; Notice of Meeting, Notice of Vote, Explanation of Action Closing Meeting and List of Persons To Attend

April 19, 2007.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: April 26, 2007, 9:30 a.m.

PLACE: Room 2C, Commission Meeting Room, 888 First Street, NE., Washington, DC 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Non-Public, Investigations and Inquiries, Enforcement Related Matters.

FOR FURTHER INFORMATION CONTACT: Kimberly D. Bose, Secretary, Telephone (202) 502–8400.

Chairman Kelliher and Commissioners Kelly, Spitzer, Moeller, and Wellinghoff voted to hold a closed meeting on April 26, 2007. The certification of the General Counsel explaining the action closing the meeting is available for public inspection in the Commission's Public Reference Room at 888 First Street, NE., Washington, DC 20426.

The Chairman and the Commissioners, their assistants, the Commission's Secretary, the General Counsel and members of his staff, and a stenographer are expected to attend the meeting. Other staff members from the Commission's program offices who will advise the Commissioners in the matters discussed will also be present.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–7958 Filed 4–25–07; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8306–1]

Office of Research and Development; Ambient Air Monitoring Reference and Equivalent Methods: Designation of a New Equivalent Method

AGENCY: Environmental Protection Agency.

ACTION: Notice of the designation of a new equivalent method for monitoring ambient air quality.

SUMMARY: Notice is hereby given that the Environmental Protection Agency (EPA) has designated, in accordance with 40 CFR part 53, a new equivalent method for measuring concentrations of ozone (O_3) in the ambient air.

FOR FURTHER INFORMATION CONTACT: Elizabeth Hunike, Human Exposure and Atmospheric Sciences Division (MD–D205–03), National Exposure Research Laboratory, U.S. EPA, Research Triangle Park, North Carolina 27711. Phone: (919) 541–3737, e-mail: *Hunike.Elizabeth@epa.gov.*

SUPPLEMENTARY INFORMATION: In accordance with regulations at 40 CFR part 53, the EPA evaluates various methods for monitoring the concentrations of those ambient air pollutants for which EPA has established National Ambient Air Quality Standards (NAAQSs) as set forth in 40 CFR part 50. Monitoring methods that are determined to meet specific requirements for adequacy are designated by the EPA as either reference methods or equivalent methods (as applicable), thereby permitting their use under 40 CFR part 58 by States and other agencies for determining attainment of the NAAQSs.

The EPA hereby announces the designation of a new equivalent method for measuring concentrations of O_3 in the ambient air. This designation is made under the provisions of 40 CFR part 53, as amended on December 18, 2006 (71 FR 61271).

The new equivalent method is an automated method (analyzer) that utilizes a measurement principle based on absorption of ultraviolet light by ozone at a wavelength of 254 nm. The newly designated equivalent method is identified as follows:

EQOA–0407–165, ''Tanabyte Models 722, 723, 724, 725, or 726 Ambient Ozone Analyzer,'' enclosed in either a Dual-Bay Chassis or a Single-Bay Chassis and operated on either the 0–0.5 ppm or 0–1.0 ppm measurement range, within an ambient temperature range of 20 to 30 degrees C, and with a sample inlet particulate filter installed in the sample filter holder.

An application for an equivalent method determination for the candidate method based on this ozone analyzer was received by the EPA on January 19, 2007. The sampler is commercially available from the applicant, Tanabyte Engineering, Inc., 1210 West Burbank Boulevard, Suite B, Burbank, CA 91506.

A test analyzer representative of this method has been tested in accordance with the applicable test procedures specified in 40 CFR part 53 (as amended on December 18, 2006). After reviewing the results of those tests and other

information submitted by the applicant in the application, EPA has determined, in accordance with part 53, that this method should be designated as an equivalent method. The information submitted by the applicant in the application will be kept on file, either at EPA's National Exposure Research Laboratory, Research Triangle Park, North Carolina 27711 or in an approved archive storage facility, and will be available for inspection (with advance notice) to the extent consistent with 40 CFR part 2 (EPA's regulations implementing the Freedom of Information Act).

As a designated reference or equivalent method, this method is acceptable for use by states and other air monitoring agencies under the requirements of 40 CFR part 58, Ambient Air Quality Surveillance. For such purposes, the method must be used in strict accordance with the operation or instruction manual associated with the method and subject to any specifications and limitations (*e.g.*, configuration or operational settings) specified in the applicable designation method description (see the identifications of the method above).

Use of the method should also be in general accordance with the guidance and recommendations of applicable sections of the ''Quality Assurance Handbook for Air Pollution Measurement Systems, Volume I,'' EPA/600/R–94/038a and ''Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II, Part 1,'' EPA–454/R–98–004 (available at *http://www.epa.gov/ttn/amtic/qabook.html*). Vendor modifications of a designated reference or equivalent method used for purposes of part 58 are permitted only with prior approval of the EPA, as provided in part 53. Provisions concerning modification of such methods by users are specified under Section 2.8 (Modifications of Methods by Users) of Appendix C to 40 CFR part 58.

In general, a method designation applies to any sampler or analyzer which is identical to the sampler or analyzer described in the application for designation. In some cases, similar samplers or analyzers manufactured prior to the designation may be upgraded or converted (e.g., by minor modification or by substitution of the approved operation or instruction manual) so as to be identical to the designated method and thus achieve designated status. The manufacturer should be consulted to determine the feasibility of such upgrading or conversion.

Part 53 requires that sellers of designated reference or equivalent method analyzers or samplers comply with certain conditions. These conditions are specified in 40 CFR 53.9 and are summarized below:

(a) A copy of the approved operation or instruction manual must accompany the sampler or analyzer when it is delivered to the ultimate purchaser.

(b) The sampler or analyzer must not generate any unreasonable hazard to operators or to the environment.

(c) The sampler or analyzer must function within the limits of the applicable performance specifications given in 40 CFR parts 50 and 53 for at least one year after delivery when maintained and operated in accordance with the operation or instruction manual.

(d) Any sampler or analyzer offered for sale as part of a reference or equivalent method must bear a label or sticker indicating that it has been designated as part of a reference or equivalent method in accordance with part 53 and showing its designated method identification number.

(e) If such an analyzer has two or more selectable ranges, the label or sticker must be placed in close proximity to the range selector and indicate which range or ranges have been included in the reference or equivalent method designation.

(f) An applicant who offers samplers or analyzers for sale as part of a reference or equivalent method is required to maintain a list of ultimate purchasers of such samplers or analyzers and to notify them within 30 days if a reference or equivalent method designation applicable to the method has been canceled or if adjustment of the sampler or analyzer is necessary under 40 CFR 53.11(b) to avoid a cancellation.

(g) An applicant who modifies a sampler or analyzer previously designated as part of a reference or equivalent method is not permitted to sell the sampler or analyzer (as modified) as part of a reference or equivalent method (although it may be sold without such representation), nor to attach a designation label or sticker to the sampler or analyzer (as modified) under the provisions described above, until the applicant has received notice under 40 CFR part 53.14(c) that the original designation or a new designation applies to the method as modified, or until the applicant has applied for and received notice under 40 CFR 53.8(b) of a new reference or equivalent method determination for the sampler or analyzer as modified.

Aside from occasional breakdowns or malfunctions, consistent or repeated noncompliance with any of these conditions should be reported to: Director, Human Exposure and Atmospheric Sciences Division (MD–E205–01), National Exposure Research Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Designation of this new equivalent method is intended to assist the States in establishing and operating their air quality surveillance systems under 40 CFR part 58. Questions concerning the commercial availability or technical aspects of the method should be directed to the applicant.

Jewel F. Morris,

Acting Director, National Exposure Research Laboratory.

[FR Doc. E7–7997 Filed 4–25–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8306–3]

Reissuance of General NPDES Permit (GP) for Alaskan Small Suction Dredging (Permit Number AKG–37–5000)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final notice of reissuance of a general permit.

SUMMARY: On June 4, 2007, a general permit regulating the activities of small suction dredge mining for gold placer mining operations in the State of Alaska expires. On January 16, 2007, EPA proposed to reissue this GP. There was a 45 day comment period.

On April 4, 2007, the Department of Natural Resources, Office of Project Management and Permitting agreed with EPA's consistency determination under the Alaska Coastal Management Act. The Department of Environmental Conservation certified the GP under section 401 of the Clean Water Act on April 16, 2007. EPA received several comments on the GP and has prepared a Response to Comments. EPA has determined that each facility submitting a new Notice of Intent (NOI) prior to the expiration date of the current permit will be automatically covered by the reissued GP.

DATES: The GP will be effective on June 5, 2007. Since coverage between the current GP and the reissued GP is continuous, there is no administrative extension of coverage under this GP.

ADDRESSES: Copies of the GP and the Response to Comments are available upon request. Written requests may be submitted to EPA Region 10, 1200 Sixth Avenue OWW–130, Seattle, WA 98101. Electronic requests may be mailed to: *washington.audrey@epa.gov* or *godsey.cindi@epa.gov.*

FOR FURTHER INFORMATION CONTACT: The GP, Fact Sheet, and Response to Comments may be found on the Region 10 Web site at *http://www.epa.gov/r10earth/waterpermits.htm* (click on general permits then on placer mining). Telephone requests for copies may be made to Audrey Washington at (206) 553–0523 or to Cindi Godsey at (907) 271–6561.

SUPPLEMENTARY INFORMATION:

Executive Order 12866: The Office of Management and Budget has exempted this action from the review requirements of Executive Order 12866 pursuant to Section 6 of that order.

Regulatory Flexibility Act: After review of the facts presented in the notice printed above, I hereby certify pursuant to the provision of 5 U.S.C. 605(b) that the reissuance of this general permit will not have a significant impact on a substantial number of small entities. Moreover, the permit reduces a significant administrative burden on regulated sources.

Dated: April 19, 2007.

Michael F. Gearheard,

Director, Office of Water & Watersheds, Region 10.

[FR Doc. E7–7999 Filed 4–25–07; 8:45 am]

BILLING CODE 6560–50–P

COUNCIL ON ENVIRONMENTAL QUALITY

The National Environmental Policy Act and Environmental Management Systems

AGENCY: Council on Environmental Quality.

ACTION: Notice of availability, Guide for Aligning National Environmental Policy Act processes with Environmental Management Systems.

SUMMARY: The Council on Environmental Quality (CEQ) is publishing ''Aligning National Environmental Policy Act Processes with Environmental Management Systems—A Guide for NEPA and EMS Practitioners'' to assist Federal agencies in aligning their National Environmental Policy Act (NEPA) processes with their Environmental Management Systems (EMSs). CEQ used an interagency work group to develop the guide and finalized it after considering public comments. The final guide is available from CEQ and at *http://www.NEPA.gov*.

ADDRESSES: Copies of the guide can be requested from CEQ. Electronic or facsimile requests for a copy of the guide are preferred because federal offices experience intermittent mail delays caused by security screening. Send electronic requests to NEPA Modernization (EMS-NEPA) at *horst_greczmiel@ceq.eop.gov*. Fax written requests to NEPA Modernization (EMS-NEPA) at (202) 456–0753. Written requests may also be submitted to NEPA Modernization (EMS-NEPA), Attn: Associate Director for NEPA Oversight, 722 Jackson Place, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Horst Greczmiel at (202) 395–5750.

SUPPLEMENTARY INFORMATION: The Council on Environmental Quality (CEQ) established a National Environmental Policy Act (NEPA) Task Force and is implementing recommendations to modernize the implementation of NEPA and make the NEPA process more effective and efficient. Additional information is available on the task force Web site at *http://ceq.eh.doe.gov/ntf*.

A proposed guide was developed to assist agencies with linking the NEPA process with Environmental Management Systems (EMS). CEQ requested public input and comments on the proposed guide, 71 FR 40520, Jul 17, 2006. All comments received are available at *http://ceq.eh.doe.gov/ntf/implementation.html*.

The final guide is being provided to Federal agencies to help them recognize the complementary relationship of EMS and NEPA and assist in aligning EMS elements with NEPA when establishing, implementing, and maintaining their EMS. The guide encourages the integration of EMS and NEPA as a means to bring substantial benefits to an agency's environmental performance and further our national environmental policy. For example:

> Commitments and mitigation measures established in NEPA decision documents (*e.g.*, Findings of No Significant Impact and Records of Decision) can be tracked and monitored through the EMS. The EMS provides a framework to improve environmental performance in ongoing day-to-day operations through EMS ''operational controls.'' The tracking and monitoring of commitments and mitigation measures can contribute to training, internal auditing, and identification of appropriate corrective actions.
>
> A major component of the NEPA process is communicating and involving the interested public about a proposed action. An EMS can provide numerous opportunities for communicating with the public, and by providing information about the proposal under consideration, help focus public involvement.

The guide assumes that the reader has a basic understanding of both the NEPA analysis and document preparation processes and the basic elements of an EMS. A reference list was added to provide readers the opportunity to increase their understanding of NEPA and EMS. In addition to editorial revisions, the guide was also revised substantively.

CEQ specifically solicited public comment on the idea presented in the draft that a well constructed EMS can include the elements of the NEPA process and serve as the basis for complying with NEPA requirements. Numerous commenters interpreted this statement to mean that an EMS could replace the NEPA process, or took issue with such an approach. The final guide distinguishes between the typical NEPA process focus on proposed actions, and the typical EMS focus on ongoing activities and products and services. It states that NEPA and EMS are not functionally equivalent, but complementary. The guide highlights the complementary elements of NEPA and EMS and presents the conclusion that an EMS can provide a framework for an agency to better meet its NEPA responsibilities.

Several commenters raised the concern that the requirements of NEPA are more extensive than those found in a typical EMS. The final guide uses public involvement as an example to emphasize that an EMS has to include the more rigorous NEPA requirements if the EMS will provide the mechanism to support and meet the NEPA process requirements.

The guide describes specific ways EMS and NEPA processes can complement one another to improve how Federal agencies manage their impacts on the environment:

- Identification of environmental aspects in the development of an EMS can build on the environmental aspects identified in a previous NEPA analysis of a facility, activity, program, or policy. Conversely, a new NEPA analysis can consider the identified environmental aspects in an EMS when assessing potential environmental impacts of a proposed action. The EMS can provide a platform to use the information collected and analyses performed in the NEPA process on a going forward basis during implementation of proposed actions.

• Performance measurements and monitoring conducted as part of an EMS can provide comparable and verifiable data to improve environmental impact predictions in future NEPA analyses and documents.

• An EMS provides a systematic framework for an agency to monitor and continually improve its environmental performance. Agencies with an EMS may be able to use the data it generates to establish a record of environmental performance to support, for example: (a) Identifying categories of actions that normally require an Environmental Impact Statement (EIS); (b) finding no significant impact when performance practices are incorporated into a proposed action (which would conclude the Environmental Assessment (EA) process without the need to prepare an EIS); or (c) determining that a category of actions does not have individual or cumulative significant impacts and should properly be established as a categorical exclusion which would reduce the need to prepare either an EA or an EIS. Further, when a NEPA analysis is needed, the EMS approach of keeping environmental data up-to-date should facilitate the preparation of the NEPA documents.

• When an EMS has established environmental objectives and targets relevant to resource areas subject to NEPA mitigation measures, the EMS can ensure implementation and performance of mitigation measures through applicable measurement and monitoring programs.

CEQ recognizes the benefits of aligning these complementary processes and encourages Federal agencies to do so where appropriate.

Dated: April 5, 2007.

James L. Connaughton,

Chairman, Council on Environmental Quality.

[FR Doc. E7–7950 Filed 4–25–07; 8:45 am]

BILLING CODE 3125–W7–P

FEDERAL ELECTION COMMISSION

Sunshine Act Notices

DATE AND TIME: Tuesday, May 1, 2007 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b) and title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Biersack, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 07–2084 Filed 4–24–07; 2:27 pm]

BILLING CODE 6715–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30–Day–07–06BC]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an e-mail to *omb@cdc.gov.*Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project

National Survey of the Mining Population—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Surveillance of occupational injuries, illnesses, and exposures has been an integral part of the work of the National Institute for Occupational Safety and Health (NIOSH) since its creation by the Occupational Safety and Health Act in 1970. To improve its surveillance capability related to the occupational risks in mining, NIOSH is planning to conduct a national survey of mines and mine employees. No national surveys have specifically targeted the mining labor force since the 1986 Mining Industry Population Survey (MIPS). The mining industry has experienced many changes in the last 20 years; consequently, the MIPS data are no longer representative of the current mining industry labor force.

NIOSH conducted a pilot study for the proposed national survey in the fall of 2004 (OMB #0920–0633, expired 3/31/05). The pilot study was designed to emulate the main study design in order to evaluate the effectiveness of the recruitment materials, questionnaire, and survey procedures in acquiring complete, high quality data from a sample of 45 mining operations. Objective data collected in the pilot study included overall response rates and individual item response rates. Subjective data were collected using telephone logs, and participant and non-participant debriefing interviews. Data captured in the pilot study were used to guide improvements to maximize the performance of the various components of the full-scale study.

The proposed national survey will be based upon a probability sample of mining operations and their employees. The survey will be conducted in the five major mining sectors (*i.e.*, coal, metal, nonmetal, stone, and sand and gravel). The major objectives of the survey will be to: (1) Obtain denominator data so that mine accident, injury, and illness reports can be evaluated in relation to the population at risk; (2) understand the demographic and occupational characteristics of the mining industry workforce; (3) estimate the number and occupational characteristics of independent contractor employees used by mining operations; and (4) obtain mine level information on selected variables. The sampled mining operations will provide all survey data; individual mine operator and independent contractor employees will not be directly surveyed. As a result of this study, surveillance researchers and government agencies will be able to identify groups of miners with a disproportionately high risk of injury or illness. By capturing demographic (*e.g.*, age, gender, race/ethnicity, education level) and occupational characteristics (*e.g.*, job title, work location, work experience) of the mining workforce, these data will be a significant resource for the customization of interventions such as safety training programs.

Approximately 2272 mines will be sampled for the study. It is expected that this will yield 1,648 responding eligible mines (*i.e.*, mines in current operation and producing the commodity for which they were sampled), reporting data for approximately 24,452 employees. A survey packet will be mailed to each sampled mine. The mining operation will not be asked to report the names or any other identifying information for their employees. The survey respondent will have the option of completing either the

survey questionnaire booklet or an Internet web-based survey questionnaire.

The ultimate goal of the study is to provide surveillance data that will help to minimize and prevent work-related injuries and illnesses that harm miners and reduce productivity. NIOSH will use the information to calculate injury rates and customize safety and health interventions for various mining occupations. Once the study is completed, NIOSH will send a copy of the final report to each sampled mining operation. There is no cost to respondents other than their time. The total estimated annualized burden hours are 3,296.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Annual burden (in hours)
Responding Eligible Mining Operations	1,648	1	120/60	3,296

Dated: April 20, 2007.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E7–7976 Filed 4–25–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–07–06AT]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 371–5960 or send an e-mail to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project

A sustainability Assessment of Community-based Interventions in Northwestern Tanzania—New—National Center for Chronic Disease Prevention and Health Promotion (NCDDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Empowerment and capacity building have been promoted by the Bamako Initiative as integral steps in making Primary Health Care (PHC) services universally available. These Health Sector Reform programs have built on the Bamako Initiative since the early 1990s, drawing attention to the potential for community engagement in health services and health governance through mechanisms such as Community Health Funds. In many contexts, community-focused approaches have been used to promote maternal and infant health, and community well-being.

In Tanzania, a community-based approach to improve maternal and newborn health (MNH) and reduce preventable maternal and perinatal deaths was implemented by CARE with CDC technical support from 1997–2002, called the Community Based Reproductive Health Program (CBRHP). This approach used a community-based surveillance system to identify preventable deaths during pregnancy, during the perinatal and newborn period, and developed a community mobilization program utilizing community volunteers to assist women and families with obstetrical emergencies to get to functioning health facilities. Specifically the initiative focused on increasing capacity for community members to identify and participate in decisions and strategies for providing health care services, and supporting prevention and health education through village health workers (VHWs).

Evaluation of this effort showed that the community members used the services successfully and supported their volunteers, but only a handful of these communities had programs in place that were functional at the end of the project in 2002.

Since the end of project activities, the long-term sustainability of community-level efforts has not been assessed. Funds were obtained from the CDC-Georgia State University Initiative to conduct a sustainability assessment. Assessment of sustainability is critical for promoting community mobilization within the health care sector in resource poor settings such as northwestern Tanzania and places where CARE and other organizations work. Little data exist on the issue of long-term viability of community efforts and this project has the potential to inform the discussion about sustainability of health-focused programs.

The project staff at CDC is seeking to implement data collection for this project in Northwestern Tanzania to examine long-term sustainability of community-based efforts.

There are no costs to the respondents other than their time. The total estimated annualized burden hours are 267.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Villagers	Community assessment Survey	200	1	1
Leaders	Key-informant interview guide	40	1	45/60
Village Health Workers	Village health worker open ended interview-guide.	44	1	30/60
Facility Staff	Facility staff guide (1 pre-assessment and 1 post-assessment).	15	2	30/60

Dated: April 20, 2007.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E7–7977 Filed 4–25–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Centers for Disease Control and Prevention

National Institute for Occupational Safety and Health (NIOSH); Advisory Board on Radiation and Worker Health (ABRWH)

Correction: This notice was published in the **Federal Register** on April 17, 2007, Volume 72, Number 73, pages 19207–19208. In addition to the ABRWH meeting scheduled for May 2–4, 2007, a meeting of the Subcommittee for Dose Reconstruction Reviews (SDRR) will also be convened on May 2, 2007. The meeting times for the ABRWH have been changed. The matters to be discussed by the SDRR are included below.

Subcommittee Meeting Time and Date

9 a.m.–11:30 a.m., May 2, 2007.

Committee Meeting Times and Dates

12:30 p.m.–4:30 p.m., May 2, 2007.

8 a.m.–5:45 p.m., May 3, 2007.

8 a.m.–2:30 p.m., May 4, 2007.

Matters to be Discussed: The topics for the Subcommittee meeting include Discussion of Reviewed Cases; Selection of Cases to Be Reviewed; and Discussion of Overall Review Process.

FOR FURTHER INFORMATION CONTACT: Dr. Lewis V. Wade, Executive Secretary, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226, telephone 513.533.6825, fax 513.533.6826.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: April 20, 2007.

Elaine L. Baker,

Acting Director, Management Analysis and Services Office Centers for Disease Control and Prevention.

[FR Doc. E7–8077 Filed 4–25–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: OOR Quarterly Performance Report, Form ORR–6.

OMB No.: 0970–0036.

Description: As required by section 412(e) of the Immigration and Nationality Act, the Administration for Children and Families (ACF), Office of Refugee Resettlement (ORR), is requesting the information from Form ORR–6 to determine the effectiveness of the State cash and medical assistance, social services, and targeted assistance programs. State-by-State Refugee Cash Assistance (RCA) and Refugee Medical Assistance (RMA) utilization rates derived from Form ORR–6 are calculated for use in formulating program initiatives, priorities, standards, budget requests, and assistance policies. ORR regulations require that State Refugee Resettlement and Wilson-Fish agencies, and local and Tribal governments complete Form ORR–6 in order to participate in the above-mentioned programs.

Respondents: State Refugee Resettlement and Wilson-Fish Agencies, local, and Tribal governments.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ORR–6	50	4	3.875	775

Estimated Total Annual Burden Hours: 775.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, *Attn:* ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–6974, Attn: Desk Officer for the Administration for Children and Families.

Dated: April 23, 2007.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 07–2062 Filed 4–25–07; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Maternal and Child Health Program

Announcement Type: New Limited Competition.

Funding Announcement Number: HHS–2007–IHS–MHCEP–0001.

Catalog of Federal Domestic Assistance Numbers: 93.231.

DATES: *Key Dates:*

Application Deadline Date: May 15, 2007.

Review Date: May 17, 2007.

Earliest Anticipated Start Date: May 30, 2007.

Funding Opportunity Description

The Indian Health Service (IHS) Maternal and Child Health Program (MCH) announces a limited competition for cooperative agreements for applications responding to the Secretaries' Initiative on Closing the Health Disparities Gap for Sudden Infant Death Syndrome (SIDS) and Infant Mortality (IM). This program is authorized under Snyder Act, 25 U.S.C. 13, 25 U.S.C. 1621(m), 25 U.S.C.

1653(c), and Indian Health Care Improvement Act Public Law 94–437, as amended by Public Law 102–573. This program is described at 93.231 in the Catalog of Federal Domestic Assistance (CFDA).

This limited competition seeks to improve American Indian and Alaska Native (AI/AN) maternal and infant outcomes in key populations through surveillance and outreach projects conducted by existing Tribal and urban Indian epidemiology centers. Enhancement of MCH epidemiology activities currently underway in select disparate populations is necessary to reduce IM.

The purpose of this announcement is to respond to the Department of Health and Human Services Closing the Health Disparities Gap on SIDS and IM in AI/AN populations. Urban and Tribal Epidemiology Centers provide surveillance, monitoring, conduct studies and apply interventions to reduce risk of IM in defined regions. Enhancement of AI/AN MCH surveillance will build Tribal public health infrastructure and complement outreach projects. Existing expertise in MCH epidemiology and a history of regional MCH support is required to address risk factors of SIDS and IM. This limited competition will augment existing expertise in MCH epidemiology to address risk factors of SIDS and IM. This announcement is specifically geared toward all eligible MCH programs who lack resources to serve targeted AI/AN populations under this initiative. Eligible Epi Centers under this announcement are geographically located in Arizona, Iowa, Nebraska, Nevada, North Dakota, South Dakota, Utah, and/or with urban Indian organizations. The nature of these projects will require collaboration with the IHS MCH Program to: (1) Coordinate activities, (2) participate in projects, investigations, or studies of national scope, and (3) share surveillance and other data collected, in compliance with the Federal Privacy Act, HIPAA, or similar Tribal laws. The IHS will, therefore, have substantial programmatic involvement in these projects (see II. B. IHS Activities below).

II. Award Information

Type of Awards: Cooperative Agreement.

Estimated Funds Available: The total amount identified for fiscal year (FY) 2007 is $375,000. The awards are for twelve months in duration and the average award is approximately $125,000. Awards under this announcement are subject to the availability of funds.

Anticipated Number of Awards: An estimate of three awards will be made under this program announcement.

Project Period: Twelve months.

Award Amount: $125,000, per year.

A. Requirements of Recipient Activities

Submit a proposal including all of the following:

1. Maintain a MCH Program Manager to support MCH activities within the Urban Indian or Tribal Epidemiology Center (TEC) or regional TEC.

2. Enhance an existing workplan to conduct MCH Regional Surveillance that complements state and national activities. Assist AI/AN communities, Tribal organizations, and urban Indian organizations in MCH surveillance systems and identifying their highest priority MCH health status objectives based on epidemiologic data.

3. Elaborate on Perinatal data systems to be used and integrate into current epi activities i.e. Sexually Transmitted Diseases', injuries, tobacco, issues affecting women during the child bearing years, infants and children. Include clinical data, vital statistics, epidemiologic data, and monitoring of local Tribal or community SIDS initiatives. States with the Centers for Disease Control/Prevention (CDC) Pregnancy Risk Assessment Monitoring Surveillance system provide an ongoing and ready source of data on maternal health and birth outcomes.

4. Annotate how staff will maintain knowledge of the scientific literature related to MCH epidemiology, statistics, surveillance, Healthy People 2010 Objectives, and other disease control activities.

5. Monitor 2010 goals, MCH Chapter 16 objectives and sub-objectives for AI/AN populations.

6. Assist Tribal clinics, urban and direct care perinatal programs in their evidence-based interventions around SIDS Risk Reduction and ''Closing the Health Gap in Infant Mortality,'' where applicable (i.e., Aberdeen, Billings and Navajo Areas).

7. Participate in the sharing, improving, and disseminating aggregate perinatal and MCH health data at local, regional, national meetings and with other IHS Programs for purposes of advocacy for AI/AN communities.

8. Develop and implement MCH epidemiologic studies that have practical application in improving the health status of constituent communities. Studies may require Institutional Review Board approval if human subjects are involved.

9. Develop and implement MCH Epidemiology and prevention programs in cooperation with other public health entities.

10. Ensure the coordination of services and program activities with other similar programs.

11. Establish (if not existing) a broad-based council with representative regional membership from the MCH community involved with AI/AN communities. These consortia will advise and support the program. Such an advisory council would consist of technical experts in MCH epidemiology; Title V (HRSA funded sites such as Healthy Starts), Fetal Infant Mortality Review teams, Perinatal Infant Mortality Review Teams, or Child Death Review Teams, perinatal clinical care networks and providers. These may include regional neonatal intensive care units, feto-maternal medicine units, State infant morality reduction initiatives, maternal tobacco or alcohol and drug exposure activities. Tribal and public health departments, community health representatives, public health nurse, health care providers, and others who could provide overall program direction and guidance should be involved. This consortium should be involved in recommendations for targeting of MCH public health needed by constituents.

12. Provide annual, semiannual reports on activities to National MCH Epidemiology Project Manager.

13. Provide letters of support for supplemental funding for the above outlined MCH activities by collaborating agencies, Tribal governments, etc.

14. Include a line item budget, a budget justification and narrative for Program activities which must include planned travel to three national meetings/trainings as well as all local travel outlined in the workplan.

Requirements of IHS Program Activities

1. The IHS MCH Program will provide oversight and coordination of MCH activities at the Epicenters. A working relationship with Area and National Statistics Program will be maintained.

2. Provide funded TEC with ongoing consultation and technical assistance in each of the above Recipient Activities components.

3. Interpret current scientific literature related to epidemiology, statistics, surveillance, Healthy People 2010 Objectives, and evidence-based practices.

4. Assist in the implementation of each workplan component: needs assessment, surveillance, epidemiologic analysis, outbreak investigation, development of epidemiologic studies, development of disease control programs, and coordination of activities.

5. Convene in conjunction with the annual CDC MCH Epidemiology meeting a workshop of funded organizations every year for information-sharing and problem-solving.

6. Conduct site visits to assess program progress and mutually resolve problems, as needed, and/or coordinate reverse site visits. Provide linkages to other IHS programs on an as needed basis i.e. Injury Prevention, Emergency Medical Services for Children, Behavioral Health, and Statistics Program.

7. Coordinate all MCH epidemiologic activities, reporting documents on a national basis. Review, make recommendations and approve semiannual and annual reports. Forward such reports to Agency and Closing the Health Disparities Gap Initiative leads. Disseminate findings and recommendations.

8. Apprise National Programs in Albuquerque on updates on the Closing the Health Disparities GAP SIDS and Infant Mortality, and

9. Oversee development, implementation and participate in the annual Epicenter MCH meetings and trainings.

Eligibility Information

1. Eligible Applicant: Urban Indian Organizations, as defined by 25 U.S.C. 1603(h), Tribal Organizations, and federally recognized Tribes that currently operate IHS EpiCenters.

IHS Epicenters serving AI/AN populations in Arizona, Iowa, Nebraska, Nevada, North Dakota, South Dakota, Utah, and/or with urban Indian organizations are eligible to submit proposals for this limited competition. Epicenters working in these states and metropolitan areas must require base funding to address IM in order to receive support. AI/AN Tribes, Tribal organizations, and eligible inter-Tribal consortia or Indian organizations representing a population of at least 60,000 AI/AN will be considered to be eligible. A letter of support and collaboration should be included in the application.

The following documentation is required to support the status of the organization:

A. An official and signed Tribal Resolution(s).

B. Nonprofit organizations must submit a copy of the 501 (c)(3) Certificate.

2. Cost Sharing or Matching—The MCH Program does not require matching funds or cost sharing.

3. Other Requirements—If the application budget exceeds $125,000 it will not be considered for review.

Application and Submission Information

1. Applicant package may be found in Grants.gov (www.grants.gov) or at: *http://www.ihs.gov/NonMedicalPrograms/gogp/gogp_funding.asp.* Information regarding the electronic application process may be directed to Michelle G. Bulls, at (301) 443–6290.

2. *Content and Form of Application Submission:*

- Be single spaced.
- Be typewritten.
- Have consecutively numbered pages.
- Use black type not smaller than 12 characters per one inch.
- Contain a narrative that does not exceed 12 typed pages that includes the other submission requirements below. The 12 page narrative does not include the work plan, standard forms, Tribal resolutions or letters of support (if necessary), table of contents, budget, budget justifications, narratives, and/or other appendix items.

Public Policy Requirements: All Federal-wide public policies apply to IHS grants with exception of Lobbying and Discrimination.

3. *Submission Dates and Times:* Applications must be submitted electronically through *Grants.gov* by 12 midnight Eastern Standard Time (EST). If technical challenges arise and the applicant is unable to successfully complete the electronic application process, the applicant must contact Michelle G. Bulls, Grants Policy Staff fifteen days prior to the application deadline and advise of the difficulties that your organization is experiencing. The grantee must obtain prior approval, in writing (e-mails are acceptable) allowing for paper submission. Otherwise, applications not submitted through Grants.gov will be returned to the applicant without review or consideration. The paper application (original and 1 copy) must be mailed to the Division of Grants Operations (DGO), 801 Thompson Avenue, TMP 360, Rockville, MD 20852 by May 15, 2007. Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks will not be acceptable as proof of timely mailing. Late applications will not be considered for review and will be returned to the applicant without further consideration.

4. *Intergovernmental Review:* Executive Order 12372 requiring intergovernmental review is not applicable to this program.

5. *Funding Restrictions:*

- Pre-award costs are allowable pending prior approval from the awarding agency. However, in accordance with 45 CFR part 74 all pre-award costs are incurred at the recipient's risk. The awarding office is under no obligation to reimburse such costs if for any reason the applicant does not receive an award or if the award to the recipient is less than anticipated.
- The available funds are inclusive of direct and appropriate indirect costs.
- Only one cooperative agreement will be awarded per applicant.
- IHS will not acknowledge receipt of applications.

6. *Other Submission Requirements:*

Electronic Submission—The preferred method for receipt of applications is electronic submission through Grants.gov. However, should any technical challenges arise regarding the submission, please contact Grants.gov Customer Support at 1–800–518–4726 or *support@grants.gov.* The Contact Center hours of operation are Monday—Friday from 7 a.m. to 9 p.m. EST. If you require additional assistance please call (301) 443–6290 and identify the need for assistance regarding your Grants.gov application. Your call will be transferred to the appropriate grants staff member. The applicant must seek assistance at least fifteen days prior to the application deadline. Applicants that don't adhere to the timelines for Central Contractor Registry (CCR) and/or *Grants.gov* registration and/or requesting timely assistance with technical issues will not be a candidate for paper applications.

To submit an application electronically, please use the *http://www.Grants.gov* apply site. Download a copy of the application package, on the *Grants.gov* Web site, complete it offline and then upload and submit the application via the Grants.gov site. You may not e-mail an electronic copy of a grant application to IHS.

Please be reminded of the following:

- Under the new IHS application submission requirements, paper applications are not the preferred method. However, if you have technical problems submitting your application on-line, please directly contact Grants.gov Customer Support at: *http://www.grants.gov/CustomerSupport*
- Upon contacting Grants.gov obtain a tracking number as proof of contact. The tracking number is helpful if there are technical issues that cannot be

resolved and a waiver request from Grants Policy must be obtained.

• If it is determined that a formal waiver is necessary, the applicant must submit a request, in writing (e-mails are acceptable), to *Michelle.Bulls@ihs.gov* that includes a justification for the need to deviate from the standard electronic submission process. Upon receipt of approval, a hard-copy application package must be downloaded by the applicant from Grants.gov, and sent directly to the Division of Grants Operations, 801 Thompson Avenue, TMP 360, and Rockville, MD 20852 by the due date, May 15, 2007.

• Upon entering the Grants.gov site, there is information available that outlines the requirements to the applicant regarding electronic submission of an application through Grants.gov, as well as the hours of operation. We strongly encourage all applicants not to wait until the deadline date to begin the application process through Grants.gov as the registration process for CCR and Grants.gov could take up to fifteen working days.

• To use Grants.gov, you, as the applicant, must have a DUNS Number and register in the CCR. You should allow a minimum of ten days working days to complete CCR registration. See below on how to apply.

• You must submit all documents electronically, including all information typically included on the SF–424 and all necessary assurances and certifications.

• Please use the optional attachment feature in Grants.gov to attached additional documentation that may be requested by IHS.

• If Tribal resolutions or letters of support are required, please fax it to the Grants Management Specialist identified in this announcement.

• Your application must comply with any page limitation requirements described in the program announcement.

• After you electronically submit your application, you will receive an automatic acknowledgment from Grants.gov that contains a Grants.gov tracking number. The IHS, DGO will retrieve your 13 application from Grants.gov. DGO will not notify applicants that the application has been received.

• You may access the electronic application for this program on *http://www.Grants.gov.*

• You must search for the downloadable application package CFDA number 93.231.

E-mail applications will not be accepted under this announcement.

DUNS Number

Applicants are required to have a Dun and Bradstreet (DUNS) number to apply for a grant or cooperative agreement from the Federal Government. The DUNS number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Interested parties may wish to obtain their DUNS number by phone to expedite the process.

Applications submitted electronically must also be registered with the CCR. A DUNS number is required before CCR registration can be completed. Many organizations may already have a DUNS number. Please use the number listed above to investigate whether or not your organization has a DUNS number.

Registration with the CCR is free of charge.

Applicants may register by calling 1–888–227–2423. Please review and complete the CCR Registration Worksheet located on *http://www.grants.gov/CCRRegister.*

More detailed information regarding these registration processes can be found at *http://www.grants.gov.*

Application Review Information

The MCH Program has as its goal the reduction of IM and its underlying causes to a rate of 4.5 infant deaths per 1,000 live births by the year 2010.

1. Criteria

A. Introduction, Current Capacity, and Need for Assistance (20 Points)

1. Describe the applicant's current MCH epidemiology activities including whether the applicant has an adequate health department, how long it has been operating, what MCH programs or MCH surveillance is currently provided that would be augmented, and interactions with other MCH public health authorities in the regions (State, local, or Tribal).

2. Provide a physical location of the TEC and area to be served by the proposed project including a map (include the map in the attachments).

3. Describe the relationship between this program and other funded work relevant to MCH that is planned, anticipated, or underway.

Project Work Plan and Objectives (40 Points)

1. State in measurable and realistic terms the objectives and appropriate activities to achieve the program goals as listed below.

a. Enhance surveillance of perinatal disease conditions.

b. Conduct epidemiologic analysis, interpretation, and dissemination of surveillance data.

c. Investigate outbreaks or elevated rates.

d. Develop and implement epidemiologic studies where appropriate.

e. Develop and implement SIDS reduction and risk reduction programs and coordination of activities with other public health authorities in the region.

2. Identify the expected results, benefits, and outcomes or products to be derived from each objective ofthe project.

3. Include a work plan for each objective that indicates when the objectives and major activities will be accomplished and who will conduct the activities on a calendar time line.

4. Specify the responsible person who will review and accept the work to be performed.

C. Project Evaluation (15 Points)

1. State how project objectives will be achieved.

2. Define the criteria to be used to evaluate results.

3. Explain the methodology that will be used to determine if the needs identified for the project are being met and if the outcomes identified are being achieved.

Organization Capabilities and Qualifications (15 Points)

1. Explain the management and administrative structure of the organization including documentation of current certified financial management systems from the Bureau of Indian Affairs, IHS, or a Certified Public Accountant and an updated organization chart (include chart in the attachments).

2. Describe the ability of the organization to manage a project of the proposed scope.

3. Provide position descriptions and resumes/biosketch of key personnel, including those of consultants or contractors in the Appendix. Position descriptions should very clearly describe each position and its duties, indicating desired qualification and experience requirements related to the project. Resumes should indicate that the proposed staff is qualified to carry out the project activities.

E. Categorical Budget and Budget Justification (10 Points)

1. Provide a detailed budget by line item for each year.

2. Provide a justification by line item in the budget including sufficient cost

and other details to facilitate the determination of cost allowability and relevance of these costs to the proposed project. The funds requested should be appropriate and necessary for the scope of the project.

3. Describe where the TEC will be housed, i.e., facilities and equipment available.

4. Provide a detailed scope of work that clearly defines the deliverables or outcomes for a consultant or contractor, if applicable.

5. If applicant is requesting indirect cost rate (IDC), a current negotiated rate must be submitted as an attachment with the application.

6. Attachments to include:

a. Attached resumes/bio-sketch and job descriptions for the key staff.

b. Current approved organizational chart.

c. A map of the area to benefit from the project.

d. Copy of the negotiated IDC rate agreement, if applicable.

e. Letters of support/collaboration.

2. Review and Selection Process

Applications submitted by the closing date and verified by electronic submission or the postmark under this program announcement will undergo a review to determine that:

A. The applicant is eligible in accordance with the Eligibility Section of this application.

B. Letters of support/collaboration are included.

C. The application executive summary, forms and materials submitted are adequate to allow the review panel to undertake an in-depth evaluation.

D. The application complies with this announcement; otherwise it will be returned without consideration.

3. Competitive Review of Eligible Application Review

May 17, 2007.

Applications meeting eligibility requirements that are complete, responsive, and conform to this program announcement will be reviewed for merit by assigned field readers appointed by the IHS to review and make recommendations on these applications. The reviews will be conducted in accordance with the IHS objectives review procedures. The technical review process ensures selection of quality projects in a national competition for limited funding. Applications will be evaluated and rated on the basis of the list above.

VI. Award Administration Information

1. Award Notices

The Notice of Award (NoA) will be initiated by the DGO and will be mailed via postal mail to each entity that is approved for funding under this announcement. The NoA will be signed by the Grants Management Officer and this is the authorizing document for which funds are dispersed to the approved entities. The NoA will serve as the official notification of the grant award and will reflect the amount of Federal funds awarded the purpose of the grant, the terms and conditions of the award, the effective date of the award, and the budget/project period. The NoA is the legal binding document. Applicants who are approved but unfunded or disapproved based on their Objective Review score will receive a copy of the Executive Summary which identifies the weaknesses and strengths of the application submitted.

2. Administrative and National Policy Requirements

Grants are administrated in accordance with the following documents:

- This Program Announcement.
- 45 CFR part 92, ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Local and Tribal Governments,'' or 45 CFR part 74, ''Uniform Administrative Requirements for Awards to Institutions of Higher Education, Hospitals, Other Non-Profit Organizations, and Commercial Organizations, (Title 2 part 230).
- Grants Policy Guidance: HHS Grants Policy Statement, January 2007.
- Appropriate Cost Principles: OMB Circular A–87, ''State, Local, and Indian Tribal Governments,'' or OMB Circular A–122, ''Non-profit Organizations.''
- OMB Circular A–133, ''Audits of States, Local Governments, and Non-profit Organizations.''
- Other applicable OMB circulars.
- Indirect Costs: This section applies to all grant recipients that request IDC in their application. In accordance with HHS Grants Policy Statement, Part II–27, IHS requires applicants to have a current IDC rate agreement in place prior to award. The rate agreement must be prepared in accordance with the applicable cost principles and guidance as provided by the agency or office. A current rate means the rate covering the applicable activities and the award budget period. If the current rate is not on file with the awarding office, the indirect cost portion will be restricted until the current rate is provided to DGO.

Generally, IDC rates for IHS Tribal organization grantees are negotiated with the Division of Cost Allocation *http://rates.psc.gov/* and IDC rates for Federal recognized Tribes are negotiation with the Department of Interior. If your organization has questions regarding the IDC policy, please contact the DGO at 301–443–5204.

3. Reporting

A. *Progress Report.* Progress reports are required semi-annually. These reports will include a brief comparison of actual accomplishments to the goals and tasks established for the period, reasons for slippage (if applicable), and other pertinent information as required. A final report must be submitted within 90 days of expiration of the budget/project period.

B. Financial Status Report. Semi-annual financial status report must be submitted within 30 days of the end of the six month period. Final financial status report is due within 90 days after the expiration of the budget/project period. Standard Form 269 (long form) must be used for financial reporting report unless the grantee generates Program Income, and then the Standard From 269 (short form) must be used. Grantees are responsible and accountable for accurate reporting of the Progress Report and Financial Status Report which are generally due semi-annually. Financial Status Report (SF–269) is due 90 days after each budget period and the final SF–269 must be verified from the grantee records on how the value was derived. Grantees must submit reports in a reasonable period of time.

Failure to submit required reports within the time allowed may result in suspension or termination of an active grant, withholding of additional awards for the project, or other enforcement actions such as withholding of payments or converting to the reimbursement method of payment. Continued failure to submit required reports may result in one or both of the following: (1) The imposition of special award provisions; and (2) the non-funding or non-award of other eligible projects or activities. This applies whether the delinquency is attributable to the failure of the grantee organization or the individual responsible for preparation of the reports.

Telecommunication for the hearing impaired is available at: TTY 301–443–6394.

VII. Agency Contact(s)

1. For program-related information: Judith Thierry, D.O., M.P.H., Maternal

and Child Health Coordinator, Maternal and Child Health Program, Indian Health Service, 801 Thompson Avenue, Suite 300, Rm 313, Rockville, Maryland 20852, *voice:* 301–443–5070, *fax:* 301–594–6213 or *judith.thierry@ihs.gov.*

For general information regarding this announcement: Ms. Orie Platero, IHS Headquarters, Office of Clinical and Preventive Services, 801 Thompson Avenue, Room 326, Rockville, MD 20852, (301) 443–2522 or *orie.platero@ihs.gov.*

3. For specific grant-related and business management information: Martha Redhouse, Grants Management Specialist, 801 Thompson Avenue, TMP 360, Rockville, MD 20852, 301–443–5204 or *Martha.redhouse@ihs.gov.*

VIII. Other Information

The IHS is focusing efforts on three health initiatives that linked together, have the potential to achieve positive improvements in the health of American Indian and Alaska Native (AI/AN) people. These three initiatives are Health Promotion/Disease Prevention, Management of Chronic Disease, and Behavioral Health. Further information is available at the Health Initiatives Web site: *http://www.ihs.gov/nonMedical/Programs/DirInitiatives/index.cfm.*

This agreement supports the Department of Health and Human Services' objective in FY 2006 to transform the health care system as well as the FY 2007 objective to emphasize prevention and healthy living as well as to accelerate personalized health care.

Dated: April 19, 2007.

Robert G. McSwain,

Deputy Director, Indian Health Service.

[FR Doc. 07–2051 Filed 4–25–07; 8:45 am]

BILLING CODE 4165–16–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Apparatus for Brachytherapy

Description of Technology: Available for licensing and commercial development is a device for delivering targeted radiation brachytherapy to a portion of tissue in the cavity of a patient. The device includes an applicator with a balloon where in a deflated state is inserted into the body cavity and in an inflated state enlarges to fill the body cavity. The balloon moves from the deflated state into the inflated state upon introduction of pressurized fluid to the interior of the balloon. The apparatus also includes a catheter extending over at least a portion of the balloon for delivering treatment to the adjacent cavity (*e.g.*, radiation or heat). A tracking device (*e.g.*, a camera) is included in the apparatus for helping track the positioning of the balloon within the body cavity prior to inflation. The apparatus can be alternatively configured with a second balloon containing a therapeutic agent which is inflated after positioning and expansion with a first balloon first.

Applications: Brachytherapy; Radiation dosing; Cancer therapy.

Development Status: Early-stage; Pre-clinical data available; Prototype.

Inventor: Anurag K. Singh (NCI).

Patent Status: U.S. Provisional Application No. 60/811,762 filed 08 Jun 2006 (HHS Reference No. E–314–2005/0–US–01).

Licensing Status: Available for licensing non-exclusively or exclusively to qualified applicants that satisfy the criteria set forth in 37 CFR 404.7.

Licensing Contact: Michael A. Shmilovich, Esq.; 301/435–5019; *shmilovm@mail.nih.gov*.

Dated: April 18, 2007.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E7–7927 Filed 4–25–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

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Biotinylated Alkylating Acridine for Pull-downs of Viral Pre-integration Complexes (PIC) or Other Cytosol Localized DNAs

Description of Technology: The invention describes a DNA-binding molecule that allows recovery of viral DNA and associated proteins. An acridine orange based molecule was modified and the resulting alkylating acridine molecule intercalates with viral pre-integration complexes (PIC) or other DNAs localized in cytosol. Because the molecule is also biotinylated, streptavidin beads can be used to purify the molecule and the bound DNA and associated protein can subsequently be eluted and analyzed. The invention provides a useful tool to facilitate the studies for viral PIC and other cytosol DNAs.

Applications: Research Tool.

Development Status: In vitro data available.

Inventors: Gunnar Thor Gunnarsson and Rafal Wierzchoslawski (NCI).

Patent Status: HHS Reference No. E–131–2007/0—Research Tool.

Licensing Status: Available for non-exclusive licensing as biological material and research tool.

Licensing Contact: Sally Hu, Ph.D.; 301/435–5606; *HuS@mail.nih.gov*.

Structure of TIM Family Members

Description of Technology: Available for licensing and commercial development are methods to produce and/or enhance therapeutic agents based on models of the three-dimensional structures of the Ig-like domains of various TIM family members to a) develop agonists and antagonists of the T-cell immunoglobulin mucin (TIM) family of receptors and b) design specific TIM receptor-mutants with altered binding capabilities. The TIM receptors are involved in the regulation of immune responses, tissue regeneration, cancer, and viral cell entry. The invention provides models of the three-dimensional structures of the Ig-like domains of TIM family members developed after several crystal structures were resolved. The structures were further validated by mutagenesis and biochemical analysis.

The TIM family comprises type 1 integral membrane glycoproteins containing a characteristic six-cysteine Ig-like domain extended above the cell surface by a mucin-like domain. The crystal structures revealed diverse homophylic interactions between TIM family members. The three-dimensional structure of all TIM family members can be used in the making of agonists and antagonists of homophilic, heterophilic, and ligand interactions of these receptors.

Applications:

1. Therapies that target the interaction of TIM family members with their ligands, such as small molecules or monoclonal antibodies, can control immune responses and the development of a variety of diseases.

2. TIM receptor-mutants with enhanced, reduced, or destroyed binding capabilities to ligands and TIM family receptors can control TIM receptor-functions.

3. Furthermore, the homophylic, heterophylic, and ligand interactions between the TIM receptors and the TIM receptor-mutants can be used as targets to develop therapeutic agents for medical and veterinary purposes, to prevent viral infection, regulate immune responses, modulate cell adhesion and tissue regeneration, treat and prevent cancer, and treat autoimmune and atopic diseases.

Development Status: The technology is in early stages of development.

Inventors: Gerardo Kaplan (CBER/FDA), *et al.*

Related Publications:

1. C Santiago, A Ballesteros, C Tami, L Martínez-Muñoz, GG Kaplan, JM Casasnovas. Structures of T cell immunoglobulin mucin receptors 1 and 2 reveal mechanisms for regulation of immune responses by the TIM receptor family. Immunity. 23 Mar 2007;26(3):299–310.

2. A Anderson, S Xiao, VK Kuchroo. Tim protein structures reveal a unique face for ligand binding. Immunity. 23 Mar 2007;26(3):273–275.

Patent Status: U.S. Provisional Application No. 60/865,642 filed 13 Nov 2006 (HHS Reference No. E–098–2006/0–US–01)

Licensing Status: Available for non-exclusive or exclusive licensing.

Licensing Contact: Cristina Thalhammer-Reyero, Ph.D., M.B.A.; 301/435–4507; *thalhamc@mail.nih.gov*.

A Method With Increased Yield for Production of Polysaccharide-Protein Conjugate Vaccines Using Hydrazide Chemistry

Description of Technology: Current methods for synthesis and manufacturing of polysaccharide-protein conjugate vaccines employ conjugation reactions with low efficiency (about twenty percent). This means that up to eighty percent of the added activated polysaccharide (PS) is lost. In addition, inclusion of a chromatographic process for purification of the conjugates from unconjugated PS is required.

The present invention utilizes the characteristic chemical property of hydrazide groups on one reactant to react with aldehyde groups or cyanate esters on the other reactant with an improved conjugate yield of at least sixty percent. With this conjugation efficiency the leftover unconjugated protein and polysaccharide would not need to be removed and thus the purification process of the conjugate product can be limited to diafiltration to remove the by-products of small molecules. The new conjugation reaction can be carried out within one or two days with reactant concentrations between 1 and 25 mg/mL at PS/protein ratios from 1:2 to 3:1, at temperatures between 4 and 40 degrees Centigrade, and in a pH range of 5.5 to 7.4, optimal conditions varying from PS to PS.

Application: Cost effective and efficient manufacturing of conjugate vaccines.

Inventors: Che-Hung Robert Lee and Carl E. Frasch (CBER/FDA)

Patent Status: U.S. Patent Application No. 10/566,899 filed 01 Feb 2006, claiming priority to 06 Aug 2003 (HHS Reference No. E–301–2003/0–US–10); U.S. Patent Application No. 10/566,898 filed 01 Feb 2006, claiming priority to 06 Aug 2003 (HHS Reference No. E–301–2003/1–US–02); International rights available.

Licensing Status: Available for non-exclusive licensing.

Licensing Contact: Peter A. Soukas, J.D.; 301/435–4646; *soukasp@mail.nih.gov*.

Identification of Anti-HIV Compounds Inhibiting Virus Assembly and Binding of Nucleocapsid Protein to Nucleic Acid

Description of Technology: The subject invention identified two groups of active anti-viral compounds. The first group comprises aromatic, antimony-containing compounds, while the second group comprises aromatic tricarboxylic acid. Both groups were shown to inhibit viral particle assembly and inhibit the binding of nucleocapsid protein to nucleic acid. Recently, the first group also demonstrated the capability of blocking HIV–1 viral entry into CD4+ cells through binding to CD4 and inhibiting gp120–CD4 interaction, and they are well tolerated *in vivo*. Hence, these compounds are potent inhibitors of HIV and act via a novel mechanism, ideal for developing a new generation of anti-HIV medicine.

Applications: HIV treatment and prevention.

Development Status: In vivo preclinical data available, including data from efficacy, pharmacokinetics and preliminary toxicity studies.

Inventors: Robert H. Shoemaker (NCI), Michael J. Currens (NCI), Alan R. Rein (NCI), Ya-xiong Feng (NCI), Robert J. Fisher (SAIC/NCI), Andrew G. Stephen (SAIC/NCI), Karen Worthy (SAIC/NCI), Shizuko Sei (SAIC/NCI), Bruce Crise (SAIC/NCI), Louis E. Henderson (SAIC/NCI).

Related Publication: QE Yang et al. Discovery of small-molecule human immunodeficiency virus type 1 entry inhibitors that target the gp120-binding domain of CD4. J Virol. 2005 May;79(10):6122–6133.

Patent Status: U.S. Patent Application No. 10/528,747 filed 22 Mar 2005 (HHS Reference No. E–121–2002/0–US–03); European Patent Application No. 03773233.6 filed 08 May 2005 (HHS Reference No. E–121–2002/0–EP–04).

Licensing Status: Available for exclusive and non-exclusive licensing.

Licensing Contact: Sally Hu, Ph.D.; 301/435–5606; *HuS@mail.nih.gov*.

Collaborative Research Opportunity: The NCI HIV DRP Retroviral Replication Laboratory is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize these active anti-viral compounds. Please contact John D. Hewes, Ph.D. at 301–435–3121 or

hewesj@mail.nih.gov for more information.

Monoclonal Antibodies Specific for the E2 Glycoprotein of Hepatitis C Virus and Their Use in the Diagnosis, Treatment and Prevention of Hepatitis C

Description of Technology: Hepatitis C virus is an enveloped, single-stranded RNA virus, approximately 50 nm in diameter, that has been classified as a separate genus in the Flaviviridae family. Most persons infected with hepatitis C virus develop chronic infection. These chronically infected individuals have a relatively high risk of developing chronic hepatitis, liver cirrhosis and hepatocellular carcinoma. There is currently no vaccine to prevent the hepatitis C virus infection. The present invention relates to human monoclonal antibodies which exhibit immunological binding affinity for the hepatitis C virus E2 glycoprotein and are cross-reactive against different hepatitis C virus strains. These antibodies may be used in passive immunoprophylaxis for the prevention of hepatitis C virus infection and/or in passive immunotherapy for the treatment of hepatitis C.

Applications: In vitro diagnostic assay for identifying patients infected with hepatitis C virus and contaminated blood samples; method of preventing infection using monoclonal antibodies that neutralize E2 glycoproteins from different genotypes of hepatitis C virus.

Market: Over 4 million people in the U.S. are infected with hepatitis C virus. An estimated 150 to 200 million people are infected with hepatitis C virus worldwide.

Inventors: Suzanne U. Emerson (NIAID), Robert H. Purcell (NIAID), Harvey J. Alter (NIAID), *et al.*

Related Publication: DJ Schofield *et al.* Human monoclonal antibodies that react with the E2 glycoprotein of hepatitis C virus and possess neutralizing activity. Hepatology. 2005 Nov;42(5):1055–1062.

Patent Status: U.S. Provisional Application No. 60/250,561, filed 01 Dec 2000 (HHS Reference No. E–017–2001/0–US–01); PCT Application No. PCT/US01/45221, filed 30 Nov 2001, published as WO 02/055560 on 18 Jul 2002 (HHS Reference No. E–017–2001/0–PCT–02); U.S. Patent Application No. 10/432,006 filed 16 May 2003, issued as U.S. Patent No. 6,924,362 on 02 Aug 2005 (HHS Reference No. E–017–2001/0–US–03)

Licensing Contact: Chekesha S. Clingman, Ph.D.; 301/435–5018; *clingmac@mail.nih.gov*.

Collaborative Research Opportunity: The NIAID Laboratory of Infectious Diseases is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize these monoclonal antibodies. For more information, please contact Robert H. Purcell, M.D., Co-chief, Laboratory of Infectious Diseases, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 50 South Drive, Bldg. 50, Rm. 6523, Bethesda, MD 20892–8009; Phone (301) 496–5090; Fax (301) 402–0524.

Major Neutralization Site of Hepatitis E Virus and Use of This Neutralization Site in Methods of Vaccination

Description of Technology: Hepatitis E is endemic in many countries throughout the developing world, in particular on the continents of Africa and Asia. The disease generally affects young adults and has a very high mortality rate, up to 20%, in pregnant women. This invention relates to the identification of a neutralization site of hepatitis E virus (HEV) and neutralizing antibodies that react with it. The neutralization site is located on a polypeptide from the ORF2 gene (capsid gene) of HEV. This neutralization site was identified using a panel of chimpanzee monoclonal antibodies that are virtually identical to human antibodies. Since this neutralization site is conserved among genetically divergent strains of HEV, the neutralizing monoclonal antibodies may be useful in the diagnosis, treatment and/or prevention of hepatitis E. Furthermore, immunogens that encompass this neutralization site may be used in vaccination to effectively prevent, and/or reduce the incidence of HEV infection. Polypeptides containing this neutralization site may be useful in evaluating vaccine candidates for the production of neutralizing antibodies to HEV.

Inventors: Suzanne U. Emerson (NIAID), Robert H. Purcell (NIAID), *et al.*

Related Publications:

1. YH Zhou *et al.* A truncated ORF2 protein contains the most immunogenic site on ORF2: antibody responses to non-vaccine sequences following challenge of vaccinated and non-vaccinated macaques with HEV. Vaccine 2005 May 2;23(24):3157–3165.
2. DJ Schofield *et al.* Monoclonal antibodies that neutralize HEV recognize an antigenic site at the carboxyterminus of an ORF2 protein vaccine. Vaccine 2003 Dec 12;22(2):257–267.
3. YH Zhou *et al.* An ELISA for putative neutralizing antibodies to hepatitis E virus detects antibodies to genotypes 1, 2, 3, and 4. Vaccine 2004 Jun 30;22(20):2578–2585.

Patent Status: U.S. Patent No. 6,930,176, issued 16 Aug 2005 (HHS Reference No. E–043–2000/0–US–04); EP Application 00982311.3, filed on 30 Nov 2000, published as 1235862 on 04 Sept 2002 (HHS Reference No. E–043–2000/0–EP–03); U.S. Patent No. 7,148,323, issued 12 Dec 2006 (HHS Reference No. E–043–2000/0–US–05)

Licensing Contact: Chekesha S. Clingman, Ph.D.; 301/435–5018; *clingmac@mail.nih.gov*.

Collaborative Research Opportunity: The NIAID Laboratory of Infectious Diseases is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize these antibodies or structures they interact with. For more information, please contact Robert H. Purcell, M.D., Co-chief, Laboratory of Infectious Diseases, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 50 South Drive, Bldg. 50, Rm. 6523, Bethesda, MD 20892–8009; Phone (301) 496–5090; Fax (301) 402–0524.

Dated: April 17, 2007.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E7–7930 Filed 4–25–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing

to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

GDF15, a Marker and Cause of Morbidity in Thalassemia

Description of Technology: The invention includes methods for the measurement of Growth Differentiation Factor 15 (GDF15, also known as MIC–1 or NAG–1) levels in order to diagnose or predict disease severity in patients with thalassemia and with related complications, as well as methods for treating thalassemia by administration of a GDF15 antagonist. Also disclosed is a method to reduce hepcidin levels by administration of GDF15, a GDF15 substitute, or GDF15 agonist.

GDF15 is a member of the TGF-Beta superfamily of proteins, which are known to control cell proliferation, differentiation, and apoptosis in numerous cell types. The inventors are additionally interested in investigating the role of GDF15 in other disorders characterized by ineffective erythropoiesis, as well as the role of GDF15 in the regulation of iron metabolism.

Thalassemia consists of a group of inherited diseases of the red blood cells, arising from deficient or absent production of globin chains. In beta-thalassemia, also known as Cooley's anemia or Mediterranean anemia, defective globin production reduces the number and viability of red blood cells, causing anemia and subsequent expansion of bone marrow. As a result of marrow expansion distorted bone formation ensues. Beta thalassemia, the most severe form of thalassemia, also results in iron overload, which is the major cause of beta-thalassemia mortality worldwide. As a result of iron overload, the patient may develop hypropituitarism, hypothyroidism, hypoparathyrodism, diabetes, arthropathy, cirrhosis and cardiopulmonary disease. Treatment of beta-thalassemia involves frequent blood transfusions and chelation therapy to remove excess iron from the blood.

In thalassemia, the patient's hepcidin expression is pathologically suppressed. Hepcidin is a protein synthesized in the liver, which reduces iron absorption in the body.

The inventors have identified GDF15 as a hepcidin-suppressing cytokine that is overexpressed in thalassemia. GDF15 levels in blood plasma have been found to be dramatically elevated in beta-thalassemia patients compared to healthy donors and patients with hereditary hemochromatosis, another form of iron overload disease.

Applications:

1. Diagnostic test to detect increased risk for thalassemia-related complications.
2. Treatment of thalassemia by administration of a GDF15 antagonist.
3. Treatment of iron-dysregulated diseases.
4. Treatment of ineffective erythropoiesis.
5. Treatment of anemia of chronic disease.

Market: Thalassemia is a growing global public health problem. It is estimated that seven percent of the world's population are carriers, with about 400,000 affected babies born each year. Approximately 1,000 people in the United States currently have beta-thalassemia; however, the number of patients is expected to grow. Prevalence of the disease is higher in those of Mediterranean descent and those from China, India and other Asian countries. The U.S. Food and Drug Administration classifies thalassemia as a rare or orphan disease.

Development Status: Early stage.

Inventors: Jeffery L. Miller and Toshihiko Tanno (NIDDK).

Publications: In Review.

Patent Status: U.S. Provisional Application No. 60/864,705 filed 07 Nov. 2006 (HHS Reference No. E–022–2007/0-US–01).

Licensing Status: Available for exclusive or nonexclusive licensing.

Licensing Contact: Tara L. Kirby, PhD; 301/435–4426; *tarak@mail.nih.gov.*

Collaborative Research Opportunity: The NIDDK's Molecular Medicine Branch is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize the role of GDF15 in other disorders characterized by ineffective erythropoiesis, as well as the role of GDF15 in the regulation of iron metabolism. Please contact Dr. Jeffery L. Miller at *Jeff.Miller1@nih.hhs.gov* or 301/402–2373 for more information.

Methods for Treating Autoimmune Inflammatory Disease by Blocking DR3–TL1A Interactions

Description of Technology: As a group, autoimmune inflammatory diseases occur in greater than five percent of the United States population, and represent the fourth-largest cause of disability among women. This disease group includes asthma, multiple sclerosis, rheumatoid arthritis, and lupus, among others. Treatments generally include immunosuppressants or anti-inflammatory drugs; recently, more specific immunomodulatory therapies such as TNF-alpha antagonists have been developed.

The invention discloses methods for treatment of autoimmune inflammatory disease by blocking the interaction between one particular TNF family ligand, TL1A (or TNFSF15), and its receptor, DR3 (or TNFRSF25). The inventors have shown that the DR3–TL1A interaction is critical for development of disease in mouse models of asthma and multiple sclerosis. Additionally, mice lacking the DR3 receptor have normal immune system development and response to immune challenge. Thus, a treatment for autoimmune disease that blocks the DR3–TL1A interaction may provide a potent therapy without inducing global immunosuppression.

Applications: Development of therapeutics for autoimmune inflammatory disease.

Market: More than five percent of the United States population has an autoimmune disease; The market size for rheumatoid arthritis is predicted to be $10 billion by 2008.

Development Status: Early stage.

Inventors: Richard M. Siegel and Francoise Meylan (NIAMS).

Patent Status: U.S. Provisional Application No. 60/879,668 filed 10 Jan 2007 (HHS Reference No. E–011–2007/0–US–01).

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Tara Kirby, PhD; 301/435–4426; *tarak@mail.nih.gov.*

Genetic Markers for Body Size in Dogs

Description of Technology: Dogs exhibit the greatest diversity in body size of any mammalian species. To explore the genetic basis for size variation among dogs, the inventors compared the DNA of various small dog breeds to larger dog breeds. They found that variation in one gene, IGF–1, which codes for the protein hormone insulin-like growth factor 1, is very strongly associated with small stature across all dog breeds studied. An important determinant of body size in mammals, IGF–1 induces cell growth and differentiation and is a potent inhibitor of apoptosis. Analysis of DNA from over 3,000 dogs and 143 breeds revealed a specific IGF–1 gene sequence variant, or haplotype, associated with small size in the canine genetic code.

The invention discloses markers defining chromosomal haplotypes associated with adult body size in dogs.

Also claimed are methods and kits for predicting adult body size in dogs using these markers. A genetic test based on this invention would be of use to breeders wishing to predict a dog's size, and thus its conformance to the breed standard, at adulthood.

Applications: Canine genetic test to predict adult body size.

Market: In 2006, over 1.7 million purebred dogs competed in American Kennel Club-sanctioned conformance shows in the United States.

Development Status: Early stage.

Inventors: Elaine A. Ostrander and Nathaniel B. Sutter (NHGRI).

Publication: N Sutter *et al.* A single IGF1 allele is a major determinant of small size in dogs. Science 2007 Apr 6;316(5821):112–115, doi: 10.1126/science.1137045.

Patent Status: U.S. Provisional Application No. 60/856,411 filed 02 Nov 2006 (HHS Reference No. E–009–2007/0–US–01).

Licensing Status: Available for non-exclusive licensing.

Licensing Contact: Tara L. Kirby, PhD.; 301/435–4426; *tarak@mail.nih.gov.*

A Neuronal Avalanche Size (NAS) Assay to Screen for Cognitive Enhancers and Anti-Epileptics

Description of Technology: Currently available methods of detecting and measuring EEG activity only crudely classify normal and abnormal activity or distinguish epileptic activity early in the onset of its deviation from normal activity. Available for licensing are methods for recognizing a new pattern of EEG activity called neuronal avalanche size (NAS) that has been correlated with cognitive function and epilepsy. The NAS uses extracellular field potentials to measure the distribution of synchronized neurons in the cortex (neuronal avalanches) and thus the state of the cortical network. When the avalanche size reaches a power law with a slope of $-3/2$, the system is in the critical state and the cortical network is functioning optimally to spread information throughout the network. If the system slope deviates from $-3/2$, the system is outside the critical state and is either epileptic or sub-critical. In animal studies measurement of NAS quantified a drug's potential to increase cognitive functioning and induce or reduce epilepsy.

The NAS assay may thus enable high-throughput *in vitro* screens to select anti-epileptics and cognitive enhancing drugs for continued drug development. Because avalanches represent scale-invariant dynamics they can also be recorded using surface (EEG) electrodes. This technology may thus be useful in assessing cognitive function, epileptic pathology and in selecting and monitoring drug therapy for epileptic patients.

Applications:

1. *In vitro* screen to assess drugs for potential use as anti-epileptics for drugs with the propensity to cause epilepsy.

2. *In vitro* screen to assess drugs with the ability to enhance cognitive function, and ultimately, relieve cognitive defects associated with psychiatric illnesses and neurological disorders.

3. EEG monitoring of patients for diagnosis and drug selection and monitoring.

Market:

1. Epilepsy affects approximately 2.7 million people in the United States, and over 50 million people worldwide.

2. The cost of epilepsy in the United States is $12.8 billion per year, where eighty percent of this cost is due to patients with intractable seizures.

3. The cost for developing and commercializing new drugs is approximately $1 billion.

4. Schizophrenia affects about 1 out of 100 people in the United States, resulting in a public health burden of $40 billion per year in the U.S. alone.

5. Atypical neuroleptics alleviate cognitive deficits in schizophrenia and are now prescribed to more than 70 percent of all schizophrenic patients, totaling annual sales of $8.7 billion in 2003.

6. Atypical neuroleptics have variable efficacy in alleviating symptoms, and act on multiple, poorly understood pathways simultaneously resulting in many side effects.

7. The proposed *in vitro* screen could tremendously facilitate the development of more efficient and selective psychotropic drugs to alleviate cognitive deficits in schizophrenia.

Development Status: In vivo and *in vitro* data are available.

Inventors: Dietmar Plenz (NIMH).

Publications:

1. JM Beggs, D Plenz. Neuronal avalanches in neocortical circuits. J Neurosci. 2003 Dec 3;23(35):11167–77.

2. CV Stewart, D Plenz. Inverted-U profile of dopamine-NMDA-mediated spontaneous avalanche recurrence in superficial layers of rat prefrontal cortex. J Neurosci. 2006 Aug 2;26(31):8148–59.

Patent Status: U.S. Provisional Application No. 60/707,651 filed 12 Aug 2005 (HHS Reference No. E–294–2005/0–US–01); PCT Application No. PCT/US2006/031884 filed 14 Aug 2006 (HHS Reference No. E–294–2005/1–PCT–01).

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Norbert Pontzer, J.D., Ph.D.; 301/435–5502; *pontzern@mail.nih.gov.*

Collaborative Research Opportunity: The NIMH/Section of Neural Network physiology is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize the NAS assay. Please contact Dietmar Plenz at *plenzd@mail.nih.gov* for more information.

Method for Promoting Stem Cell Proliferation and Survival

Description of Technology: This technology describes a method to promote stem cell survival and proliferation by manipulating the phosphorylation state of Stat3 protein. This method has been shown to enhance survival and proliferation in stem cell cultures *in vitro,* and also in neuronal precursor cells *in vivo.* The methods include use of a Notch ligand and growth factors such as FGF 2 or insulin to promote neural stem cell survival and proliferation. The technology is also directed to a population of stem cells expressing STAT3 phosphorylated at serine 727.

Applications:

1. Clinical treatment for stroke and other neurodegenerative diseases by administration of agents that promote stem cell survival and proliferation.

2. Increased generation of stem cells *in vitro.*

3. Screening assays for agents that promote proliferation of stem cells or inhibit proliferation of cancer cells.

4. Diagnostic assay for cancer to determine the phosphorylation state of the protein in tumors.

Market:

1. Prognostic marker to help determine response of individuals with cancer.

2. Commercial suppliers or large-scale users of stem cells.

Development Status:

1. A method of increasing proliferation and survival of stem cells or precursor cells *in vitro* has been developed. The cells produced by this method have been described in an article in Nature 2006 Aug 17;442(7104):823–826.

2. The method of increasing proliferation and survival of stem cells is efficacious in *in vivo* rodent models of Parkinson's disease and stroke.

Inventors: Andreas Androutsellis-Theotokis and Ronald D.G. McKay (NINDS).

Publication: A Androutsellis-Theotokis et al. Notch signalling

regulates stem cell numbers *in vitro* and *in vivo.* Nature 2006 Aug 17;442(7104):823–826.

Patent Status:

1. U.S. Provisional Application No. 60/715,935 filed 08 Sep 2005 (HHS Reference No. E–239–2005/0–US–01).

2. PCT Application No. PCT/US2006/034988 filed 07 Sep 2006 (HHS Reference No. E–239–2005/0–PCT–02).

Licensing Status: Available for non-exclusive or exclusive licensing.

Licensing Contact: Fatima Sayyid, M.H.P.M.; 301/435–4521; *sayyidf@mail.nih.gov.*

Collaborative Research Opportunity: The National Institute of Neurological Disorders and Stroke, Laboratory of Molecular Biology, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize agents that inhibit or induce phosphorylation of STAT3 protein and survival of stem cells and precursor cells. Please contact Martha Lubet at 301/435–3120 or *lubetm@mail.nih.gov.*

Preparation and Use of Androgenic Compounds: Nandrolone 17beta-carbonates

Description of Invention: Hypogonadism is defined as deficient or absent male gonadal function that results in insufficient testosterone secretion. Hypogonadism can be caused by surgery; radiation; genetic and developmental disorders; liver and kidney disease; infection; and certain auto-immune disorders. The most common genetic disorders are Klinefelter syndrome found in men and Turner syndrome in women.

Hypogonadism affects an estimated 4 to 5 million men in the United States, and although it may occur in men at any age, low testosterone levels are especially common in older males. More than 60% of men over age 65 have free testosterone levels below the normal values of men aged 30 to 35. Studies suggest that hypogonadism in adult men is often underdiagnosed and under treated. This may be because the symptoms are easily attributed to aging or other medical causes, or ignored by patients and physicians. In fact, only about 5% of hypogonadal men receive testosterone replacement. Some experts also believe that we need to reevaluate normal testosterone levels and lower the diagnostic cutoff for hypogonadism. By doing so, many patients who we now consider to be ''low-normal'' would probably be considered candidates for androgen replacement.

The inventors have discovered androgenic compounds, the lead compound being 17beta-carbonates of nandrolone derivatives. These compounds can be used to treat hypogonadism, as hormonal therapy and as a male contraceptive. The disclosed carbonates have potent activity when administered as an oral composition. In addition, long-lasting activity has also been observed with subcutaneous administration in laboratory animals. It is foreseen that these androgens can be utilized in hormonal replacement therapy for both men and women, which constitute a huge market both in the United States and abroad.

Inventors: Richard P. Blye and Hyun K. Kim (NICHD).

Patent Status: U.S. Provisional Application No. 60/650,376 filed 04 Feb 2005 (HHS Reference No. E–181–2004/0–US–01); PCT Application No. PCT/US2006/02436 filed 24 Jan 2006 (HHS Reference No. E–181–2004/0–PCT–02).

Licensing Status: Available for non-exclusive or exclusive licensing.

Licensing Contact: Tara L. Kirby, PhD; 301/435–4426; tarak@mail.nih.gov.

Collaborative Research Opportunity: The NICHD Contraception & Reproductive Health Branch is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize this technology. Please contact John D. Hewes, Ph.D. at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Neural Crest-Melanocyte cDNA Based Microarray Analysis for Human Skin Pigmentation Research

Description of Technology: Microarrays have wide applications in basic research and are used for the discovery of candidate genes as markers for disease and for therapeutic intervention. This invention pertains to the identification of a set of neural crest-melanocyte (NC-M) genes through microarray analysis and informatic analysis. Utilizing the extensive sequence information in the expressed sequence tag database (dbEST), the specific set of cDNA sequence was identified for microarray analysis of melanocyte function and diseases. This integrated technique of sequencing with bioinformatics led to the discovery of novel genes. The cDNA sequences selected in this invention are differently expressed in neural crest melanocyte derivates relative to non-neural derived samples. Given that many of the neural-crest melanocyte genes are expressed at embryonic stages of neural crest-melanocyte development, the gene set identified in this invention should provide a useful tool for the analysis of patterns of transcriptional regulation of NC-M development. Thus, this technology will be useful for the characterization of altered expression patterns in diseases such as melanoma. Further, this new microarray research tool has been developed using the set of genes that are likely to be involved in the control of human skin pigmentation. The microarray system utilizing these genes is of significant importance in identifying small molecules that may modulate their activity leading to alterations in human skin pigmentation. Therefore, this invention is significantly useful to the researchers to study alterations in human skin pigment amount and type.

Inventors: William J. Pavan and Stacie K. Loftus (NHGRI).

Patent Status: HHS Reference No. E–014–2002/0—Research Tool.

Licensing Status: Available for licensing under a Biological Materials License.

Licensing Contact: Tara L. Kirby, PhD; 301/435–4426; *tarak@mail.nih.gov.*

RAB38, a Target for Treatment of Melanoma and Pigmentation Disorders

Description of Technology: Melanocytes are specialized pigment-producing cells that are responsible for coloration of skin, eyes and hair. Using cDNA microarray expression profiling, the inventors have identified RAB38, a small GTP-binding protein, as an important gene involved in melanocyte function. Human RAB38 was localized to the mouse chocolate (cht) locus, and mutation of this gene in mice changes hair color from black to brown, similar to OCAIII mice, which have a mutation in TYRP1, another melanosomal gene, and are used as a model for oculocutaneous albinism.

The inventors have demonstrated that RAB38 is important for trafficking of the TYRP1 protein; thus, RAB38 mutant mice are genocopies of TYRP1 mutant mice. Modulation of RAB38 activity, such as by pharmacologic intervention, might alter pigmentation in human skin. Recently, RAB38 has also been identified as a melanocyte differentiation antigen that is strongly immunogenic, leading to spontaneous antibody responses in a significant proportion of melanoma patients. Thus, RAB38 may also have applications for melanoma diagnostics and treatment.

This invention discloses RAB38 nucleic acids and protein, and methods for detecting mutations in RAB38. Also disclosed are methods for screening for agents to modulate RAB38 activity, and for modulating pigmentation through modulation of RAB38 activity.

Applications:

1. Marker protein and target for antigen-specific immunotherapy in patients with malignant melanoma.

2. Therapeutics and diagnostics for melanin-related disorders.

Development Status: Early stage.

Inventors: William J. Pavan and Stacie K. Loftus (NHGRI).

Publications: Stacie K. Loftus, Denise M. Larson, Laura L. Baxter, Anthony Antonellis, Yidong Chen, Xufeng Wu, Yuan Jiang, Michael Bittner, John A. Hammer III, and William J. Pavan. Mutation of melanosome protein RAB38 in chocolate mice. Proc Natl Acad Sci U.S.A. 2002 Apr 2;99(7):4471–4476.

Patent Status:

1. U.S. National Stage Application No. 10/501,611 filed 20 Nov 2005, claiming priority to 18 Jan 2002 (HHS Reference No. E–315–2001/0–US–07).

2. Foreign counterparts pending in Australia, Canada, Europe, and Japan.

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Tara L. Kirby, Ph.D; 301/435–4426; *tarak@mail.nih.gov.*

Novel Dmt-Tic Analogues Specific for Delta- and Mu-Opioid Receptors

Description of Technology: Opioid receptor modulators, used historically for pain control, have more recently been shown to possess broader therapeutic potential in areas such as opiate and alcohol abuse, neurological disease or injury, neuropeptide or neurotransmitter imbalance, and immune system dysfunction. Furthermore, their interaction with key reward pathways presents interesting avenues for exploration in the treatment of food as an addictive substance, due to the fact that obesity is a major health problem in the U.S. Also, evidence of modulatory interactions between delta- and mu-opioid receptors has spurred interest in new opioid ligands possessing mixed and dual specificity for these receptors. These bifunctional compounds are particularly promising for treatment of addiction and treatment of pain with the elimination of drug tolerance.

The inventors have developed a wide variety of highly selective Dmt-Tic analogues with potential therapeutic applications. These analogues include specific agonists and antagonists of the delta- and mu-opioid receptors and combinations thereof.

Some disclosed analogues are di- and tri-peptidic derivatives of the Dmt-Tic pharmacophore; in addition to opioid receptor specificity, two of these derivatives have been shown to inhibit the activity of human multidrug resistance glycoprotein 1 (hMDR1) and may represent a novel chemosensitizing agent for treating cancer, and may also be used for reducing tolerance to morphine, the drug of choice in most hospitals around the world, thereby increasing its effectiveness. Also disclosed are compounds produced through derivatization of Dmt-Tic reference compounds with lysine, resulting in an unexpected and broad range of delta-and/or mu-opioid receptor modulation. The inventors have also prepared symmetric and asymmetric Dmt-Tic di-peptides that are potent dual delta- and mu-opioid receptor antagonists and that can pass through the gastrointestinal and blood-brain barriers. Finally, the inventors have prepared various fluorescent Dmt-Tic analogs that are useful for study of delta- and mu-opioid receptor structure and function.

Applications:

1. Potential opiate, food, and alcohol addiction therapeutics.

2. Potential therapeutics for pain treatment.

3. Potential therapeutics for cancer.

4. Tools for screening ligand binding activity and differentiating between delta- and mu-opioid receptors.

Market:

1. In 2004, approximately 22 million Americans over the age of 12 required treatment for alcohol or illicit drug abuse and addiction; 13 million of these were classified as alcoholics.

2. Approximately 50 million Americans suffer from pain, and an estimated 1.5 billion people suffer from moderate to severe pain worldwide.

3. Two-thirds of the U.S. population is overweight, with a quarter designated as obese (9 million of whom are children); the number of overweight Americans doubled between 1980–1999 and is predicted to increase 20% by 2013 to 140 million.

Development Status: In vitro data are available.

Inventors: Lawrence H. Lazarus (NIEHS) et al.

Publications:

1. G. Balboni et al. Effect of lysine at C-terminus of the Dmt-Tic opioid pharmacophore. J Med Chem. 2006 Sep 7;49(18):5610–5617.

2. T Lovekamp et al. Inhibition of human multidrug resistance P-glycoprotein 1 by analogues of a potent delta-opioid antagonist. Brain Res. 2001 May 25;902(1):131–134.

3. T Li et al. Potent Dmt-Tic pharmacophoric delta- and mu-opioid receptor antagonists. J Med Chem. 2005 Dec 15;48(25):8035–8044.

4. T Li et al. Transformation of a mu-opioid agonist into biologically potent mu-opioid antagonists. Bioorg Med Chem. 2007 Feb 1;15(3):1237–1251.

5. G. Balboni et al. Highly selective fluorescent analogue of the potent *elta-opioid receptor antagonist Dmt-Tic. J Med Chem. 2004 Dec 16:47(26):6541–6546.

Patent Status:

1. U.S. Patent No. 6,753,317 issued 22 Jun 2004 (HHS Reference No. E–103–2000/0–US–02).

2. U.S. Patent No. 6,916,905 issued 12 Jul 2005 (HHS Reference No. E–103–2000/1–US–01).

3. U.S. Patent Application No. 10/280,752 filed 16 Nov 2005 (HHS Reference No. E–103–2000/2–US–02).

4. U.S. Provisional Application No. 60/834,438 filed 31 Jul 2006 (HHS Reference No. E–103–2000/3–US–01).

5. PCT Application No. PCT/US06/33560 filed 30 Aug 2006 (HHS Reference No. E–305–2005/0–PCT–02).

Licensing Status: Available for exclusive or nonexclusive licensing.

Licensing Contact: Tara L. Kirby, PhD; 301/435–4426; *tarak@mail.nih.gov.*

Dated: April 17, 2007.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E7–7933 Filed 4–25–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2007–27858]

National Boating Safety Advisory Council; Vacancies

AGENCY: Coast Guard, DHS.

ACTION: Request for applications.

SUMMARY: The Coast Guard seeks applications for membership on the National Boating Safety Advisory Council (NBSAC). NBSAC advises the Coast Guard on matters related to recreational boating safety.

DATES: Application forms should reach us on or before August 17, 2007.

ADDRESSES: You may request an application form by writing to Commandant, Office of Boating Safety (CG–3PCB–1), U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593–0001; by calling 202–372–1062; or by faxing 202–372–1932. Send your application in written form to the above street address. This notice and the application form are also available on the Internet at: *http://www.uscgboating.org/nbsac/nbsac.htm.*

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Ludwig, Executive Secretary of

NBSAC, telephone 202–372–1062, fax 202–372–1932, or e-mail: *jeffrey.a.ludwig@uscg.mil.*

SUPPLEMENTARY INFORMATION: The National Boating Safety Advisory Council (NBSAC) is a Federal advisory committee under 5 U.S.C. App. 2. It advises the Coast Guard regarding regulations and other major boating safety matters. NBSAC's 21 members are drawn equally from the following three sectors of the boating community: State officials responsible for State boating safety programs, recreational boat and associated equipment manufacturers, and national recreational boating organizations and the general public. Members are appointed by the Secretary of the Department of Homeland Security.

NBSAC normally meets twice each year at a location selected by the Coast Guard. When attending meetings of the Council, members are provided travel expenses and per diem.

We will consider applications received in response to this notice for the following seven positions that expire or become vacant in December 2007: Two representatives of State officials responsible for State boating safety programs, three representatives of recreational boat and associated equipment manufacturers, and two representatives of the general public or national recreational boating organizations.

Applicants are considered for membership on the basis of their particular expertise, knowledge, and experience in recreational boating safety. Prior applicants should submit an updated application to ensure consideration for the vacancies announced in this notice. Each member serves for a term of up to 3 years. Members may reapply to serve a consecutive term. In support of the policy of the U.S. Coast Guard on gender and ethnic diversity, we encourage qualified women and members of minority groups to apply.

If you are selected as a member who represents the general public, we will require you to complete a Confidential Financial Disclosure Report (OGE Form 450). We may not release the report or the information in it to the public, except under an order issued by a Federal court or as otherwise provided under the Privacy Act (5 U.S.C. 552a).

Dated: April 18, 2007.

F.J. Sturm,

Captain, U.S. Coast Guard, Acting Director of Inspections and Compliance.

[FR Doc. E7–7947 Filed 4–25–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[CGD08–07–009]

Lower Mississippi River Waterway Safety Advisory Committee

AGENCY: Coast Guard, DHS.

ACTION: Notice of meeting.

SUMMARY: The Lower Mississippi River Waterway Safety Advisory Committee (LMRWSAC) will meet to discuss various issues relating to navigational safety on the Lower Mississippi River and related waterways. The meeting will be open to the public.

DATES: The next meeting of LMRWSAC will be held on Wednesday, May 23, 2007, from 9 a.m. to 12 p.m. This meeting may adjourn early if all business is finished. Requests to make oral presentations or submit written materials for distribution at the meeting should reach the Coast Guard on or before May 9, 2007. Requests to have a copy of your material distributed to each member of the committee in advance of the meeting should reach the Coast Guard on or before May 9, 2007.

ADDRESSES: The meeting will be held in the World Trade Center of New Orleans, 2 Canal Street, 18th Floor, New Orleans, LA 70130. This notice is available on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade (LTJG) Thao Nguyen, Assistant Committee Administrator, e-mail *thao.v.nguyen@uscg.mil,* telephone (504) 589–6196 extension 369. Written materials and requests to make presentations should be mailed to Commanding Officer, USCG Sector New Orleans, Attn: Waterways Management, 1615 Poydras St, New Orleans, LA 70112.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of Meeting

Lower Mississippi River Waterway Safety Advisory Committee (LMRWSAC). The agenda includes the following:

(1) Introduction of committee members.
(2) Opening Remarks.
(3) Approval of the December 14, 2006 minutes.
(4) Old Business:
(a) Captain of the Port status report.
(b) VTS update report.
(c) Subcommittee / Working Group update reports.
(5) New Business.
(6) Adjournment.

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 Committee Administrator no later than May 9, 2007. Written material for distribution at the meeting should reach the Coast Guard no later than May 9, 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 Committee Administrator no later than May 9, 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 meetings, contact the Committee Administrator at the location indicated under Addresses as soon as possible.

Dated: April 13, 2007.

Richard G. Sullivan,

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

[FR Doc. E7–7941 Filed 4–25–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2007–27656]

High Frequency (HF) Radio Broadcasts of Marine Weather Forecasts and Warnings

AGENCY: Coast Guard, DHS.

ACTION: Notice; request for public comments.

SUMMARY: The Coast Guard is soliciting public comment on the need to continue providing high frequency (HF) radio broadcasts of weather forecasts and warnings. Public comment is necessary in order to assess the demand for the HF radio broadcasts of weather forecasts in each of three forms: (1) Radiofacsimile; (2) voice; and, (3) Simplex Teletype Over Radio (SITOR), also known as Narrow Band Direct Printing (NBDP). The infrastructure necessary to provide these services has exceeded its life expectancy; the equipment is no longer manufactured, repairs are difficult to

accomplish, and spare parts generally are not available. Because of the very significant costs involved to continue these specific HF radio services, the Coast Guard requires information on the extent to which these services are used by the public and what alternative services are being used or are available to obtain weather forecasts and warnings.

DATES: Comments and related material must reach the Docket Management Facility on or before August 24, 2007.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG–2007–27656 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) Web Site: *http://dms.dot.gov*

(2) Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590–0001.

(3) Fax: 202–493–2251.

(4) 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. The telephone number is 202–366–9329.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, please contact Mr. Russell S. Levin, Spectrum Management Division (CG–622), U.S. Coast Guard Headquarters, telephone: 202–475–3555, fax: 202–475–3927, or e-mail: *Russell.S.Levin@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–493–0402.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate by submitting comments. All comments received will be posted, without change, to *http://dms.dot.gov* and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's ''Privacy Act'' paragraph below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number for this notice (USCG–2007–27656) and give the reason for each comment. You may submit your comments by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments received during the comment period.

Viewing comments and documents: To view comments, go to *http://dms.dot.gov* at any time, click on ''Simple Search,'' enter the last five digits of the docket number for this notice, and click on ''Search.'' You may also visit the Docket Management Facility in 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.

Privacy Act: Anyone can 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 the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://dms.dot.gov.*

Background and Purpose

The Coast Guard broadcasts the National Oceanic and Atmospheric Administration's (NOAA) National Weather Service (NWS) weather forecasts and warnings using 24 high frequency (HF) radio transmitters (transmitting on frequencies between 3 and 30 MHz) located at seven Coast Guard communications stations in the United States and Guam. The range of these HF radio transmissions is dependent upon operating frequency, time of day and atmospheric conditions, and can vary from only short distances to several thousand miles. There are three types of HF radio broadcasts currently provided: (1) Voice broadcasts that transmit a synthesized voice to announce the forecasts); (2) radiofacsimile, also known as ''radiofax'' or ''HF Fax'' broadcasts, that transmit graphic weather maps and other graphic images over HF radio (maps are received using a dedicated radiofax receiver or a single sideband shortwave receiver connected to an external facsimile recorder or a personal computer equipped with a radiofax interface and application software); and, (3) Simplex Teletype Over Radio (SITOR) broadcasts also known as Narrow Band Direct Printing (NBDP).

The 24 HF transmitters employed to transmit weather forecasts and warnings are not, because of their age, providing the reliability the Coast Guard expects from its radio transmitters. These particular transmitters are no longer manufactured and replacement parts generally are not available, making it difficult, if not impossible, to repair them. If the HF weather broadcasts are to continue, the infrastructure necessary for the broadcasts must be replaced. Significant costs will be incurred to replace the requisite transmitters and associated infrastructure. Before seeking funds for this undertaking, the Coast Guard must gather evidence relating to how frequently, and under what circumstances, the maritime community uses the various types of HF radio weather broadcasts. In addition, it would be helpful to learn about current and future needs of the maritime community with regard to receiving weather forecasts and warnings over HF radio, and what alternatives are being used or might become available.

Questions: The following are questions related to Coast Guard HF radio broadcasts on which we seek your comments. It would be helpful if commenters would answer the question as specifically as possible, and then provide explanations, if any, for the responses.

(1) What is your position in the maritime community? (Please be as specific as possible, *e.g.,* captain of 600′ oil tanker, 1st mate on 500 unit containership, owner/operator of 45′ cruising sailboat, fleet manager of a 27 vessel shipping company, yacht delivery captain, etc.)

(2) What are your primary sources for obtaining marine weather forecasts? (For example, Inmarsat-C/SafetyNet, USCG HF radio broadcasts, USCG medium frequency (MF) Radio Broadcasts, USCG very high frequency (VHF) radio broadcasts, NOAA Weather Radio, NAVTEX, shoreside Internet, radio/television, commercial service/system, etc.)

(3) Do you use Coast Guard HF radio voice broadcasts to receive marine weather forecasts? (Yes or No) If yes, how often do you use Coast Guard HF voice broadcasts and how critical are they to your safety and operation as compared to the other sources you listed in your response to Question 2?

(4) Do you use Coast Guard HF radiofax broadcasts to receive marine weather forecasts? (Yes or No) If yes, how often do you use Coast Guard HF radiofax broadcasts and how critical are they to your safety and operation as compared to the other sources you listed in your response to Question 2?

(5) Do you use Coast Guard HF radio Simplex Teletype over Radio (SITOR) (also known as Narrow Band Direct printing (NBDP)) to receive marine weather forecasts? (Yes or No) If yes, how often do you use Coast Guard SITOR radio broadcasts and how critical are they to your safety and operation as compared to the other sources you listed in your response to Question 2?

(6) What alternative source(s) for obtaining marine weather forecasts would you pursue if Coast Guard HF broadcasts were no longer available? How would you rate the alternative source(s) in terms of (a) user cost and (b) usefulness of the information as compared to the Coast Guard HF broadcast it replaces?

(7) Would the loss of Coast Guard HF marine weather broadcasts affect you? Please explain.

(8) How far seaward does your vessel primarily operate? (For example, coastal (0–25 nautical miles (nm) seaward); offshore (25–200 nm seaward); or, high seas (more than 200 nm seaward.) In what geographic area(s) do you generally operate your vessel? (For example, mid-Atlantic, New England, North Central Pacific, Hawaii, Gulf of Mexico, etc.)

As noted previously, comments regarding these questions, and any other pertinent matters brought to our attention during the comment period, will be taken into account in our future actions regarding the issues raised by these questions.

Dated: April 18, 2007.

C.S. Johnson, JR.,

Captain, U.S. Coast Guard, Acting Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. E7–7945 Filed 4–25–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–3274–EM]

Indiana; Amendment No. 2 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of Indiana (FEMA–3274–EM), dated March 12, 2007, and related determinations.

EFFECTIVE DATE: April 17, 2007.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Disaster Assistance Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of an emergency declaration for the State of Indiana is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of March 12, 2007:

Porter, Steuben, and Wells Counties for emergency protective measures (Category B), including snow removal, under the Public Assistance program for any continuous 48-hour period during or proximate to the incident period.

(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,

Administrator, Federal Emergency Management Agency.

[FR Doc. E7–7972 Filed 4–25–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Draft Recovery Plan for the Northern Spotted Owl (*Strix occidentalis caurina*)

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of document availability for review and comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of the Draft Recovery Plan for the Northern Spotted Owl (*Strix occidentalis caurina*) (northern spotted owl) for public review and comment.

DATES: Comments on the draft recovery plan must be received on or before June 25, 2007. We will also conduct four public meetings in order to receive oral comments about this plan. For dates, times, and locations, please refer to the **SUPPLEMENTARY INFORMATION** section of this notice.

ADDRESSES: Comments on the plan can be sent electronically to *NSOplan@fws.gov,* or mailed to NSO Recovery Plan, U.S. Fish and Wildlife Service, Ecological Services, 911 NE., 11th Avenue, Portland, Oregon 97232. Copies of the draft recovery plan will be available by request from the same Portland address (telephone: 503–231–2194). An electronic copy of the draft recovery plan is also available at: *http://www.fws.gov/pacific/ecoservices/endangered/recovery/plans.html.*

FOR FURTHER INFORMATION CONTACT: Paul Phifer, Northern Spotted Owl Recovery Plan Project Manager, at the Portland address identified above (telephone 503–724–1886, fax 503–231–2050).

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of our endangered species program. The Endangered Species Act (16 U.S.C. 1531 *et seq.*) (ESA) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Recovery plans help guide the recovery effort by describing actions considered necessary for the conservation of the species, establishing criteria for downlisting or delisting listed species, and estimating time and cost for implementing the measures needed for recovery.

Section 4(f) of the ESA requires that public notice, and an opportunity for public review and comment, be provided during recovery plan development. We will consider all information presented during the public comment period. Substantive comments on the recovery needs of the species or other aspects of recovery plan development may result in changes to the recovery plan. Substantive comments regarding recovery plan implementation may not necessarily result in changes to the recovery plan, but will be forwarded to appropriate Federal agencies or other entities so that they can take these comments into account during the course of implementing recovery actions. Individual responses to comments will not be provided.

The northern spotted owl inhabits structurally complex forests from southwest British Columbia through the Cascade Mountains and coastal ranges in Washington, Oregon, and California, as far south as Marin County. When the northern spotted owl was listed under the ESA as a threatened species on June 26, 1990, the major threats were identified as widespread loss and

adverse modification of suitable habitat across the owl's entire range and the inadequacy of existing regulatory mechanisms to conserve the owl. Currently, populations of northern spotted owls are declining, especially in the northern parts of the species' range.

Scientific research and monitoring have reported that northern spotted owls generally rely on older forested habitats because such habitats contain the structures and characteristics required for nesting, roosting, and foraging. Recent landscape-level studies in several southern portions of the northern spotted owl's range suggest a mosaic of forest conditions may result in good northern spotted owl habitat, though other studies have not reported that finding.

The most important threat currently facing the northern spotted owl is believed to be competition with the barred owl (*Strix varia*). Actions associated with addressing the barred owl threat were given the highest recovery priority, meaning the action ''must be taken to prevent extinction or prevent the species from declining irreversibly in the foreseeable future.'' Other important threats to the northern spotted owl continue to be loss of habitat quality and quantity as a result of past activities and disturbances, and ongoing and projected loss of habitat as a result of fire, logging and conversion of habitat to other uses.

The draft recovery plan provides two options for recovery, and we are seeking public comment on the effectiveness of both options to achieve recovery. Both options are based on the same underlying science, and contain essentially the same recovery goal, objectives, criteria, and actions. The options differ in that option 1 identifies (i.e., maps) the specific conservation area boundaries in which most of the recovery actions and criteria will be targeted. Option 2 does not designate specific conservation area boundaries, rather it provides a ''rule set'' that will help guide the Federal land management agencies when undertaking conservation actions for the northern spotted owl. Both options rely on Federal lands to provide the primary contribution for northern spotted owl recovery.

The intent of providing two options for public comment in a draft recovery plan is to promote open public discussion about how to successfully recover this species.

Public Comments Solicited

We will conduct four public meetings, from 6:30 p.m. to 9:30 p.m., to receive oral comments about this plan on:

- May 22, 2007, Tuesday at the Douglas County Fairgrounds Complex Conference Hall, 2110 SW Frear Street, Roseburg, OR;
- May 23, 2007, Wednesday at the Redding Convention Center, 700 Auditorium Drive, Redding, CA;
- May 30, 2007, Wednesday at the Oregon Convention Center, Portland Ballroom, 777 Northeast Martin Luther King, Jr. Blvd., Portland, OR; and
- May 31, 2007, Thursday at St. Martin's University, Norman Worthington Conference Center, 5300 Pacific Ave. SE., Lacey, WA.

Persons with disabilities needing reasonable accommodations to participate in the public meetings are invited to contact Angela Butsch at 1–888–812–5759 (voice) or 503–231–6263 (TTY), or *angela_butsch@fws.gov*. Reasonable accommodation requests should be received at least 3 business days prior to the meeting to help ensure availability; 2 weeks notice is requested for ASL/ESL interpreter needs.

We are also soliciting written comments on the draft recovery plan described. All comments received by the date specified above will be considered in the finalization of this plan. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

We would specifically appreciate comments on the following topics found in both options:

- The methods used to determine desired habitat percentages listed in Recovery Criterion 4. If recommendations are offered, respondents are asked to explain the scientific foundation supporting their comments;
- The biological need, design and feasibility of attempting to provide connectivity between the Olympic Peninsula and central Washington northern spotted owl populations;
- The biological value in identifying conservation areas in southwest Washington and northwest Oregon;
- The practicality of Appendix E, which provides examples of how a salvage logging action (Recovery Action 22) may be implemented;
- The identified boundaries of the Managed Owl Conservation Areas (option 1 only) and the Conservation Support Areas;
- Methods for managing the threat posed by barred owls; and
- Ways to create incentives for private land owners and managers to support recovery of the northern spotted owl.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: April 20, 2007.

David J. Wesley,

Acting Regional Director, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. E7–8007 Filed 4–25–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; 5-Year Review of 22 Southeastern Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Fish and Wildlife Service is initiating 5-year reviews of the Southeastern beach mouse (*Peromyscus polionotus niveiventris*), rice rat (*Oryzomys palustris natator*), Florida salt marsh vole (*Microtus pennsylvanicus dukecampbelli*), Key Largo woodrat (*Neotoma floridana smalli*), Florida grasshopper sparrow (*Ammodramus savannarum floridanus*), Atlantic salt marsh snake (*Nerodia clarkii taeniata*), Schaus swallowtail butterfly (*Heraclides aristodemus ponceanus*), Squirrel Chimney Cave shrimp (*Palaemonetes cummingi*), Florida bonamia (*Bonamia grandiflora*), pigeon wings (*Clitoria fragrans*), short-leaved rosemary (*Conradina brevifolia*), Rugel's pawpaw (*Deeringothamnus rugelii*), longspurred mint (*Dicerandra cornutissima*), Lakela's mint (*Dicerandra immaculata*), scrub buckwheat (*Eriogonum longifolium* var. *gnaphalifolium*), Telephus spurge (*Euphorbia telephioides*), Highlands scrub hypericum (*Hypericum cumulicola*), scrub lupine (*Lupinus aridorum*), papery whitlow-wort (*Paronychia chartacea*), Miccosukee gooseberry (*Ribes echinellum*), Cooley's meadowrue (*Thalictrum cooleyi*), and Carter's mustard (*Warea carteri*), under section 4(c)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), as amended (Act). The purpose of reviews conducted under this section of

the Act is to ensure that the classification of species as threatened or endangered on the List of Endangered and Threatened Wildlife and Plants (50 CFR 17.11 and 17.12) is accurate. A 5-year review is an assessment of the best scientific and commercial data available at the time of the review.

DATES: To allow us adequate time to conduct this review, information submitted for our consideration must be received on or before June 25, 2007. However, we will continue to accept new information about any listed species at any time.

ADDRESSES: Information submitted on the Southeastern beach mouse, Florida salt marsh vole, Atlantic salt marsh snake, Squirrel Chimney Cave shrimp, longspurred mint, scrub lupine, Florida bonamia, scrub buckwheat, and Rugel's pawpaw should be sent to Sandy MacPherson, Jacksonville Field Office, U.S. Fish and Wildlife Service, 6620 Southpoint Drive South, Suite 310, Jacksonville, Florida 32216, fax 904–232–2404. Information on the Key Largo woodrat, rice rat, Florida grasshopper sparrow, Schaus swallowtail butterfly, pigeon wings, Lakela's mint, Carter's mustard, Highlands scrub hypericum, short-leaved rosemary, and papery whitlow-wort should be sent to Cindy Schulz, South Florida Ecological Services Office, U.S. Fish and Wildlife Service, 1339 20th Street, Vero Beach, Florida 32960, fax 772–562–4288. Information on the Telephus spurge and Miccosukee gooseberry should be sent to Janet Mizzi, Panama City Field Office, U.S. Fish and Wildlife Service, 1601 Balboa Avenue, Panama City, Florida 32405, fax 850–763–2177. Information on Cooley's meadowrue should be sent to Pete Benjamin, Raleigh Field Office, U.S. Fish and Wildlife Service, 551–F Pylon Drive, Raleigh, North Carolina 27636, fax 919–856–4520. Information received in response to this notice of review will be available for public inspection by appointment, during normal business hours, at the same addresses.

FOR FURTHER INFORMATION CONTACT: Sandy MacPherson at the Jacksonville, Florida, address above (telephone, 904/232–2580, ext. 110, e-mail *sandy_macpherson@fws.gov*); Cindy Schulz at the Vero Beach, Florida, address above (telephone, 772/562–3909, ext. 305, e-mail *cindy_schulz@fws.gov*); Janet Mizzi at the Panama City, Florida, address above (telephone, 850/769–0552, ext. 247, e-mail *janet_mizzi@fws.gov*); and Dale Suiter at the Raleigh, North Carolina, address above (telephone, 919/856–4520, ext. 18, e-mail *dale_suiter@fws.gov*).

SUPPLEMENTARY INFORMATION: Under the Act, the Service maintains a list of endangered and threatened wildlife and plant species at 50 CFR 17.11 (for wildlife) and 17.12 (for plants) (collectively referred to as the List). Section 4(c)(2)(A) of the Act requires that we conduct a review of listed species at least once every 5 years. Then, on the basis of such reviews, under section 4(c)(2)(B), we determine whether or not any species should be removed from the List (delisted), or reclassified from endangered to threatened or from threatened to endangered. Delisting a species must be supported by the best scientific and commercial data available and only considered if such data substantiate that the species is neither endangered nor threatened for one or more of the following reasons: (1) The species is considered extinct; (2) the species is considered to be recovered; and/or (3) the original data available when the species was listed, or the interpretation of such data, were in error. Any change in Federal classification would require a separate rulemaking process. Amendments to the List through final rules are published in the **Federal Register**.

The regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species currently under active review. This notice announces our active review of the following species that are currently listed as endangered: rice rat, Florida salt marsh vole, Key Largo woodrat, Florida grasshopper sparrow, Schaus swallowtail butterfly, short-leaved rosemary, Rugel's pawpaw, longspurred mint, Lakela's mint, Telephus spurge, Highlands scrub hypericum, scrub lupine, Cooley's meadowrue, and Carter's mustard. This notice also announces our active review of the following species that are currently listed as threatened: Southeastern beach mouse, Atlantic salt marsh snake, Squirrel Chimney Cave shrimp, Florida bonamia, pigeon wings, scrub buckwheat, papery whitlow-wort, and Miccosukee gooseberry.

The List is also available on our internet site at *http://endangered.fws.gov/wildlife.html#Species*.

What information is considered in the review?

A 5-year review will consider the best scientific and commercial data that have become available since the current listing determination or most recent status review of each species, such as:

A. Species biology, including but not limited to population trends, distribution, abundance, demographics, and genetics;

B. Habitat conditions, including but not limited to amount, distribution, and suitability;

C. Conservation measures that have been implemented to benefit the species;

D. Threat status and trends (see five factors under heading ''How do we determine whether a species is endangered or threatened?''); and

E. Other new information, data, or corrections, including but not limited to taxonomic or nomenclatural changes, identification of erroneous information contained in the List, and improved analytical methods.

Definitions Related to This Notice

The following definitions are provided to assist those persons who contemplate submitting information regarding the species being reviewed:

A. *Species* includes any species or subspecies of fish, wildlife, or plant, and any distinct population segment of any species of vertebrate which interbreeds when mature.

B. *Endangered* means any species that is in danger of extinction throughout all or a significant portion of its range.

C. *Threatened* means any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

How do we determine whether a species is endangered or threatened?

Section 4(a)(1) of the Act establishes that we determine whether a species is endangered or threatened based on one or more of the following five factors:

A. The present or threatened destruction, modification, or curtailment of its habitat or range;

B. Overutilization for commercial, recreational, scientific, or educational purposes;

C. Disease or predation;

D. The inadequacy of existing regulatory mechanisms; or

E. Other natural or manmade factors affecting its continued existence.

What could happen as a result of this review?

If we find that there is new information concerning any of these 22 species indicating that a change in classification may be warranted, we may propose a new rule that could do one of the following: (a) Reclassify the species from endangered to threatened; (b)

reclassify the species from threatened to endangered; or (c) delist the species. If we determine that a change in classification is not warranted, then the species will remain on the List under its current status.

Public Solicitation of New Information

We request any new information concerning the status of any of these 22 species. See ''What information is considered in the review?'' heading for specific criteria. Information submitted should be supported by documentation such as maps, bibliographic references, methods used to gather and analyze the data, and/or copies of any pertinent publications, reports, or letters by knowledgeable sources. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their names and home addresses, etc., but if you wish us to consider withholding this information, you must state this prominently at the beginning of your comments. In addition, you must present rationale for withholding this information. This rationale must demonstrate that disclosure would constitute a clearly unwarranted invasion of privacy. Unsupported assertions will not meet this burden. In the absence of exceptional, documentable circumstances, this information will be released. We will always make submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Authority: This document is published under the authority of the Endangered Species Act (16 U.S.C. 1531 et seq.).

Dated: March 29, 2007.

Cynthia K. Dohner,

Acting Regional Director, Southeast Region.

[FR Doc. E7–8006 Filed 4–25–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID 100 1220MA 214A: DBG071007]

Notice of Public Meeting: Resource Advisory Council to the Boise District, Bureau of Land Management, U.S. Department of the Interior

AGENCY: Bureau of Land Management, U.S. Department of the Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Boise District Resource Advisory Council (RAC), will hold a meeting as indicated below.

DATES: The meeting will be held May 22, 2007, beginning at 9 a.m. and adjourning at 1 p.m. The meeting will be held at the Boise District Office located at 3948 Development Avenue, Boise, Idaho. Public comment periods will be held at intervals throughout the meeting.

FOR FURTHER INFORMATION CONTACT: MJ Byrne, Public Affairs Officer and RAC Coordinator, BLM Boise District, 3948 Development Ave., Boise, ID 83705, Telephone (208) 384–3393.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in southwestern Idaho.

The Board will formally approve the members of the new RAC Recreation Subcommittee, including one non-RAC member. Elections of officers for the 2007 fiscal year will be held. The RAC will be given a brief status report on both the Snake River Birds of Prey National Conservation Resource Management Plan (RMP), and the Bruneau RMP. Hot Topics will be discussed by the District Manager and Field Office managers will provide highlights on activities in their offices.

Agenda items and location may change due to changing circumstances, including wildlife emergencies. All meetings are open to the public. The public may present written comments to the Council. Each formal Council meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, tour transportation or other reasonable accommodations, should contact the BLM Coordinator as provided above. Expedited publication is requested to give the public adequate notice.

Dated: April 20, 2007.

David Wolf,

Acting, District Manager.

[FR Doc. 07–2061 Filed 4–25–07; 8:45 am]

BILLING CODE 4310–GG–M

DEPARTMENT OF THE INTERIOR

[MT–922–07–1310–FI–P; NDM 93550]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease NDM 93550

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Per 30 U.S.C. 188(d), Upton Resources, Encore Operating, LP, Northern Energy Corporation and WHC Exploration, LLC timely filed a petition for reinstatement of oil and gas lease NDM 93550, Billings County, North Dakota. The lessees paid the required rental accruing from the date of termination.

No leases were issued that affect these lands. The lessees agree to new lease terms for rentals and royalties of $10 per acre and 16⅔ percent or 4 percentages above the existing competitive royalty rate. The lessees paid the $500 administration fee for the reinstatement of the lease and $163 cost for publishing this Notice.

The lessees met the requirements for reinstatement of the lease per Sec. 31(d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188). We are proposing to reinstate the lease, effective the date of termination subject to:

- The original terms and conditions of the lease;
- The increased rental of $10 per acre;
- The increased royalty of 16⅔ percent or 4 percentages above the existing competitive royalty rate; and
- The $163 cost of publishing this Notice.

FOR FURTHER INFORMATION CONTACT: Karen L. Johnson, Chief, Fluids Adjudication Section, BLM Montana State Office, 5001 Southgate Drive, Billings, Montana 59101–4669, 406–896–5098.

Dated: April 19, 2007.

Karen L. Johnson,

Chief, Fluids Adjudication Section.

[FR Doc. E7–7942 Filed 4–25–07; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–923–1310–FI; WYW147007]

Wyoming: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed reinstatement of terminated oil and gas lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), the Bureau of Land Management (BLM) received a petition for reinstatement from Cohort Energy Co. for competitive oil and gas lease WYW147007 for land in Sweetwater County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Branch of Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $163.00 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW147007 effective December 1, 2006, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. BLM has not issued a valid lease affecting the lands.

Julie L. Weaver,

Acting Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. E7–7995 Filed 4–25–07; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0056]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60–Day Notice of Information Collection Under Review: Special Agent Medical Pre-placement.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until June 25, 2007. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Eddie Trejo, Recruitment Branch, 6333 3rd Street, NW., Suite 600, Washington, DC 20001.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Special Agent Medical Pre-placement.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* ATF F 2300.10. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. *Other:* None. The form is used by a special agent who is applying for a position that has specific medical standards. The information collected is used to determine medical suitability to qualify for a position that has specific medical standards and physical requirements. The information will also be used to make a recommendation on either hiring or not hiring an applicant.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 300 respondents will complete a 45 minute form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 225 annual total burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: April 20, 2007.

Lynn Bryant,

Department Clearance Officer, PRA, Department of Justice.

[FR Doc. E7–8002 Filed 4–25–07; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF LABOR

Office of the Secretary

Combating Exploitive Child Labor Through Education

AGENCY: Bureau of International Labor Affairs, U.S. Department of Labor.

ACTION: Notice of intent to solicit cooperative agreement applications.

SUMMARY: The U.S. Department of Labor (USDOL), Bureau of International Labor Affairs (ILAB), intends to obligate approximately U.S. $54 million to support cooperative agreement awards to organizations to address exploitive child labor internationally. ILAB intends to award, through a competitive and merit-based process, cooperative agreements to organizations to develop and implement formal, non-formal, and vocational education projects as a means to combat exploitive child labor in the following ten countries: (1) Democratic Republic of the Congo, (2) Uganda, (3) Togo, (4) Colombia, (5) Bolivia, (6) Dominican Republic, (7) Indonesia, (8) Morocco, (9) the Philippines, and (10) Cambodia. ILAB intends to fund projects that focus on innovative ways to provide educational services to children engaged, or at risk of engaging, in exploitive labor. The projects should address the gaps and challenges to basic education found in the countries mentioned above. ILAB

also intends to award a cooperative agreement to an organization(s) to conduct research on exploitive child labor and forced labor in the carpet sectors of Nepal, Pakistan, and India. ILAB intends to solicit cooperative agreement applications from qualified organizations (i.e., any commercial, international, educational, or non-profit organization capable of successfully developing and implementing child labor and/or research projects) to implement these projects. Please refer to *http://www.dol.gov/ILAB/grants/main.htm* for examples of previous notices of availability of funds and solicitations for cooperative agreement applications.

Information on the specific sectors, geographical regions, and funding levels for the potential projects in the countries listed above will be addressed in a solicitation(s) for cooperative agreement applications to be published prior to September 30, 2007. Potential applicants should not submit inquiries to USDOL for further information on these award opportunities until after USDOL's publication of the solicitations. For a list of frequently asked questions on Solicitations for Cooperative Agreement Applications, please visit *http://www.dol.gov/ILAB/faq/faq36.htm*.

USDOL intends to hold a bidders' meeting on June 14, 2007, to answer questions potential applicants may have on this Solicitation for Cooperative Agreement process. Please see below for more information on the bidders' meeting.

DATES: *Key Dates:* Specific solicitations for cooperative agreement applications will be published in the **Federal Register** and remain open for at least 30 days from the date of publication. All cooperative agreement awards will be made on or before September 30, 2007.

ADDRESSES: Submission Address: Applications, in response to solicitations published in the **Federal Register**, must be delivered to: U.S. Department of Labor, Procurement Services Center, 200 Constitution Avenue, NW., Room S–4306, Attention: Lisa Harvey, Washington, DC, 20210.

FOR FURTHER INFORMATION CONTACT: Ms. Lisa Harvey. E-mail address: *harvey.lisa@dol.gov*. All inquiries should make reference to the USDOL Combating Child Labor Through Education—Solicitations for Cooperative Agreement Applications.

Bidders' Meeting: A bidders' meeting is scheduled to be held in Washington, DC, at the Department of Labor on Thursday, June 14, 2007, from 9:30 a.m. to 11:30 a.m. The purpose of this meeting is to provide potential applicants with the opportunity to ask questions concerning this Solicitation for Cooperative Agreement process. To register for the meeting, please call or e-mail Ms. Doris Senko (Phone: 202–693–4843; E-mail: *senko.doris@dol.gov*) by June 1, 2007. Please provide Ms. Senko with contact information including name, organization, address, phone number, and e-mail address of the attendees.

Background Information: Since 1995, USDOL has supported technical cooperation programming to combat exploitive child labor internationally through the promotion of educational opportunities for children-in-need. In total, the U.S. Congress has appropriated to USDOL over U.S. $595 million to support activities to combat exploitive child labor internationally. In turn, ILAB has signed cooperative agreements with various organizations to support international technical assistance projects to combat abusive child labor in over 75 countries around the world.

USDOL international programming to combat exploitive child labor through education seeks to nurture the development, health, safety, and enhanced future employability of children around the world by withdrawing or preventing children from involvement in exploitive labor and providing them with access to basic education, vocational training and other services. Eliminating exploitive child labor depends, in part, on improving access to, quality of, and relevance of educational and training opportunities for children under 18 years of age. Without improving such opportunities, children withdrawn from exploitive forms of labor may not have viable alternatives to child labor and may be more likely to return to such work or resort to other hazardous means of subsistence.

International projects funded by USDOL to combat exploitive child labor seek to:

1. Withdraw or prevent children from involvement in exploitive child labor through the provision of direct educational and training services;
2. Strengthen policies on child labor and education, the capacity of national institutions to combat child labor, and formal and transitional education systems that encourage working children and those at risk of working to attend school;
3. Raise awareness of the importance of education for all children and mobilize a wide array of actors to improve and expand education infrastructures
4. Support research and the collection of reliable data on child labor; and
5. Ensure the long-term sustainability of these efforts.

When working to eradicate exploitive child labor, USDOL strives to complement existing efforts, to build on the achievements of and lessons learned from these efforts, to expand impact and build synergies among actors, and to avoid duplication of resources and efforts.

Signed at Washington, DC, this 20th day of April, 2007.

Lisa Harvey,

Grant Officer.

[FR Doc. E7–7962 Filed 4–25–07; 8:45 am]

BILLING CODE 4510–28–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

137th Meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the 137th open meeting of the full Advisory Council on Employee Welfare and Pension Benefit Plans will be held on May 11, 2007.

The session will take place in Room S–2508, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. The purpose of the open meeting, which will run from 1:45 p.m. to approximately 4:30 p.m., is to swear in the new members, introduce the Council Chair and Vice Chair, receive an update from the Acting Assistant Secretary of Labor for the Employee Benefits Security Administration, and determine the topics to be addressed by the Council in 2007.

Organizations or members of the public wishing to submit a written statement may do so by submitting 25 copies on or before May 4, 2007 to Larry Good, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5623, 200 Constitution Avenue, NW., Washington, DC 20210. Statements received on or before May 4, 2007 will be included in the record of the meeting. Individuals or representatives of organizations wishing to address the Advisory Council should forward their requests to the Executive Secretary or telephone (202) 693–8668. Oral presentations will be limited to ten minutes, time permitting, but an extended statement may be submitted for the record. Individuals with disabilities who need special

accommodations should contact Larry Good by May 4 at the address indicated.

Further, in accordance with section 512(a)(1) of the Employee Retirement Income Security Act of 1974 (ERISA) and the provisions of the Federal Advisory Committee Act and its implementing regulations issued by the General Services Administration (GSA), the charter for the Advisory Council on Employee Welfare and Pension Benefit Plans has been renewed.

The Advisory Council will report to the Secretary of Labor. It will function solely as an advisory body and will operate in accordance with its charter and with the provisions of the Federal Advisory Committee Act. For further information, contact Larry I. Good, Executive Secretary, Advisory Council on Employee Welfare and Pension Benefit Plans, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 693–8668.

Signed at Washington, DC this 20th day of April, 2007.

Bradford Campbell,

Acting Assistant Secretary, Employee Benefits Security Administration.

[FR Doc. E7–7957 Filed 4–25–07; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–61,177]

Bartech Group, Inc., Anderson, IN; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 26, 2007 in response to a petition filed on behalf of workers of Bartech Group, Inc., Anderson, Indiana.

The petition regarding the investigation has been deemed invalid. The petition was signed by one dislocated worker of the subject firm. A petition filed by workers requires three signatures of workers at the subject firm. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 19th day of April, 2007.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–7967 Filed 4–25–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–60,753]

CERF Brothers Bag Co., Inc.; Design and Product Development Department; Earth City, MO; Determination Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

On March 16, 2007, the Department issued an Affirmative Determination Regarding Application on Reconsideration applicable to workers and former workers of the subject firm. The notice was published in the **Federal Register** on March 22, 2007 (72 FR 13526–13527).

The previous investigation initiated on January 12, 2007, resulted in a negative determination issued on February 16, 2007, was based on the finding that the worker group was engaged in distribution of products manufactured abroad and workers did not produce an article within the meaning of Section 222 of the Trade Act of 1974. The denial notice was published in the **Federal Register** on February 27, 2007 (72 FR 8795).

To support the request for reconsideration, the petitioner supplied additional information regarding a specific department within the subject firm and production performed by workers of this department. The petitioner stated that workers of Design and Product Development Department of the subject firm manufactured samples for marketing purposes.

Upon further contact with the subject firm's company official, it was revealed that workers employed at the CERF Brothers Bag Co., Inc., Design and Product Development Department, Earth City, Missouri manufactured prototypes and samples (carry bags, daypacks, and cargo bags) and these workers were separately identifiable from other workers at the subject firm.

Having conducted a further investigation on reconsideration, it was revealed that the subject firm ceased production of prototypes and samples (carry bags, daypacks, and cargo bags) manufactured by the Design and Product Development Department, while increasing its reliance on imported prototypes and samples from 2005 to 2006.

In accordance with Section 246 the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor herein presents the results of its investigation regarding certification of eligibility to apply for alternative trade adjustment assistance (ATAA) for older workers.

The group eligibility criteria for the ATAA program that the Department must consider under Section 246 of the Trade Act are:

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).

The ATAA investigation revealed that a significant number of workers in the workers' at CERF Brothers Bag Co, Inc., Design and Development Department, Earth City, Missouri are not 50 years of age or older during the relevant time period and thus criterion (1) has not been met.

Conclusion

After careful review of the facts obtained in the investigation, I determine that increases of imports of articles like or directly competitive with prototypes and samples (carry bags, daypacks, and cargo bags), produced by CERF Brothers Bag Co., Inc., Design and Product Development Department, Earth City, Missouri, contributed importantly to the total or partial separation of workers and to the decline in sales or production at that firm or subdivision. In accordance with the provisions of the Act, I make the following certification:

Workers of CERF Brothers Bag Co., Inc., Design and Product Development Department, Earth City, Missouri, engaged in employment related to the production of prototypes and samples of carry bags, daypacks, and cargo bags, who became totally or partially separated from employment on or after January 10, 2006, through two years from the date of certification are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

I also determine that workers of CERF Brothers Bag Co., Inc., Earth City, Missouri, excluding the Design and Product Development Department, are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

I further determine that workers of CERF Brothers Bag Co., Inc., Earth City, Missouri are denied eligibility to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed in Washington, DC, this 20th day of April 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–7965 Filed 4–25–07; 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 *April 9 through April 13, 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 issued 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–61,217; Douglas Quikut, Stamping Department, Walnut Ridge, AR: March 29, 2006

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–61,097; Fleetwood Travel Trailers of Texas, Inc., a Subsidiary of Fleetwood Enterprises, Inc., Longview, TX: March 7, 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–61,120; ConAgra Foods Food Ingredients Co., Food Ingredients Division, King City, CA: March 14, 2006

TA–W–61,128; Aker Kvaerner Willfab, On-Site Leased Workers of Depasquale Staffing, Williamsport, PA: March 15, 2006

TA–W–61,168; Commercial Enameling, Huntington Park, CA: March 21, 2006

TA–W–61,193; Administaff, Working on Site at Guide Louisiana LLC, Monroe, LA: March 23, 2006

TA–W–61,203; Calgon Carbon Corporation, Columbus Plant, Columbus, OH: March 27, 2006

TA–W–61,225; Royal Home Fashions, Plant #6, Distribution Center, Henderson, NC: March 30, 2006

TA–W–61,106; Hoke, Inc, dba Circor Instrumental Technologies, New England Division, Berlin, CT: March 7, 2006

TA–W–60,609; Roseburg Forest Products, Coquille Plywood Division, Coquille, OR: December 13, 2005

TA–W–60,834; Thermoplastics Acquisition, LLC, dba CEP Thermoplastics, LLC, A Subsidiary of CEP Products, Vandalia, OH: December 31, 2005

TA–W–61,099; Wright's Hosiery Mill, Inc., Fort Payne, AL: March 12, 2006

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–61,064; LuMend, Inc., Including On-Site Leased Workers of Kelly Services, Redwood City, CA: March 1, 2006

TA–W–61,093; Collins and Aikman, Plastics Division, Morristown, IN: March 1, 2006

TA–W–61,108; Fleetwood Travel Trailers, Travel Trailer Division, Williamsport, MD: March 13, 2006

TA–W–61,118; Progressive Service Die Co., New Kingstown Division, New Kingstown, PA: April 15, 2007

TA–W–61,131; Excel Technical Services, Including On-Site Managerial Staff of Delphi Corp., Fishers, IN: March 15, 2006

TA–W–61,137; AAR Manufacturing, AAR Cargo Systems Division, Livonia, MI: March 14, 2006

TA–W–61,138; Associated Spring, a Subsidiary of Barnes Group, Inc., Saline, MI: March 14, 2006

TA–W–61,141; New ADS Marlin Corporation, Long Island City, NY: March 15, 2006

TA–W–61,159; Sony Technology Center, Sxrd Rear ProjectionTelevision Division, Including Leased Workers of Staffmark, Mt. Pleasant, PA: March 20, 2006

TA–W–61,174; Indiana Tube Corporation, A Handy and Harman Co., Evansville, IN: March 2, 2006

TA–W–61,229; Aurra Industries, Subsidiary of Unit Parts Co., a Remy Inc. Co., Edmond, OK: March 14, 2006

TA–W–61,262; Linium Staffing LLC, dba Lauren Staffing Services, On-Site at ICU Medical, Inc., Vernon, CT: April 5, 2006

TA–W–61,059; CPC Local Cartage, LLC, Workers Employed at Ford Motor Company St. Louis Assembly Plant, Hazelwood, MO: March 1, 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–61,095; Freightliner LLC, Parts Manufacturing Plant (PMP), Gastonia, NC: March 7, 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–61,217; Douglas Quikut, Stamping Department, Walnut Ridge, AR

The Department has determined that criterion (2) of Section 246 has not been met. Workers at the firm possess skills that are easily transferable.

TA–W–61,097; Fleetwood Travel Trailers of Texas, Inc., A Subsidiary of Fleetwood Enterprises, Inc., Longview, TX

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–61,248; Bearing Point, Creative Services, New York, NY

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–61,232; Wheatland Tube Co., Wheatland, PA

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–60,956; Becky's of Asheboro, Inc., Asheboro, NC

TA–W–61,081; SE Wood Products, Inc., Colville, WA

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–61,237; Oneida Ltd., Distribution Facility, Sherrill, NY.

TA–W–61,237A; Oneida Ltd., Sales Office, Oneida, NY

TA–W–61,265; O'Bryan Brothers, Inc., Leon, IA

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 *April 9 through April 13, 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 April 19, 2007.

Ralph DiBattista,

Director, Division of Trade Adjustment Assistance.

[FR Doc. E7–7964 Filed 4–25–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–60,819]

Enhanced Mfg. Solutions Formerly Known as Viking New Castle, LLC Including Leased Workers of HSS Material Management Solutions and Oberle & Associates, Inc. Working On-Site at Delphi, New Castle, IN; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on February 13, 2007, applicable to workers of Enhanced Mfg. Solutions, formerly known as Viking New Castle, LLC, working on-site at Delphi, New Castle, Indiana. The notice was published in the **Federal Register** on February 27, 2007 (72 FR 8794).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are contracted to produce steering columns on-site at Delphi.

New information shows that leased workers of HSS Material Management Solutions and Oberle & Associates, Inc. were employed on-site at the New Castle, Indiana location of Delphi.

Based on these findings, the Department is amending this certification to include leased workers of HSS Material Management Solutions and Oberle & Associates, Inc. working on-site at Delphi, New Castle, Indiana.

The intent of the Department's certification is to include all workers employed on-site at Delphi, New Castle, Indiana who were adversely affected by a shift in production to Mexico.

The amended notice applicable to TA–W–60,819 is hereby issued as follows:

All workers of Enhanced Mfg. Solutions, formerly known as Viking New Castle, LLC, including leased workers of HSS Material Management Solutions and Oberle & Associates, Inc., working on-site at Delphi, New Castle, Indiana, who became totally or partially separated from employment on or after January 15, 2006, through February 13, 2009, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 20th day of April 2007.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–7966 Filed 4–25–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–61,311]

HSS Material Management Solutions Employed at Delphi, New Castle, IN; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on April 13, 2006 in response to a worker petition filed by a state agency representative on behalf of workers of HSS Material Management Solutions employed at Delphi, New Castle, Indiana.

The petitioning group of workers is covered by an active certification (TA–W–60,819 as amended) 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 20th day of April 2007.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–7963 Filed 4–25–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–61,294]

Oberle & Associates, Inc. Employed At Delphi, New Castle, IN; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on April 12, 2006 in response to a worker petition filed by a State agency representative on behalf of workers of Oberle & Associates, Inc. employed at Delphi, New Castle, Indiana.

The petitioning group of workers is covered by an active certification (TA–W–60,819 as amended) 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 20th day of April, 2007.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–7969 Filed 4–25–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–61,233]

Sara Lee, also known as Hanesbrands, Rockingham, NC; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on April 3, 2007 in response to a petition filed on behalf of workers of Sara Lee, also known as Hanesbrands, Rockingham, North Carolina.

The petitioning group of workers is covered by a duplicate petition (TA–W–61,117) instituted on March 15, 2007 that is the subject of an ongoing investigation for which a determination has not yet been issued. Further investigation in this case would duplicate efforts; therefore the investigation under this petition has been terminated.

Signed at Washington, DC, this 19th day of April, 2007.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–7968 Filed 4–25–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Availability of Funds and Solicitation for Grant Applications (SGA) for YouthBuild Grants

Announcement Type: Notice of Solicitation for Grant Applications.

Funding Opportunity Number: SGA/DFA PY 06–08.

Catalog of Federal Assistance Number: 17.274.

DATES: *Key Dates:* The closing date for receipt of applications under this announcement is July 3, 2007. Applications must be successfully submitted through Grants.gov no later than 5 p.m. (Eastern Time). Application and submission information is explained in detail in Part IV of this SGA. There will be a Prospective

Applicant Conference held for this grant competition. The date and location for this Prospective Applicant Conference can be found at *http://www.dtiassociates.com/youthbuild*.

SUMMARY: The U.S. Department of Labor (DOL), Employment and Training Administration (ETA) announces the availability of approximately $47 million in grant funds for YouthBuild Grants.

YouthBuild Grants will be awarded through a competitive process. Grant funds will be used to provide disadvantaged youth with: The education and employment skills necessary to achieve economic self-sufficiency in occupations in high demand and postsecondary education and training opportunities; opportunities for meaningful work and service to their communities; and opportunities to develop employment and leadership skills and a commitment to community development among youth in low-income communities. As part of their programming, YouthBuild grantees will tap the energies and talents of disadvantaged youth to increase the supply of permanent affordable housing for homeless individuals and low-income families and to help youth develop the leadership, learning, and high-demand occupational skills needed to succeed in today's global economy.

ETA hopes to serve approximately 2,900 youth participants during the first year of this initiative, with projects operating in approximately 90–100 communities across the country. Under this announcement, ETA will be awarding grants to organizations to oversee the provision of education and employment services to disadvantaged youth in their communities.

This solicitation provides background information and describes the application submission requirements, outlines the process that eligible entities must use to apply for funds covered by this solicitation, and outlines the evaluation criteria used as a basis for selecting grantee.

ADDRESSES: Applications will only be accepted through the Grants.gov application system. Applications that do not meet the conditions set forth in this notice will not be considered. No exceptions to the submission requirements set forth in this notice will be granted. For detailed guidance, please refer to Section IV.C.

SUPPLEMENTARY INFORMATION:

This solicitation consists of eight parts:

- Part I provides background information on YouthBuild, a description of ETA's Youth Vision, YouthBuild program objectives, and additional information on the key components of YouthBuild to consider when preparing an application.
- Part II describes the size and nature of the anticipated awards.
- Part III describes eligibility information.
- Part IV provides information on the application and submission process.
- Part V describes the criteria against which applications will be reviewed and explains the proposal review process.
- Part VI provides award administration information.
- Part VII contains ETA agency contact information.
- Part VIII lists additional resources of interest to applicants and other information.

I. Funding Opportunity Description

YouthBuild is a youth and community development program that simultaneously addresses several core issues facing low-income communities: Housing, education, employment, crime prevention, and leadership development. Part A of this section provides a background of the YouthBuild program. Part B provides information on the principles underlying the Department of Labor, Employment & Training Administration's Youth Vision and how an alternative education program such as YouthBuild has taken on a new significance in preparing skilled and well-trained youth to compete in a demand-driven workforce. Part C describes the core objectives of the YouthBuild program with Part D providing additional information on key components of YouthBuild to consider when preparing a grant application.

A. Background on YouthBuild

The YouthBuild model balances in-school learning, geared toward a high school diploma or GED, and construction skills training, geared toward a career placement for the youth. The in-school component is an alternative education program that assists youth who are often significantly behind in basic skills to obtain a high school diploma or GED credential. The primary target populations for YouthBuild are high school drop-outs, adjudicated youth, youth aging out of foster care, and other at-risk youth populations. The YouthBuild model enables these youth to access the education they need to prosper in the 21st century economy. There are currently over 200 YouthBuild programs operating in the United States, funded through various Federal funding sources.

YouthBuild was started in East Harlem, New York, in 1978 to provide education services for youth and teach construction skills while renovating and building homes for low-income families. It was replicated in five locations in New York City during the 1980s. In 1993, the YouthBuild program was established by Federal statute and the U.S. Department of Housing and Urban Development (HUD) was designated as the agency responsible for administering the program.

In December 2003, the White House Task Force for Disadvantaged Youth recommended the transfer of the YouthBuild program from HUD to DOL because the program is ''at its core, an employment and training program for disadvantaged youth, and will benefit from administrative oversight in DOL within the Employment & Training Administration.''

In September 2006, the YouthBuild Transfer Act was signed by President George W. Bush. The bill repeals the YouthBuild program's statutory authority under the Cranston-Gonzalez National Affordable Housing Act (Pub. L. 102–550; 49 U.S.C. 12899 *et seq.*) and transfers the statutory authority for the program, with needed modifications and improvements, to subtitle D of Title I of the Workforce Investment Act (WIA). The YouthBuild program is being administered as a ''national program'' by the Employment and Training Administration (ETA).

Since its inception, a primary purpose of the YouthBuild program has been to provide job training and employment opportunities for at-risk youth. By transferring the program to DOL, ETA will leverage its significant expertise and resources in the area of workforce investment under WIA. The transfer from HUD to DOL is intended to help strengthen YouthBuild grantees' connections to One-Stop Career Centers and the Department's registered apprenticeship programs; leverage investments such as the President's High Growth Job Training Initiative; improve access to the post-secondary and community college system; and broker connections to the workforce system's business partners.

B. ETA's Youth Vision

ETA has set an overarching priority for the entire workforce investment system by providing adults and youth with the necessary educational, occupational and other skills training and services needed by business and industry in the 21st century economy. Education initiatives, particularly

alternative education programs such as YouthBuild, have taken on new importance within the workforce system. Efforts to create a skilled, well-trained, and demand-driven workforce are important for several reasons:

• *A severe crisis faces our nation's workforce:* Too many youth are leaving high school without their diplomas, unprepared for post-secondary training and employment. The Educational Testing Service's ''One-Third of a Nation: Rising Dropout Rates and Declining Opportunities'' reports that one-third of all youth who begin ninth grade will not receive a high school diploma. Eleven percent of 16–24 year olds nationally, or 3.8 million youth, are out of school and have neither a diploma nor a GED. This problem is particularly pronounced in urban areas: in almost half of the schools in the largest 35 central cities, the number of twelfth graders was half or less than the number of students enrolled in ninth grade three years earlier. These youth represent an untapped labor pool and a valuable resource for employers. Our economy needs these youth to be part of the economy if we are to compete globally.

• *The connection between earning and learning:* Income and education are more closely linked than in any time in our history. Eighty percent of the fastest growing jobs require education and training beyond high school. College students earn on average 70% more than high school students. High school dropouts are four times more likely than college graduates to be unemployed. Low-income Americans have far higher rates of dropping out of high school and far lower rates of enrolling in college and obtaining a postsecondary credential than their middle or higher income peers. The earning power of high school drop-outs has been in almost continuous decline over the past three decades; in 2002, the earnings of male dropouts declined 32%. Female dropouts experienced a 14% decline.

• *State and regional economies are being negatively impacted by low graduation rates:* According to calculations done by the Alliance for Excellent Education, improving state high school graduation rates could produce significant wage increases, resulting in healthier state economies.

• *A new workforce ''supply pipeline'':* ETA's Youth Vision recognizes out-of-school youth and those most at risk of dropping out as an important part of the new workforce ''supply pipeline'' that businesses need to fill job vacancies in the service-producing knowledge economy. However, without re-connecting these youth to high quality educational opportunities, they will not be adequately prepared to participate in today's economy. ETA's Youth Vision focuses investment of WIA resources on connecting youth with high quality education and employment services. (*http://www.doleta.gov/ryf/WhiteHouseReport/VMO.cfm*). Alternative education is an important way for disconnected youth to re-enter the workforce supply chain and compete for high quality jobs in a demand-driven system. YouthBuild will serve as a ''flagship'' program to demonstrate ETA's commitment to high quality, innovative alternative educational learning opportunities that prepare youth for post-secondary education and employment.

C. YouthBuild Program Objectives

Funds made available through the YouthBuild grants will be used to carry out a YouthBuild program with the following core objectives:

• To enable disadvantaged youth to obtain the education and employment skills necessary to achieve economic self-sufficiency in occupations in demand and post-secondary education and training opportunities;

• To provide disadvantaged youth with opportunities for meaningful work and service to their communities;

• To foster the development of employment and leadership skills and commitment to community development among youth in low-income communities; and

• To expand the supply of permanent affordable housing for homeless individuals and low-income families by utilizing the energies and talents of disadvantaged youth.

D. Key Components and Additional Information About the YouthBuild Grant Application Process

What Type of Information Should be Addressed in the Design of the Program?

Part II of the application contains the Technical Proposal which should address specific grant requirements identified in Section A of Part V of this SGA. Applicants applying for these grants are asked to describe their community, the youth to be served, the need for this Federal support, and their plan for providing education, skills training, and leadership development services to youth. They must describe how their efforts contribute to the overall economic development of their community. They must also demonstrate that they have established partnerships with—or made a good faith effort to establish partnerships with—the K–12 public education system, local community colleges, the juvenile justice system, registered apprenticeship programs, Local Workforce Investment Boards, and/or the local housing authority. Applicants are expected to identify their plan to leverage other Federal, State, or local funding, as well as private funding sources, to provide other ''wrap around'' supportive services as well as to support the costs associated with their defined construction project. Applicants are asked to describe their previous experience operating YouthBuild or similar youth programs with educational components. Applicants are asked to describe how occupational safety is addressed at their worksite. They are asked to describe their organization's ability to manage this grant.

What Size Grants Are Available?

Applicants can apply for three-year grants (two years of program operations with a twelve-month follow-up period) that will range from $700,000 to $1.1 million. These grants will be incrementally funded, with half of the grant funds awarded this year, fiscal year (FY) 2007, for the first twelve months of operations. Pending satisfactory performance and availability of funds, the remaining funds would be awarded next year (FY 2008) for second year operations. These awards will support two years of core program operations (education, occupational skills training, and youth leadership development activities) plus an additional twelve months of follow-up support services and tracking of participant outcomes for each cohort of youth. Roughly 5% of total funds should be reserved for the twelve-month follow-up period.

What Roles Might Partners Play in Partnerships?

Each collaborative partner must have a clearly defined role. These roles must be verified through a letter of commitment (not just a letter of support) submitted by each partner. The letter of commitment must detail the role the partner will play in the project, including specific responsibilities and resources committed, if appropriate. These letters must clearly indicate the partnering organization's unique contribution and commitment to the project.

Disadvantaged youth possess a wide range of challenges that must be addressed by multiple strategies, organizations and agencies. Partnerships and partnership roles will vary depending on the applicant's strategy and participant needs. However, ETA

expects that the applicant will make a good-faith effort to attract the following partners and that each collaborative partner will, at a minimum, contribute in the following ways:

Education and training providers (K–12, adult education, community and technical colleges, four-year colleges and universities, and other training entities) are important foundational partners to ensure the project's activities are tied to the broader continuum of education providers in the community. These entities assist in developing and implementing industry-driven workforce education strategies in partnerships with employers including competency models, curricula, and new learning methodologies, such as technology-based learning. Whenever possible, the YouthBuild program should strive to be connected in a meaningful way with the K–12 system for the purpose of (1) ensuring a wider variety of educational opportunities within the community as a whole and (2) as a drop-out prevention strategy. YouthBuild programs should also be connected to post-secondary training opportunities, particularly community colleges, whenever possible to ensure the smooth transition of YouthBuild participants into post-secondary training opportunities available through community colleges, including the use of articulation agreements and staff development for YouthBuild staff.

Employers (including professional organizations and associations) should be actively engaged in the project and should participate fully in grant activities including: defining the program strategy and goals; identifying needed skills and competencies; designing training approaches and curricula; contributing financial support; and, where appropriate, hiring qualified YouthBuild graduates.

The workforce investment system (which may include State and Local Workforce Investment Boards, State Workforce Agencies, and One-Stop Career Centers and their cooperating partners, as such terms are defined under the Workforce Investment Act) may play a number of roles, including: identifying and assessing potential candidates for YouthBuild; working collaboratively to leverage WIA investments through co-enrollment with the Youth Formula program; referring qualified candidates to the YouthBuild program for enrollment; providing access to ''wrap around'' supportive services, when appropriate; providing local labor market information to YouthBuild staff and participants; and connecting qualified YouthBuild graduates to employers that have existing job openings.

The juvenile justice system is an important partner in referring potential participants to the YouthBuild program, providing support and guidance for YouthBuild participants with court involvement, and assisting in the reporting of recidivism rates among YouthBuild participants. Some YouthBuild participants may be placed in the program as a form of alternative sentencing or for re-entry services. In these instances, police, parole and probation, detention and juvenile correction facilities, judges, and social workers will be critically important partners for creating a safety net to prevent recidivism and ensure attachment to the community.

Faith-based and community organizations can be valuable partners in the YouthBuild program. These organizations may provide a variety of grant services, such as case management, mentoring, and English as a Second Language (ESL) courses, and other comprehensive supportive services, when appropriate, for YouthBuild participants.

In situations where these partnerships are not supported with letters of commitment, the applicants should, at a minimum, demonstrate that the potential partner was contacted and provided a sufficient opportunity for response. It is suggested that applicants use registered mail to demonstrate such efforts.

What If Two or More Organizations Submit Separate Applications To Serve the Same Urban or Rural Community?

If more than one proposal to serve the same urban or rural community is rated highly, ETA will consider whether the urban or rural community is large enough to support more than one project.

Can a National or Regional Organization Apply To Serve Multiple Urban or Rural Communities?

Yes, but a separate application must be submitted for each metropolitan area that the organization proposes to serve. The organization must demonstrate that it has an existing presence in each urban or rural community for which it is applying. Single proposals applying to serve multiple urban and rural areas will not be considered. If submitting multiple applications to serve various localities, applicants are encouraged to evaluate each community on its own merits and ensure that each proposal supports the unique characteristics of the community and the participants that it will be serving. A single application may cross community boundaries.

What Is the Definition of ''Low-Income'' Family for the Purposes of Program Eligibility?

The definition of ''low-income family'' is taken directly from the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(2)) which states:

''The term 'low-income families' means those families whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.''

The median for the area can be found at HUD's Web site: *http://www.huduser.org/datasets/il.html*

What Are Allowable Uses of Grant Funds?

Allowable uses of grant funds may include:

(1) Education and Workforce Activities, such as:

- Basic skills instruction and remedial education;
- Language instruction educational programs for individuals with limited English proficiency;
- Secondary education services and activities, including tutoring, study skills training, and dropout prevention activities, designed to lead to the attainment of a secondary school diploma, General Education Development (GED) credential, or other State-recognized equivalent (including recognized alternative standards for individuals with disabilities);
- Counseling and assistance in obtaining post-secondary education and required financial aid;
- Alternative secondary school services;
- Work experience and skills training (coordinated, to the maximum extent feasible, with pre-apprenticeship and registered apprenticeship programs) in housing rehabilitation and construction activities;
- Occupational skills training; and
- Other paid and unpaid work experiences, including internships and job shadowing.

(2) Counseling services and related activities, such as comprehensive guidance and counseling on drug and alcohol abuse and referral.

(3) Youth development activities, such as:

- Community service and peer-centered activities encouraging

responsibility and other positive social behaviors, and

• Activities related to youth policy committees that allow YouthBuild participants to engage in local policy and decision-making related to the program.

(4) Supportive services and provision of need-based stipends necessary to enable individuals to participate in the program.

(5) Supportive services to assist individuals, for a period not to exceed 12 months after the completion of training, in obtaining or retaining employment, or applying for and transitioning to post-secondary education.

(6) Supervision and training for participants in the rehabilitation or construction of housing, including residential housing for homeless individuals or low-income families, or transitional housing for homeless individuals.

(7) Supervision and training for participants in the rehabilitation or construction of community and other public facilities.

(8) Payment of a portion of the administrative costs of the grantee.

(9) Mentoring of participants by qualified adults.

(10) Provision of wages, stipends, or benefits to participants in the program.

(11) Ongoing training and technical assistance for staff that are related to developing and carrying out the program.

(12) Follow-up services.

(13) Equipment and/or supplies related to the YouthBuild activities funded through this grant.

What Are the Limitations for Use of ETA Funds for Paid Work Experiences, Needs-Based Stipends, Wages, and Other Supportive Services?

If the applicant plans to use grant funds for paid work experiences, needs-based stipends, wages, and other supportive services for the participants, sufficient information must be provided in the budget narrative to clearly justify the proposed amounts to be provided.

Can Funds Be Used for Rehabilitation or Construction of Buildings Other Than Low-Income Housing?

Yes. In training participants, up to 10 percent of grant funds may be used in the rehabilitation or construction of community and other public facilities. The remaining 90 percent of funds must be used to train participants in the rehabilitation or construction of low-income housing.

How Will Success Be Measured Under These Grants?

The three outcome measures are:

• Literacy and numeracy gains.

• High School diploma/GED/certification attainment rate.

• Placement in employment/post-secondary education/occupational skills training/military.

In addition, grantees may report on a number of interim indicators that will serve as predictors of success. Interim indicators include:

• Placement retention rate.

• Enrollment rate.

• Participation in education/training activities.

• Workforce preparation.

• Recidivism.

• Mentoring.

• Community service/leadership activities.

In applying for these grants, organizations agree to submit updated Management Information System (MIS) data on enrollee characteristics, services provided, placements, outcomes, and follow-up status.

II. Award Information

A. Award Amount

ETA intends to fund approximately 90–100 grants ranging from $700,000 to $1.1 million through this competition; however, this does not preclude ETA from funding grants at either a lower or higher amount, or funding a smaller or larger number of projects, based on the type and the number of quality submissions. Applicants are encouraged to submit budgets within this range for quality projects at whatever funding level is appropriate to their project.

B. Period of Performance

Grants will be awarded for a three-year period of performance. This includes two years of core program operations (education, occupational skills training, and youth leadership development activities) for two or more cohorts of youth plus an additional twelve months of follow-up support services and tracking of participant outcomes for each cohort of youth.

III. Eligibility Information and Other Grant Specifications

A. Eligible Applicants

An organization is an eligible applicant for these grants if it is a public or private nonprofit agency or organization (including a consortium of such agencies or organizations with a designated lead applicant), including:

• Community-based organizations;

• Faith-based organizations;

• An entity carrying out activities under this WIA, such as a local workforce investment board or One-Stop Career Center;

• A community action agency;

• A state or local housing development agency;

• An Indian tribe or other agency primarily serving Indians;

• A community development corporation;

• A state or local youth service conservation corps; or

• Any other relevant public or private non-profit entity that provides education or employment training and can meet the required elements of the grant.

B. Eligible Enrollees

An individual may participate in a YouthBuild program only if such individual is:

• Between the ages of 16 and 24 on the date of enrollment; and

• A member of a disadvantaged youth population such as a member of a low-income family, a youth in foster care (including youth aging out of foster care), a youth offender, a youth who is an individual with a disability, a child of an incarcerated parent, or a migrant youth; and

• A school dropout.

Up to (but not more than) 25 percent of the participants in the program may be youth who do not meet the education or disadvantaged criteria above but are:

• Basic skills deficient, despite attainment of a secondary school diploma, General Education Development (GED) credential, or other state-recognized equivalent (including recognized alternative standards for individuals with disabilities); or

• Have been referred by a local secondary school for participation in a YouthBuild program leading to the attainment of a secondary school diploma.

C. Matching Funds and Leveraged Resources

Aligning resources and leveraging funding are key components of success under the Youthbuild grant program. Therefore, applicants must provide cash or in-kind resources equivalent to at least 25 percent of the grant award amount as matching funds. Please note that neither prior investments nor Federal resources may be counted as match.

To be allowable as part of match, a cost must be an allowable charge for Federal grant funds. Determinations of allowable costs will be made in accordance with the applicable Federal cost principles as indicated in Part IV(E). If the cost would not be allowable as a grant-funded charge, then it also

cannot be counted toward matching funds. Matching funds must be expended during the grant period of performance.

Please note that applicants are expected to fulfill the match amount specified on their SF–424 application and SF–424a budget form. Upon completion of the grant, if the match amount specified by the applicant is not met or if a portion of the matching funds are found to be an unallowable cost, the amount of DOL grant funds may be decreased on a dollar for dollar basis. This may result in the repayment of funds to DOL.

Applicants are encouraged to leverage additional funds outside of the match to supplement the project as a whole. Matching funds and leveraged resources could come from a variety of sources including: public sector (e.g., state or local governments); non-profit sector (e.g., community organizations, faith-based organizations, or education and training institutions); private sector (e.g., businesses or industry associations); investor community (e.g., angel networks or economic development entities); and the philanthropic community (e.g., foundations).

Applicants should clearly make the distinction of what will be considered matching funds versus ''additional'' leveraged funds. Only the matching funds shall be shown on the SF–424 and SF–424a. The amount of funds specified on these forms will be considered by DOL as the applicant's match. All other leverage resources should be explained in the budget narrative separate from the explanation of match. Applications will be evaluated on how the match and leveraged funds are fully integrated in support of program outcomes.

IV. Application and Submission Information

A. Address to Request Application Package

This SGA contains all of the information and links to forms needed to apply for grant funding.

B. Content and Form of Application Submission

The proposal will consist of three separate and distinct parts—a cost proposal (I), a technical proposal (II), and a description of and information on the work site (III). Applications that fail to adhere to the instructions in this section will be considered non-responsive and will not be considered.

Part I. The Cost Proposal. The Cost Proposal must include the following three items:

- The Standard Form (SF) 424, ''Application for Federal Assistance'' (available at *http://www.doleta.gov/sga/forms.cfm*). The SF 424 must clearly identify the applicant and be signed by an individual with authority to enter into a grant agreement. Upon confirmation of an award, the individual signing the SF 424 on behalf of the applicant shall be considered the authorized representative of the applicant.
- All applicants for Federal grant and funding opportunities are required to have a Dun and Bradstreet (DUNS) number. See Office of Management and Budget (OMB) Notice of Final Policy Issuance, 68 FR 38402 (June 27, 2003). Applicants must supply their DUNS number on the SF 424. The DUNS number is a nine-digit identification number that uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access this Web site: *http://www.dunandbradstreet.com* or call 1–866–705–5711.
- The SF 424A Budget Information Form (available at *http://www.doleta.gov/sga/forms.cfm*). In preparing the Budget Information Form, the applicant must provide a concise narrative explanation to support the request. The budget narrative should break down the budget, match and leveraged resources by project activity, should discuss cost-per-participant, and should discuss precisely how the administrative costs support the project goals. If the applicant plans to use grant funds for paid work experiences, needs-based stipends, wages, and other supportive services for the participants, sufficient information must be provided in the budget narrative to clearly justify the proposed amounts to be provided.

Please note that applicants that fail to provide a SF 424, SF 424A and/or a budget narrative will be removed from consideration prior to the technical review process. Only an applicant's match amount (not other leveraged resources) should be listed on the SF 424 (Block 18) and SF 424A Budget Information Form (Section A & C). The amount of Federal funding requested for the *entire period of performance* (i.e. 3 years) should be shown together on the SF 424 and SF 424A Budget Information Form. Applicants are also encouraged, but not required, to submit OMB Survey N. 1890–0014: Survey on Ensuring Equal Opportunity for Applicants, which can be found at *http://www.doleta.gov/sga/forms.cfm*.

Part II. The Technical Proposal. The Technical Proposal will demonstrate the applicant's capability to implement the YouthBuild grant project in accordance with the provisions of this solicitation. The guidelines for the content of the Technical Proposal are provided in Part V Section A of this SGA. The Technical Proposal is limited to twenty (20) double-spaced single-sided pages with 12 point text font and one-inch margins. Any materials beyond the 20-page limit will not be read. Also, applicants should number the Technical Proposal beginning with page number 1.

In addition to the 20-page Technical Proposal, the applicant must provide an organization chart that reflects how the YouthBuild program will be staffed. In instances where the YouthBuild program is part of a larger organization (e.g., a Housing Authority), please include a diagram that indicates where the YouthBuild program fits within the larger organization. Also, the applicant must provide a timeline outlining project activities; letters of commitment from partners; and a two-page Abstract summarizing the proposed project including applicant name, project title, and the funding level requested. The Abstract should note whether the application is being submitted as an urban, rural, or Native American application. These additional materials do not count against the 20-page limit for the Technical Proposal, but may not exceed fifteen (15) pages. Any materials beyond the 15-page limit will not be read.

Part III. The Work Site Description. The application must include all of the following information relating to the planned work site for this project. This information should be presented on official letterhead of the presenting organization in the order outlined below, identifying supplemental documents as applicable:

(1) Official document(s) from the Applicant (on applicant organization's letterhead). This/these document(s) must:

- Identify the location of the site(s) or property(ies) (e.g., addresses, parcel numbers, etc.) that will be used for on-site construction.
- Include information identifying, and a description of, the financing proposed for the (a) rehabilitation of the property involved; (b) acquisition of the property; (c) construction of the property; and (d) supplies. Also, fully describe how financing for the building of the site will be supported.
- Include information identifying, and a description of, the entity that will operate and manage the property.
- Include a certification that the applicant will comply with the requirements of the Fair Housing Act

(42 U.S.C. 3601 et seq.) and will affirmatively further fair housing.

• Include information on how the program will provide for inclusion of tenants who were previously homeless individuals in the rental housing provided through this grant.

(2) Official document from the property owner or property management company or companies allowing access to the housing site(s) for on-site construction training. DOL will deem non-responsive any application that fails to specifically identify the location of the on-site construction, including evidence of site access. Guidance on evidence of site access is as follows:

• If the applicant has a contract or option to purchase the property, include a copy of the contract or option; or

• If a third party owns the property or has a contract or option to purchase, that third party must provide a letter stating the nature of the ownership and specifically providing access to the property for the purposes of the program and the time frame in which the property will be available. In the case of a contract or option, include a copy of the document.

(3) Official certification by a public official responsible for the housing strategy for the State or unit of general local government within which the proposed program is located (on official agency letterhead) that the proposed program is consistent with the housing strategy.

C. Submission Date, Times, and Addresses

The closing date for receipt of applications under this announcement is July 3, 2007. Applications must be successfully submitted through www.grants.gov no later than 5 p.m. (Eastern Time). Applications sent by mail, e-mail, telegram, or facsimile (fax) will not be accepted. Applications that do not meet the conditions set forth in this notice will not be honored. No exceptions to the requirements set forth in this notice will be granted.

Paper applications will not be accepted. All applications must be submitted electronically at *http://www.grants.gov*. Any application received after the deadline will not be accepted. It is strongly recommended that before the applicant begins to write the proposal, applicants immediately initiate and complete the ''Get Started'' steps to register at *http://www.grants.gov/GetStarted*. These steps may take several days to complete and should be factored into the plans for electronic application submission in order to avoid facing unexpected delays that could result in the rejection of the application. To ensure that the application is submitted on time, it is recommended that it is submitted multiple days before the due date in order to address any technical difficulties that may be encountered. It is the sole responsibility of the applicant to ensure timely submission. Applications should be submitted as a .doc or .pdf file.

D. Intergovernmental Review

This funding opportunity is not subject to Executive Order (EO) 12372, ''Intergovernmental Review of Federal Programs.''

E. Funding Restrictions

All proposal costs must be necessary and reasonable in accordance with Federal guidelines. Determinations of allowable costs will be made in accordance with the applicable Federal cost principles, e.g., Non-Profit Organizations—OMB Circular A–122. Disallowed costs are those charges to a grant that the grantor agency or its representative determines not to be allowed in accordance with the applicable Federal Cost Principles or other conditions contained in the grant. Applicants will not be entitled to reimbursement of pre-award costs.

Legal Rules Pertaining to Inherently Religious Activities by Organizations that Receive Federal Financial Assistance. The government is generally prohibited from providing direct financial assistance for inherently religious activities. See 29 CFR Part 2, Subpart D. Provision relating to the use of indirect support (such as through vouchers) are at 29 CFR 2.33(c) and 20 CFR 667.266. These grants may not be used to directly support religious instruction, worship, prayer, proselytizing or other inherently religious practices. Neutral, secular criteria that neither favor nor disfavor religion must be employed in the selection of grant and sub-grant recipients. In addition, under the Workforce Investment Act of 1998 and ETA regulations implementing the Workforce Investment Act, a recipient may not use direct Federal assistance to train a participant in religious activities, or employ participants to construct, operate, or maintain any part of a facility that is used or to be used for religious instruction or worship. See 29 CFR 37.6(f). Under WIA, ''no individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity because of race, color, religion, sex (except as otherwise permitted under Title IX of the Education Amendments of 1972), national origin, age, disability, or political affiliation or belief.''

Indirect Costs. As specified in OMB Circular Cost Principles, indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular cost objective. In order to utilize grant funds for indirect costs incurred, the applicant must obtain an Indirect Cost Rate Agreement with its Federal Cognizant Agency either before or shortly after the grant award. If an applicant already has a Federal Indirect Cost Rate Agreement, that agreement may be used.

Administrative Costs. Under the YouthBuild grants, an entity that receives a grant to carry out a project or program may not use more than 15 percent of the amount of the grant to pay administrative costs associated with the program or project. Administrative costs could be both direct and indirect costs and are defined at 20 CFR 667.220. Administrative costs do not need to be identified separately from program costs on the SF 424A Budget Information Form. They should be discussed in the budget narrative and tracked through the grantee's accounting system. To claim any administrative costs that are also indirect costs, the applicant must obtain an indirect cost rate agreement from its Federal Cognizant Agency as specified above.

ETA Intellectual Property Rights. Applicants should note that grantees must agree to provide DOL/ETA a fully paid, nonexclusive and irrevocable license to reproduce, publish, or otherwise use for federal purposes all products developed or for which ownership was purchased under an award, including but not limited to curricula, training models, technical assistance products, and any related materials, and to authorize them to do so. Such uses include, but are not limited to, the right to modify and distribute such products worldwide by any means, electronically or otherwise.

F. Withdrawal of Applications

Applications may be withdrawn by written notice or telegram (including mailgram) received at any time before an award is made. Applications may be withdrawn in person by the applicant or by an authorized representative thereof, if the representative's identity is made known and the representative signs a receipt for the proposal.

V. Application Review Information

A. Evaluation Criteria

This section identifies and describes the criteria that will be used to evaluate proposals for a YouthBuild Grant. These criteria and point values are:

Criterion	Points
1. Statement of Need	10
2. Program Management and Organizational Capacity	10
3. Project Design, Service Strategy, and Program Outcomes	40
4. Linkages to Key Partners and Leveraged Resources	25
5. Evidence of Past Success in YouthBuild or Other Relevant Programs	15
Total Possible Points	100

1. Statement of Need (10 Points)

Please describe the community where the YouthBuild program will operate. Identify the need for a YouthBuild program in the community that is proposed to be served through the grant and demonstrate the need for the project in that area. Applicants are expected to present information on various characteristics of the community(ies) in which they expect to operate. If there are particular neighborhoods within the city where the grant will be focused, describe these neighborhoods and provide available data specific to those areas. Required information includes the population of the area, its poverty rate, the incidence of homelessness, shortage of affordable housing, its unemployment rate, the drop-out rate, and the number of 18–24 year olds without a high school diploma. To obtain these indicators, applicants can use census tract data from the 2000 census—go to *http://factfinder.census.gov* and use the link on the left for People.

To find the cohort rate for dropouts in the area being served, provide the 9th grade enrollment at each high school within the proposed community for 2001 and the graduating class for those same high schools in May/June 2005. All of these indicators should be presented in chart form and the applicant must provide the sources for the data provided.

If the organization plans to build or rehabilitate houses or community/public facilities in a different community from that in which youth will be recruited, present the homelessness and poverty data for that area and the unemployment, poverty, and dropout data for the area in which the organization will be recruiting youth participants.

Applicants will be evaluated on the clear and specific need for a YouthBuild program in their community.

2. Program Management and Organizational Capacity (10 Points)

Please provide a description of the applicant organization and a statement of its qualifications for running a YouthBuild program including years of operation, current annual budget, experience of staff and continuity of leadership and their relevant experience. Please fully describe the organization's capacity to track and report outcomes. Please discuss the professional development activities available to staff, either on-site or through training funds.

Please fully describe any previous experience of the organization in operating grants from either Federal or non-Federal sources. Describe the fiscal controls in place in the organization for auditing and accountability procedures.

Please describe the organization's ability to handle multiple funding streams. As some grantees may be simultaneously managing grants from both HUD and DOL in the next few years, it is especially important that organizations be able to demonstrate that they have accounting systems in place that are able to manage multiple funding streams in an organized and delineated manner.

Applicants must describe their proposed project management structure including, where appropriate, the identification of a proposed project manager, discussion of the proposed staffing pattern, and the qualifications and experience of key staff members.

Scoring under this criterion will be based on the extent to which applicants provide evidence of the following:

- The time commitment of the proposed staff is sufficient to ensure proper direction, management, and timely completion of the project.
- The roles and contribution of staff, consultants, and collaborative organizations are clearly defined and linked to specific objects and tasks.
- The background, experience, and other qualifications of the staff are sufficient to carry out their designated roles.
- The applicant organization has significant capacity to accomplish the goals and outcomes of the project, including the ability to collect and manage data in a way that allows consistent, accurate, and expedient reporting.

3. Project Design, Service Strategy, and Program Outcomes (40 Points Total)

a. How will youth be recruited and selected for the program? (5 points)

Please provide a description that fully demonstrates how eligible youth will be recruited and selected as participants, including a description of arrangements that will be made with Local Workforce Investment Boards, One-Stop Career Centers, faith-based and community organizations, state educational agencies or local educational agencies (including agencies of Indian tribes), public assistance agencies, the courts of jurisdiction, agencies operating shelters for homeless individuals and other agencies that serve youth who are homeless individuals, foster care agencies, and other appropriate public and private agencies. Please provide a description that fully demonstrates the special outreach efforts that will be undertaken to recruit eligible young women (including young women with dependent children) as participants.

Applicants will be evaluated on the quality and comprehensiveness of their recruitment strategy including methods for outreach, referral, and selection. In addition, applicants will be evaluated on the program's unique efforts to recruit eligible young women into the YouthBuild program.

b. How will education and occupational skills training be delivered to youth? (15 points)

Please provide a description that fully demonstrates the educational and job training activities (particularly construction/building trades occupational training), work opportunities, post-secondary education and training opportunities, and other services that will be provided to participants, and how those activities, opportunities, and services will prepare youth for employment in occupations in demand in the local labor market. Given the connection between education and earnings, it is ETA's expectation that the academic component will be rigorous and challenging and will provide youth with opportunities to transition to post-secondary training. The program should be structured so that participants in the program are offered education and related services designed to meet educational needs for at least 50 percent of the time during which they participate in the program. YouthBuild program participants must be offered work and skill development activities for at least 40 percent of the time during which they participate in the program. The proposal will be rated on the quality of the education program, the

quality of the occupational skills training, and the integration of these two components.

(1) Education

Please indicate the type of academic credential that participants earn while in the program (GED or high school diploma). Please fully describe the quality of the academic program and the qualifications of the teaching staff. Fully describe any innovative and successful strategies that the program or initiative has used to address low basic skills of participants. If distance learning and/or credit retrieval is used, please fully describe how this is incorporated into the overall academic program. Please fully describe the relationship between the program and the local school district(s).

Please fully demonstrate how the academic program is integrated with the occupational skills training component of the program. Please explain how academic and occupational skills training instructors work together to reinforce and complement classroom and workplace lessons. Please describe other innovative teaching strategies used in the program.

Please explain how the program explicitly links participants to local community colleges and trade schools, particularly for YouthBuild programs that only offer GEDs to participants.

Please describe the types of college exploration, planning, preparation, and assistance that will be provided. Describe the types of follow-up services that will be provided to support youth as they transition to post-secondary education and ensure that they graduate.

(2) Occupational Skills Training

Please discuss the occupational skills training component of the program including where and how the training will be conducted, how the curriculum is developed, the type of industry recognized credentials that result from the training, and the involvement of industry partners in the development of the training. Describe how the applied learning of the construction trades will improve and enhance the academic outcomes for the youth. Please describe the skills and qualifications of the occupational skills training instructors.

Please provide a description of the wages or stipends structure for participants. Provide labor market information for the community, state, and/or region where the YouthBuild program will be implemented, including both current data (as of the date of submission of the application) and projections on career opportunities in growing industries. Please explain how the YouthBuild program will prepare youth for the local labor market in demand driven occupations that include construction-related and other high-growth career fields.

Please describe how the organization will oversee the worksite to identify existing and potential hazards, how youth will be trained to protect themselves from potential worksite accidents, and how hazards will be prevented and controlled through policies and procedures. Provide information on how worksite supervisors will be trained to ensure worksite safety. Please indicate the ration of adults to youth at construction training sites.

Please note that YouthBuild projects will be required to follow Occupational Safety and Health Administration (OSHA) guidelines in the operation of their construction projects and to submit incident reports to ETA of injuries occurring on worksites. ETA will require that YouthBuild grantees:

- Provide comprehensive documented training on construction safety for youth working on YouthBuild projects, including requirements for youth to demonstrate knowledge and proficiency in hazard identification, abatement, and safe work practices.
- Demonstrate compliance with federal and state child labor laws and occupational safety and health regulations.
- Provide written jobsite-specific safety plans overseen by an on-site supervisor with the knowledge, skills, and authority to correct safety and health hazards and enforce the site-specific safety plan.
- Provide necessary personal protective equipment to youth working on YouthBuild projects.
- Report all injuries and illnesses to youth working on YouthBuild projects, along with documentation on remedial measures to prevent future similar injuries and help ensure that YouthBuild is a model program that takes active steps for participant safety and health.

c. How will community service learning and leadership development opportunities be provided for youth in the program? (10 points)

Please fully describe the proposed leadership curriculum, qualifications of instructors, and the impact of the proposed leadership activities on the target area. The application must fully describe the leadership development training that will be offered to participants, the expected leadership competencies with which participants will graduate, youth committee involvement strategies, efforts for providing the training to build group cohesion and peer support, and opportunities for continued leadership after graduation. Please describe how community service learning opportunities will be implemented at the site.

Applicants will be evaluated on the quality of leadership development and community service learning activities. In addition, the proposal will be evaluated on how these activities are integrated with academic, skills training, and career exploration components of the program.

d. What types of post-program transition services will be provided? What types of follow-up services will be provided? Post-program transition services are defined as services offered during program enrollment that will assist a young person in making a successful transition from the YouthBuild program into employment and/or post-secondary education and training programs. Follow-up services are services provided to a YouthBuild program participant upon exit from the program. (10 points)

Please fully describe the types of post-program transition services that will be offered to prepare youth for career pathway opportunities and placements and/or educational opportunities and placements. Please fully describe how each individual's work readiness will be assessed and how work readiness training will be provided. Also describe how an individual's readiness for placement in post-secondary education and/or apprenticeship programs will be assessed. Please fully demonstrate the types of career exploration and planning activities that will be offered by the program, particularly for high-growth, high-demand, and high-wage occupations. For a list of the U.S. Department of Labor's Employment and Training Administration's Targeted High-Growth Industries, go to: *http://www.doleta.gov/BRG/eta_default.cfm.*

Please fully describe the program's job placement and retention strategy including how the program will work with employers and/or One-Stop Career Centers to identify and create job openings for the young people served by the program.

Please fully describe the types of follow-up that will be provided to program graduates. These supportive services should relate to employment placement and retention, post-secondary transition and degree attainment. Describe how appropriate

continued support services will be provided.

Important elements for evaluation include:

- The degree to which work readiness and career exploration are integrated into the core mission and activities of the program.
- The program's consistent ability to provide post-program planning for participants.
- The structure of its participant follow-up service strategy.

4. Linkages to Key Partners, Match and Leveraged Resources and Regional Economic Development Strategies (25 points total)

a. Who are the key partners that will be supporting the program? (10 points)

Please describe the key partners who will be involved in the proposed YouthBuild project. Specifically, describe in detail the activities to be undertaken by partners, the level of commitment from each partnering organization, and their qualifications to assist with this project. As an attachment, the applicant should include letters of commitment from key partners that demonstrate the strength and maturity of the partnership including previous collaboration on projects.

Please provide a description of how the proposed program will coordinate with Federal, state, and local agencies and Indian tribes to access services, including local workforce investment activities, vocational education programs, limited English proficiency instruction programs, and activities conducted by public schools, community colleges, and national service programs, as well as other job training provided with funds available under this title.

Please describe the partnerships with the juvenile justice system or housing and community development systems.

Please fully describe the specific role of employers in the proposed program, such as their role in developing the proposed program and assisting in service provision and in placement activities.

Please fully describe the program's relationship with local building trade unions and their role in training, the relationship of the proposed program to established registered apprenticeship programs and employers, and the ability of the applicant to grant industry-recognized skills certifications through the program.

Points for this factor will be awarded based on: (a) The comprehensiveness of the partnership and the degree to which each key partner plays a committed role in the proposed project; (b) their knowledge and experience concerning the proposed grant activities, and their ability to impact the success of the project; and (c) evidence, including letters of commitment, that key partners have expressed a clear dedication to the project and understand their areas of responsibility. Applicants should provide evidence of a plan for interaction and communication between partners and the demonstrated ability of the lead agency to successfully manage partnerships.

b. What match and other leveraged resources are being contributed to this project? (10 points)

Applicants should clearly describe the required matching funds and any additional funds or resources leveraged in support of the proposed strategies and demonstrate how these funds will be used to contribute to the goals of the project. Important elements of the explanation include:

- Which partners and/or grant subrecipients have contributed match and leveraged resources and the extent of each contribution, including an itemized description of each contribution.
- The quality of the match and leveraged resources, including the extent to which each contribution will be used to further the goals of the project.
- Evidence, such as letters of commitment, that key partners have expressed a clear commitment to provide the contribution.

Assessment of this criterion will be based on the extent to which the application fully describes the amount, commitment, nature, and quality of match and leveraged resources. A match in the sum of at least 25 percent of the Federal funding request must be provided. Matching funds may be either cash or in-kind. Both matching funds and additional leveraged resources will be scored based on the degree to which the source and use of those resources are clearly explained and the extent to which all resources are fully integrated into the project to support grant outcomes.

d. Please Describe the Organization's Involvement in Regional Economic Development Strategies. (5 Points)

Please fully describe how the organization is serving as a catalyst for change in the community. Applicants should be able to fully demonstrate how they have created such changes and stimulated economic growth in their communities and how they would continue to support community development as a YouthBuild grantee.

Please specifically describe how the program is integrated with local, state, and/or regional strategies to develop deep talent pools of young workers who will serve as a ''youth supply pipeline'' to drive and support economic growth.

Applicants will be evaluated on the following:

- The extent to which they understand the local and regional economy and the role of youth workers in shaping the economy; and
- The proposed role of YouthBuild training in stimulating economic growth in high-demand occupations.

5. Evidence of Past & Projected Success In Youthbuild or Other Relevant Programs (15 Points)

Please fully describe and document the past accomplishments operating YouthBuild or similar youth programs with academic components in the community. Please explain how long the program has been in operation and provide annual performance data on the following factors:

- Number of youth recruited.
- Number of youth enrolled.
- Number of youth completing the program.
- Number and percent of youth receiving their GED or high school diploma (please differentiate between the two).
- Rate of literacy and numeracy gains by participants.
- Number and percent of youth who have entered construction-related employment.
- Number and percent of youth who have entered other employment.
- Employment retention rates.
- Number and percent of youth who have entered post-secondary training or education.
- Post-secondary training or education retention rates; where available, please indicate the number of participants who have completed post-secondary training or education and have achieved a credential.
- Number and percent of youth who have entered registered apprenticeship programs.
- Annual cost per participant.

Please indicate the expected performance outcomes if awarded a grant (in terms of literacy and numeracy gains; high school diploma/GED attainment; placement in employment, post-secondary education, occupational skills training, or the military; and employment retention rate).

Please indicate the types of private foundation funding the organization has secured in the past. Also, fully describe

long-term partnerships with organizations that have added to the robustness of the program and how the organization has sustained these partnerships.

Please fully describe how both the academic and skills training curriculum were developed and how long they have been used. Important elements to be considered with this factor are:

- The degree to which the performance data is provided and documented.
- The variety and types of funding streams and long-term partnerships that the program has been able to attract to support YouthBuild activities.
- The complexity of construction activities undertaken and the degree to which youth are exposed and trained in a variety of construction skills.

B. Review and Selection Process

Proposals that are timely and responsive to the requirements of this SGA will be rated against the criteria listed above by an independent panel comprised of representatives from DOL, HUD, U.S. Department of Justice (DOJ), and U.S. Department of Health & Human Services (HHS) and other peers. The ranked scores will serve as the primary basis for selection of applications for funding, in conjunction with other factors such as urban, rural, and geographic balance; whether the areas to be served have previously received grants for YouthBuild programs; the availability of funds; and which proposals are most advantageous to the Government. The panel results are advisory in nature and not binding on the Grant Officer, and the Grant Officer may consider any information that comes to his/her attention. The Government may elect to award the grant(s) with or without discussions with the applicants. Should a grant be awarded without discussions, the award will be based on the applicant's signature on the SF 424, which constitutes a binding offer by the applicant (including electronic signature via E-Authentication on *http://www.grants.gov*).

VI. Award Administration Information

A. Award Notices

All award notifications will be posted on the ETA homepage (*http://www.doleta.gov*). Applicants selected for award will be contacted directly before the grant's execution. Applicants not selected for award will be notified by mail.

B. Administrative and National Policy Requirements

1. Administrative Program Requirements

All grantees, including faith-based organizations, will be subject to all applicable Federal laws (including provisions of appropriation laws), regulations, and the applicable Office of Management and Budget (OMB) Circulars. The grant(s) awarded under this SGA must comply with all provisions of this solicitation and will be subject to the following administrative standards and provisions, as applicable to the particular grantee:

1. 20 Code of Federal Regulations (CFR) Part 667.220. (Administrative Costs).
2. Non-Profit Organizations—Office of Management and Budget (OMB) Circulars A–122 (Cost Principles) and 29 CFR Part 95 (Administrative Requirements).
3. Educational Institutions—OMB Circulars A–21 (Cost Principles) and 29 CFR Part 95 (Administrative Requirements).
4. All entities must comply with 29 CFR Parts 93 and 98 and, where applicable, 29 CFR Parts 96 and 99.
5. In accordance with Section 18 of the Lobbying Disclosure Act of 1995, Public Law 104–65 (2 U.S.C. 1611) non-profit entities incorporated under Internal Revenue Service Code section 501(c)(4) that engage in lobbying activities are not eligible to receive Federal funds and grants.
6. 29 CFR part 2, subpart D—Equal Treatment in Department of Labor Programs for Religious Organizations; Protection of Religious Liberty of Department of Labor Social Service Providers and Beneficiaries;
7. 29 CFR part 30—Equal Employment Opportunity in Apprenticeship and Training;
8. 29 CFR part 31—Nondiscrimination in Federally Assisted Programs of the Department of Labor—Effectuation of Title VI of the Civil Rights Act of 1964;
9. 29 CFR part 32—Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance;
10. 29 CFR part 33—Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Labor;
11. 29 CFR part 35—Nondiscrimination on the Basis of Age in Program or Activities Receiving Federal Financial Assistance from the Department of Labor;
12. 29 CFR part 36—Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance;
13. 29 CFR part 37—Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998 (WIA).
14. 29 CFR part 1926, Safety and Health Regulations for Construction of the Occupational Safety and Health Act (OSHA).
15. 29 CFR part 570, Child Labor Regulations, Orders and Statements of Interpretation of the Employment Standards Child Labor Provisions.

Further, as a Federal agency, DOL has a statutory duty to affirmatively further fair housing. ETA requires the same of its funding recipients under this solicitation. If the organization is a successful applicant, the organization will have a duty to affirmatively further fair housing opportunities for classes protected under the Fair Housing Act. Protected classes include race, color, national origin, religion, sex, disability, and familial status. Therefore, the application should include specific steps to:

1. Overcome the effects of impediments to fair housing choice that were identified in the jurisdiction's Analysis of Impediments (AI) to Fair Housing Choice;
2. Remedy discrimination in housing; or
3. Promote fair housing rights and fair housing choice.

Further, the applicant has a duty to carry out the specific activities provided in its responses to this solicitation that address affirmatively furthering fair housing.

Note: Except as specifically provided in this Notice, DOL/ETA's acceptance of a proposal and an award of Federal funds to sponsor any program(s) does not provide a waiver of any grant requirements and/or procedures. For example, OMB Circulars require that an entity's procurement procedures must ensure that all procurement transactions are conducted, as much as practical, to provide open and free competition. If a proposal identifies a specific entity to provide services, the DOL/ETA's award does not provide the justification or basis to sole source the procurement, i.e., avoid competition, unless the activity is regarded as the primary work of an official partner to the application.

C. Special Program Requirements

Evaluation. ETA may require that the program or project participate in an evaluation of overall performance of YouthBuild grants. To measure the impact of the YouthBuild programs, ETA may arrange for or conduct an independent evaluation of the outcomes and benefits of the projects. Grantees

must agree to make records on participants, employers and funding available, and to provide access to program operating personnel and participants, as specified by the evaluator(s) under the direction of ETA, including after the expiration date of the grant.

D. Reporting

Quarterly financial reports, quarterly progress reports, and MIS data will be submitted by the grantee electronically. The grantee is required to provide the reports and documents listed below:

Quarterly Financial Reports. A Quarterly Financial Status Report (SF 269) is required until such time as all funds have been expended or the grant period has expired. Quarterly reports are due 30 days after the end of each calendar year quarter. Grantees must use ETA's On-Line Electronic Reporting System and information and instructions will be provided to grantees.

Quarterly Progress Reports. The grantee must submit a quarterly progress report to their designated Federal Project Officer within 30 days after the end of each quarter. This report should provide a detailed account of activities undertaken during that quarter. Grantees must agree to meet ETA reporting requirements. The quarterly progress report should be in narrative form and should include:

1. In-depth information on accomplishments, including project success stories, upcoming grant activities, and promising approaches and processes.
2. Progress toward performance outcomes, including updates on product, curricula, and training development.

Injury Incident Reports. Organizations will be required to submit incident reports of injuries received by enrollees on the job. ETA will provide specifications for this reporting after grant award.

MIS Reports. Organizations will be required to submit updated MIS data on enrollment, services provided, placements, outcomes, and follow-up status. A government-procured MIS system will be provided at no charge to all grantees. Grantees will be required to have industry-standard computer hardware and high-speed Internet access in order to use the MIS system. Grant funds may be used with the prior approval of the Grant Officer to upgrade computer hardware and Internet access to enable projects to use the MIS system.

Final Report. A draft final report must be submitted no later than 60 days prior to the expiration date of the grant. This report must summarize project activities, employment outcomes, and related results of the training project, and should thoroughly document capacity building and training approaches. The final report should also include copies of all deliverables, e.g. curricula and competency models. After responding to ETA questions and comments on the draft report, three copies of the final report must be submitted no later than the grant expiration date. Grantees must agree to use a designated format specified by ETA for preparing the final report.

VII. Agency Contacts

For further information regarding this SGA, please contact Donna Kelly, Grants Management Specialist, Division of Federal Assistance, at (202) 693–3934 (please note this is not a toll-free number). Applicants should fax all technical questions to (202) 693–2705 and must specifically address the fax to the attention of Donna Kelly and should include SGA/DFA PY 06–08, a contact name, fax and phone number, and email address. This announcement is being made available on the ETA Web site at *http://www.doleta.gov/sga/sga.cfm*, at *http://www.grants.gov*, and in the **Federal Register**.

VIII. Additional Resources of Interest to Applicants and Other Information Resources for the Applicant

ETA maintains a number of web-based resources that may be of assistance to applicants:

- The Web site for the Employment and Training Administration (*http://www.doleta.gov*) is a valuable source for background information on the President's High Growth Job Training Initiative.
- The Workforce³ One Web site (*http://www.workforce3one.org*) is a valuable resource for information about demand driven projects of the workforce investment system, educators, employers, and economic development representatives.
- America's Service Locator (*www.servicelocator.org*) provides a directory of the nation's One-Stop Career Centers.
- Career Voyages (*www.careervoyages.com*), a Web site targeted at youth, parents, counselors, and career changers, provides information about career opportunities in high-growth/high-demand industries.
- Applicants are encouraged to review ''Help with Solicitation for Grant Applications'' (*http://www.dol.gov/cfbci/sgabrochure.htm*).
- For a basic understanding of the grants process and basic responsibilities of receiving Federal grant support, please see ''Guidance for Faith-Based and Community Organizations on Partnering with the Federal Government'' (*http://www.whitehouse.gov/government/fbci/guidance/index.html*).

Other Information

OMB Information Collection No.: 1205–0458.

Expires: September 30, 2009.

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. Public reporting burden for this collection of information is estimated to average 20 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimated or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, the OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503. Please do not return the completed application to the OMB. Send it to the sponsoring agency as specified in this solicitation.

This information is being collected for the purpose of awarding a grant. The information collected through this ''Solicitation for Grant Applications'' will be used by the Department of Labor to ensure that grants are awarded to the applicant best suited to perform the functions of the grant. Submission of this information is required in order for the applicant to be considered for award of this grant. Unless otherwise specifically noted in this announcement, information submitted in the respondent's application is not considered to be confidential.

Signed at Washington, DC, this 19th day of April, 2007.

Eric D. Luetkenhaus,

Employment and Training Administration, Grant Officer.

[FR Doc. E7–7974 Filed 4–25–07; 8:45 am]

BILLING CODE 4510–FT–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice of petitions for modification of existing mandatory safety standards.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR Part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification filed by the parties listed below to modify the application of existing mandatory safety standards published in Title 30 of the Code of Federal Regulations.

DATES: Comments on the petitions must be received by the Office of Standards, Regulations, and Variances on or before May 29, 2007.

ADDRESSES: You may submit your comments, identified by ''docket number'' on the subject line, by any of the following methods:

1. *E-mail*: *Standards-Petitions@dol.gov.*
2. *Telefax*: 1–202–693–9441.
3. *Hand-Delivery or Regular Mail*: Submit comments to the Mine Safety and Health Administration (MSHA), Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209, Attention: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances.

We will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments. If you submit your comments by hand-delivery, you are required to check in at the receptionist desk on the 21st floor.

Copies of the petitions and comments will be available during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Ria Moore Benedict, Deputy Director, Office of Standards, Regulations, and Variances at 202–693–9443 (Voice), *benedict.ria@dol.gov* (E-mail), or 202–693–9441 (Telefax), or you can contact Barbara Barron at 202–693–9447 (Voice), *barron.barbara@dol.gov* (E-mail), or 202–693–9441 (Telefax). [These are not toll-free numbers].

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary determines that: (1) An alternative method of achieving the result of such standard exists that will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or (2) the application of such standard to such mine will result in a diminution of safety to the miners in such mine. In addition, the regulations at 30 CFR §§ 44.10 and 44.11 establish the requirements and procedures for filing petitions for modifications.

II. Petitions for Modification

Docket Number: M–2006–090–C.
Petitioner: Vandyke Mining, Inc., P.O. Box 207, Tazewell, Virginia 24651.
Mine: Dom No. 7 Mill Branch Refuse Pile, Site I.D. 1211 VA5–0358–01, and (MSHA I.D. No. 44–06718), located in Buchanan County, Virginia.
Regulation Affected: 30 CFR 77.214(a) (Refuse piles; general).
Modification Request: The petitioner requests a modification of the existing standard to permit abandoned mine openings to be covered with coarse scalp rock refuse material. The petitioner proposes to use scalp rock refuse to cover the mine bench in an area containing abandoned mine openings. The petitioner states that: (1) This modification will not jeopardize the safety of any miners at the mine or refuse disposal area; (2) there are presently a total of four (4) mine openings in the area to be filled with refuse located in Mill Branch of Dismal near Whitewood in Buchanan County, Virginia, in the Jawbone coal seam at the approximate elevation of 1910.00 (formerly mined under Dominion Coal Corporation, Mine No. 7); and (3) the existing mine bench will be used as the location to place scalp rock refuse. The petitioner further proposes to use the following methodology to seal the mine openings: (1) Remove all sloughed overburden of 10 to 12 feet in front of and to either side of the drift openings to allow placement of suitable material for sealing; (2) Install an 18 pipe wet seal in the lowest entry to prevent water from impounding in the mine void. The pipe will be covered with gravel and the pipe will extend through the refuse pile area and directed into the natural drainage course; (3) Backfill all drifts to a height of four (4) feet above the drifts or to four (4) feet above any visible cracks above the drifts with an impervious, non-combustible material which should contain enough fines to ensure an airtight seal and which is compacted to 90 percent of the Proctor. All backfill material will be placed in 2-foot lifts; and (4) Backfill all exposed coal seams in the vicinity of the openings to a minimum of 4 feet above the top of the coal seam.

Docket Number: M–2007–001–C.
Petitioner: Twentymile Coal Company, Three Gateway Center, Suite 1340, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222.
Mine: Foidel Creek Mine, (MSHA I.D. No. 05–03856), located in Routt County, Colorado.
Regulation Affected: 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).
Modification Request: The petitioner requests a modification of the existing standard to permit the use of battery powered non-permissible hand-held computers in the return airways. The petitioner proposes to use Dell AMIM X50/X50v hand-held computers to allow supervisors and selected miners to collect and record data pertinent to safety observations during work processes. The data recorded in the hand-held computers will be downloaded at the end of the shift and collated with other data to allow the petitioner to proactively correct unsafe practices and prevent accidents before they occur. In the alternative, the petitioner would require all hand-held computers to be examined by a certified person. In addition, a qualified person who is properly trained would monitor continuously for methane before and during their use. The petitioner would de-energize any hand-held computers at methane concentrations of 1.0% or above.

Docket Number: M–2007–002–C.
Petitioner: Twentymile Coal Company, Three Gateway Center, Suite 1340, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222.
Mine: Foidel Creek Mine, (MSHA I.D. No. 05–03836), located in Routt County, Colorado.
Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).
Modification Request: The petitioner is amending its petition for modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered non-permissible hand-held computers on longwall faces or within 150 feet of pillar workings. The petitioner proposes to use the hand-held computers to allow supervisors and selected miners to collect and record data pertinent to safety observations during work processes. The petitioner states that the data will be recorded in the hand-held computers (such as the Dell AMIM X50/X50v) and downloaded at the end of the shift and collated with other data to

allow Twentymile to proactively correct unsafe practices and prevent accidents before they occur. In the alternative, the petitioner would require all hand-held computers to be examined by a certified person. In addition, a qualified person who is properly trained would monitor continuously for methane before and during their use. The petitioner would de-energize any hand-held computers at methane concentrations of 1.0% or above. The petitioner asserts that implementation of this petition will enhance the safety of the miners and improve the overall level of protection afforded them. The petitioner further asserts that the proposed alternative method will provide an equal measure of protection as that afforded by the standard.

Docket Number: M–2007–003–C.

Petitioner: Summit Engineering, Inc., on behalf of Stirrat Coal Company, P.O. Box 484, Omar, West Virginia 25638.

Mine: Mine No. 21, (MSHA I.D. No. 46–02515), located in Logan County, West Virginia.

Regulation Affected: 30 CFR 77.214(a) (Refuse piles; general).

Modification Request: The petitioner requests modification of the existing standard to permit four (4) existing mine openings to be backfilled with acid producing soil. The petitioner proposes to: (1) Extend the soil approximately 25 feet into the mine and at least 4 feet in all directions beyond the limits of the mine opening; (2) cover any exposed coal seam along the mine bench with soil at least 4 feet above the coal seam; (3) install a rock underdrain along the mine openings that would consist of approximately 6-inch (O.D.) SDR 11 high density polyethylene pipes installed in the lowest elevation mine opening; and (4) install riser pipes at the ends of the pipes to establish water seals. The petitioner states that the existing mine bench and highwall will then be reclaimed with breaker rock coal refuse, and the breaker rock material will be placed at 3:1V (Horizontal; Vertical) slope. The petitioner asserts that the slope shall be soil covered and revegetated in accordance with the approved WVDEP reclamation permit, and since the existing mine is abandoned, this plan will provide the same measure of protection for the miners as given to them by the standard.

Docket Number: M–2007–004–C.

Petitioner: Pinn Oak Resources, LLC on behalf of Oak Grove Resources, LLC, 8800 Oak Grove Mine Road, Adger, Alabama 35006.

Mine: Oak Grove Mine, (MSHA I.D. No. 01–00851), located Jefferson County, Alabama.

Regulation Affected: 30 CFR 75.364(b) (Weekly examination).

Modification Request: The petitioner requests a modification of the existing standard to permit a certified person to make weekly examinations of the Second East Return using evaluation points. The petitioner bases its request on the hazardous conditions of this area. The petitioner states that: (1) These evaluation points and all approaches to the evaluation points will be maintained in a safe condition; (2) the test for proper quantity, quality, and direction of air will be determined weekly by a certified person at all proposed evaluation points; and (3) the person making the examinations and test will place his/her initials, date, and time at each proposed evaluation point and record the results in a book, which will be maintained on the surface and made available for inspection by interested persons. The petitioner further states that use of evaluation points to measure air and gas will provide an accurate picture of the conditions in the air course without unduly exposing persons to hazards. The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection of all miners at the Oak Grove Mine.

Docket Number: M–2007–005–C.

Petitioner: ICG Eastern, LLC, P.O. Box 273, Charleston, West Virginia 25301.

Mine: Birch River Mine, (MSHA I.D. No. 46–07945), located in Webster County, West Virginia.

Regulation Affected: 30 CFR 77.501 (Electric distribution circuits and equipment; repair).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method for working on electrical equipment. The petitioner proposes to: (1) Designate a certified electrician to disconnect electricity, to visually observe that the connecting devices on high-voltage circuits are in the open position, lockout the electricity disconnect where possible, tag the disconnection device, and test to assure proper disconnection and ground; (2) have the designated certified electrician make personal, verbal contact with all work areas involved to inform the workers either by radio, intercom, or in person, that power has been disconnected and that circuits or equipment are ready to repair. The petitioner states that no work will be performed until the notification has been received by the certified electrician or the designated person(s) responsible for performing maintenance work, and that on occasion, maintenance work will be performed and the equipment will need to be de-energized but a certified electrician may not be required to be present at the work site if only maintenance work is being performed. Petitioner further states that no work will be performed until the designated person at the work site reports back to the designated certified electrician at the power source that the power has been de-energized. Petitioner asserts that the same verification process will be used to re-energize the equipment. Petitioner also states that if only one certified electrician is employed on any given shift and electrical work has to be performed, this variance will not apply and ICG must comply with the provision of 30 CFR 77.501. The petitioner has listed additional procedures in this petition that will be used when the proposed alternative method is implemented. Persons may review a complete description of the procedures at the MSHA address listed in this notice. The petitioner asserts that the alternative method will at all times guarantee no less that the same measure of protection from the potential hazards of accidental electrocution against which 30 CFR 77.501 was intended to guard.

Docket Number: M–2007–006–C.

Petitioner: Knight Hawk Coal, LLC, 7290 County Line Road, Cutler, Illinois 62238.

Mine: Prairie Eagle Underground Mine, (MSHA I.D. No. 11–03147), located in Perry County, Illinois.

Regulation Affected: 30 CFR 75.503 (Permissible electric face equipment; maintenance) and 30 CFR 18.35 (Portable trailing Cables and Cords).

Modification Request: The petitioner requests a modification of the existing standard to permit trailing cables that supply power to permissible equipment used in continuous mining sections to be increased to the maximum length. The petitioner states that: (1) This petition will only apply to trailing cables supplying three-phase, 995-volt power to continuous mining machines and trailing cables supplying three-phase, 480-volt power to roof bolters; (2) the maximum length of the 995-volt continuous mining machine trailing cables will be 950 feet, and the maximum length of 480-volt trailing cable for roof bolters will be 900 feet; and (3) the 995-volt continuous mining machine trailing cable will not be smaller than 2/0 and the 480-volt trailing cables for roof bolters will not be smaller than #2 AWG. The petitioner has listed specific procedures in this

petition, such as for trip setting of the circuit breakers, labeling, inspections, training, and splicing, which will be used when the proposed alternative method is implemented. Persons may review a complete description of these procedures at the MSHA address listed in this notice. The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection to all miners at the Prairie Eagle Underground Mine as would be provided by the mandatory standard.

Docket Number: M–2007–001–M.

Petitioner: Ararat Rock Products Company, P.O. Box 988, Mount Airy, North Carolina 27030.

Mine: Surry Mine and Mill, (MSHA I.D. No. 31–00002), located in Surry County, North Carolina.

Regulation Affected: 30 CFR 56.17001 (Illumination of surface working areas).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of hydraulic hammers without lights on the booms on Caterpillar 235C excavator, Serial Number 2PG00480, and Caterpillar 245 excavator, Serial Number 95V802. The petitioner states that: (1) They only operate during the daylight hours of 7:30 a.m. to 4:30 p.m. year round; (2) the nature of their stone is hard and produces heavy vibrations, which presents a problem in maintaining lights on the booms of the hydraulic hammers; and (3) all miners will be withdrawn from the equipment that is in operation when visibility is limited. The petitioner further states that in the event of rain, snow, or fog in the pit area where the hammers are located all activity will cease, and the cab lights will be retained and maintained because they are not subject to the shock and vibration like the boom lights. The petitioner asserts that application of the existing standard reduces the safety of the mechanics because constant repair to the boom lights exposes them to strains as well as slips, trips, and falls.

Docket Number: M–2007–002–M.

Petitioner: Oldcastle Industrial Minerals, 550 South Biesecker Road, Thomasville, Pennsylvania 17364.

Mine: Thomasville Mine, (MSHA I.D. No. 36–03432), located in York County, Pennsylvania.

Regulation Affected: 30 CFR 49.2(b) (Availability of mine rescue teams).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of two mine rescue teams of three members with one alternate for each team instead of two teams of five members and one alternate for each team. The petitioner states that the underground mine is small and there is not enough room to accommodate more than three or four miners in the working places, and to use five or more rescue team members in the confined working places of the mine would result in a diminution of safety to the miners and the members of the mine rescue team. Petitioner also asserts that because electric power does not reach the bottom of the slope and is hauled by hand trammed cars, the risk of disaster is considerably reduced. Finally, petitioner states that the Pennsylvania Deep Mine Safety and other surrounding mines will assist them in an emergency. The petitioner asserts that the proposed alternative method will in no way provide less than the same measure of protection afforded the miners under the existing standard.

Dated: April 20, 2007.

Patricia W. Silvey,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. E7–8004 Filed 4–25–07; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Veterans' Employment and Training Service

The Advisory Committee on Veterans' Employment Training and Employer Outreach; Notice of Open Meeting

The Advisory Committee on Veterans' Employment Training and Employer Outreach (ACVETEO) was established pursuant to Title II of the Veterans' Housing Opportunity and Benefits Improvement Act of 2006 (Pub. L. 109–233) and Section 9 of the Federal Advisory Committee Act (FACA) (Pub. L. 92–462, Title 5 U.S.C. app.II). The ACVETEO's authority is codified in Title 38 U.S. Code, Section 4110. The ACVETEO's Charter was signed and transmitted to the Congress on March 16, 2007.

The ACVETEO is responsible for assessing employment and training needs of veterans; determining the extent to which the programs and activities of the Department of Labor meet these needs; and assisting in carrying out outreach to employers seeking to hire veterans.

The Advisory Committee on Veterans' Employment Training and Employer Outreach will meet on Tuesday, May 15th from 8 a.m. to 4 p.m. at the U.S. Department of Labor, 200 Constitution Avenue, NW., Washington DC (202–693–4700). The committee will discuss programs assisting veterans seeking employment and raising employer awareness as to the advantages of hiring veterans.

Individuals needing special accommodations should notify Bill Offutt at (202) 693–4717 by May 7, 2007.

Signed in Washington, DC, this 16th day of April 2007.

John McWilliam,

Deputy Assistant Secretary, Veterans' Employment and Training.

[FR Doc. E7–7775 Filed 4–25–07; 8:45 am]

BILLING CODE 4510–79–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 07–032]

Notice of Intent To Grant Exclusive License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant exclusive license.

SUMMARY: This notice is issued in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant an exclusive license in the United States to practice the invention described and claimed in U.S. Patent No. 6,706,549, Multi-Functional Micro Electromechanical Devices and Method of Bulk Manufacturing Same, U.S. Patent No. 6,769,303, Multi-Functional Micro Electromechanical Silicon Carbide Accelerometer, U.S. Patent No. 6,845,664, MEMS Direct Chip Attach Packaging Methodologies and Apparatuses for Harsh Environments to Endevco having its principal place of business in San Juan Capistrano, California. The patent rights in these inventions have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

DATES: The exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated exclusive license.

Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

ADDRESSES: Objections relating to the prospective license may be submitted to Patent Counsel, Office of Chief Counsel, NASA Glenn Research Center, MS 21–14, 21000 Brookpark Rd., Cleveland, OH 44135, telephone (216) 433–8855, facsimile (216) 433–6790.

FOR FURTHER INFORMATION CONTACT: Kaprice L. Harris, Attorney-Advisor, Office of Chief Counsel, NASA Glenn Research Center, MS 21–14, 21000 Brookpark Road, Cleveland, OH 44135, telephone (216) 433–5754, facsimile (216) 433–6790. Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov/*.

Dated: April 20, 2007.

Keith T. Sefton,

Deputy General Counsel, Administration and Management.

[FR Doc. E7–8026 Filed 4–25–07; 8:45 am]

BILLING CODE 7510–13–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste; Meeting on Planning and Procedures; Notice of Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold a Planning and Procedures meeting on May 17, 2007, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland. The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACNW, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Thursday, May 17, 2007–8:30 a.m.—9:30 a.m.

The Committee will discuss proposed ACNW activities and related matters. The purpose of this meeting is to gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Antonio F. Dias (Telephone: 301/415–6805) between 8:15 a.m. and 5 p.m. (ET) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 8:15 a.m. and 5 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes in the agenda.

Dated: April 19, 2007.

Antonio F. Dias,

Branch Chief, ACNW.

[FR Doc. E7–8030 Filed 4–25–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste; Notice of Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 179th meeting on May 16–17, 2007, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The schedule for this meeting is as follows:

Wednesday, May 16, 2007

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACNW Chairman (Open)—The ACNW Chairman will make opening remarks regarding the conduct of today's sessions.

8:35 a.m.–10:15 a.m.: AREVA Spent Nuclear Fuel Recycle Facilities (Open)—A representative from AREVA will present an overview of their recycle facilities, including new technology developments, operating experience, effluents, waste streams, and decommissioning activities.

10:30 a.m.–11:30 a.m.: ACNW White Paper on Volcanism (Open)—Discussion of final draft of the White Paper on Igneous Activity at Yucca Mountain. Paper to be sent to the Commission in June.

11:30 a.m.–12 p.m.: ACNW Meeting with NRC Commissioner Jeffrey S. Merrifield (Open)—Commissioner Merrifield will address the Committee on current topics and issues of common interest.

1 p.m.–4 p.m.: Yucca Mountain Preclosure Repository Design: NRC Staff Review Readiness and Views on the Issues (Open)—NRC staff representatives from the Office of Nuclear Materials Safety and Safeguards will brief the Committee on their readiness to review a geologic repository operations area design submitted by the U.S. Department of Energy (DOE) as part of any 10 CFR part 63 License Application. Included in this briefing will be some discussion of the staff's integrated preclosure safety assessment review capability as well as any outstanding preclosure design issues. There may be a 15 minute break at some point during this activity.

4 p.m.–6 p.m.: NCRP Study on Radiation Exposure of U.S. Population (Open)—A representative of the National Council on Radiation Protection and Measurements (NCRP) will brief the Committee about the status of studies being conducted to develop a new NCRP report on ''Ionizing Radiation Exposure of the United States Population.'' This report is being prepared as an update to the 1987 NCRP Report No. 93.

Thursday, May 17, 2007

10 a.m.–10:05 a.m.: Opening Remarks by the ACNW Chairman (Open)—The ACNW Chairman will make opening remarks regarding the conduct of today's sessions.

10:05 a.m.–11 a.m.: Proposed Revision to Standard Review Plan Chapter 11.5 for New Reactor Licensing (Open)—NRC Staff representative from the Office of New Reactors will brief the Committee on the proposed revision to NUREG–0800, ''Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants,'' Chapter 11.5, ''Process and Effluent Radiological Monitoring Instrumentation and Sampling Systems.''

11 a.m.–11:30 a.m.: Briefing on Interim Staff Guidance (ISG)–04, ''Preclosure Safety Analysis—Human Reliability Analysis'' (Open)—NRC staff from the Division of High-Level Waste Repository Safety (HLWRS) will brief the Committee on ISG–04, ''Preclosure Safety Analysis—Human Reliability Analysis'' for the staff's review of human reliability evaluations that will be included in the preclosure safety analysis (PCSA) for the proposed Yucca Mountain Repository site.

1 p.m.–2 p.m.: Briefing on Long-Term Research Activities (Open)—NRC staff representatives from the Office of Nuclear Regulatory Research (RES) will brief the Committee on NRC's long-term research activities which support possible emergence of either new regulatory initiatives, or new technologies that could be applied in nuclear facilities in coming years.

2 p.m.–3 p.m.: ACNW White Paper on Volcanism (Open)—Continued discussion of final draft of the White Paper on Igneous Activity at Yucca Mountain. Paper to be sent to the Commission in June.

3:15 p.m.–4 p.m.: Discussion of ACNW Letter Reports (Open)—The Committee will discuss potential and proposed ACNW letter reports.

4 p.m.–5:30 p.m.: Miscellaneous (Open)—The Committee will discuss matters related to the conduct of ACNW activities and specific issues that were not completed during previous meetings, as time and availability of information permit. Discussions may include content of future letters and scope of future Committee Meetings.

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on October 12, 2006 (71 FR 60196). In accordance with these procedures, oral or written statements may be presented by members of the public. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Persons desiring to make oral statements should notify Mr. Antonio F. Dias (Telephone 301–415–6805), between 8:15 a.m. and 5 p.m. ET, as far in advance as practicable so that appropriate arrangements can be made to schedule the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting will be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for taking pictures may be obtained by contacting the ACNW office prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should notify Mr. Dias as to their particular needs.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted, therefore can be obtained by contacting Mr. Dias.

ACNW meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room (PDR) at *pdr@nrc.gov*, or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System component of NRC's document system (ADAMS) which is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/* (ACRS & ACNW Mtg schedules/agendas).

Video Teleconferencing service is available for observing open sessions of ACNW meetings. Those wishing to use this service for observing ACNW meetings should contact

Mr. Theron Brown, ACNW Audiovisual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m. ET, at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

Dated: April 20, 2007.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. E7–8032 Filed 4–25–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Revised Meeting Notice

The agenda for the 542nd ACRS meeting, scheduled to be held on May 3–5, 2007, has been revised as noted below. Notice of this meeting was previously published in the **Federal Register** on Wednesday, April 18, 2007 (72 FR 19552).

The discussion of the topic on the Commission Paper on Rulemaking to Make Risk-Informed Changes to Loss-of-Coolant Accident Technical Requirements; 10 CFR 50.46a, ''Acceptance Criteria for Emergency Core Cooling Systems for Light-Water Nuclear Power Reactors,'' scheduled to be held on Thursday, May 3, 2007 between 8:35 a.m. and 10:30 a.m., is postponed to a future meeting due to the unavailability of the Commission Paper. The discussion of the item on Digital Instrumentation and Control System Matters, scheduled to be held between 10:45 a.m. and 12:15 p.m., is now scheduled between 8:35 a.m. and 10:30 a.m.

The discussion of the item on ACRS members' Issues associated with the Technology-Neutral Framework for Future Plant Licensing, scheduled between 8:35 a.m. and 10:30 a.m. on Friday May 4, 2007, is now scheduled between 3 p.m.–5 p.m. on Thursday, May 3, 2007. The times for other items scheduled for Thursday, May 3 and Friday, May 4, 2007, previously published in the **Federal Register**, have been adjusted as noted in the revised agenda to facilitate effective use of the Committee's time. A revised agenda is posted on the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/* (ACRS & ACNW Mtg schedules/agendas).

For further information, contact: Mr. Sam Duraiswamy, ACRS, (Telephone: 301–415–7364), between 7:30 a.m. and 4 p.m., ET.

Dated: April 20, 2007.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. E7–8031 Filed 4–25–07; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

Sunshine Act Meetings

NAME OF AGENCY: Postal Regulatory Commission.

TIME AND DATE: Wednesday, April 25, 2007 at 10:30 a.m.

PLACE: Commission conference room, 901 New York Avenue, NW., Suite 200, Washington, DC 20268–0001.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Docket No. R2006–1—reconsideration of aspects of recommended decision for which reconsideration was sought by the U.S. Postal Service Governors in their March 19, 2007 decision.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, Postal Regulatory Commission, 901 New York Avenue, NW., Suite 200, Washington, DC 20268–0001, 202–789–6818.

Dated: April 24, 2007.

Steven W. Williams,

Secretary.

[FR Doc. 07–2086 Filed 4–24–07; 3:38 pm]

BILLING CODE 7710–FW–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55647; File No. S7–24–89]

Joint Industry Plan; Order Granting Permanent Approval of the Reporting Plan for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis, Submitted by the American Stock Exchange LLC, the Boston Stock Exchange, Inc., the Chicago Stock Exchange, Inc., the Chicago Board Options Exchange, Inc., the International Securities Exchange, LLC, the National Association of Securities Dealers, Inc., the National Stock Exchange, Inc., the Nasdaq Stock Market LLC, NYSE Arca, Inc., and the Philadelphia Stock Exchange, Inc

April 19, 2007.

I. Introduction and Description

On December 12, 2006, NYSE Arca, Inc. (''NYSEArca''), on behalf of itself and the American Stock Exchange LLC (''Amex''), the Boston Stock Exchange, Inc. (''BSE''), the Chicago Stock Exchange, Inc. (''CHX''), the Chicago Board Options Exchange, Inc. (''CBOE''), the International Securities Exchange, LLC (''ISE''), the National Association of Securities Dealers, Inc. (''NASD''), the National Stock Exchange, Inc. (''NSX''), the Nasdaq Stock Market LLC (''Nasdaq''), and the Philadelphia Stock Exchange, Inc. (''Phlx'') (hereinafter referred to collectively as ''Participants''),[1] as members of the Operating Committee of the Plan submitted to the Securities and Exchange Commission (''Commission'') a request to extend the operation of the Plan, along with a request for permanent approval of the Plan (''Request'').[2] On December 20, 2006, the Commission published notice of the Request for comment and simultaneously granted summary effectiveness to the request to extend the operation of the Plan on a temporary basis.[3] The Commission received one comment letter in response to the publication of the notice.[4]

The Nasdaq UTP Plan governs the collection, processing, and dissemination on a consolidated basis of quotation and last sale information for Nasdaq-listed securities for each of its Participants. This consolidated information informs investors of the current quotation and recent trade prices of Nasdaq securities. It enables investors to ascertain from one data source the current prices in all the markets trading Nasdaq securities. The Plan serves as the required transaction reporting plan for its Participants, which is a prerequisite for their trading Nasdaq securities.[5]

This order approves, pursuant to Rule 608(b)(4) under the Securities Exchange Act of 1934 (''Act''),[6] the Plan, as modified by all changes previously made, on a permanent basis.[7]

II. Background

The Plan was approved on a pilot basis in 1990.[8] It did not become operational until 1993.[9] At that time, the Participants were the Amex, the BSE, the CHX,[10] the Phlx, and the NASD. The BSE joined the Plan as a limited participant so that it could continue to trade securities that were listed on the BSE and also traded on Nasdaq. Nasdaq was operated by the NASD, and Nasdaq securities were traded in the over-the-counter (''OTC'') market. The Plan contained the essential elements of a transaction reporting plan. The pilot, as approved, provided that each exchange requesting UTP would be permitted to trade, on an unlisted basis, up to 100 OTC securities designated as NMS Securities.[11] The Commission approved the Plan on a pilot basis with the expectation that the Participants would conclude their financial negotiations and evaluate the effects of the pilot program and report their findings to the Commission.

In 1996, the Plan Participants agreed on a revenue sharing formula and amended the Plan to reflect their agreement.[12] The CSE joined the Plan in 1999, and the PCX joined the Plan in 2000.[13] In 2001 the BSE became a Participant, and the Amex rejoined the Plan. In addition, the revenue sharing formula was amended, and a process was established for selecting a new Securities Information Processor (''SIP'').[14] Over time, as the Commission observed no adverse effects in connection with trading Nasdaq securities on exchanges, it expanded the number of securities. The Commission later extended UTP to all Nasdaq National Market securities and Nasdaq Small Cap securities.[15]

The Plan now includes all the markets that trade equity securities.[16] It has been amended numerous times to address issues presented by the addition of participants and changes in the markets. The Plan now includes Advisory Committee members, as specified in Regulation NMS, and also includes an access provision that parallels the requirement in Regulation NMS.[17] At

[1] NYSEArca is the chair of the operating committee (''Operating Committee'' or ''Committee'') for the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privilege (''UTP'') Basis (''Nasdaq UTP Plan'' or ''Plan''). The New York Stock Exchange was added as a Plan participant after the request to extend the operation of the Plan was submitted to the Commission. *See* Securities Exchange Act Release No. 55192 (January 29, 2007), 72 FR 5456 (February 6, 2007).

[2] *See* letter from Bridget M. Farrell, Chairman, OTC/UTP Operating Committee, to Nancy M. Morris, Secretary, Commission, dated December 12, 2006.

[3] *See* Securities Exchange Act Release No. 54988, 71 FR 78240 (December 28, 2006).

[4] *See* email correspondence from Gene L. Finn to Nancy Morris, Secretary, Commission, dated January 22, 2007. In his letter, Mr. Finn raises concerns with respect to non-professional access fees. However, the Plan does not address such fees. Consequently, the Commission is not addressing it in this order.

[5] *See* Securities Exchange Act Release No. 52886 (December 5, 2005), 70 FR 74059 (December 14, 2005).

[6] 17 CFR 242.608(b)(4).

[7] The complete text of the Plan is attached as Exhibit A.

[8] *See* Securities Exchange Act Release No. 28146, 55 FR 27917 (July 6, 1990) (''Original Order'').

[9] Before the Plan became operational, the CHX entered into an interim transaction reporting plan with the NASD. For a more detailed history, *See* Securities Exchange Act Release No. 34371 (July 13, 1994), 59 FR 37103 (July 20, 1994).

[10] At that time, the CHX was known as the Midwest Stock Exchange.

[11] *See* Original Order.

[12] *See* Securities Exchange Act Release No. 37772 (October 1, 1996), 66 FR 59273 (October 9, 1996).

[13] *See* Securities Exchange Act Release Nos. 42269 (December 23, 1999), 65 FR 51878 (January 6, 2000) and 43165 (August 16, 2000); 65 FR 51878 (August 25, 2000). The PCX is now known as NYSE Arca.

[14] In the Commission's order approving Nasdaq's SuperMontage system, the Commission set out conditions with respect to the selection of a SIP for the Plan. *See* Securities Exchange Act Release No. 43863 (January 19, 2001), 66 FR 8020 (January 26, 2001).

[15] *See* Securities Exchange Act Release No. 45081 (November 19, 2001) 66 FR 59273 (November 27, 2001) (approving the 12th Amendment to the Plan which made substantial changes to the Plan, including eliminating the category of limited participant).

[16] The Plan Participants are: Amex, BSE, CBOE, CHX, ISE, NASD, Nasdaq, NSX, NYSE, NYSE Arca, and Phlx. *See* Securities Exchange Act Release No. 55192 (January 29, 2007), 72 FR 5456 (February 6, 2007). Amendment 14 added CBOE as a Participant and changed the name of the CSE to reflect its new name, the NSX. *See* Securities Exchange Act Release No. 51304 (March 2, 2005), 70 FR 12507 (March 14, 2005). Amendment 16 added the ISE as a Participant. *See* Securities Exchange Act Release No. 53131 (January 17, 2006), 71 FR 3896 (January 24, 2006). Amendment 19 added the NYSE as a Participant. *See* Securities Exchange Act Release No. 55192 (January 29, 2007), 72 FR 5456 (February 6, 2007).

[17] In essence, the Plan permits Participants to provide access consistent with Regulation NMS. If they are not able to provide such access, they can continue to provide telephone access until the access provision of Regulation NMS is effective. *See* Securities Exchange Act Release No. 54936 (December 14, 2006), 71 FR 76381 (December 20, 2006). *See also* Securities Exchange Act Release No. 55160, 72 FR 4203 (January 30, 2007) (extension of compliance dates for Rules 610 and 611 of Regulation NMS).

this time, the provisions of the UTP Plan conform to the requirements of Regulation NMS and are consistent with the objectives set forth in Section 11A of the Act.[18]

Before Nasdaq separated from the NASD and registered as a national securities exchange, trading in Nasdaq stocks occurred in the OTC market. As such, the Commission had to approve the extension of unlisted trading privileges to Nasdaq securities before an exchange was able to trade them.[19] Now that Nasdaq is an exchange, the securities listed on Nasdaq are exchange listed securities, which entitles other exchanges to trade the securities without a separate Commission order conferring unlisted trading privileges.[20]

The Plan is the joint transaction reporting plan for Nasdaq-listed securities; several of the exemptions that were needed when the plan was first approved are no longer necessary. At the outset, the Plan Participants needed exemptive relief from Rule 11Ac1–2 under the Act regarding calculation of the best bid and offer (''BBO''), as well as an exemption for BSE from the provision of Rule 11Aa3–1 under the Act that required transaction reporting plans to include market identifiers for transaction reports and last sale data. Once the BSE became a full participant and the method of calculation of the BBO by the Plan's SIP was converted from price/time/size to price/size/time methodology, neither exemption was necessary.[21] Similarly, after Nasdaq became registered as a national securities exchange with respect to Nasdaq-listed securities, Plan Participants no longer needed an exemption from Rule 11Aa3–2 regarding the dissemination of multiple BBOs from a single Plan Participant.[22]

III. Findings

The Commission finds that approving the Plan on a permanent basis is consistent with the requirements of the Act and the rules and regulations thereunder, and, in particular, Section 11A(a)(1)[23] of the Act and Rules 601 and 608, thereunder.[24] Section 11A of the Act directs the Commission to facilitate the development of a national market system for securities, ''having due regard for the public interest, the protection of investors, and the maintenance of fair and orderly markets,'' and cites as an objective of that system the ''fair competition * * * between exchange markets and markets other than exchange markets.''[25] When the Commission first approved the Plan on a pilot basis, it found that the Plan ''should enhance market efficiency and fair competition, avoid investor confusion, and facilitate surveillance of concurrent exchange and OTC trading.''[26] The Participants have been trading Nasdaq securities since 1993 with the Plan as their transaction reporting plan. The Commission believes that the Plan has enhanced market efficiency and promoted competition between markets trading Nasdaq securities.

The Commission finds that granting permanent approval of the Plan furthers the goals described above. The Commission believes that the Plan is a critical component of the national market system and, as such, should be approved on a permanent basis.

IV. Conclusion

It is therefore ordered, pursuant to Section 11A of the Act[27] and paragraph (b)(4) of Rule 608 thereunder,[28] that the Plan, as modified by all changes made to date, be, and hereby is, approved on a permanent basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[29]

Florence E. Harmon,

Deputy Secretary.

Exhibit A—Nasdaq UTP Plan

Amended and Restated Plan

The undersigned registered national securities association and national securities exchanges (collectively referred to as the ''Participants''), have jointly developed and hereby enter into this Nasdaq Unlisted Trading Privileges Plan (''Nasdaq UTP Plan'' or ''Plan'').

I. Participants

The Participants include the following:

A. Participants

1. American Stock Exchange LLC, 86 Trinity Place, New York, New York 10006.
2. Boston Stock Exchange, 100 Franklin Street, Boston, Massachusetts 02110.
3. Chicago Stock Exchange, 440 South LaSalle Street, Chicago, Illinois 60605.
4. Chicago Board Options Exchange, Inc., 400 South LaSalle Street, 26th Floor, Chicago, Illinois 60605.
5. International Securities Exchange, LLC, 60 Broad Street, New York, New York 10004.
6. National Association of Securities Dealers, Inc., 1735 K Street, NW., Washington, DC 20006.
7. National Stock Exchange, Inc., 440 South LaSalle Street, 26th Floor, Chicago, Illinois 60605.
8. New York Stock Exchange LLC, 11 Wall Street, New York, New York, 10005.
9. NYSE Arca, Inc., 100 South Wacker Drive, Suite 1800, Chicago, IL 60606.
10. Philadelphia Stock Exchange, 1900 Market Street, Philadelphia, Pennsylvania 19103.
11. The Nasdaq Stock Market LLC, 1 Liberty Plaza, 165 Broadway, New York, NY 10006.

B. Additional Participants

Any other national securities association or national securities exchange, in whose market Eligible Securities become traded, may become a Participant, provided that said organization executes a copy of this Plan and pays its share of development costs as specified in Section XIII.

II. Purpose of Plan

The purpose of this Plan is to provide for the collection, consolidation and dissemination of Quotation Information and Transaction Reports in Eligible Securities from the Participants in a manner consistent with the Exchange Act.

It is expressly understood that each Participant shall be responsible for the collection of Quotation Information and Transaction Reports within its market and that nothing in this Plan shall be deemed to govern or apply to the manner in which each Participant does so.

III. Definitions

A. ''Current'' means, with respect to Transaction Reports or Quotation Information, such Transaction Reports or Quotation Information during the fifteen (15) minute period immediately following the initial transmission thereof by the Processor.

B. ''Eligible Security'' means any Nasdaq Global Market or Nasdaq Capital Market security, as defined in NASDAQ Rule 4200. Eligible Securities under this Nasdaq UTP Plan shall not include any security that is defined as an ''Eligible Security'' within Section VII of the Consolidated Tape Association Plan.

[18] The allocation of market data revenue will be governed by Regulation NMS.

[19] *See* Section 12(f) of the Act.

[20] *See* 15 U.S.C. 781.

[21] *See* Securities Exchange Act Release Nos. 45081 (November 19, 2001), 66 FR 59273 (November 27, 2001) and 46729 (October 25, 2002), 67 FR 66685 (November 1, 2002).

[22] *See* Section VI.C.1 of the Plan.

[23] 15 U.S.C. 78k–1(a)(1).

[24] 17 CFR 242.601 and 17 CFR 242.608.

[25] 15 U.S.C. 78k–1(a).

[26] *See* Original Order.

[27] 15 U.S.C. 78k–1.

[28] 17 CFR 242.608(b)(4).

[29] 17 CFR 200.30–3(a)(27).

A security shall cease to be an Eligible Security for purposes of this Plan if: (i) The security does not substantially meet the requirements from time to time in effect for continued listing on Nasdaq, and thus is suspended from trading; or (ii) the security has been suspended from trading because the issuer thereof is in liquidation, bankruptcy or other similar type proceedings. The determination as to whether a security substantially meets the criteria of the definition of Eligible Security shall be made by the exchange on which such security is listed provided, however, that if such security is listed on more than one exchange, then such determination shall be made by the exchange on which, the greatest number of the transactions in such security were effected during the previous twelve-month period.

C. ''Commission'' and ''SEC'' shall mean the U.S. Securities and Exchange Commission.

D. ''Exchange Act'' means the Securities Exchange Act of 1934.

E. ''Market'' shall mean (i) when used with respect to Quotation Information, the NASD in the case of an NASD Participant, or the Participant on whose floor or through whose facilities the quotation was disseminated; and (ii) when used with respect to Transaction Reports, the Participant through whose facilities the transaction took place or is reported, or the Participant to whose facilities the order was sent for execution.

F. ''NASD'' means the National Association of Securities Dealers, Inc.

G. ''NASD Participant'' means an NASD member that is registered as a market maker or an electronic communications network or otherwise utilizes the facilities of the NASD pursuant to applicable NASD rules.

H. '' Transaction Reporting System'' means the System provided for in the Transaction Reporting Plan filed with and approved by the Commission pursuant to SEC Rule 11Aa3–1, subsequently re-designated as Rule 601 of Regulation NMS, governing the reporting of transactions in Nasdaq securities.

I. ''UTP Quote Data Feed'' means the service that provides Subscribers with the National Best Bid and Offer quotations, size and market center identifier, as well as the Best Bid and Offer quotations, size and market center identifier from each individual Participant in Eligible Securities and, in the case of NASD, the NASD Participant(s) that constitute NASD's Best Bid and Offer quotations.

J. ''Nasdaq System'' means the automated quotation system operated by Nasdaq.

K. ''UTP Trade Data Feed'' means the service that provides Vendors and Subscribers with Transaction Reports.

L. ''Nasdaq Security'' or ''Nasdaq-listed Security'' means any security listed on the Nasdaq Global Market or Nasdaq Capital Market.

M. ''News Service'' means a person that receives Transaction Reports or Quotation Information provided by the Systems or provided by a Vendor, on a Current basis, in connection with such person's business of furnishing such information to newspapers, radio and television stations and other news media, for publication at least fifteen (15) minutes following the time when the information first has been published by the Processor.

N. ''OTC Montage Data Feed'' means the data stream of information that provides Vendors and Subscribers with quotations and sizes from each NASD Participant.

O. ''Participant'' means a registered national securities exchange or national securities association that is a signatory to this Plan.

P. ''Plan'' means this Nasdaq UTP Plan, as from time to time amended according to its provisions, governing the collection, consolidation and dissemination of Quotation Information and Transaction Reports in Eligible Securities.

Q. ''Processor'' means the entity selected by the Participants to perform the processing functions set forth in the Plan.

R. ''Quotation Information'' means all bids, offers, displayed quotation sizes, the market center identifiers and, in the case of NASD, the NASD Participant that entered the quotation, withdrawals and other information pertaining to quotations in Eligible Securities required to be collected and made available to the Processor pursuant to this Plan.

S. ''Regulatory Halt'' means a trade suspension or halt called for the purpose of dissemination of material news, as described at Section X hereof or that is called for where there are regulatory problems relating to an Eligible Security that should be clarified before trading therein is permitted to continue, including a trading halt for extraordinary market activity due to system misuse or malfunction under Section X.E.1. of the Plan (''Extraordinary Market Regulatory Halt'').

T. ''Subscriber'' means a person that receives Current Quotation Information or Transaction Reports provided by the Processor or provided by a Vendor, for its own use or for distribution on a non-Current basis, other than in connection with its activities as a Vendor.

U. ''Transaction Reports'' means reports required to be collected and made available pursuant to this Plan containing the stock symbol, price, and size of the transaction executed, the Market in which the transaction was executed, and related information, including a buy/sell/cross indicator and trade modifiers, reflecting completed transactions in Eligible Securities.

V. ''Upon Effectiveness of the Plan'' means July 12, 1993, the date on which the Participants commenced publication of Quotation Information and Transaction Reports on Eligible Securities as contemplated by this Plan.

W. ''Vendor'' means a person that receives Current Quotation Information or Transaction Reports provided by the Processor or provided by a Vendor, in connection with such person's business of distributing, publishing, or otherwise furnishing such information on a Current basis to Subscribers, News Services or other Vendors.

IV. Administration of Plan

A. Operating Committee: Composition

The Plan shall be administered by the Participants through an operating committee (''Operating Committee''), which shall be composed of one representative designated by each Participant. Each Participant may designate an alternate representative or representatives who shall be authorized to act on behalf of the Participant in the absence of the designated representative. Within the areas of its responsibilities and authority, decisions made or actions taken by the Operating Committee, directly or by duly delegated individuals, committees as may be established from time to time, or others, shall be binding upon each Participant, without prejudice to the rights of any Participant to seek redress from the SEC pursuant to Rule 608 of Regulation NMS under the Exchange Act or in any other appropriate forum.

An Electronic Communications Network, Alternative Trading System, Broker-Dealer or other securities organization (''Organization'') which is not a Participant, but has an actively pending Form 1 Application on file with the Commission to become a national securities exchange, will be permitted to appoint one representative and one alternate representative to attend regularly scheduled Operating Committee meetings in the capacity of an observer/advisor. If the Organization's Form 1 petition is

withdrawn, returned, or is otherwise not actively pending with the Commission for any reason, then the Organization will no longer be eligible to be represented in the Operating Committee meetings. The Operating Committee shall have the discretion, in limited instances, to deviate from this policy if, as indicated by majority vote, the Operating Committee agrees that circumstances so warrant.

Nothing in this section or elsewhere within the Plan shall authorize any person or organization other than Participants and their representatives to participate on the Operating Committee in any manner other than as an advisor or observer, or in any Executive Session of the Operating Committee.

B. Operating Committee: Authority

The Operating Committee shall be responsible for:

1. Overseeing the consolidation of Quotation Information and Transaction Reports in Eligible Securities from the Participants for dissemination to Vendors, Subscribers, News Services and others in accordance with the provisions of the Plan;

2. Periodically evaluating the Processor;

3. Setting the level of fees to be paid by Vendors, Subscribers, News Services or others for services relating to Quotation Information or Transaction Reports in Eligible Securities, and taking action in respect thereto in accordance with the provisions of the Plan;

4. Determining matters involving the interpretation of the provisions of the Plan;

5. Determining matters relating to the Plan's provisions for cost allocation and revenue-sharing; and

6. Carrying out such other specific responsibilities as provided under the Plan.

C. Operating Committee: Voting

Each Participant shall have one vote on all matters considered by the Operating Committee.

1. The affirmative and unanimous vote of all Participants entitled to vote shall be necessary to constitute the action of the Operating Committee with respect to:

a. Amendments to the Plan;

b. Amendments to contracts between the Processor and Vendors, Subscribers, News Services and others receiving Quotation Information and Transaction Reports in Eligible Securities;

c. Replacement of the Processor, except for termination for cause, which shall be governed by Section V(B) hereof;

d. Reductions in existing fees relating to Quotation Information and Transaction Reports in Eligible Securities;

e. Except as provided under Section IV(C)(3) hereof, requests for system changes; and

f. All other matters not specifically addressed by the Plan.

2. With respect to the establishment of new fees or increases in existing fees relating to Quotation Information and Transaction Reports in Eligible Securities, the affirmative vote of two-thirds of the Participants entitled to vote shall be necessary to constitute the action of the Operating Committee.

3. The affirmative vote of a majority of the Participants entitled to vote shall be necessary to constitute the action of the Operating Committee with respect to:

a. Requests for system changes reasonably related to the function of the Processor as defined under the Plan. All other requests for system changes shall be governed by Section IV(C)(1)(e) hereof;

b. Interpretive matters and decisions of the Operating Committee arising under, or specifically required to be taken by, the provisions of the Plan as written;

c. Interpretive matters arising under Rules 601 and 602 of Regulation NMS; and

d. Denials of access (other than for breach of contract, which shall be handled by the Processor).

4. It is expressly agreed and understood that neither this Plan nor the Operating Committee shall have authority in any respect over any Participant's proprietary systems. Nor shall the Plan or the Operating Committee have any authority over the collection and dissemination of quotation or transaction information in Eligible Securities in any Participant's marketplace, or, in the case of the NASD, from NASD Participants.

D. Operating Committee: Meetings

Regular meetings of the Operating Committee may be attended by each Participant's designated representative and/or its alternate representative(s), and may be attended by one or more other representatives of the parties. Meetings shall be held at such times and locations as shall from time to time be determined by the Operating Committee.

Quorum: Any action requiring a vote only can be taken at a meeting in which a quorum of all Participants is present. For actions requiring a simple majority vote of all Participants, a quorum of greater than 50% of all Participants entitled to vote must be present at the meeting before such a vote may be taken. For actions requiring a ⅔rd majority vote of all Participants, a quorum of at least ⅔rd of all Participants entitled to vote must be present at the meeting before such a vote may be taken. For actions requiring a unanimous vote of all Participants, a quorum of all Participants entitled to vote must be present at the meeting before such a vote may be taken.

A Participant is considered present at a meeting only if a Participant's designated representative or alternate representative(s) is either in physical attendance at the meeting or is participating by conference telephone, or other acceptable electronic means.

Any action sought to be resolved at a meeting must be sent to each Participant entitled to vote on such matter at least one week prior to the meeting via electronic mail, regular U.S. or private mail, or facsimile transmission, provided however that this requirement may be waived by the vote of the percentage of the Committee required to vote on any particular matter, under Section C above.

Any action may be taken without a meeting if a consent in writing, setting forth the action so taken, is sent to and signed by all Participant representatives entitled to vote with respect to the subject matter thereof. All the approvals evidencing the consent shall be delivered to the Chairman of the Operating Committee to be filed in the Operating Committee records. The action taken shall be effective when the minimum number of Participants entitled to vote have approved the action, unless the consent specifies a different effective date.

The Chairman of the Operating Committee shall be elected annually by and from among the Participants by a majority vote of all Participants entitled to vote. The Chairman shall designate a person to act as Secretary to record the minutes of each meeting. The location of meetings shall be rotated among the locations of the principal offices of the Participants, or such other locations as may from time to time be determined by the Operating Committee. Meetings may be held by conference telephone and action may be taken without a meeting if the representatives of all Participants entitled to vote consent thereto in writing or other means the Operating Committee deems acceptable.

E. Advisory Committee

(a) Formation. Notwithstanding any other provision of this Plan, an Advisory Committee to the Plan shall be formed and shall function in accordance

with the provisions set forth in this section.

(b) Composition. Members of the Advisory Committee shall be selected for two-year terms as follows:

(1) Operating Committee Selections. By affirmative vote of a majority of the Participants entitled to vote, the Operating Committee shall select at least one representative from each of the following categories to be members of the Advisory Committee: (i) A broker-dealer with a substantial retail investor customer base, (ii) a broker-dealer with a substantial institutional investor customer base, (iii) an alternative trade system, (iv) a data vendor, and (v) an investor.

(2) Participant Selections. Each Participant shall have the right to select one member of the Advisory Committee. A Participant shall not select any person employed by or affiliated with any participant or its affiliates or facilities.

(c) Function. Members of the Advisory Committee shall have the right to submit their views to the Operating Committee on Plan matters, prior to a decision by the Operating Committee on such matters. Such matters shall include, but not be limited to, any new or modified product, fee, contract, or pilot program that is offered or used pursuant to the Plan.

(d) Meetings and Information. Members of the Advisory Committee shall have the right to attend all meetings of the Operating Committee and to receive any information concerning Plan matters that is distributed to the Operating Committee; provided, however, that the Operating Committee may meet in executive session if, by affirmative vote of a majority of the Participants entitled to vote, the Operating Committee determines that an item of Plan business requires confidential treatment.

V. Selection and Evaluation of the Processor

A. Generally

The Processor's performance of its functions under the Plan shall be subject to review by the Operating Committee at least every two years, or from time to time upon the request of any two Participants but not more frequently than once each year. Based on this review, the Operating Committee may choose to make a recommendation to the Participants with respect to the continuing operation of the Processor. The Operating Committee shall notify the SEC of any recommendations the Operating Committee shall make pursuant to the Operating Committee's review of the Processor and shall supply the Commission with a copy of any reports that may be prepared in connection therewith.

B. Termination of the Processor for Cause

If the Operating Committee determines that the Processor has failed to perform its functions in a reasonably acceptable manner in accordance with the provisions of the Plan or that its reimbursable expenses have become excessive and are not justified on a cost basis, the Processor may be terminated at such time as may be determined by a majority vote of the Operating Committee.

C. Factors To Be Considered in Termination for Cause

Among the factors to be considered in evaluating whether the Processor has performed its functions in a reasonably acceptable manner in accordance with the provisions of the Plan shall be the reasonableness of its response to requests from Participants for technological changes or enhancements pursuant to Section IV(C)(3) hereof. The reasonableness of the Processor's response to such requests shall be evaluated by the Operating Committee in terms of the cost to the Processor of purchasing the same service from a third party and integrating such service into the Processor's existing systems and operations as well as the extent to which the requested change would adversely impact the then current technical (as opposed to business or competitive) operations of the Processor.

D. Processor's Right to Appeal Termination for Cause

The Processor shall have the right to appeal to the SEC a determination of the Operating Committee terminating the Processor for cause and no action shall become final until the SEC has ruled on the matter and all legal appeals of right therefrom have been exhausted.

E. Process for Selecting New Processor

At any time following effectiveness of the Plan, but no later than upon the termination of the Processor, whether for cause pursuant to Section IV(C)(1)(c) or V(B) of the Plan or upon the Processor's resignation, the Operating Committee shall establish procedures for selecting a new Processor (the ''Selection Procedures''). The Operating Committee, as part of the process of establishing Selection Procedures, may solicit and consider the timely comment of any entity affected by the operation of this Plan. The Selection Procedures shall be established by a two-thirds majority vote of the Plan Participants, and shall set forth, at a minimum:

1. The entity that will:

(a) Draft the Operating Committee's request for proposal for bids on a new processor;

(b) Assist the Operating Committee in evaluating bids for the new processor; and

(c) Otherwise provide assistance and guidance to the Operating Committee in the selection process.

2. The minimum technical and operational requirements to be fulfilled by the Processor;

3. The criteria to be considered in selecting the Processor; and

4. The entities (other than Plan Participants) that are eligible to comment on the selection of the Processor.

Nothing in this provision shall be interpreted as limiting Participants' rights under Section IV or Section V of the Plan or other Commission order.

VI. Functions of the Processor

A. Generally

The Processor shall collect from the Participants, and consolidate and disseminate to Vendors, Subscribers and News Services, Quotation Information and Transaction Reports in Eligible Securities in a manner designed to assure the prompt, accurate and reliable collection, processing and dissemination of information with respect to all Eligible Securities in a fair and non-discriminatory manner. The Processor shall commence operations upon the Processor's notification to the Participants that it is ready and able to commence such operations.

B. Collection and Consolidation of Information

For as long as Nasdaq is the Processor, the Processor shall be capable of receiving Quotation Information and Transaction Reports in Eligible Securities from Participants by the Plan-approved, Processor-sponsored interface, and shall consolidate and disseminate such information via the UTP Quote Data Feed, the UTP Trade Data Feed, and the OTC Montage Data Feed to Vendors, Subscribers and News Services. For so long as Nasdaq is not registered as a national securities exchange and for so long as Nasdaq is the Processor, the Processor shall also collect, consolidate, and disseminate the quotation information contained in NQDS. For so long as Nasdaq is not registered as a national securities exchange and after Nasdaq is no longer the Processor for other SIP datafeeds, either Nasdaq or a third party will act

as the Processor to collect, consolidate, and disseminate the quotation information contained in NQDS.

C. Dissemination of Information

The Processor shall disseminate consolidated Quotation Information and Transaction Reports in Eligible Securities via the UTP Quote Data Feed, the UTP Trade Data Feed, and the OTC Montage Data Feed to authorized Vendors, Subscribers and News Services in a fair and non-discriminatory manner. The Processor shall specifically be permitted to enter into agreements with Vendors, Subscribers and News Services for the dissemination of quotation or transaction information on Eligible Securities to foreign (non-U.S.) marketplaces or in foreign countries.

The Processor shall, in such instance, disseminate consolidated quotation or transaction information on Eligible Securities from all Participants.

Nothing herein shall be construed so as to prohibit or restrict in any way the right of any Participant to distribute quotation, transaction or other information with respect to Eligible Securities quoted on or traded in its marketplace to a marketplace outside the United States solely for the purpose of supporting an intermarket linkage, or to distribute information within its own marketplace concerning Eligible Securities in accordance with its own format. If a Participant requests, the Processor shall make information about Eligible Securities in the Participant's marketplace available to a foreign marketplace on behalf of the requesting Participant, in which event the cost shall be borne by that Participant.

1. Best Bid and Offer

The Processor shall disseminate on the UTP Quote Data Feed the best bid and offer information supplied by each Participant, including the NASD Participant(s) that constitute NASD's single Best Bid and Offer quotations, and shall also calculate and disseminate on the UTP Quote Data Feed a national best bid and asked quotation with size based upon Quotation Information for Eligible Securities received from Participants. The Processor shall not calculate the best bid and offer for any individual Participant, including the NASD.

The Participant responsible for each side of the best bid and asked quotation making up the national best bid and offer shall be identified by an appropriate symbol. If the quotations of more than one Participant shall be the same best price, the largest displayed size among those shall be deemed to be the best. If the quotations of more than one Participant are the same best price and best displayed size, the earliest among those measured by the time reported shall be deemed to be the best. A reduction of only bid size and/or ask size will not change the time priority of a Participant's quote for the purposes of determining time reported, whereas an increase of the bid size and/or ask size will result in a new time reported. The consolidated size shall be the size of the Participant that is at the best.

If the best bid/best offer results in a locked or crossed quotation, the Processor shall forward that locked or crossed quote on the appropriate output lines (*i.e.,* a crossed quote of bid 12, ask 11.87 shall be disseminated). The Processor shall normally cease the calculation of the best bid/best offer after 6:30 p.m., Eastern Time.

2. Quotation Data Streams

The Processor shall disseminate on the UTP Quote Data Feed a data stream of all Quotation Information regarding Eligible Securities received from Participants. Each quotation shall be designated with a symbol identifying the Participant from which the quotation emanates and, in the case of NASD, the NASD Participant(s) that constitute NASD's Best Bid and Offer quotations. In addition, the Processor shall separately distribute on the OTC Montage Data Feed the Quotation Information regarding Eligible Securities from all NASD Participants from which quotations emanate. The Processor shall separately distribute NQDS for so long as Nasdaq is not registered as a national securities exchange and for so long as Nasdaq is the Processor. For so long as Nasdaq is not registered as a national securities exchange and after Nasdaq is no longer the Processor for other SIP datafeeds, either Nasdaq or a third party will act as the Processor to collect, consolidate, and disseminate the quotation information contained in NQDS.

3. Transaction Reports

The Processor shall disseminate on the UTP Trade Data Feed a data stream of all Transaction Reports in Eligible Securities received from Participants. Each transaction report shall be designated with a symbol identifying the Participant in whose Market the transaction took place.

D. Closing Reports

At the conclusion of each trading day, the Processor shall disseminate a ''closing price'' for each Eligible Security. Such ''closing price'' shall be the price of the last Transaction Report in such security received prior to dissemination. The Processor shall also tabulate and disseminate at the conclusion of each trading day the aggregate volume reflected by all Transaction Reports in Eligible Securities reported by the Participants.

E. Statistics

The Processor shall maintain quarterly, semi-annual and annual transaction and volume statistical counts. The Processor shall, at cost to the user Participant(s), make such statistics available in a form agreed upon by the Operating Committee, such as a secure website.

VII. Administrative Functions of the Processor

Subject to the general direction of the Operating Committee, the Processor shall be responsible for carrying out all administrative functions necessary to the operation and maintenance of the consolidated information collection and dissemination system provided for in this Plan, including, but not limited to, record keeping, billing, contract administration, and the preparation of financial reports.

VIII. Transmission of Information to Processor by Participants

A. Quotation Information

Each Participant shall, during the time it is open for trading be responsible promptly to collect and transmit to the Processor accurate Quotation Information in Eligible Securities through any means prescribed herein.

Quotation Information shall include:

1. Identification of the Eligible Security, using the Nasdaq Symbol;
2. The price bid and offered, together with size;
3. The NASD Participant along with the NASD Participant's market participant identification or Participant from which the quotation emanates;
4. Identification of quotations that are not firm; and
5. Through appropriate codes and messages, withdrawals and similar matters.

B. Transaction Reports

Each Participant shall, during the time it is open for trading, be responsible promptly to collect and transmit to the Processor Transaction Reports in Eligible Securities executed in its Market by means prescribed herein. With respect to orders sent by one Participant Market to another Participant Market for execution, each Participant shall adopt procedures governing the reporting of transactions in Eligible Securities specifying that the transaction will be reported by the

Participant whose member sold the security. This provision shall apply only to transactions between Plan Participants.

Transaction Reports shall include:

1. Identification of the Eligible Security, using the Nasdaq Symbol;
2. The number of shares in the transaction;
3. The price at which the shares were purchased or sold;
4. The buy/sell/cross indicator;
5. The Market of execution; and
6. Through appropriate codes and messages, late or out-of-sequence trades, corrections and similar matters.

All such Transaction Reports shall be transmitted to the Processor within 90 seconds after the time of execution of the transaction. Transaction Reports transmitted beyond the 90-second period shall be designated as ''late'' by the appropriate code or message.

The following types of transactions are not required to be reported to the Processor pursuant to the Plan:

1. Transactions that are part of a primary distribution by an issuer or of a registered secondary distribution or of an unregistered secondary distribution;
2. Transactions made in reliance on Section 4(2) of the Securities Act of 1933;
3. Transactions in which the buyer and the seller have agreed to trade at a price unrelated to the Current Market for the security, e.g., to enable the seller to make a gift;
4. Odd-lot transactions;
5. The acquisition of securities by a broker-dealer as principal in anticipation of making an immediate exchange distribution or exchange offering on an exchange;
6. Purchases of securities pursuant to a tender offer; and
7. Purchases or sales of securities effected upon the exercise of an option pursuant to the terms thereof or the exercise of any other right to acquire securities at a pre-established consideration unrelated to the Current Market.

C. Symbols for Market Identification for Quotation Information and Transaction Reports

The following symbols shall be used to denote the marketplaces:

Code	Participant
A	American Stock Exchange LLC.
B	Boston Stock Exchange, Inc.
W	Chicago Board Options Exchange, Inc.
M	Chicago Stock Exchange, Inc.
I	International Securities Exchange, LLC.
D	NASD.
Q	Nasdaq Stock Market LLC.
C	National Stock Exchange, Inc.
N	New York Stock Exchange LLC.
P	NYSE Arca, Inc.
X	Philadelphia Stock Exchange, Inc.

D. Whenever a Participant determines that a level of trading activity or other unusual market conditions prevent it from collecting and transmitting Quotation Information or Transaction Reports to the Processor, or where a trading halt or suspension in an Eligible Security is in effect in its Market, the Participant shall promptly notify the Processor of such condition or event and shall resume collecting and transmitting Quotation Information and Transaction Reports to it as soon as the condition or event is terminated. In the event of a system malfunction resulting in the inability of a Participant or its members to transmit Quotation Information or Transaction Reports to the Processor, the Participant shall promptly notify the Processor of such event or condition. Upon receiving such notification, the Processor shall take appropriate action, including either closing the quotation or purging the system of the affected quotations.

IX. Market Access

Consistent with the state of electronic technology and pursuant to the requirements of Rule 610 of Regulation NMS, a Participant that operates an SRO trading facility shall provide for fair and efficient order execution access to quotations in each Eligible Security displayed through its trading facility. In the case of a Participant that operates an SRO display-only quotation facility, trading centers posting quotations through such SRO display-only quotation facility must provide for fair and efficient order execution access to quotations in each Eligible Security displayed through the SRO display-only quotation facility. A Participant that operates an SRO trading facility may elect to allow such access to its quotations through the utilization of private electronic linkages between the Participant and other trading centers. In the case of a Participant that operates an SRO display-only quotation facility, trading centers posting quotations through such SRO display-only quotation facility may elect to allow such access to their quotations through the utilization of private electronic linkages between the trading center and SRO trading facilities of Plan Participants and/or other trading centers.

In accordance with Regulation NMS, a Participant shall not impose, or permit to be imposed, any fee or fees for the execution of an order against a protected quotation of the Participant or of a trading center posting quotes through a Participant's SRO display-only quotation facility in an Eligible Security or against any other quotation displayed by the Participant in an Eligible Security that is the Participant's displayed best bid or offer for that Eligible Security, where such fee or fees exceed the limits provided for in Rule 610(c) of Regulation NMS. As required under Regulation NMS, the terms of access to a Participant's quotations or of a trading center posting quotes through a Participant's SRO display-only quotation facility in an Eligible Security may not be unfairly discriminatory so as to prevent or inhibit any person from obtaining efficient access to such displayed quotations through a member of the Participant or a subscriber of a trading center.

If quotations in an Eligible Security are displayed by a Participant that operates an SRO trading facility (or are displayed by a trading center that posts quotations through an SRO display-only quotation facility) that complies with the fair and efficient access requirements of Regulation NMS (an ''NMS Compliant Facility''), including prior to the compliance date of such access requirements, that Participant (or trading center posting quotes through an SRO display-only quotation facility) shall no longer be required to permit each NASD market participant to have direct telephone access to the specialist, trading post, market maker and supervisory center in such Eligible Security that trades on that NMS Compliant Facility. For quotations in Eligible Securities that are displayed by a Participant that operates an SRO trading facility that is not an NMS Compliant Facility, such telephone access requirement will continue to be applicable to the Participant.

X. Regulatory Halts

A. Whenever, in the exercise of its regulatory functions, the Listing Market for an Eligible Security determines that a Regulatory Halt is appropriate pursuant to Section III.S, the Listing Market will notify all other Participants pursuant to Section X.E and all other Participants shall also halt or suspend trading in that security until notification that the halt or suspension is no longer in effect. The Listing Market shall immediately notify the Processor of such Regulatory Halt as well as notice of the lifting of a Regulatory Halt. The Processor, in turn, shall disseminate to

Participants notice of the Regulatory Halt (as well as notice of the lifting of a regulatory halt) through the UTP Quote Data Feed. This notice shall serve as official notice of a regulatory halt for purposes of the Plan only, and shall not substitute or otherwise supplant notice that a Participant may recognize or require under its own rules. Nothing in this provision shall be read so as to supplant or be inconsistent with a Participant's own rules on trade halts, which rules apply to the Participant's own members. The Processor will reject any quotation information or transaction reports received from any Participant on an Eligible Security that has a Regulatory Halt in effect.

B. Whenever the Listing Market determines that an adequate publication or dissemination of information has occurred so as to permit the termination of the Regulatory Halt then in effect, the Listing Market shall promptly notify the Processor and each of the other Participants that conducts trading in such security pursuant to Section X.F. Except in extraordinary circumstances, adequate publication or dissemination shall be presumed by the Listing Market to have occurred upon the expiration of one hour after initial publication in a national news dissemination service of the information that gave rise to the Regulatory Halt.

C. Except in the case of a Regulatory Halt, the Processor shall not cease the dissemination of quotation or transaction information regarding any Eligible Security. In particular, it shall not cease dissemination of such information because of a delayed opening, imbalance of orders or other market-related problems involving such security. During a regulatory halt, the Processor shall collect and disseminate Transaction Information but shall cease collection and dissemination of all Quotation Information.

D. For purposes of this Section X, ''Listing Market'' for an Eligible Security means the Participant's Market on which the Eligible Security is listed. If an Eligible Security is dually listed, Listing Market shall mean the Participant's Market on which the Eligible Security is listed that also has the highest number of the average of the reported transactions and reported share volume for the preceding 12-month period. The Listing Market for dually-listed Eligible Securities shall be determined at the beginning of each calendar quarter.

E. For purposes of coordinating trading halts in Eligible Securities, all Participants are required to utilize the national market system communication media (''Hoot-n-Holler'') to verbally provide real-time information to all Participants. Each Participant shall be required to continuously monitor the Hoot-n-Holler system during market hours, and the failure of a Participant to do so at any time shall not prevent the Listing Market from initiating a Regulatory Halt in accordance with the procedures specified herein.

1. The following procedures shall be followed when one or more Participants experiences extraordinary market activity in an Eligible Security that is believed to be caused by the misuse or malfunction of systems operated by or linked to one or more Participants.

a. The Participant(s) experiencing the extraordinary market activity or any Participant that becomes aware of extraordinary market activity will immediately use best efforts to notify all Participants of the extraordinary market activity utilizing the Hoot-n-Holler system.

b. The Listing Market will use best efforts to determine whether there is material news regarding the Eligible Security. If the Listing Market determines that there is non-disclosed material news, it will immediately call a Regulatory Halt pursuant to Section X.E.2.

c. Each Participant(s) will use best efforts to determine whether one of its systems, or the system of a direct or indirect participant in its market, is responsible for the extraordinary market activity.

d. If a Participant determines the potential source of extraordinary market activity pursuant to Section X.1.c., the Participant will use best efforts to determine whether removing the quotations of one or more direct or indirect market participants or barring one or more direct or indirect market participants from entering orders will resolve the extraordinary market activity. Accordingly, the Participant will prevent the quotations from one or more direct or indirect market participants in the affected Eligible Securities from being transmitted to the Processor.

e. If the procedures described in Section X.E.1.a.–d. do not rectify the situation, the Participant(s) experiencing extraordinary market activity will cease transmitting all quotations in the affected Eligible Securities to the Processor.

f. If the procedures described in Section X.E.1.a–e do not rectify the situation within five minutes of the first notification through the Hoot-n-Holler system, or if Participants agree to call a halt sooner through unanimous approval among those Participants actively trading impacted Eligible Securities, the Listing Market may determine based on the facts and circumstances, including available input from Participants, to declare an Extraordinary Market Regulatory Halt in the affected Eligible Securities. Simultaneously with the notification of the Processor to suspend the dissemination of quotations across all Participants, the Listing Market must verbally notify all Participants of the trading halt utilizing the Hoot-n-Holler system.

g. Absent any evidence of system misuse or malfunction, best efforts will be used to ensure that trading is not halted across all Participants.

2. If the Listing Market declares a Regulatory Halt in circumstances other than pursuant to Section X.E.1.f., the Listing Market must, simultaneously with the notification of the Processor to suspend the dissemination of quotations across all Participants, verbally notify all Participants of the trading halt utilizing the Hoot-n-Holler system.

F. If the Listing Market declares a Regulatory Halt, trading will resume according to the following procedures:

1. Within 15 minutes of the declaration of the halt, all Participants will make best efforts to indicate via the Hoot-n-Holler their intentions with respect to canceling or modifying transactions.

2. All Participants will disseminate to their members information regarding the canceled or modified transactions as promptly as possible, and in any event prior to the resumption of trading.

3. After all Participants have met the requirements of Section X.F.1–2, the Listing Market will notify the Participants utilizing the Hoot-n-Holler and the Processor when trading may resume. Upon receiving this information, Participants may commence trading pursuant to Section X.A.

XI. Hours of Operation

A. Quotation Information may be entered by Participants as to all Eligible Securities in which they make a market between 9:30 a.m. and 4 p.m. Eastern Time (''ET'') on all days the Processor is in operation. Transaction Reports shall be entered between 9:30 a.m. and 4:01:30 p.m. ET by Participants as to all Eligible Securities in which they execute transactions between 9:30 a.m. and 4 p.m. ET on all days the Processor is in operation.

B. Participants that execute transactions in Eligible Securities outside the hours of 9:30 a.m. ET and 4 p.m., ET, shall be required to report such transactions as follows:

(i) Transactions in Eligible Securities executed between 4 a.m. and 9:29:59 a.m. ET and between 4:00:01 and 8 p.m. ET, shall be designated as ''.T'' trades to denote their execution outside normal market hours;

(ii) Transactions in Eligible Securities executed after 8 p.m. and before 12 a.m. (midnight) shall be reported to the Processor between the hours of 4 a.m. and 8 p.m. ET on the next business day (T+1), and shall be designated ''as/of'' trades to denote their execution on a prior day, and be accompanied by the time of execution;

(iii) Transactions in Eligible Securities executed between 12 a.m. (midnight) and 4 a.m. ET shall be transmitted to the Processor between 4 a.m. and 9:30 a.m. ET, on trade date, shall be designated as ''.T'' trades to denote their execution outside normal market hours, and shall be accompanied by the time of execution;

(iv) Transactions reported pursuant to this provision of the Plan shall be included in the calculation of total trade volume for purposes of determining net distributable operating revenue, but shall not be included in the calculation of the daily high, low, or last sale.

C. Late trades shall be reported in accordance with the rules of the Participant in whose Market the transaction occurred and can be reported between the hours of 4 a.m. and 8 p.m.

D. The Processor shall collect, process and disseminate Quotation Information in Eligible Securities at other times between 4 a.m. and 9:30 a.m. ET, and after 4 p.m. ET, when any Participant or Nasdaq market participant is open for trading, until 8 p.m. ET (the ''Additional Period''); provided, however, that the best bid and offer quotation will not be disseminated before 4 a.m. or after 8 p.m. ET. Participants that enter Quotation Information or submit Transaction Reports to the Processor during the Additional Period shall do so for all Eligible Securities in which they enter quotations.

XII. Undertaking by All Participants

The filing with and approval by the Commission of this Plan shall obligate each Participant to enforce compliance by its members with the provisions thereof. In all other respects not inconsistent herewith, the rules of each Participant shall apply to the actions of its members in effecting, reporting, honoring and settling transactions executed through its facilities, and the entry, maintenance and firmness of quotations to ensure that such occurs in a manner consistent with just and equitable principles of trade.

XIII. Financial Matters

A. Development Costs

Any Participant becoming a signatory to this Plan after June 26, 1990, shall, as a condition to becoming a Participant, pay to the other Plan Participants a proportionate share of the aggregate development costs previously paid by Plan Participants to the Processor, which aggregate development costs totaled $439,530, with the result that each Participant's share of all development costs is the same.

Each Participant shall bear the cost of implementation of any technical enhancements to the Nasdaq system made at its request and solely for its use, subject to reapportionment should any other Participant subsequently make use of the enhancement, or the development thereof.

B. Cost Allocation and Revenue Sharing

The provisions governing cost allocation and revenue sharing among the Participants are set forth in Exhibit 1 to the Plan.

C. Maintenance of Financial Records

The Processor shall maintain records of revenues generated and development and operating expenditures incurred in connection with the Plan. In addition, the Processor shall provide the Participants with: (a) A statement of financial and operational condition on a quarterly basis; and (b) an audited statement of financial and operational condition on an annual basis.

XIV. Indemnification

Each Participant agrees, severally and not jointly, to indemnify and hold harmless each other Participant, Nasdaq, and each of its directors, officers, employees and agents (including the Operating Committee and its employees and agents) from and against any and all loss, liability, claim, damage and expense whatsoever incurred or threatened against such persons as a result of any Transaction Reports, Quotation Information or other information reported to the Processor by such Participant and disseminated by the Processor to Vendors. This indemnity agreement shall be in addition to any liability that the indemnifying Participant may otherwise have.

Promptly after receipt by an indemnified Participant of notice of the commencement of any action, such indemnified Participant will, if a claim in respect thereof is to be made against an indemnifying Participant, notify the indemnifying Participant in writing of the commencement thereof; but the omission to so notify the indemnifying Participant will not relieve the indemnifying Participant from any liability which it may have to any indemnified Participant. In case any such action is brought against any indemnified Participant and it promptly notifies an indemnifying Participant of the commencement thereof, the indemnifying Participant will be entitled to participate in, and, to the extent that it may wish, jointly with any other indemnifying Participant similarly notified, to assume and control the defense thereof with counsel chosen by it. After notice from the indemnifying Participant of its election to assume the defense thereof, the indemnifying Participant will not be liable to such indemnified Participant for any legal or other expenses subsequently incurred by such indemnified Participant in connection with the defense thereof but the indemnified Participant may, at its own expense, participate in such defense by counsel chosen by it without, however, impairing the indemnifying Participant's control of the defense. The indemnifying Participant may negotiate a compromise or settlement of any such action, provided that such compromise or settlement does not require a contribution by the indemnified Participant.

XV. Withdrawal

Any Participant may withdraw from the Plan at any time on not less than 30 days prior written notice to each of the other Participants. Any Participant withdrawing from the Plan shall remain liable for, and shall pay upon demand, any fees for equipment or services being provided to such Participant pursuant to the contract executed by it or an agreement or schedule of fees covering such then in effect.

A withdrawing Participant shall also remain liable for its proportionate share, without any right of recovery, of administrative and operating expenses, including start-up costs and other sums for which it may be responsible pursuant to Section XIV hereof. Except as aforesaid, a withdrawing Participant shall have no further obligation under the Plan or to any of the other Participants with respect to the period following the effectiveness of its withdrawal.

XVI. Modifications to Plan

The Plan may be modified from time to time when authorized by the agreement of all of the Participants, subject to the approval of the SEC or which otherwise becomes effective

pursuant to Section 11A of the Act and Rule 608 of Regulation NMS.

XVII. Applicability of Securities Exchange Act of 1934

The rights and obligations of the Participants and of Vendors, News Services, Subscribers and other persons contracting with Participant in respect of the matters covered by the Plan shall at all times be subject to any applicable provisions of the Act, as amended, and any rules and regulations promulgated thereunder.

XVIII. Operational Issues

A. Each Participant shall be responsible for collecting and validating quotes and last sale reports within their own system prior to transmitting this data to the Processor.

B. Each Participant may utilize a dedicated Participant line into the Processor to transmit trade and quote information in Eligible Securities to the Processor. The Processor shall accept from Exchange Participants input for only those issues that are deemed Eligible Securities.

C. The Processor shall consolidate trade and quote information from each Participant and disseminate this information on the Processor's existing vendor lines.

D. The Processor shall perform gross validation processing for quotes and last sale messages in addition to the collection and dissemination functions, as follows:

1. Basic Message Validation

(a) The Processor may validate format for each type of message, and reject non-conforming messages.

(b) Input must be for an Eligible Security.

2. Logging Function—The Processor shall return all Participant input messages that do not pass the validation checks (described above) to the inputting Participant, on the entering Participant line, with an appropriate reject notation. For all accepted Participant input messages (*i.e.*, those that pass the validation check), the information shall be retained in the Processor system.

XIX. Headings

The section and other headings contained in this Plan are for reference purposes only and shall not be deemed to be a part of this Plan or to affect the meaning or interpretation of any provisions of this Plan.

XX. Counterparts

This Plan may be executed by the Participants in any number of counterparts, no one of which need contain the signature of all Participants. As many such counterparts as shall together contain all such signatures shall constitute one and the same instrument.

XXI. Depth of Book Display

The Operating Committee has determined that the entity that succeeds Nasdaq as the Processor should have the ability to collect, consolidate, and disseminate quotations at multiple price levels beyond the best bid and best offer from any Participant that voluntarily chooses to submit such quotations while determining that no Participant shall be required to submit such information. The Operating Committee has further determined that the costs of developing, collecting, processing, and disseminating such depth of book data shall be borne exclusively by those Participants that choose to submit this information to the Processor, by whatever allocation those Participants may choose among themselves. The Operating Committee has determined further that the primary purpose of the Processor is the collection, processing and dissemination of best bid, best offer and last sale information (''core data''), and as such, the Participants will adopt procedures to ensure that such functionality in no way hinders the collecting, processing and dissemination of this core data.

Therefore, implementing the depth of book display functionality will require a plan amendment that addresses all pertinent issues, including:

(1) Procedures for ensuring that the fully-loaded cost of the collection, processing, and dissemination of depth-of-book information will be tracked and invoiced directly to those Plan Participants that voluntarily choose to send that data, voluntarily, to the Processor, allocating in whatever manner those Participants might agree; and

(2) Necessary safeguards the Processor will take to ensure that its processing of depth-of-book data will not impede or hamper, in any way, its core Processor functionality of collecting, consolidating, and disseminating National Best Bid and Offer data, exchange best bid and offer data, and consolidated last sale data.

Upon approval of a Plan amendment implementing depth of book display, this article of the Plan shall be automatically deleted.

In witness whereof, this Plan has been executed as of the _____ day of _____, 200____, by each of the Signatories hereto.

American Stock Exchange LLC

By:

Boston Stock Exchange, Inc.

By:

Chicago Stock Exchange, Inc.

By:

Chicago Board Options Exchange, Inc.

By:

International Securities Exchange, LLC

By:

NASD

By:

National Stock Exchange, Inc.

By:

New York Stock Exchange LLC

By:

NYSE Arca, Inc.

By:

Philadelphia Stock Exchange, Inc.

By:

The Nasdaq Stock Market LLC

Exhibit 1

1. Each Participant eligible to receive revenue under the Plan will receive an annual payment for each calendar year to be determined by multiplying (i) that Participant's percentage of total volume in Nasdaq securities reported to the Processor for that calendar year by (ii) the total distributable net operating income (as defined below) for that calendar year. In the event that total distributable net operating income is negative, each Participant eligible to receive revenue under the Plan will receive an annual bill for each calendar year to be determined according to the same formula (described in this paragraph) for determining annual payments to eligible Participants.

2. A Participant's percentage of total volume in Nasdaq securities will be calculated by taking the average of (i) the Participant's percentage of total trades in Nasdaq securities reported to the Processor for the year and (ii) the Participant's percentage of total share volume in Nasdaq securities reported to the Processor for the year (trade/volume average). For any given year, a Participant's percentage of total trades shall be calculated by dividing the total number of trades that that Participant reports to the Processor for that year by the total number of trades in Nasdaq securities reported to the Processor for the year. A Participant's total share volume shall be calculated by multiplying the total number of trades in Nasdaq securities in that year that that Participant reports to the Processor by the number of shares for each such trade. Unless otherwise stated in this agreement, a year shall run from January 1 to December 31 and quarters shall end on March 31, June 30, September 30, and December 31. Processor shall

endeavor to provide Participants with written estimates of each Participant's percentage of total volume within five business days of month end.

3. For purposes of this Exhibit 1, net distributable operating income for any particular calendar year shall be calculated by adding all revenues from the UTP Quote Data Feed, the UTP Trade Data Feed, and the OTC Montage Data Feed including revenues from the dissemination of information respecting Eligible Securities to foreign marketplaces (collectively, ''the Data Feeds''), and subtracting from such revenues the costs incurred by the Processor, set forth below, in collecting, consolidating, validating, generating, and disseminating the Data Feeds. These costs include, but are not limited to, the following:

a. The Processor costs directly attributable to creating OTC Montage Data Feed, including:

1. Cost of collecting Participant quotes into the Processor's quote engine;

2. Cost of processing quotes and creating OTC Montage Data Feed messages within the Processor's quote engine;

3. Cost of the Processor's communication management subsystem that distributes OTC Montage Data Feed to the market data vendor network for further distribution.

b. The costs directly attributable to creating the UTP Quote Data Feed, including:

1. The costs of collecting each Participant's best bid, best offer, and aggregate volume into the Processor's quote engine and, in the case of NASD, the costs of identifying the NASD Participant(s) that constitute NASD's Best Bid and Offer quotations;

2. Cost of calculating the national best bid and offer price within the Processor's quote engine;

3. Cost of creating the UTP Quote Data Feed message within the Processor's quote engine;

4. Cost of the Processor's communication management subsystem that distributes the UTP Quote Data Feed to the market data vendors' networks for further distribution.

c. The costs directly attributable to creating the UTP Trade Data Feed, including:

1. The costs of collecting each Participant's last sale and volume amount into the Processor's quote engine

2. Cost of determining the appropriate last sale price and volume amount within the Processor's trade engine;

3. Cost of utilizing the Processor's trade engine to distribute the UTP Trade Data Feed for distribution to the market data vendors.

4. Cost of the Processor's communication management subsystem that distributes the UTP Trade Data Feed to the market data vendors' networks for further distribution.

d. The additional costs that are shared across all Data Feeds, including:

1. Telecommunication Operations costs of supporting the Participant lines into the Processor's facilities;

2. Telecommunications Operations costs of supporting the external market data vendor network;

3. Data Products account management and auditing function with the market data vendors;

4. Market Operations costs to support symbol maintenance, and other data integrity issues;

5. Overhead costs, including management support of the Processor, Human Resources, Finance, Legal, and Administrative Services.

e. Processor costs excluded from the calculation of net distributable operating income include trade execution costs for transactions executed using a Nasdaq service and trade report collection costs reported through a Nasdaq service, as such services are market functions for which Participants electing to use such services pay market rate.

f. For the purposes of this provision, the following definitions shall apply:

1. ''Quote engine'' shall mean the Nasdaq's NT or Tandem system that is operated by Nasdaq to collect quotation information for Eligible Securities;

2. ''Trade engine'' shall mean the Nasdaq Tandem system that is operated by Nasdaq for the purpose of collecting last sale information in Eligible Securities.

3. At the time a Participant implements a Processor-approved electronic interface with the Processor, the Participant will become eligible to receive revenue.

4. Processor shall endeavor to provide Participants with written estimates of each Participant's quarterly net distributable operating income within 45 calendar days of the end of the quarter, and estimated quarterly payments or billings shall be made on the basis of such estimates. All quarterly payments or billings shall be made to each eligible Participant within 45 days following the end of each calendar quarter in which the Participant is eligible to receive revenue, provided that each quarterly payment or billing shall be reconciled against a Participant's cumulative year-to-date payment or billing received to date and adjusted accordingly, and further provided that the total of such estimated payments or billings shall be reconciled at the end of each calendar year and, if necessary, adjusted by March 31st of the following year. Interest shall be included in quarterly payments and in adjusted payments made on March 31st of the following year. Such interest shall accrue monthly during the period in which revenue was earned and not yet paid and will be based on the 90-day Treasury bill rate in effect at the end of the quarter in which the payment is made. Monthly interest shall start accruing 45 days following the month in which it is earned and accrue until the date on which the payment is made.

In conjunction with calculating estimated quarterly and reconciled annual payments under this Exhibit 1, the Processor shall submit to the Participants a quarterly itemized statement setting forth the basis upon which net operating income was calculated, including a quarterly itemized statement of the Processor costs set forth in Paragraph 3 of this Exhibit. Such Processor costs and Plan revenues shall be adjusted annually based solely on the Processor's quarterly itemized statement audited pursuant to Processor's annual audit. Processor shall pay or bill Participants for the audit adjustments within thirty days of completion of the annual audit. By majority vote of the Operating Committee, the Processor shall engage an independent auditor to audit the Processor's costs or other calculation(s), the cost of which audit shall be shared equally by all Participants. The Processor agrees to cooperate fully in providing the information necessary to complete such audit.

[FR Doc. E7–7953 Filed 4–25–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

In the Matter of Internetstudios.com, Inc., and World Cyberlinks Corp. File No. 500–1; Order of Suspension of Trading

April 24, 2007.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Internetstudios.com, Inc. because it has not filed any periodic reports since it filed a Form 10–QSB for the period ended September 30, 2005.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of World

Cyberlinks Corp. because it has not filed any periodic reports since it filed a Form 10–KSB for the period ended July 31, 2002.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the above-listed companies, is suspended for the period from 9:30 a.m. EDT on April 24, 2007, through 11:59 p.m. EDT on May 7, 2007.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 07–2074 Filed 4–24–07; 11:54 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55648; File No. SR–Amex–2007–09]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change as Modified by Amendment No. 1 Thereto Relating to the Listing and Trading of Options on Vanguard Emerging Markets ETF

April 19, 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 19, 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 and II below, which Items have been substantially prepared by the Exchange. The Exchange submitted Amendment No. 1 to the proposed rule change on March 23, 2007. The Commission is publishing this notice and order to solicit comments on the proposal, as amended, from interested persons and to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade options (''Fund Options'') on the Vanguard Emerging Markets ETF. The text of the proposed rule change is available on the Amex's Web site at *http://www.amex.com,* the Office of the Secretary, the Amex and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts 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 purpose of this rule change is to obtain approval to list for trading on the Exchange options on the Vanguard Emerging Markets ETF (the ''Fund'') (symbol: VWO) on a pilot basis for six (6) months to commence on the date of approval. Commentary .06 to Amex Rule 915 and Commentary .07 to Amex Rule 916, respectively (the ''Listing Standards'') establish the Exchange's initial listing and maintenance standards. The Listing Standards permit the Exchange to list funds structured as open-end investment companies (such as the Fund), unit investment trust (''UITs'') or other similar entities, without having to file for approval with the Commission to list for trading options on such funds.[3] The Exchange submits that the Fund meets substantially all of the Listing Standard requirements, and for the requirements that are not met, sufficient mechanisms exist that would provide the Exchange with adequate surveillance and regulatory information with respect to the Fund.

The Fund is an open-end investment company designed to hold a portfolio of securities which tracks the performance of the MSCI Emerging Markets Index (the ''Index'' or ''Select Index'').[4] The Fund employs a ''representative sampling'' methodology to track the Index, which means that the Fund invests in a representative sample of securities in the Index that have a similar investment profile as the Index.[5] Securities selected by the Fund have aggregate investment characteristics (based on market capitalization and industry weightings), fundamental characteristics (such as return variability, earnings valuation and yield) and liquidity measures similar to those of the Index.

The Index provides exposure to 25 emerging market countries in Europe, Asia, Africa, and Latin America. As of February 28, 2007, the Emerging Markets Index consisted of companies representing Argentina, Brazil, Chile, China, Colombia, the Czech Republic, Egypt, Hungary, India, Indonesia, Israel, Jordan, Malaysia, Mexico, Morocco, Pakistan, Peru, the Philippines, Poland, Russia, South Africa, South Korea, Taiwan, Thailand, and Turkey. MSCI periodically adjusts the list of included countries to keep pace with the evolution in world markets (such adjustments made on a forward-looking basis, so past performance of the Emerging Markets Index always reflects actual country representation during the relevant period).

The Fund generally invests at least 95% of its assets in the common stocks included in the Index. In order to improve portfolio liquidity and give the Fund additional flexibility to comply with the requirements of the U.S. Internal Revenue Code and other regulatory requirements and to manage future corporate actions and index changes in smaller markets, the Fund also has the authority to invest the remainder of its assets in securities that

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Commentary .06 to Amex Rule 915 sets forth the initial listing and maintenance standards for shares or other securities (''Exchange-Traded Fund Shares'') that are principally traded on a national securities exchange or through the facilities of a national securities exchange and reported as a national market security, and that represent an interest in a registered investment company organized as an open-end management investment company, a unit investment trust or other similar entity.

[4] The Emerging Markets Index includes approximately 848 equity components of companies located in emerging markets around the world. As of February 28, 2007, the largest markets covered in the Index were South Korea, Taiwan, Brazil, China and Russia (which made up 15.7%, 12.4%, 10.5%, 10.5% and 10.0%, respectively, of the Index's market capitalization). MSCI (*www.msci.com*) calculates and maintains the Emerging Markets Index. The Index is a capitalization-weighted index whose component securities are adjusted for available float and must meet objective criteria for inclusion in the Index. The Index aims to capture 85% of the publicly available total market capitalization in each emerging market included in the Index. The Index is rebalanced quarterly, calculated in U.S. Dollars on a real time basis, and disseminated every 60 seconds during market trading hours.

[5] As of February 28, 2007, the Fund was comprised of 863 securities and had total net assets of $13.5 billion. OAO Gazprom ADR had the greatest individual weight at 4.16%. The aggregate percentage weighting of the top 10 securities in the Fund was 18.1%.

are not included in the Index or in ADRs and GDRs representing such securities. The Fund may invest up to 10% of its assets in other exchange-traded funds or registered management investment companies that seek to track the performance of equity securities of constituent countries of the Index. The Fund is not permitted to concentrate its investments (*i.e.*, hold 25% or more of its total assets in the stocks of a particular industry or group of industries), except that, to the extent practicable, the Fund will concentrate to approximately the same extent that the Index concentrates in the stocks of such particular industry or group of industries. The Exchange believes that these requirements and policies prevent the Fund from being excessively weighted in any single security or small group of securities and significantly reduce concerns that trading in the Fund could become a surrogate for trading in unregistered securities.

Shares of the Fund (the ''Fund Shares'') are issued in exchange for an ''in kind'' deposit of a specified portfolio of securities, together with a cash payment, in minimum size aggregation size of 150,000 shares (each, a ''Creation Unit''), as set forth in the Fund's prospectus. The Fund issues and sells Fund Shares in Creation Unit sizes through a principal underwriter on a continuous basis at the net asset value per share next determined after an order to purchase Fund Shares and the appropriate securities are received. Following issuance, Fund Shares are traded on an exchange like other equity securities, and equity trading rules apply. Likewise, redemption of Fund Shares is made in Creation Unit size and ''in kind,'' with a portfolio of securities and cash exchanged for Fund Shares that have been tendered for redemption.

The Exchange notes that the maintenance listing standards set forth in Commentary .07 to Amex Rule 916 for open-end investment companies do not include criteria based on either the number of shares or other units outstanding or on their trading volume. The absence of such criteria is justified on the ground that since it should always be possible to create additional shares or other interests in open-end investment companies at their net asset value by making an in-kind deposit of the securities that comprise the underlying index or portfolio, there is no limit on the available supply of such shares or interests. This, in turn, should make it highly unlikely that the market for listed, open-end investment company shares could be capable of manipulation, since whenever the market price for such shares departs from net asset value, arbitrage will occur. Similarly, since the Fund meets all of the requirements of the listing standards except as described below, the Exchange believes that the same analysis applies to the Fund.

The Exchange has reviewed the Fund and determined that it satisfies the listing standards *except* for the requirement set forth in Commentary .06(b)(i) to Amex Rule 915, which requires the Fund to meet the following condition: ''any non-U.S. component stocks in the index or portfolio on which the Fund Shares are based that are not subject to comprehensive surveillance agreements do not in the aggregate represent more than 50% of the weight of the index or portfolio.'' Currently, the Exchange has in place comprehensive surveillance agreements covering 48.89% of the stocks comprising the Index. One of the foreign exchanges on which component securities of the Fund are traded and with which the Exchange does not have a surveillance agreement is the Bolsa Mexicana de Valores (''Bolsa''). The percentage of the weight of the Fund represented by these securities is 6.3%.

The Exchange notes that the Commission recently approved the listing and trading of options on the iShares MSCI Emerging Markets Index Fund on a pilot basis and permitted the Exchange to rely on the memorandum of understanding executed by the Commission and the NVBV, dated as of October 18, 1990 (the ''MOU'') for purposes of satisfying its surveillance and regulatory responsibilities for the component securities in the Fund that trade on the Bolsa until the Exchange is able to secure a surveillance agreement with the Bolsa.

In connection with the listing and trading of options on the iShares MSCI Emerging Markets Index Fund, the Exchange contacted the Bolsa with a request to enter into a comprehensive surveillance sharing agreement. Although the officials at the Bolsa expressed an interest to enter into such comprehensive surveillance sharing agreement (a ''CSSA''), to date, the Exchange has been unable to do so. As a result of being unable to secure a CSSA with the Bolsa, the Exchange requested permission to rely for a pilot period on the MOU and the Exchange agreed to use its best efforts during this period to secure a CSSA with the Bolsa, which would reflect the following: (i) Express language addressing market trading activity, clearing activity, and customer identity; (ii) Bolsa's reasonable ability to obtain access to and produce requested information; and (iii) based on the comprehensive surveillance agreement and other information provided by Bolsa, the absence of existing rules, laws, or practices that would impede the Exchange from foreign information relating to market activity, clearing activity, or customer identity, or, in the event such rules, laws, or practices exist, they would not materially impede the production of customer or other information. We note that in the past the Commission has relied on a memorandum of understanding between the relevant regulators where it would be impossible to secure an effective CSSA.[6]

The Exchange notes that the Commission has been willing to allow an exchange to rely on a memorandum of understanding entered into between regulators in the event that the exchanges themselves cannot enter into a CSSA. For example, the Exchange previously attempted to enter into a surveillance agreement with Bolsa as part of seeking approval to list and trade options on the Mexico Index.[7] Additionally, the Chicago Board Options Exchange, Incorporated (the ''CBOE'') also previously attempted to enter into a surveillance agreement with Bolsa at or about the time when the CBOE sought approval to list for trading options on the CBOE Mexico 30 Index in 1995, which was comprised of stocks trading on Bolsa.[8] Since, in both instances, Bolsa was unable to provide a surveillance agreement, the Commission previously allowed the Exchange and the CBOE to rely on the MOU. The Commission noted in the respective approval orders that in cases where it would be impossible to secure an agreement, the Commission relied in the past on surveillance sharing agreements between the relevant regulators. The Commission further noted in the respective approval orders that pursuant to the terms of the MOU, it was the Commission's understanding that both the Commission and the CNBV could acquire information from and provide information to the other similar to that which would be required in a surveillance sharing agreement between exchanges, and therefore, should the Exchange or the CBOE need information on Mexican trading in the component securities of the Mexico Index or the CBOE Mexico 30 Index, the Commission could request such information from the CNBV under the MOU.

The Exchange is also aware that the Commission recently permitted the

[6] *See* Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998) (the ''New Product Release''), at note 101.

[7] *See* Securities Exchange Act Release No. 34500 (August 8, 1994) 50 FR 41534 (August 12, 1994).

[8] *See* New Product Release; *supra* note 6.

listing and trading of iPath Notes linked to the MSCI India Equities Index without a CSSA between the NYSE and the appropriate Indian marketplaces.[9]

The practice of relying on surveillance agreements between regulators when a foreign exchange was unable or unwilling to provide an information sharing agreement was affirmed by the Commission in the Commission's New Product Release. The Commission noted in the New Product Release that if securing an information sharing agreement is not possible, an exchange should contact the Commission prior to listing a new derivative securities product. The Commission also noted that the Commission may determine instead that it is appropriate to rely on a memorandum of understanding between the Commission and the foreign regulator.

Currently, the Exchange has in place comprehensive surveillance agreements covering 48.89% of the stocks comprising the Index. In addition, the Index also complies with Commentary .06(b)(ii) and (iii) to Rule 915 which provides that component stocks of a single country that is not subject to comprehensive surveillance sharing be limited to less than 20% of the weight of the Index and component stocks in any two (2) countries may not represent 33% or more of the weight of the Index if such countries are not subject to comprehensive surveillance agreements. Because the Index otherwise complies with the requirements of Commentary .06(b) (except for the 50% test), the Exchange submits that the proposal is consistent with the protection of investors and the promotion of competition in the marketplace. A similar product, options on the iShares Emerging Markets Index Fund (Symbol: EEM) are currently listed and traded on both the Amex and CBOE. The underlying index for VWO and EEM are exactly the same, i.e. the MSCI Emerging Market Index.

Given the Exchange's inability to enter into a CSSA with the Bolsa, the Exchange requests permission to rely on a pilot basis on the MOU entered into between the Commission and the CNBV for purposes of satisfying its surveillance and regulatory responsibilities for the component securities in the Fund that trade on the Bolsa until the Exchange is able to secure a CSSA with the Bolsa. The Exchange believes this request is reasonable because the Commission has already acknowledged that the MOU permits both the Commission and the CNBV to acquire information from and provide information to the other, which is similar to that which would be required in a surveillance sharing agreement between exchanges.

Additionally, if the Commission approves the listing and trading of the Fund on a pilot basis, during this period, the Exchange will continue its efforts to obtain a CSSA with the Bolsa. The Exchange also will update the Commission on the status of its discussions with the Bolsa. The Commission's approval of this request would otherwise render the Fund compliant with all of the Listing Standards.[10] The Exchange believes that listing and trading options on VWO will benefit investors and the marketplace.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act [11] in general and furthers the objectives of Section 6(b)(5) of the Act [12] 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 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 is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, or to regulate by virtue of any authority conferred by the Act matters not related to the purpose of the Act or the administration of the Exchange.

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. 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-2007–09 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–Amex–2007–09. 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–Amex–2007–09 and should be submitted on or before May 17, 2007.

[9] *See* Securities Exchange Act Release No. 54944 (December 15, 2006), 71 FR 77432 (December 26, 2006).

[10] The Exchange notes that the component securities of the Fund change periodically. Therefore, the Exchange may in fact have in place surveillance agreements that would otherwise cover the percent weighting requirements set forth in the Listing Standards for securities not trading on Bolsa. In this event, the Fund would satisfy all of the Listing Standards and reliance on an approval order for the Fund would be unnecessary.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

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. [13] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act, [14] 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 listing of the Fund Options does not satisfy Commentary .06(b)(i) to Amex Rule 915, which requires the Fund to meet the following condition: ''Any non-U.S. component stocks in the index or portfolio on which the Fund Shares are based that are not subject to comprehensive surveillance agreements do not in the aggregate represent more than 50% of the weight of the index or portfolio.'' Although the Commission has been willing to allow an exchange to rely on a memorandum of understanding entered into between regulators where the listing SRO finds it impossible to enter into an information sharing agreement, it is not clear that that Amex has exhausted all avenues of discussion with foreign markets, including Bolsa, in order to obtain such an agreement.

Consequently, the Commission has determined to approve Amex's listing and trading of Fund Options for a six-month pilot period during which time Amex may rely on the MOU with respect to Fund components trading on Bolsa. During this period, the Exchange has agreed to use its best efforts to obtain a comprehensive surveillance agreement with Bolsa, which shall reflect the following: (1) Express language addressing market trading activity, clearing activity, and customer identity; (2) the Bolsa's reasonable ability to obtain access to and produce requested information; and (3) based on the CSSA and other information provided by the Bolsa, the absence of existing rules, law or practices that would impede the Exchange from obtaining foreign information relating to market activity, clearing activity, or customer identity, or in the event such rules, laws, or practices exist, they would not materially impede the production of customer or other information.

The Exchange also represents that it will regularly update the Commission on the status of its negotiations with Bolsa. In approving the proposed rule change, the Commission notes that Amex currently has in place surveillance agreements with foreign exchanges that cover 48.89% of the securities in the Fund and that the Index upon which the Fund is based appears to be a broad-based index. The Commission further notes that it recently has approved a proposed rule change by another SRO to list and trade options on the same product on a six-month pilot basis.[15]

The Exchange has requested accelerated approval of the proposed rule change. The Commission finds good cause, consistent with Section 19(b)(2) of the Act,[16] for approving this proposed rule change before the thirtieth day after the publication of notice thereof in the **Federal Register** because it will enable the Exchange to immediately consider listing and trading the Fund Options, similar to products already traded on another SRO, and because it does not raise any new regulatory issues. The Exchange has agreed to use its best efforts to obtain a comprehensive surveillance agreement with the Bolsa during a six-month pilot period in which the Exchange will rely on the MOU.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[17] that the proposed rule change (SR–Amex–2007–09), as modified by Amendment No. 1, be, and it hereby is approved on an accelerated basis for a six-month pilot period ending on October 19, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–7956 Filed 4–25–07; 8:45 am]

BILLING CODE 8010–01–P

[13] 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).

[14] 15 U.S.C. 78f(b)(5).

[15] Securities Exchange Act Release No. 55491 (March 19, 2007), 72 FR 14145 (March 26, 2007).

[16] 15 U.S.C. 78s(b)(2).

[17] *Id.*

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55650; File No. SR–NYSE–2007–10]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Amendments to Interpretation to Rule 311(b)(5) (''Co-Designation of Principal Executive Officers'') as Modified by Amendment No. 1

April 19, 2007.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act''),[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on February 2, 2007, the New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been substantially prepared by the Exchange. On April 16, 2007, the Exchange submitted Amendment No. 1 to the proposed rule change.[4] 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 NYSE is proposing amendments to Interpretation .05 to NYSE Rule 311(b)(5) regarding co-designation of principal executive officers.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Rule 311 (''Formation and Approval of Member Organizations'') and specifically Section (b)(5) thereof

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78(a) *et seq.*

[3] 17 CFR 240.19b–4.

[4] Amendment No. 1 replaced the original filing in its entirety.

provide that ''principal executive officers'' shall exercise principal executive responsibility over the various areas of the business of the member corporation. Interpretation .05 to Rule 311(b)(5) (the ''Interpretation'') sets forth the regulatory framework under which member organizations may request approval for assigning two persons as the ''principal executive officers'' [5] for the same function pursuant to Rule 311(b)(5). It presently provides that no understanding or agreement purporting to limit or apportion the joint and several responsibility of each such co-officer will be recognized by the Exchange. The proposed amended Interpretation would qualify that prohibition to permit certain principal executive officers to allocate specific responsibility, subject to Exchange approval.

Background

On September 7, 2005, the Commission approved changes to Rule 311.[6] In promulgating the changes to the Interpretation, the Exchange explained: [7]

Co-Designation of Principal Executive Officers

The Exchange believes that co-designating principal executive officer titles (*i.e.*, assigning or sharing of the same title to two persons) is a potentially troublesome practice in that it can lead to confusion as to which designee is ultimately responsible and accountable for assigned functions. However, there may be instances where such arrangements are supported by valid business reasons, such as when each co-designee has special expertise in critical areas within the purview of the principal executive officer job description or co-principal executive officers have functional responsibility for separate business lines. In light of such circumstances, the Exchange has permitted the co-designation of certain principal executive officer titles at member organizations on a limited basis. Accordingly, the amendments continue to permit such co-designations, but only pursuant to a written request and subject to the prior written approval of the Exchange (*see* new Section /05).

Written requests to the Exchange must set forth the reason for the co-designation and explain how the arrangement is structured. Further, since such co-designations raise issues regarding which person has ultimate authority and accountability, the request must make clear that each co-designee has joint and several responsibility for discharging the duties of the principal executive officer designation and that no understanding or agreement purporting to apportion or limit such responsibility will be recognized by the Exchange.

In situations where authority is, by its nature, indivisible, such as in the cases of CEOs and CFOs, the basis for this position is unarguable. The Exchange now believes, however, that there are legitimate situations where other principal executive officers exercise supervisory authority over discrete and naturally separate business functions, consistent with the internal corporate structure of the particular member organization. As an example, the Exchange has seen a reasonable division of supervisory jurisdictions and responsibility between CCOs whereby one is responsible for the member organization's retail brokerage activities and another deals with the firm's investment banking functions. While there are inevitable areas of overlap between the two, as where new offerings are readied for distribution by the retail sales force, and any proposed request for recognition of the differing areas would need to address such overlap, the greater part of the two functions are mutually exclusive, and lend themselves logically to separation.[8]

It can be seen that a joint and several responsibility could expose one of the co-CCOs to regulatory sanctions for actions in an area which he or she did not and could not reasonably supervise. This needs to be balanced against the need to avoid the situation where each such officer attempts to disclaim responsibility for the supervision of the area in question.

Proposed Amendments

Accordingly, the Exchange proposes to amend the Interpretation to permit co-CCOs and co-COO [9] to allocate supervisory responsibility in a fashion acceptable to the Exchange. Where a member organization seeks to divide regulatory responsibility between more than one principal executive officer bearing the same or similar titles without the assumption of joint and several responsibility, it must provide the Exchange with a plan acceptable to the Exchange allocating specific responsibility and making unambiguous provisions, especially for the supervision of areas where the separate functions interact. It should be clearly understood that joint and several responsibility remains in effect for any area not specifically included in the plan approved by the Exchange. In addition, because the CCO of a member organization has unique responsibilities under Rule 342.30 (''Annual Reports''), the revised Interpretation would also require a representation that the certification required by Rule 342.30(e) will further confirm the qualification of each such co-CCO and that the responsibility of the co-CCOs encompasses every aspect of the business of the member organization. Of necessity, each of the co-CCOs would meet with and advise the CEO as part of the Rule 342.30 certification process.

As proposed, the Interpretation would read:

The prior written approval of the Exchange is required to assign [two] *more than one* person[s] *to* a single ''principal executive officer'' designation pursuant to Rule 311(b)(5). Member organizations seeking approval for such co-designations must submit a written request to the Exchange that sets forth the reason for the co-designation, explains how the arrangement is structured, and makes clear that each co-designee has joint and several responsibility for discharging the duties of that principal executive officer designation[;]. *However, the Exchange may approve a specific plan identifying the business need and other justification for an arrangement which does not provide for joint and several responsibility for principal executive officers other than the chief executive officer and chief financial officer. Such a plan must identify the areas and functions subject to separate supervisory responsibility and make specific provisions for the supervisory*

[5] Rule 311(b)(5) provides that the board of directors of each member organization shall designate ''principal executive officers'' who shall have responsibility over the various areas of the business of the member organization. In operation, the Exchange recognizes four such principal executive officers: Chief executive officer (''CEO''), chief operations officer (''COO''), chief finance officer (''CFO'') and chief compliance officer (''CCO'').

[6] *See* Securities Exchange Act Release No. 52391 (September 7, 2005), 70 FR 54429 (September 14, 2005) (SR–NYSE–2005–04).

[7] *See* NYSE Information Memo 05–69 (September 16, 2005).

[8] All present co-designations have involved two persons, and that may be the optimal number for such sharing of responsibility. However, to assure maximum member organization operational flexibility, the proposed interpretation does not limit the number to two, but would allow three co-designees where a compelling case for such allocation is made. The Commission notes that while the Exchange states above that it would allow three co-designees, the proposed change to the Interpretation .05 of rule 311(b)(5) does not specify a limit on the number of co-designees permitted.

[9] Although to date only co-CCOs have chosen to seek separate status, it would not be unreasonable to extend the same treatment to co-COOs where their duties are subject to rational separation.

responsibility of functions, activities and areas which can reasonably be expected to overlap. [no understanding or agreement purporting to apportion or limit such responsibility will be recognized by the Exchange.] *In addition, in the case of co-CCOs, the written approval request submitted in accordance with this Interpretation shall include a representation to the Exchange, to the effect that the CEO's Annual Report and Certification required by Rule 342.30(e) will further state, in addition to the fact that each such CCO has met the qualification requirements set forth at 342.30(d)/01, that the collective authority, accountability, and responsibility of such co-equal CCOs encompasses, without exception, every aspect of the business of such member organization.*

Implementation Date

The proposed amendments would be effective upon SEC approval.

2. Statutory Basis

The proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with the requirements of Sections 6(b)(5)[10] of the Act. Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and national market system, and in general, to protect investors and the public interest. The proposed amendments will provide member organizations with organizational flexibility in the allocation of certain regulatory responsibilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

[10] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2007–10 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–2007–10. 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 will also be available for inspection and copying at the principal office of the NYSE. All comments received will be posted without change; the Commission does not edit personal identifying information 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–2007–10 and should be submitted by May 17, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–7939 Filed 4–25–07; 8:45 am]

BILLING CODE 8010–01–P

[11] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

National Small Business Development Center Advisory Board; Public Meeting

The U.S. Small Business Administration National Small Business Development Center Advisory Board will be hosting a public meeting via conference call to discuss such matters that may be presented by members, and the staff of the U.S. Small Business Administration or interested others. The conference call will take place on Tuesday, May 15, 2007 at 1 p.m. Eastern Standard Time.

The purpose of the meeting is to discuss the initial White Paper draft regarding management of the SBDC program, and arrangements for the Board site visit in June to visit the Ohio SBDC network in Columbus.

Anyone wishing to make an oral presentation to the Board must contact Erika Fischer, Senior Program Analyst, U.S. Small Business Administration, Office of Small Business Development Centers, 409 3rd Street, SW., Washington, DC 20416, telephone (202) 205–7045 or fax (202) 481–0681.

Matthew Teague,

Committee Management Officer.

[FR Doc. E7–8021 Filed 4–25–07; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending April 13, 2007

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 et seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–2007–27790–3.
Date Filed: April 11, 2007.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 2007.
Description: Application of United Parcel Service Co. requesting that the Department award it indefinite blanket authority to serve all existing U.S. open-skies partners, along with prospective blanket certificate authority to serve any future open-skies partner once an agreement between the United States and that partner is being applied by the two governments.

Docket Number: OST–2007–27790–2.
Date Filed: April 11, 2007.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 2007.
Description: Application of Arrow Air, Inc. d/b/a Arrow Cargo requesting a certificate of public convenience and necessity to engage in scheduled foreign air transportation of property and mail between any points in the United States via intermediate points to a point or points in Albania, Aruba, Austria, Bahrain, Belgium, Bosnia-Herzegovina, Brunei Darussalam, Burkina Faso, Cameroon, Cape Verde, Chad, Chile, Cook Islands, Costa Rica, Czech Republic, Denmark, El Salvador, Ethiopia, Finland, France, Gabon, The Gambia, Germany, Ghana, Guatemala, Honduras, Iceland, India, Indonesia, Italy, Jamaica, Jordan, Korea Republic of, Kuwait, Liberia, Luxembourg, Madagascar, Malaysia, Maldives, Mali, Malta, Morocco, Namibia, Netherlands, Netherlands Antilles, New Zealand, Nicaragua, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Poland, Portugal, Qatar, Romania, Samoa, Senegal, Singapore, Slovak Republic, Sri Lanka, Sweden, Switzerland, Taiwan, Tanzania, Thailand, Tonga, Turkey, Uganda, United Arab Emirates, Uruguay, Uzbekistan and to points beyond with full traffic rights to the extent the applicable aviation agreements grant such rights.

Docket Number: OST–2007–27790–6.
Date Filed: April 12, 2007.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 2007.
Description: Application of Federal Express Corporation (''FedEx Express'') requesting indefinite blanket open-skies certificate authority, which will enable FedEx Express to serve current and future U.S. open-skies partners.

Docket Number: OST–2007–27790–5.
Date Filed: April 12, 2007.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 2007.
Description: Application of Hawaiian Airlines, Inc. (''Hawaiian'') requesting a certificate of public convenience and necessity to operate between the United States and all countries with which the United States has ''Open Skies'' agreements now or in the future. Further Hawaiian asks that such authority allow it to integrate that authority so it may operate to and from any country to which DOT has given its certificate or exemption authority and to which Hawaiian has been designated.

Docket Number: OST–2007–27790–7.
Date Filed: April 12, 2007.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 2007.
Description: Application of Eos Airlines, Inc. requesting a certificate of public convenience and necessity to obtain authority to provide foreign air transportation of persons, property and mail to all markets with which the U.S. has an open-skies agreement or may, in the future, enter into one.

Docket Number: OST–2007–27790–8.
Date Filed: April 13, 2007.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 2007.
Description: Application of Polar Air Cargo, Inc. (''Polar'') and Polar Air Cargo Worldwide, Inc. (''PACW'') requesting issuance of a certificate of public convenience and necessity authorizing Polar and, at a later date, PACW to engage in foreign air transportation of property and mail between a point or points in the United States, on the one hand, and a point or points in those countries with which the United States has concluded or subsequently concludes open-skies air transport agreements, on the other, via intermediate points and beyond, to the extent the applicable aviation agreements grant such rights.

Docket Number: OST–2007–27790–9.
Date Filed: April 13, 2007.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 2007.
Description: Application of Atlas Air, Inc. requesting a certificate of public convenience and necessity to engage in foreign air transportation of property and mail between a point or points in the United States, on the one hand, and a point or points in those countries with which the United States has concluded or subsequently concludes open skies air transport agreements, on the other, via intermediate points and beyond, to the extent the applicable aviation agreements grant such rights.

Docket Number: OST–2007–27790–10.
Date Filed: April 13, 2007.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 2007.
Description: Application of Amerijet International, Inc. (''Amerijet'') requesting an indefinite blanket open-skies certificate of public convenience and necessity authorizing it to provide scheduled foreign air transportation of property and mail between points in the U.S. and a point or points in all countries with which the U.S. has an open-skies aviation agreement or may, in the future, enter into one. Amerijet also requests authority to integrate the authority requested herein with its existing certificate and exemption authority subject to the conditions normally imposed by the Department on such integration authority.

Docket Number: OST–2007–27790–11 and OST–1999–6246–14.
Date Filed: April 13, 2007.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 2007.
Description: Supplement #6 of Delta Air Lines, Inc. requesting a new or amended certificate of public convenience and necessity for open entry routes to serve all open-skies MALIAT partner countries under the procedures set forth in the Open-Skies Certificate Notice and Order 2007–4–2.

Docket Number: OST–2007–27790–13.
Date Filed: April 13, 2007.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 2007.

Description: Application of JetBlue Airways Corporation (''JetBlue'') requesting a certificate of public convenience and necessity to operate between the United States and all countries with which the United States has ''Open Skies'' agreements now or in the future. Further JetBlue asks that such authority allow it to integrate that authority so it may operate to and from any country to which DOT has given it certificate or exemption authority and to which JetBlue has been designated.

Docket Number: OST–2007–27790–14.

Date Filed: April 13, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 2007.

Description: Application of Spirit Airlines, Inc. (''Spirit'') requesting indefinite blanket open-skies certificate authority to serve all existing U.S. open-skies partners and for prospective blanket certificate authority to serve any future open-skies partner once an agreement between the United States and that partner is being applied by the two governments. Further, Spirit asks that the Department permit it to integrate this certificate authority with Spirit's other certificate and exemption authority, consistent with applicable agreements between the United States and foreign governments. Finally, Spirit asks that the Department designate it for each of the open-skies partners, as necessary, to allow Spirit to respond quickly to new market opportunities.

Docket Number: OST–2007–27790–15.

Date Filed: April 13, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 2007.

Description: Application of Brendan Airways, LLC d/b/a USA 3000 Airlines, Inc. (''USA 3000'') requesting blanket open-skies certificate authority, authorizing it to provide scheduled air transportation of persons, property and mail to all existing U.S.-Open Skies partners, along with prospective blanket certificate authority to serve any future open-skies partner once an agreement between the United States and that partner is being applied by the two governments without the need for further action by the carrier or the Department.

Docket Number: OST–2007–27790–16 and OST–2004–19398–5.

Date Filed: April 13, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 2007.

Description: Amendment #1 of TradeWinds Airlines, Inc. to its current open-skies certificate of public convenience and necessity to the extent necessary to authorize it to provide scheduled air transportation of property and mail to include all countries that have concluded ''Open Skies'' Air Services Agreements with the United States since issuance of its current open-skies certificate, along with prospective blanket certificate authority to serve any future open-skies partner once an agreement between the United States and that partner comes into force and effect, without the need for further action by the carrier or the Department.

Docket Number: OST–2007–27790–17.

Date Filed: April 13, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 2007.

Description: Application of Alaska Airlines, Inc. (''Alaska'') requesting a blanket certificate of public convenience and necessity of indefinite duration permitting Alaska to engage in the scheduled foreign air transportation of person, property and mail between the United States and all countries with which the United States has entered into an open skies agreement, as well as any country with which the United States may in the future enter into such an agreement, once the agreement is being applied by both countries.

Docket Number: OST–2007–27790–18.

Date Filed: April 13, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 2007.

Description: Application of ATA Airlines, Inc. (''ATA'') requesting a blanket certificate of public convenience and necessity of indefinite duration permitting ATA to engage in the scheduled foreign air transportation of person, property and mail between the United States and all countries with which the United States has entered into an open skies agreement, as well as any country with which the United States may in the future enter into such an agreement, once the agreement is being applied by both countries.

Docket Number: OST–2007–27790–19.

Date Filed: April 13, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 2007.

Description: Application of Florida West International Airways, Inc. (''FWIA'') requesting a blanket certificate of public convenience and necessity of indefinite duration permitting FWIA to engage in the scheduled foreign air transportation of person, property and mail between the United States and all countries with which the United States has entered into an open skies agreement, as well as any country with which the United States may in the future enter into such an agreement, once the agreement is being applied by both countries.

Docket Number: OST–2007–27790–20.

Date Filed: April 13, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 2007.

Description: Application of Frontier Airlines, Inc. requesting blanket open-skies certificate authority to transport property, mail and travelers on routes between the U.S. and all countries which currently have, or in the future agree to, an open-skies agreement with the U.S.

Docket Number: OST–2007–27790–21 and OST–2004–19189–5.

Date Filed: April 13, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 2007.

Description: Application of Centurion Air Cargo, Inc. (''Centurion'') requesting that its certificate of public convenience and necessity for Route 833 be amended: (1) add Cook Islands, Kuwait and Liberia to the list of open skies countries contained in Centurion's Route 833, and (2) include in the certificate a provision that authorizes Centurion to serve additional countries that may have an open-skies agreement with the U.S. that is being applied without the necessity for further action by the Department or Centurion.

Docket Number: OST–2007–27790–22.

Date Filed: April 13, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 2007.

Description: Application of Evergreen International Airlines, Inc. requesting an indefinite blanket open-skies certificate of public convenience and necessity authorizing it to provide scheduled foreign air transportation of property and mail between points in the U.S. and a point or points in all countries with which the U.S. has an open-skies aviation agreement or may, in the future, enter into an open-skies aviation agreement.

Docket Number: OST–2007–27790–23.

Date Filed: April 13, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 2007.

Description: Application of World Airways, Inc. requesting a certificate of

public convenience and necessity to engage in foreign scheduled air transportation of persons, property and mail from a point or points in the United States, via intermediate points, to a point or points in all existing U.S. open skies partners, along with any future U.S. open-skies partners, and beyond.

Docket Number: OST–2007–27790–24.

Date Filed: April 13, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 2007.

Description: Application of North American Airlines, Inc. requesting a certificate of public convenience and necessity to engage in foreign scheduled air transportation of persons, property and mail from a point or points in the United States, via intermediate points, to a point or points in all existing U.S. open skies partners, along with any future U.S. open-skies partners, and beyond.

Docket Number: OST–2007–27790–25.

Date Filed: April 13, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 2007.

Description: Application of ASTAR Air Cargo, Inc. requesting a blanket open-skies certificate of public convenience and necessity of indefinite duration to provide all-cargo service (scheduled foreign air transportation of property and mail) between the United States and all current open-skies countries and any country with which the United States may in the future enter into such an agreement, where that agreement is being applied by both countries.

Docket Number: OST–2007–27790–26.

Date Filed: April 13, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 2007.

Description: Application of MN Airlines, LLC d/b/a Sun Country Airlines requesting a new blanket ''Open Skies'' certificate authorizing it to provide scheduled air transportation of persons, property and mail to all existing U.S.-Open Skies partner countries, as well as prospective blanket certificate authority to serve any future open-skies partner once an agreement between the United States and that partner is being applied by the two governments, without the need for further action by DOT.

Docket Number: OST–2007–27790–27.

Date Filed: April 13, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 2007.

Description: Application of Kalitta Air, L.L.C. requesting a certificate of public convenience and necessity authorizing it to conduct scheduled foreign air transportation of cargo between a point or points in the United States, via intermediate points, to a point or points in U.S. Open-Skies Agreement partner countries, and beyond, for an indefinite period.

Docket Number: OST–2007–27790–28.

Date Filed: April 13, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 2007.

Description: Application of Custom Air Transport, Inc. requesting a certificate of public convenience and necessity authorizing it to conduct scheduled foreign air transportation of cargo between a point or points in the United States, via intermediate points, to a point or points in U.S. Open-Skies Agreement partner countries, and beyond, for an indefinite period.

Docket Number: OST–2007–27790–29.

Date Filed: April 13, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 2007.

Description: Application of TEM Enterprises, d/b/a Xtra Airways requesting a certificate of public convenience and necessity authorizing it to conduct scheduled foreign air transportation of persons, property and mail between a point or points in the United States, via intermediate points, to a point or points in U.S. Open-Skies Agreement partner countries, and beyond, for an indefinite period.

Docket Number: OST–2007–27790–30.

Date Filed: April 13, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 2007.

Description: Application of Ryan International Airlines, Inc. (''Ryan'') requesting a certificate of public convenience and necessity authorizing Ryan to engage in scheduled foreign air transportation of persons, property and mail between (i) a point or points in the United States and a point or points in all countries with existing ''Open Skies'' Air Services Agreements with the United States (''U.S. Open-Skies Partners''), via intermediate points and beyond; and (ii) a point or points in the United States and a point or points in all countries that in the future become U.S. Open-Skies Partners, via intermediate points and beyond.

Docket Number: OST–2007–27790–31.

Date Filed: April 13, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 2007.

Description: Application of Capital Cargo International Airlines Inc. requesting a indefinite certificate of blanket open-skies authority to serve all existing U.S. open-skies partners, along with prospective blanket certificate authority to service any future open-skies partner once an agreement between the United States and that partner is being applied by the two governments.

Docket Number: OST–2007–27790–32.

Date Filed: April 13, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 2007.

Description: Application of Allegiant Air, LLC (''Allegiant'') requesting a certificate of public convenience and necessity authorizing Allegiant to engage in scheduled foreign air transportation of persons, property and mail between (i) a point or points in the United States and a point or points in all countries with existing ''Open Skies'' Air Services Agreements with the United States (''U.S. open-skies partners''), via intermediate points and beyond; and (ii) a point or points in the United States and a point or points in all countries that in the future become U.S. open-skies partners, via intermediate points and beyond.

Docket Number: OST–2007–27790–33.

Date Filed: April 13, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 2007.

Description: Application of Air Transport International, LLC requesting a certificate of public convenience and necessity authorizing it to engage in scheduled foreign air transportation of persons, property and mail between (i) a point or points in the United States via intermediate points and a point or points in all countries with existing ''Open Skies'' Air Services Agreements with the United States (''U.S. open-skies partners''), and beyond; and (ii) a point or points in the United States via intermediate points and a point or points in all countries who in the future become U.S. open skies partners, and beyond.

Docket Number: OST–2007–27790–34.

Date Filed: April 13, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 2007.

Description: Application of MAXjet Airways, Inc. (''MAXjet'') requesting a certificate of public convenience and necessity authorizing MAXjet to engage in foreign scheduled air transportation of persons, property and mail from points behind the United States, via the United States and any intermediate points, to points in the territory of current and future open-skies treaty partners, and beyond.

Docket Number: OST–2007–27790–35.

Date Filed: April 13, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 2007.

Description: Application of Gemini Air Cargo, Inc. requesting a certificate of public convenience and necessity for indefinite blanket authority to serve all existing U.S. open-skies partners, along with prospective blanket certificate authority to serve any future open-skies partner once an agreement between the United States and that partner is being applied by the two governments.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. E7–7992 Filed 4–25–07; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

First Meeting, Special Committee 215 Aeronautical Mobile Satellite (Route) Services Next Generation Satellite Services and Equipment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 215, Aeronautical Mobile Satellite (Route) Services, Next Generation Satellite Services and Equipment.

SUMMARY: The FAA is issuing this notice to advise the public of a first meeting of RTCA Special Committee 215, Aeronautical Mobile Satellite (Route) Services, Next Generation Satellite Services and Equipment.

DATES: The meeting will be held May 22–24, 2007 at 10 a.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1818 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org* for directions.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 215 meeting. The agenda will include:

- *May 22–24:*
- Opening Plenary Session (Welcome, Introductions, and Administrative Remarks, Agenda Review).
- David Robinson (FAA)—DFO.
- Overview of activity background.
- Revision of ICAO AMS (R)S SARPs—Summary.
- Review of Authorizing Document (Terms of Reference), RTCA paper 057–07/PMC–519, March 8, 2007.
- Discussion of and action of Terms of Reference (TOR) item 6.A and 6.B by Industry, FAA and other participants.
- By September 28, 2007, determine if recent changes to the AMS(R)S SARPs require modification of DO–262 by means of an attachment to DO–262.
- By September 28, 2007, determine if recent changes to the AMS(R)S SARPs require modification of DO–270.
- FAA discussion on issues relating to Electromagnetic Compatibility/Interference with GNSS, AMSS, Radio Astronomy.
- Discussion of and action on Terms of Reference it 6.C and 6.D, if necessary.
- If changes are recommended to DO–262, proceed immediately to develop a plan on what changes are necessary and how changes should be incorporated into DO–262.
- If changes are recommended to DO–270, proced immediately to develop a plan on what changes are necessary and how changes should be incorporated into DO–270.
- Schedule Next Meeting.
- If changes are necessary, future meetings should facilitate presentation of revised documents to the FRAC not later than May 2008.
- If changes are not deemed necessary, create and approve short report to PMC stating reasons why and informing PMB that the Terms of Reference are complete.
- Closing Plenary Session (Other Business, Establish Agenda, Adjourn).

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTAC** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on April 19, 2007.

Francisco Estrada C.,

RTCA Advisory Committee.

[FR Doc. 07–2053 Filed 4–25–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Second Meeting, Special Committee 213 Enhanced Flight Vision Systems/Synthetic Vision System (EFVS/SVS)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 213, Enhanced Flight Vision Systems/Synthetic Vision System (EFVS/SVS).

SUMMARY: The FAA is issuing this notice to advise the public of a second meeting of RTCA Special Committee 213, Enhanced Flight Vision Systems/Synthetic Vision System (EFVS/SVS).

DATES: The meeting will be held May 22–24, 2007 from 9 a.m.–5 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org* for directions.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 213 meeting. The agenda will include:

- *May 22:*
- Opening Plenary Session (Welcome, Introductions, and Administrative Remarks, Agenda Review).
- Review SC–213 Objectives, Action Items, and SC–213 Web site and document content.
- Review initial reports from WG 1, and WG 2, and status of WG 3 for helicopters.
- SVS/EVS Technology update.
- *Afternoon:* WG 1 and WG 2 meeting for task assignments.
- *May 23:*
- *Morning:* Continued WG 1 and WG 2 task assignment.
- *Afternoon:* Establish date/place for next meeting.
- Review action items and define next steps/task for MASPS development.
- *May 24 a.m.:*
- WG 1 meeting.
- WG 2 meeting.

• Closing Plenary Session (Other Business, Establish Agenda, Adjourn).

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on April 18, 2007.

Francisco Estrada C.,

RTCA Advisory Committee.

[FR Doc. 07–2054 Filed 4–25–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Warren County, IA

AGENCY: Federal Highway Administration (FHWA), DOT, Warren County.

SUMMARY: The FHWA will be issuing this notice to advise the public an EIS will be prepared for a proposed roadway project in Warren County, Iowa. The planned EIS will evaluate potential transportation improvement alternatives for serving West Des Moines, Des Moines, and Warren County between I–35 South/R35 and IA 5/South 11th Street.

FOR FURTHER INFORMATION CONTACT: Michael LaPietra, Environment and Realty Manager, FHWA Iowa Division Office, 105 Sixth Street, Ames, IA 50010, Phone 515–233–7302; or James P. Rost, Director, Office of Location and Environment, Iowa Department of Transportation, 800 Lincoln Way, Ames, IA 50010, Phone 515–239–1225.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document is available for free download from the Federal Bulletin Board (FBB). The FBB is a free electronic bulletin board service of the Superintendent of Documents, U.S. Government Printing Office (GPO).

The FBB may be accessed in four ways: (1) Via telephone in dial-up mode or via the Internet through (2) telnet, (3) FTP, and (4) the World Wide Web. For dial-up mode a user needs a personal computer, modem, telecommunications software package, and telephone line. A hard disk is recommended for file transfers.

For Internet access a user needs Internet connectivity. Users can telnet or FTP to: *fedbbs.access.gpo.gov.* Users can access the FBB via the World Wide Web at *http://fedbbs.access.gpo.gov.*

User assistance for the FBB is available from 7 a.m. until 5 p.m., Eastern Time, Monday through Friday (except federal holidays) by calling the GPO Office of Electronic Information Dissemination Services at 202–512–1530, toll-free at 888–293–6498; sending an e-mail to *gpoaccess@gpo.gov*; or sending a fax to 202–512–1262.

Access to this notice is also available to Internet users through the **Federal Register**'s home page at *http://www.nara.gov/fedreg.*

Background

The FHWA, in cooperation with the Iowa Department of Transportation and Warren County, will prepare an EIS for the proposed Southwest Connector corridor study. The proposed project includes roadway improvements to provide a high-speed, 5-lane roadway between I–35 South/R35 and IA 5/South 11th Street.

The purpose of the SW Connector is to prepare for increased travel demand in and around Warren County, Des Moines, and West Des Moines. Construction of the proposed interchange and roadway will decrease congestion at the IA 5/I–35 south interchange and provide alternate means of travel between 11th Street and I–35 South as well as provide additional access to Des Moines, West Des Moines, and Warren County.

Alternatives under consideration include: (1) Taking no action; (2) widening existing roadways; and, (3) constructing a roadway on a new location. The build alternative will include consideration of various alignments and grades.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A series of public meetings will be held in 2007 and 2008. In addition, a public hearing will be held upon completion of the draft EIS. Public notice will be given of the time and place of the public meetings and public hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing.

A scoping meeting (the initial public meeting) will be held identifying significant issues to be addressed in the environmental impact statement. The date and location of the scoping meeting have not yet been determined but will be advertised in various local media.

To ensure that the full range of issues related to this proposed action is addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or Iowa Department of Transportation at the address provided in the caption **FOR FURTHER INFORMATION CONTACT**.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

(Authority: 23 U.S.C. 315; 49 CFR 1.48)

Dated: April 20, 2007.

Philip E. Barnes,

Division Administrator, FHWA, Iowa Division.

[FR Doc. E7–7996 Filed 4–25–07; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requirements (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describes the nature of the information collections and their expected burdens. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collections of information was published on February 12, 2007 (72 FR 6656).

DATES: Comments must be submitted on or before May 29, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 25, Washington, DC 20590 (telephone: (202) 493–6292), or Ms. Gina Christodoulou, Office of Support Systems Staff, RAD–20, Federal Railroad Administration, 1120 Vermont

Ave., NW., Mail Stop 43, Washington, DC 20590 (telephone: (202) 493–6139). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Pub. L. 104–13, § 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On February 12, 2007, FRA published a 60-day notice in the **Federal Register** soliciting comment on ICRs that the agency was seeking OMB approval. 72 FR 6656. FRA received no comments after issuing this notice. Accordingly, DOT announces that these information collection activities have been re-evaluated and certified under 5 CFR 1320.5(a) and forwarded to OMB for review and approval pursuant to 5 CFR 1320.12(c).

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507 (b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The revised requirements are being submitted for clearance by OMB as required by the PRA.

Title: Foreign Railroads' Foreign-Based (FRFB) Employees Who Perform Train or Dispatching Service in the United States.

OMB Control Number: 2130–0555.

Type of Request: Extension of a currently approved collection.

Affected Public: Railroads.

Form(s): None.

Abstract: The collection of information is used by FRA to determine compliance of FRFB train and dispatching service employees and their employers with the prohibition against the abuse of alcohol and controlled substances. Because of the increase in cross-border train operations and the increased risk posed to the safety of train operations in the United States, FRA seeks to apply all of the requirements of 49 CFR part 219 to FRFB train and dispatching service employees. The basic information—evidence of unauthorized use of drugs and alcohol—is used by FRA to help prevent accidents/incidents by screening FRFB who perform safety-sensitive functions for unauthorized drug or alcohol use. FRFB train and dispatching service employees testing positive for unauthorized use of alcohol and drugs are removed from service, thereby enhancing safety and serving as a deterrent to other FRFB train and dispatching service employees who might be tempted to engage in the unauthorized use of drugs or alcohol.

Annual Estimated Burden: 28 hours.

Title: Special Notice for Repairs.

OMB Control Number: 2130–0504.

Type of Request: Extension of a currently approved collection.

Affected Public: Railroads.

Form(s): FRA F 6180.8; FRA F 6180.8a.

Abstract: The Special Notice For Repairs is issued to notify the carrier in writing of an unsafe condition involving a locomotive, car, or track. The carrier must return the form after repairs have been made. The collection of information is used by State and Federal inspectors to remove freight cars or locomotives until they can be restored to a serviceable condition. It is also used by State and Federal inspectors to reduce the maximum authorized speed on a section of track until repairs can be made.

Annual Estimated Burden: 10 hours.

Addressee: Send comments regarding these information collections to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street, NW., Washington, DC 20503, Attention: FRA Desk Officer.

Comments are invited on the following: Whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collections; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collections of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC on April 20, 2007.

D.J. Stadtler,

Director, Office of Budget, Federal Railroad Administration.

[FR Doc. E7–8018 Filed 4–25–07; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Alton and Southern Railway

[Waiver Petition Docket Number FRA–2007–27320]

The Alton and Southern Railway (ALS), a wholly-owned subsidiary of the Union Pacific Railroad (UP), has petitioned FRA for a temporary waiver of compliance with certain provisions of FRA safety regulations (hours of service of railroad employees). The waiver request seeks relief from 49 CFR Section 228.9(a)(1) for the ALS to utilize a computerized system of recording train and engine employee hours of duty data. The CFR requires that records maintained under Section 228.9(a)(1) be signed by the employee whose time is being recorded, or in the case of train and engine crews, signed by the ranking crew member. The ALS seeks to utilize a computerized system of recording hours of duty information that is currently being used by the UP. Without waiver permission, the record produced by the program would not comply with Section 228(a)(1) requirements for a ''signature'' of the employee or ranking crew member. The ALS proposes that each employee will have his or her own identification number (ID) and personal identification number (PIN). The PIN will remain confidential to the employee. The employee ID and PIN will be used to restrict access to a job

or train reporting screen to only the employee or ranking crew member of that specific job or train. After entering the appropriate data, the employee will be asked to ''certify'' his or her entries. When certified, the data entered by the employee will be electronically stamped by the computer with the entering employee's ID and the date and time of certification. The employee's certified record will then be available through the FRA inspection screen and will display the employee's ID along with the date and time of certification. The ALS proposes replacing the current manually signed paper record with a printable copy of the employee's entered data showing the date, time and ID of entering employee.

The ALS warrants that the program to be used is a copy of the program approved for use by UP under a current waiver of compliance. The ALS maintains that the change is in the best interests of all parties in that it will reduce unnecessary paperwork and the costs associated therewith while providing the railroad, its employees, and FRA with a superior level of information on a more timely basis than is currently available.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA in writing before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.*, Waiver Petition Docket Number FRA–2007–27320) and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401, 400 7th Street, NW., Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov*.

Issued in Washington, DC on April 20, 2007.

Michael J. Logue,

Deputy Associate Administrator for Safety Compliance and Program Implementation.

[FR Doc. E7–8023 Filed 4–25–07; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance from certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Charlotte Area Transit System

[Waiver Petition Docket Number FRA–2006–25837]

The Charlotte Area Transit System (CATS) plans to operate and maintain a light rail system known as the South Corridor Light Rail Line (CATS System) with revenue service slated to begin in Fall 2007. CATS seeks a permanent waiver of compliance from sections of Title 49 of the CFR for operation of its 10-mile long CATS System that at times is adjacent to active Norfolk Southern Railway Company (NS) tracks in a shared corridor operation, thus representing a ''limited connection'' with the general railroad system. *See Statement of Agency Policy Concerning Jurisdiction Over the Safety of Railroad Passenger Operations and Waivers Related to Shared Use of the Tracks of the General Railroad System by Light Rail and Conventional Equipment, 65 FR 42529 (July 10, 2000). See also Joint Statement of Agency Policy Concerning Shared Use of the Tracks of the General Railroad System by Conventional Railroads and Light Rail Transit Systems, 65 FR 42626 (July 10, 2000).*

The CATS System is a new 10-mile long light rail operation that will share a corridor with NS freight trains in certain locations. The CATS System will run on its own tracks and NS will conduct freight rail operations on existing tracks that are located generally at least 40 feet from the nearest CATS System trackage at certain locations along the light rail alignment. The CATS System and NS will not share trackage or train control systems and the CATS System trackage and NS trackage will not cross at any location. The CATS System will share two public highway-rail grade crossings with NS, representing a limited connection and, as such, the CATS System is subject to FRA jurisdiction. These two shared crossings will be equipped with flashing lights and gates on each side of the roadway. The shared crossings will have interlocking relays so that both CATS crossing equipment and NS crossing equipment activate together in vital design. CATS and NS employees will maintain their own equipment on their respective sides of the shared crossing. CATS will employ five full-time Signal employees and their hours will be staggered to cover all hours when the CATS System is in revenue service. It is anticipated that most of the CATS System Signal employees will work standard 10-hour shifts, 4 days a week.

CATS is seeking a permanent waiver of compliance from certain sections of Title 49 of the CFR and offers that it is similarly governed by the System Safety Program Plan as required by the Federal Transit Administration. For this limited connection, CATS seeks a permanent waiver of compliance from 49 CFR part 228, Hours of Service of Railroad Employees. CATS anticipates never having more than 15 Signal employees and thereby qualifies to petition for a statutory exemption from the Hours of Service law (49 U.S.C. Section 21102(b)). CATS states it is seeking this waiver because it will give CATS the flexibility it needs to manage its small workforce. In order to schedule and implement preventive maintenance activities and to cover other operational requirements that may arise during scheduled activities, CATS says it needs the flexibility to deploy its limited workforce efficiently, occasionally having its Signal employees work longer shifts or stay on-call during non-revenue hours. CATS will not, under any circumstance, require these Signal employees to work more than 16 hours in any 24 hour period.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA in writing before the end of the comment period, specifying the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.*, Waiver Petition Docket Number 2006–25837)

and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. Communications received within 30 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov*.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, 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). The Statement may also be found at *http://dms.dot.gov*.

Issued in Washington, DC on April 20, 2007.

Michael J. Logue,

Deputy Associate of Administrator for Safety Compliance and Program Implementation.

[FR Doc. E7–8024 Filed 4–25–07; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance from certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Morehead and South Fork Railroad

[Waiver Petition Docket Number FRA–2006–25520]

The Morehead and South Fork Railroad (MSF) has petitioned for a temporary waiver of compliance from the requirements of 49 U.S.C. 21103(a), the Federal Hours of Service law (HSL). This provision requires the railroad to neither require nor allow train employees to begin or remain on duty in excess of 12 hours in a 24-hour period without receiving the appropriate 8- or 10-hour statutory off-duty period. However, the HSL contains a provision (in 49 U.S.C. 21102(a)) permitting a railroad that employs not more than 15 employees subject to the statute, to seek an exemption from the 12-hour limitation. The MSF states that it is the railroad's intent to use such a waiver only in emergency situations and not on a daily basis.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA in writing before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (Docket Number FRA–2006–25520) and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590–0001. Communications received within 30 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov*.

Issued in Washington, DC on April 20, 2007.

Michael J. Logue,

Deputy Associate Administrator for Safety Compliance and Program Implementation.

[FR Doc. E7–8022 Filed 4–25–07; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2007–27995]

Notice of Receipt of Petition for Decision That Nonconforming 1994 and; 1996 Left-Hand Drive and Right-Hand Drive Model Jeep Cherokee Multipurpose Passenger Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1994 and; 1996 left-hand drive and right-hand drive model Jeep Cherokee multipurpose passenger vehicles are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1994 and 1996 left-hand drive (LHD) and right-hand drive (RHD) model Jeep Cherokee multipurpose passenger vehicles that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards (FMVSS), are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is May 29, 2007.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 am to 5 pm]. 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*.

FOR FURTHER INFORMATION CONTACT: Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202–366–3151).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally

manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

G&K Automotive Conversion, Inc. of Santa Ana, California (''G&K'') (Registered Importer 90–007) has petitioned NHTSA to decide whether nonconforming 1994 and 1996 LHD and RHD model Jeep Cherokee multipurpose passenger vehicles are eligible for importation into the United States. The vehicles which G&K believes are substantially similar are 1994 and 1996 LHD and RHD model Jeep Cherokee multipurpose passenger vehicles that were manufactured for sale in the United States and certified by their manufacturer as conforming to all applicable FMVSS.

The petitioner claims that it carefully compared non-U.S. certified 1994 & 1996 LHD and RHD model Jeep Cherokee multipurpose passenger vehicles to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most FMVSS.

G&K submitted information with its petition intended to demonstrate that non-U.S. certified 1994 and; 1996 LHD and RHD model Jeep Cherokee multipurpose passenger vehicles as originally manufactured, conform to many FMVSS in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1994 and; 1996 LHD and RHD model Jeep Cherokee multipurpose passenger vehicles are identical to their U.S-certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect*, 103 *Windshield Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic and Electric Brake Systems,* 106 *Brake Hoses,* 107, *Reflecting Surfaces,* 113 *Hood Latch System,* 114 *Theft Protection,* 116 *Motor Vehicle Brake Fluids,* 118 *Power-Operated Window, Partition, and Roof Panel Systems,* 119 *New Pneumatic Tires for Vehicles Other than Passenger Cars,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 203 *Impact Protection for the Driver from Steering Control System*, 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems*, 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 211 *Wheel Nuts, Wheel Disks, and Hub Caps,* 212 *Windshield Mounting,* 214 *Side Impact Protection, 216 Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 301 *Fuel System Integrity,* and 302 *Flammability of Interior Materials*.

The petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Inscription of the word ''brake'' on the instrument cluster in place of the international ECE warning symbol; (b) replacement or conversion of the speedometer to read in miles per hour; and (c) inscription of warning symbols and lettering for the seat belt warning telltales that meet the requirements of this standard.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* installation, on vehicles that are not already so equipped, of U.S.-certified model (a) headlamps; (b) front and rear side-mounted marker lamps which incorporate reflex reflectors; and (c) tail lamps assemblies.

Standard No. 111 *Rearview Mirrors:* installation of a U.S.-certified model passenger side rearview mirror, or inscription of the required warning statement on the face of the passenger side rearview mirror.

Standard No. 115 *Vehicle Identification:* installation of a vehicle identification plate near the left windshield post to meet the requirements of this standard.

Standard No. 120 *Tire Selection and Rims for Motor Vehicles Other than Passenger Cars:* installation of a tire information placard.

Standard No. 208 *Occupant Crash Protection:* (a) Inspection of all vehicles and replacement of any non U.S.-certified model seat belt components on vehicles that are not already so equipped and; (b) installation of a supplemental seat belt warning buzzer system, to meet the requirements of this standard.

The petitioner states that the occupant restraints used in these vehicles consist of combination lap and shoulder belts at the front and rear outboard seating positions and a lap belt at the rear center seating position.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 am to 5 pm]. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 20, 2007.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. E7–7936 Filed 4–25–07; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Pipeline Safety: Requests for Waivers of Compliance (Special Permits)

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); DOT.

ACTION: Notice.

SUMMARY: The Federal pipeline safety laws allow a pipeline operator to request PHMSA to waive compliance with any part of the Federal pipeline safety regulations. We are publishing this notice to provide a list of requests we have received from pipeline operators seeking relief from compliance with certain Federal pipeline safety regulations. This notice seeks public comment on these requests, including comments on any

environmental impacts. In addition, this notice reminds the public that we have changed what we call a decision granting such a request to a special permit. At the conclusion of the comment period, PHMSA will evaluate each request individually to determine whether to grant a special permit or deny the request.

DATES: Submit any comments regarding any of these requests for special permit by May 29, 2007.

ADDRESSES: Comments should reference the docket number for the request and may be submitted in the following ways:

- *DOT Web Site: http://dms.dot.gov.* To submit comments on the DOT electronic docket site, click ''Comment/ Submissions,'' click ''Continue,'' fill in the requested information, click ''Continue,'' enter your comment, then click ''Submit.''
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System: U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- *Hand Delivery:* DOT Docket Management System; 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.
- *E-Gov Web Site: http://www.Regulations.gov.* This site allows the public to enter comments on any **Federal Register** notice issued by any agency.

Instructions: You should identify the docket number for the request you are commenting on at the beginning of your comments. If you submit your comments by mail, you should submit two copies. If you wish to receive confirmation that PHMSA received your comments, you should include a self-addressed stamped postcard. Internet users may submit comments at *http://www.regulations.gov,* and may access all comments received by DOT at *http://dms.dot.gov* by performing a simple search for the docket number.

Note: All comments will be posted without changes or edits to *http://dms.dot.gov* including any personal information provided.

Privacy Act Statement: Anyone may search the electronic form of all comments received for any of our dockets. You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Wayne Lemoi by telephone at (404) 832–1160; or, e-mail at *wayne.lemoi@dot.gov.*

SUPPLEMENTARY INFORMATION:

Change in Nomenclature

The PHMSA changed the name of a decision we make granting a request for waiver of compliance from ''decision granting waiver'' to ''special permit'' to reflect that granting the request will not reduce safety. We commonly add safety conditions to decisions granting waivers to ensure that waiving compliance with an existing pipeline safety standard is consistent with pipeline safety. The change was simply a name change for a decision granting waiver under 49 U.S.C. 60118(c)(1).

Comments Invited on Requests for Waiver

The PHMSA has filed in DOT's Docket Management System (DMS) requests for waiver we have received from pipeline operators seeking relief from compliance with certain pipeline safety regulations. Each request has been assigned a separate docket number in the DMS. We invite interested persons to participate by reviewing these requests and by submitting written comments, data or other views. Please include any comments on environmental impacts granting the requests may have.

Before acting on any request, PHMSA will evaluate all comments received on or before the comment closing date. We will consider comments received after this date if it is possible to do so without incurring additional expense or delay. We may grant or deny these requests based on the comments we receive.

PHMSA has received the following requests for waivers of compliance with pipeline safety regulations:

Docket No.	Requester	Regulation(s)	Nature of waiver
PHMSA–2007–27607.	Southeast Supply Header, ...	49 CFR 192.111. 49 CFR 192.201 49 CFR 192.619	To authorize operation of a 269-mile gas transmission pipeline from Delhi, LA to Coden, AL at a maximum allowable operating pressure (MAOP) of 80% of the specified minimum yield strength (SMYS).
PHMSA–2007–27842.	Midcontinent Express Pipeline, LLC.	49 CFR 192.111. 49 CFR 192.201	To authorize operation of a 500-mile gas transmission pipeline from Bryan County, OK to Choctaw County, AL at a maximum allowable operating pressure (MAOP) of 80% of the specified minimum yield strength (SMYS).
PHMSA–2007–27647.	Great Lakes Gas Transmission ...	49 CFR 192.611.	To authorize operation of 720 feet of a gas transmission pipeline in Emmet County, MI without reducing operating pressure as a result of a change from a Class 2 to Class 3 location.
PHMSA–2007–27646.	Cameron LNG, LLC	49 CFR 193.2301.	To authorize the use of automatic ultrasonic testing (AUT) to inspect LNG tank welds.
PHMSA–2007–27608.	West Virginia Oil Gathering Corporation.	49 CFR 195.8	To authorize the insertion of polyethylene lined, glass fiber reinforced pipe into an existing steel pipeline to transport crude oil across the Ohio River near Belmont, WV.

PHMSA is correcting the **Federal Register** notice of February 8, 2007, as follows:

PHMSA–2006–26617.	TransCanada Keystone Pipeline, LP.	49 CFR 195.106. 49 CFR 195.406	To authorize operation of a 1,369-mile crude oil pipeline from the Canadian border near Cavalier County, ND to Payne County, OK and from Jefferson County, NE to Marion County IL at a MAOP of 80% of SMYS.

Authority: 49 U.S.C. 60118(c)(1) and 49 CFR 1.53.

Issued in Washington, DC, on April 19, 2007.

Joy Kadnar,

Director, Office of Engineering and Emergency Support.

[FR Doc. E7–7938 Filed 4–25–07; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35011]

Wisconsin & Southern Railroad Company—Trackage Rights Exemption—Soo Line Railroad Company d/b/a Canadian Pacific Railway

Pursuant to a written trackage rights agreement, Soo Line Railroad Company d/b/a Canadian Pacific Railway (CPR) has agreed to grant nonexclusive overhead trackage rights to Wisconsin & Southern Railroad Company (WSOR) over a line of railroad between the connection of WSOR with CPR's Watertown Subdivision at milepost 93.20 in North Milwaukee, WI, and the connection of CPR and the Northeast Illinois Regional Commuter Railroad Corporation [1] on CPR's C&M Subdivision at milepost 32.3 at Rondout, IL.[2]

The transaction is scheduled to be consummated on or after the May 10, 2007 effective date of the exemption (30 days after the exemption was filed).[3]

The purpose of the trackage rights is to enable WSOR to handle more efficiently existing movements of specific traffic between Chicago, IL, and North Milwaukee by reducing trip mileage, time, crew costs, fuel consumption, and equipment costs.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed by May 3, 2007 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35011, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on John D. Heffner, John D. Heffner, PLLC, 1920 N Street, NW., Suite 800, Washington, DC 20036.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: April 20, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E7–8010 Filed 4–25–07; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–55 (Sub-No. 633X)]

CSX Transportation, Inc.—Abandonment Exemption—in Genesee County, MI

On April 6, 2007, CSX Transportation, Inc. (CSXT) filed with the Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a 1.78-mile line of railroad in its Northern Region, Chicago Division, Saginaw Subdivision, extending from Valuation Station 9195+50 to Valuation Station 9289+36, known as the Old Mainline in Atwood Yard, in the cities of Flint and Burton, in Genesee County, MI. The line traverses United States Postal Service Zip Codes 48503 and 48529, and includes no stations.

In addition to an exemption from the prior approval requirements of 49 U.S.C. 10903, CSXT seeks exemption from 49 U.S.C. 10904 [offer of financial assistance (OFA) procedures]. In support, CSXT states that it intends to reclassify the track as excepted track and sell or lease it to Clean Harbors Environmental Services, formerly known as Safety Kleen Industries, the only shipper on the line. According to CSXT, the line is no longer needed for common carrier service, and the shipper wants to acquire a portion of the line to switch and store its cars within its facility without incurring a common carrier obligation. This request will be addressed in the final decision.

The line does not contain federally granted rights-of-way. Any documentation in CSXT's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by July 25, 2007.

Any OFA under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,300 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than May 16, 2007. Each trail use request must be accompanied by a $200 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–55 (Sub-No. 633X), and must be sent to: (1) Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001; and (2) Steven C. Armbrust, 500 Water Street—J150, Jacksonville, FL 32202. Replies to the petition are due on or before May 16, 2007.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 245–0230 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 245–0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who

[1] In its pleadings, WSOR refers to this entity at METRA.

[2] With its verified notice of exemption, WSOR filed a redacted version of its trackage rights agreement with CPR. As required by 49 CFR 1180.6(a)(7)(ii), WSOR concurrently filed an unredacted version of the agreement, along with a motion for protective order to protect the confidential document. A protective order in this proceeding was served on April 20, 2007.

[3] In the verified notice, although WSOR proposes to consummate on or about May 9, 2007, WSOR clearly states its intent to consummate ''after the conclusion of the 30[-]day waiting period required by the Board's trackage rights exemption regulations.''

commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: April 20, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E7–8011 Filed 4–25–07; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 20, 2007.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before May 29, 2007 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–2039.

Type of Review: Extension.

Title: Claim for Refund of Federal Telephone Excise Tax.

Form: 1040EZ–T.

Description: Form 1040EZ–T was developed as a result of Notice 2006–50. The purpose of the form is to allow individuals that are not required to file an individual income tax return to claim a refund of the federal telephone excise taxes paid. The taxes must have been paid after February 28, 2003 and before August 1, 2006. This form can only be file once.

Respondents: Individuals or Households.

Estimated Total Burden Hours: 2,430,000 hours.

OMB Number: 1545–1875.

Type of Review: Extension.

Title: Revenue Procedure 2004–12, Health Insurance Costs of Eligible Individuals

Description: Revenue Procedure 2004–12 informs states how to elect a health program to be qualified health insurance for purposes of the health coverage tax credit (HCTC) under section 35 of the Internal Revenue Code. The collection of information is voluntary. However, if a state does not make an election, eligible residents of the state may be impeded in their efforts to claim the HCTC.

Respondents: State, local, and tribal governments.

Estimated Total Burden Hours: 26 hours.

OMB Number: 1545–1859.

Type of Review: Extension.

Title: Notice 2004–11, Research Credit Record Retention Agreements.

Description: This notice announces a pilot program in which the Internal Revenue Service and large and mid-size business taxpayers may enter into research credit record keeping agreements (RCRAs). If the taxpayer complies with the terms of the RCRA, the Service will deem the taxpayer to satisfy the record keeping requirements of section 6001 for purposes of the credit for increasing research activities under section 41 of the Internal Revenue Code.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 1,170 hours.

OMB Number: 1545–1574.

Type of Review: Extension.

Title: Tuition Payments Statement.

Form: 1098–T.

Description: Section 6050S of the Internal Revenue Code requires eligible education institutions to report certain information regarding tuition payments to the IRS and to students. Form 1098–T has been developed to meet this requirement.

Respondents: Business and other for-profit institutions, and not-for-profit institutions.

Estimated Total Burden Hours: 4,848,090 hours.

OMB Number: 1545–1300.

Type of Review: Extension.

Title: FI–46–89 (Final) Treatment of Acquisition of Certain Financial Institutions: Certain Tax Consequences of Federal Financial Assistance to Financial Institutions.

Description: Recipients of Federal financial assistance (FFA) must maintain an account of FFA that is deferred from inclusion in gross income and subsequently recaptured. This information is used to determine the recipient's tax liability. Also, tax not subject to collection must be reported and information must be provided if certain elections are made.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 2,200 hours.

OMB Number: 1545–2045.

Type of Review: Extension.

Title: (Announcement 2006–95) Settlement Initiative for Employees of Foreign Embassies, Foreign Consular Offices and International Organizations in the United States.

Description: The IRS has determined a substantial number of U.S. citizens and lawful permanent residents working in the international community have failed to fulfill their U.S. tax obligations. The IRS needs the information in order to apply the terms of the settlement and determine the amount of taxes, applicable statutory interest and penalties. The respondents are individuals employed by foreign embassies, foreign consular offices or international organizations in the United States.

Respondents: Individuals or households.

Estimated Total Burden Hours: 11,000 hours.

OMB Number: 1545–1721.

Type of Review: Extension.

Title: Taxable REIT Subsidiary Election.

Form: 8875.

Description: Corporations and Real Estate Investment Trusts (REIT) use Form 8875 to jointly elect to have the corporation treated as a taxable REIT subsidiary as provided in section 856(l).

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 7,660 hours.

OMB Number: 1545–1735.

Type of Review: Extension.

Title: Revenue Procedure 2001–20, Voluntary Compliance on Alien Withholding Program.

Description: The revenue procedure will improve voluntary compliance of colleges and universities in connection with their obligations to report, withhold and pay taxes due on compensation paid to foreign students and scholars (nonresident aliens). The revenue procedure provides an optional opportunity for colleges and universities which have not fully complied with their tax obligations concerning nonresident aliens to self-audit and come into compliance with applicable reporting and payment requirements.

Respondents: Not-for-profit institutions.

Estimated Total Burden Hours: 346,500 hours.

OMB Number: 1545–0763.

Type of Review: Extension.

Title: LR–200–76 (Final) Qualified Conservation Contributions.

Description: The information is necessary to comply with various substantive requirements of section 170(h), which describes situations in which a taxpayer is entitled to an income tax deduction for a charitable contribution for conservation purposes of a partial interest in real property.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 1,250 hours.

OMB Number: 1545–1038.

Type of Review: Extension.

Title: Annual Certification of a Residential Rental Project.

Form: 8703.

Description: Operators of qualified residential projects will use this form to certify annually that their projects meet the requirements of IRC section 142(d). Operators are required to file this certification under section 142(d)(7).

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 39,180 hours.

OMB Number: 1545–2044.

Type of Review: Extension.

Title: RP–104401–05 (Rev Proc 2006–XX), Procedures for Requesting Competent Authority Assistance Under Tax Treaties.

Description: Taxpayers who believe that the actions of the United States, a treaty country, or both, result or will result in taxation that is contrary to the provisions of an applicable tax treaty are required to submit the requested information in order to receive assistance from the IRS official acting as the U.S. competent authority. The information is used to assist the taxpayer in reaching a mutual agreement with the IRS and the appropriate foreign competent authority.

Respondents: Individuals or households.

Estimated Total Burden Hours: 9,000 hours.

OMB Number: 1545–1862.

Type of Review: Extension.

Title: Information Regarding Request for Refund of Social Security Tax Erroneously Withheld on Wages Received by a Nonresident Alien on an F, J, or M Type Visa.

Form: 8316.

Description: Form 8316 is requested from nonresident alien taxpayers claiming a refund of Social Security tax erroneously withheld on wages received.

Respondents: Individuals or households.

Estimated Total Burden Hours: 5,500 hours.

OMB Number: 1545–2047.

Type of Review: Extension.

Title: Rev Proc 2007–21 (RP–155431–05) Revenue Procedure Regarding 6707/6707A Rescission Request Procedures.

Description: This revenue procedure provides guidance to persons who are assessed a penalty under section 6707A or 6707 of the Internal Revenue Code, and who may request rescission of those penalties from the Commissioner.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 430 hours.

OMB Number: 1545–2050.

Type of Review: Extension.

Title: Notice 2006–109—Interim Guidance Regarding Supporting Organizations and Donor Advised Funds.

Description: This notice provides interim guidance regarding application of new or revised requirements under sections 1231 and 1241–1244 of the Pension Protection Act of 2006. It also provides interim relief from application of new excise taxes on private foundation grants to supporting organizations and on sponsoring organizations of donor advised funds.

Respondents: Not-for-profit institutions.

Estimated Total Burden Hours: 612,294 hours.

OMB Number: 1545–1589.

Type of Review: Extension.

Title: Revenue Procedure 98–19, Exceptions to the notice and reporting requirements of section 6033(e)(1) and the tax imposed by section 6033(e)(2).

Description: Revenue Procedure 98–19 provides guidance to organizations exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 on certain exceptions from the reporting and notice requirements of section 6033(e)(1) and the tax imposed by section 6033(e)(2).

Respondents: Not-for-profit institutions.

Estimated Total Burden Hours: 150,000 hours.

OMB Number: 1545–1564.

Type of Review: Extension.

Title: REG–103330–97 (Final) IRS Adoption Taxpayer Identification Numbers.

Description: The regulation authorized the IRS to assign a new form of taxpayer identification number, the IRS Adoption Taxpayer Identification Number (ATIN), to children who are being adopted. The regulation is issued under section 6109 and is effective for tax returns due on or after April 15, 1998.

Respondents: Individuals or households.

Estimated Total Burden Hours: 1 hour.

OMB Number: 1545–1579.

Type of Review: Extension.

Title: Notice 98–1, Nondiscrimination, and REG–108639–99 (Final), Retirement Plans; Cash or Deferred Arrangements Under Section 401(k) and Matching Contributions or Employee Contributions.

Description: The notice and regulation provide guidance for discrimination testing under section 401(k) and (m) of the Internal Revenue Code as amended by section 1433 (c) and (d) of the Small Business Job Protection Act of 1996. The guidance is directed to employers maintaining retirement plans subject to these Code sections.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 49,000 hours.

OMB Number: 1545–1579.

Type of Review: Extension.

Title: Gas Guzzler Tax.

Form: 6197.

Description: Form 6197 is used to compute the gas guzzler tax on automobiles whose fuel economy does not meet certain standards for fuel economy. The tax is reported quarterly on Form 720. Form 6197 is filed each quarter with Form 720 for manufacturers. Individuals can make a one-time filing if they import a gas guzzler auto for personal use. The IRS uses the information to verify computation of the tax and compliance with the law.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 2,892 hours.

Clearance Officer: Glenn P. Kirkland, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, (202) 622–3428.

OMB Reviewer: Alexander T. Hunt, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, (202) 395–7316.

Robert Dahl,

Treasury PRA Clearance Officer.

[FR Doc. E7–8012 Filed 4–25–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 20, 2007.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before May 29, 2007 to be assured of consideration.

Community Development Financial Institutions Fund (CDFI)

OMB Number: 1559–0027.

Type of Review: Revision.

Form: CDFI 0007.

Title: CDFI Program and NMTC Program Annual Report including CIIS.

Description: This data collection is be used to collect compliance and performance data from certified CDFIs and CDEs and from NACD awardees. This data collection replaces the Annual Survey and parts of the Annual Report (OMB # 1559–0006).

Respondents: Business and other for-profit institutions.

Estimated Total Burden Hours: 14,186 hours.

Clearance Officer: Ashanti McCallum, Community Development Financial Institutions Fund, Department of the Treasury, 601 13th Street, NW., Suite 200 South, Washington, DC 20005, (202) 622–9018.

OMB Reviewer: Alexander T. Hunt, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, (202) 395–7316.

Robert Dahl,

Treasury PRA Clearance Officer.

[FR Doc. E7–8013 Filed 4–25–07; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Notice of Cancellation of Customs Broker License Due To Death of the License Holder

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

ACTION: General Notice.

SUMMARY: Notice is hereby given that, pursuant to Title 19 of the Code of Federal Regulations at section 111.51(a), the following individual Customs broker licenses and any and all permits have been cancelled due to the death of the broker:

Name	License #	Port name
Darlene A. Liskiewicz	6410	Buffalo.
Brenda K. Chronister	20443	St. Louis.

Dated: April 16, 2007.

Daniel Baldwin,

Assistant Commissioner, Office of International Trade.

[FR Doc. E7–7960 Filed 4–25–07; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Notice of Cancellation of Customs Broker License

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

ACTION: General Notice.

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930, as amended, (19 U.S.C. 1641) and the Customs Regulations (19 CFR 111.51), the following Customs broker licenses are cancelled without prejudice.

Name	License #	Issuing port
Martin, Kassatly & Company	13056	San Francisco.
Cornerstone Logistics, Inc.	17392	San Francisco.
Braverman Enterprise, Inc.	21051	Los Angeles.
BLG, Inc.	7360	New York.
Carol L. Page	7627	Seattle.

Dated: April 16, 2007.

Daniel Baldwin,

Assistant Commissioner, Office of International Trade.

[FR Doc. E7–7961 Filed 4–25–07; 8:45 am]

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Federal Register

Thursday,
April 26, 2007

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 25

Activation of Ice Protection; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2007–27654; Notice No. 07–07]

RIN 2120–AI90

Activation of Ice Protection

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Aviation Administration proposes to amend the airworthiness standards applicable to transport category airplanes certificated for flight in icing conditions. The proposed standards would require a means to ensure timely activation of the airframe ice protection system. This proposed regulation is the result of information gathered from a review of icing accidents and incidents, and is intended to improve the level of safety for new airplane designs for operations in icing conditions.

DATES: Send your comments on or before July 25, 2007.

ADDRESSES: You may send comments identified by Docket Number FAA–2007–27654 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: Kathi Ishimaru, FAA, Propulsion/Mechanical Systems Branch, ANM–112, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, WA 98057–3356; telephone (425) 227–2674; facsimile (425) 227–1320, e-mail *kathi.ishimaru@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.

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 Title 14, Code of Federal Regulations (14 CFR) 11.35(b), when we are aware of proprietary information filed with a comment, we do not place it in the docket. We hold it in a separate file to which the public does not have access, and place a note in the docket that we have received it. If we receive a request to examine or copy this information, we treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). We process such a request under the DOT procedures found in 49 CFR part 7.

Availability of 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 FAA's Regulations and Policies web page at *http://www.faa.gov/regulations_policies*; or

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

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

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, the FAA is charged with promoting safe flight of civil aircraft in air commerce by prescribing minimum standards required in the interest of safety for the design and performance of aircraft; regulations and minimum standards in the interest of safety for inspecting, servicing, and overhauling aircraft; and regulations for other practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it prescribes—

- New safety standards for the design of transport category airplanes.
- New safety requirements that are necessary for the design, production, operations, and maintenance of those airplanes, and for other practices, methods and procedures relating to those airplanes.

Background

On October 31, 1994, an accident involving an Avions de Transport Regional ATR 72 series airplane occurred in icing conditions. This prompted the FAA to initiate a review of aircraft inflight icing safety and determine changes that could be made to increase the level of safety. In May 1996, the FAA sponsored the International Conference on Aircraft Inflight Icing where icing specialists recommended improvements to increase the level of safety of aircraft operating in icing conditions. The FAA reviewed the conference recommendations and developed a comprehensive multi-year icing plan. The FAA Inflight Aircraft Icing Plan (Icing Plan), dated April 1997,[1] described various activities the FAA was contemplating to improve safety when operating in icing conditions. In accordance with the Icing Plan, the FAA tasked the Aviation Rulemaking Advisory Committee (ARAC),[2] through its Ice Protection Harmonization Working Group, to consider the need for ice detectors or other acceptable means to warn flightcrews of ice accretion on critical surfaces requiring crew action. This proposed rule is based on ARAC's recommendations to the FAA.

Appendix 1 defines terms used in this notice of proposed rulemaking (NPRM).

A. Existing Regulations for Flight in Icing Conditions

Currently, the certification regulations applicable to transport category airplanes for flight in icing conditions require: ''the airplane must be able to operate safely in the continuous maximum and intermittent maximum icing conditions of appendix C.''[3]

Parts 91, 121, and 135 contain regulations that apply to airplane operations in icing conditions. Operating regulations under part 91 and 135 address limitations in icing conditions for airplanes operated under these regulations.[4] Part 121 addresses operations in icing conditions that might adversely affect safety and installation of certain types of ice protection equipment and wing illumination equipment.[5]

Neither the operating regulations nor the certification regulations require a means to warn flightcrews of ice accretion on critical surfaces requiring crew action.

B. National Transportation Safety Board Safety Recommendations

The National Transportation Safety Board (NTSB) issued the following safety recommendations related to airframe icing that are partially addressed by this proposal:

- NTSB Safety Recommendation No. A–96–56[6] is a result of the Avions de Transport Regional ATR 72 series airplane accident in Roselawn, Indiana on October 31, 1994, where 68 people died. The accident airplane crashed during a rapid descent after an uncommanded roll excursion while operating in icing conditions. The NTSB recommended that the FAA require a means for flightcrews to positively determine when they are in icing conditions that exceed the limits for aircraft certification.
- NTSB Safety Recommendation No. A–98–91[7] is a result of the Empresa Brasileira de Aeronautica, S/A (Embraer) EMB–120 series airplane accident near Monroe, Michigan, on January 9, 1997, where 29 people died. The accident airplane crashed while operating in icing conditions. The flightcrew may not have activated the airframe ice protection system. The NTSB recommended that the FAA require manufacturers and operators to revise their manuals and training to emphasize that leading edge deicing boots should be activated as soon as the airplane enters icing conditions.

C. Authorities

1. Federal Aviation Administration

Title 14 CFR part 25 contains the U.S. airworthiness standards for type certification of transport category airplanes. These standards apply to airplanes manufactured within the U.S. and to airplanes manufactured in other countries and imported to the U.S. under a bilateral airworthiness agreement.

2. Joint Aviation Authorities

The Joint Airworthiness Requirements (JAR)–25 contain the European airworthiness standards for type certification of transport category airplanes. Thirty-seven European countries accept airplanes type certificated to JAR–25 standards, including airplanes manufactured in the U.S. that are type certificated to JAR–25 standards for export to Europe.

3. European Aviation Safety Agency

A new aviation regulatory body, the European Aviation Safety Agency (EASA), was established by the European community to develop standards to ensure the highest level of safety and environmental protection, oversee their uniform application, and promote them internationally. The EASA formally became operational for certification of aircraft, engines, parts, and appliances on September 28, 2003. The EASA will eventually absorb all functions and activities of the Joint Aviation Authorities, including its efforts to harmonize EASA's airworthiness certification regulations with those of the U.S.

The JAR–25 standards have been incorporated into EASA's ''Certification Specifications for Large Aeroplanes,'' (CS)–25, in similar if not identical language. The EASA's CS–25 became effective October 17, 2003.

D. Harmonization of U.S. Standards With Those of Other Countries

The airworthiness standards proposed in this NPRM were developed before EASA began operations. They were developed in coordination with the Joint Aviation Authorities (JAA), United Kingdom Civil Aviation Authority, and Transport Canada.

[1] FAA Inflight Aircraft Icing Plan, dated April 1997, available in the Docket.

[2] Published in the **Federal Register**, December 8, 1997 (62 FR 64621).

[3] Section 25.1419, Ice Protection.

[4] 14 CFR 91.527, Operating in icing conditions; and § 135.227, Icing conditions: Operating limitations.

[5] 14 CFR 121.629(a), Operation in icing conditions and § 121.341, Equipment for operations in icing conditions.

[6] NTSB recommendation A–96–56; available in the Docket and on the Internet at: *http://www.ntsb.gov/Recs/letters/1996/A96_48_69.pdf.*

[7] NTSB recommendation A–98–91, available in the Docket and on the Internet at *http://www.ntsb.gov/Recs/letters/1998/A98_88_106.pdf.*

E. Related Rulemaking Activity

1. Docket No. 2005–22840; Notice No. 05–10

The proposed rulemaking would amend part 25 by adding specific requirements for airplane performance and handling qualities for flight in icing conditions. Further, the proposal amends § 25.1419 to address certification approval for flight in icing conditions for airplanes without ice protection features. Those proposed changes do not impact this rulemaking. However, this rulemaking may result in minor conforming changes to the airplane performance and handling qualities for flight in icing conditions rules.

2. ARAC Ice Protection Harmonization Working Group Recommendations

The ARAC has submitted additional rulemaking recommendations to the FAA to improve the safety of operations in icing conditions:

- Part 121 recommendations to address activation of ice protection systems.
- Part 121 recommendations to require certain airplanes to exit icing conditions.
- Part 25 and 33 recommendations to address operations in supercooled large droplet, mixed phase, and glaciated icing conditions.

The recommendations may lead to future rulemaking, but do not directly impact this NPRM.

F. Advisory Material

In addition to this NPRM, the FAA is developing Advisory Circular (AC) 25.1419–2x, Compliance with the Ice Protection Requirements of §§ 25.1419(e), (f), (g), and (h). This proposed AC would provide guidance material for one acceptable means, but not the only means, of demonstrating compliance with this proposed rule. The proposed AC will be posted on ''Aircraft Certification Draft Documents Open for Comment'' Web site, *http://www.faa.gov/aircraft/draft_docs,* on the same date this NPRM is published in the **Federal Register** The date comments are due is indicated on that Web site.

Discussion of the Proposal

A. Safety Concern

The ARAC Ice Protection Harmonization Working Group reviewed icing events and found accidents and incidents where the flightcrew was either completely unaware of ice accretion on the airframe, or was aware of ice accretion, but judged that it was not significant enough to warrant operation of the airframe ice protection system (IPS). The ARAC Ice Protection Harmonization Working Group concluded and recommended to the FAA that flightcrews must be provided with a clear means to know when to activate the IPS.

B. Means To Address the Safety Concern

The FAA has issued airworthiness directives to address the safety concern of when to activate the IPS on certain airplanes. These airworthiness directives require activation of pneumatic deicing boots at the first signs of ice accretion on the airplane. This requirement relieves the pilot of the responsibility for determining if the amount of ice accumulated on the wing warrants activation of the IPS. However, activation of the deicing boots is still subject to the flightcrew's observation of ice accretions, and such observations can be difficult during times of high workload, operations at night, or when clear ice has accumulated. Also, the difficulties of observing ice accretions are applicable to *any* IPS that relies on the flightcrew's observations for activating the system, not just pneumatic deicing boots.

The ARAC Ice Protection Harmonization Working Group concluded that installing a device to alert the flightcrew to activate the IPS would be an improved means to address these situations for future airplanes. A primary ice detection system would be one acceptable means. A primary ice detection system typically consists of two independent detectors. It could either automatically activate the IPS, or provide an indication to the flightcrew when the system must be activated manually. An advisory ice detection system, in conjunction with substantiated visual cues, would also be an acceptable means. The acceptability is contingent upon:

- An advisory ice detection system that annunciates when icing conditions exist or when the substantiated visual cues are present.
- The substantiated visual cues rely on the flightcrew's observation of the first sign of ice accretion on the airplane and do not depend on the pilot determining the thickness of the accretion.
- The flightcrew activates the ice protection system when they observe the ice accretion or when the ice detector annunciates, whichever occurs first.

An advisory ice detection system typically consists of one detector. Such a system does not have sufficient reliability to be the primary means of determining when the IPS must be activated. However, the advisory ice detection system would provide a much higher level of safety than visual cues alone and would mitigate the effects of human sensory limitations and inadequate attention due to workload.

The ARAC Ice Protection Harmonization Working Group also concluded that an acceptable alternative to requiring an ice detector would be to require operating the IPS whenever the airplane is operating in conditions conducive to airframe icing. In this case, the flightcrew would activate the IPS in response to a specific air temperature threshold and the presence of visible moisture. Because ambient temperature is indicated by flightdeck instruments and the flightcrew can readily observe visible moisture, deciding when to initiate the system would require little increased effort by the flightcrew.

The IPS activation method should be applicable during all phases of flight, unless it can be shown that the IPS need not be activated during certain phases of flight. For example, if the IPS is not operated during takeoff until after the second segment climb, then the applicant must substantiate that the airplane can operate safely with ice accretions that could form prior to this point.

The FAA concurs with the safety concern that flightcrews must be provided with a clear means to know when to activate the IPS. To ensure timely activation of the IPS, the proposed § 25.1419(e) requires one of the three acceptable methods recommended by the ARAC Ice Protection Harmonization Working Group: a primary ice detector, visual cues and an advisory ice detector, or operation based on temperature and visible moisture.

Specifically, proposed § 25.1419(e) requires one of the following methods of icing detection and activation of the airframe IPS:

(1) A primary ice detection system that automatically activates or alerts the flightcrew to activate the airframe IPS; or

(2) A definition of visual cues for recognition of the first sign of ice accretion on a specified surface combined with an advisory ice detection system that alerts the flightcrew to activate the airframe IPS; or

(3) Identification of conditions conducive to airframe icing as defined by an appropriate static or total air temperature and visible moisture for use by the flightcrew to activate the airframe IPS.

Proposed § 25.1419(f) requires the activation method be applicable to all phases of flight unless it can be shown that the ice protection system need not be operated during specific phases of flight. Proposed § 25.1419(h) requires that the procedures for operating the ice protection system be included in the Airplane Flight Manual.

C. Flightcrew Workload

The FAA is concerned with the flightcrew workload created if an IPS must be manually cycled. Manual operation of the IPS could be a distraction during the approach and landing phases of flight which typically involve higher pilot workloads. During these critical phases of flight, flightcrews have less time to devote to managing the airplane ice accretions. An IPS that is automatically cycled or operates on a continuous basis (for example, an anti-icing system) does not create this additional workload and, therefore, is not a concern. Section 25.1419(g) of this proposed rule alleviates the workload concerns by requiring airplanes to be equipped with an IPS that would operate in a cyclical manner. This would include a system that would automatically cycle the IPS or an ice detection system that would alert the flightcrew whenever IPS cycling is necessary.

D. Applicability of the Proposed Rule

A review of icing events found discriminating design factors, such as wing chord length or airplane weight, significantly influence the risk of icing accidents and incidents. The FAA and the ARAC Ice Protection Harmonization Working Group, however, determined that a certification rule dealing with ice detectors should not be limited to a specific group of airplanes because of past performance. Since future airplane designs could change, a similar safety record might not be achieved. Relying solely on past performance data for future airplane designs would not be prudent. Therefore, the proposed rule is applicable to all part 25 airplanes.

E. Technology

The FAA and ARAC Ice Protection Harmonization Working Group reviewed the current state of ice detector technology and found that it provides a viable means of compliance with the proposed rule. Several methods exist that can reliably alert the flightcrew to activate the IPS. This technology has been certificated for use on airplanes to alert or advise the pilot of ice or as the primary means of determining when the IPS should be activated.

One ice detection system that is commercially available indicates when a deicing IPS should be initially activated and subsequently activated if the IPS operates in a cyclical manner. This system has sensors installed on the protected airplane surfaces that sense the accretion of ice sufficient to warrant cycling of a deicing system. Other ice detection systems are capable of sensing the rate of ice accretion and are able to indicate when a deicing IPS should be cycled based on ice accretion since the preceding cycling of the system.

F. Differences From the ARAC Recommendation

The ARAC Ice Protection Harmonization Working Group recommended identification of conditions conducive to airframe icing as one method of icing detection and activation of the airframe ice protection system. However, identification of conditions conducive to airframe icing is only a method of icing detection and not of activation. Therefore, the FAA revised the ARAC recommendation by clarifying that identification of conditions conducive to airframe icing is to be used for both icing detection and activation of the IPS. The revision is considered a minor change and does not affect the intent of the ARAC recommendation.

Rulemaking Notices and Analyses

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. An Airplane Flight Manual is required by existing part 25 regulations and must contain information that is necessary for safe operation of the airplane. The proposed rule requires that the procedures for operating the ice protection system be included in the Airplane Flight Manual. The proposed rule is applicable to future certification programs and does not require changes to existing Airplane Flight Manuals. Therefore, we have determined that there are no new information collection requirements associated with this proposed rule.

International Compatibility

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

Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, ''Regulatory Planning and Review,'' dated September 30, 1993 (58 FR 51736) directs the FAA to assess both the costs and the benefits of a regulatory change. We are not allowed to propose or adopt a regulation unless we make a reasoned determination that the benefits of the intended regulation justify the costs. Our assessment of this rulemaking indicates that its economic impact is minimal. Because the costs and benefits of this action do not make it a ''significant regulatory action'' as defined in the Order, we have not prepared a ''regulatory evaluation,'' which is the written cost/benefit analysis ordinarily required for all rulemaking under the DOT Regulatory Policies and Procedures. We do not need to do a full evaluation where the economic impact of a rule is minimal.

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

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

Department of Transportation Order DOT 2100.5 prescribes policies and

procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this proposed rule. The reasoning for this determination follows.

An assessment has been conducted of the economic cost impact of the proposed rule amending § 25.1419 of Title 14 of the Code of Federal Regulations (14 CFR) part 25. The FAA proposes to change the regulations applicable to transport category airplanes certificated for flight in icing conditions. This proposal would require newly certificated part 25 transport category airplanes certificated for flight in icing to have one of the following methods to detect ice and activate the airframe IPS:

- A primary ice detection system, automatic or manual;
- The definition of visual cues for recognition of the first sign of ice accretion on a specified surface combined with an advisory ice detection system that alerts the flightcrew; or
- The identification of icing conditions by an appropriate static or total air temperature and visible moisture cues.

This proposal is the result of information gathered from a review of historical icing accidents and incidents. This proposal is intended to improve the level of safety when part 25 airplanes are operated in icing conditions.

A. Cost Discussion

1. *Major Assumptions.* This evaluation makes the following assumptions:

- We used a $50 hourly rate for a mechanic/technician and a $75 hourly rate for an engineer working for an airplane manufacturer or modifier.[8]
- Whenever various compliance options are available to the manufacturers, we chose the least costly option in our analysis.

Other data and derived assumptions are discussed in the following sections on costs and benefits.

2. *Industry Estimate of Costs.* This section discusses the costs to require part 25 manufacturers to include a method of ice detection for newly certificated transport category airplanes.

This proposal would require manufacturers of part 25 airplanes to provide the flightcrew with an effective method of ice detection. Such a method would provide a means, via an ice detection system (IDS), to alert the flightcrew of icing conditions and enable timely activation of the airframe ice protection system (IPS) for the initial and any subsequent cycles.

The requirements for ice detection and activation of the airframe IPS are applicable to all phases of flight, unless it can be shown that the IPS need not be operated during specific phases of flight. If the IPS operates in a cyclical manner, it must either include a system that automatically cycles the IPS, or there must be a method that alerts the flightcrew each time the IPS must be cycled. In addition, this proposal would require that the Airplane Flight Manual contain procedures for activation and operation of the IPS.

The Goodrich Corporation and the ARAC Ice Protection Harmonization Working Group provided us with manufacturer cost estimates for System Design, System Qualification, Hardware, Installation, and Maintenance.

3. *Section-by-Section Estimate of Costs.* The cost estimates, by section, are discussed next.

§ 25.1419(e)

This section proposes three alternative methods of ice detection:

- A primary IDS, automatic or manual; or
- The definition of visual cues for recognition of the first sign of ice accretion on a specified surface combined with an advisory ice detection system that alerts the flightcrew; or
- The identification of icing conditions by an appropriate static or total air temperature and visible moisture cues.

Any of the three proposed ice detection methods would enable timely activation of the airframe IPS and satisfy the intent of this proposal.

The first method of ice detection is the use of a primary IDS. A primary IDS usually has two ice detectors. The cost of an ice detector used in this analysis is based on the Goodrich Corporation's average price of $6,000 per ice detector for a production airplane. Assuming the primary IDS has two ice detectors, we estimate the average cost for a primary IDS to be about $485,000 per certification, $12,000 ($6,000 × 2) for the hardware and $2,500 for the installation, or $14,500 ($12,000 + $2,500) per airplane. Table 1 shows a detailed breakout of these cost estimates.

TABLE 1.—COSTS FOR § 25.1419(e)(1)—PRIMARY ICE DETECTION SYSTEM

Manufacturer non-recurring costs (per aircraft group/type) 2006$	Hours	Hourly rate	Additional cost	Cost
System Design:				
System architecture/Integration	3,000	$75		$225,000
Ice detector positioning	300	75		22,500
Procedures for AFM, AOM/FCOM & MMEL	200	75		15,000
System Qualification/certification:				
Ice detector qualification	300	75		22,500
Ice detection system certification	600	75		45,000
Flight tests	400	75	$100,000	130,000
Installation Design:				
Installation drawings	500	50		25,000
Total	5,300			485,000
Costs (per airplane):				
Hardware (Primary Ice Detection System)			12,000	12,000
Installation	50	50		2,500
Additional weight is 5–10 kg				0

[8] "APO–300 Guidance on Labor Costs", May 2006.

TABLE 1.—COSTS FOR § 25.1419(e)(1)—PRIMARY ICE DETECTION SYSTEM—Continued

Manufacturer non-recurring costs (per aircraft group/type) 2006$	Hours	Hourly rate	Additional cost	Cost
Total				14,500

The second method of ice detection is the use of an advisory IDS along with visual cues. The major difference between a primary and an advisory IDS is that the primary IDS is the principal means to determine when the airframe IPS should be activated. In contrast, an advisory IDS is a backup to the flightcrew and has only one ice detector. The average cost for an advisory IDS is estimated to be $447,500 per certification, $6,000 for the hardware and $1,250 for the installation, or $7,250 ($6,000 + $1,250) per airplane. Table 2 shows a detailed breakout of these cost estimates.

TABLE 2.—COSTS FOR § 25.1419(e)(2)—ADVISORY ICE DETECTION SYSTEM AND VISUAL CUES

Manufacturer non-recurring costs (per aircraft group/type) 2006$	Hours	Hourly rate	Additional cost	Cost
System Design:				
System architecture/Integration	2,500	$75		$187,500
Ice detector positioning	200	75		15,000
Visual cue determination/design	200	75		15,000
Procedures for AFM, AOM/FCOM & MMEL	200	75		15,000
System Qualification/certification:				
Ice detection qualification	300	75		22,500
Visual cue substantiation	200	75		15,000
Ice detection system certification	300	75		22,500
Flight tests	400	75	$100,000	130,000
Installation Design:				
Installation drawings	500	50		25,000
Total	4,800			447,500
Costs (per airplane):				
Hardware (Advisory Ice Detection System)			6,000	6,000
Installation	25	50		1,250
Additional weight is 5–10 kg				0
Total				7,250

The third method of ice detection is a definition of conditions conducive to airframe icing that would be used by the flightcrew to activate the airframe IPS. This definition would be included in the Airplane Flight Manual. There are no costs imposed on the airplane manufacturers with this option.

A summary of the costs for each alternative is shown in Table 3:

TABLE 3.—COST SUMMARY—§ 25.1419(e)

§ 25.1419 Alternatives	Costs	
	Per certification	Per airplane
(e)(1) Primary IDS	$485,000	$14,500
(e)(2) Advisory IDS and Visual Cues	447,500	7,250
(e)(3) Temperature and Moisture	0	0

The least cost alternative is to activate the existing airframe IPS whenever the airplane is operating in conditions conducive to airframe icing based on a specific air temperature threshold and the presence of visible moisture. Since there are no additional certification or production costs to manufacturers by complying with § 25.1419(e)(3) through this alternative, we have determined there are no costs associated with compliance with § 25.1419(e).

We are aware some manufacturers may choose to install more complex systems ((e)(1) or (e)(2)), and want to note these more complex systems are acceptable alternatives to (e)(3).

§ 25.1419(f). Section 25.1419(f) describes the applicability of the proposed rule, so there are no additional costs associated with this section.

§ 25.1419(g). After the initial operation of the IPS, § 25.1419(g) provides alternatives the manufacturer must provide to the operator for safe flight. These alternatives are:

- The IPS must operate continuously, or
- The airplane must be equipped with a system that automatically cycles the IPS, or
- An ice detection system must be provided to alert the flightcrew each time the IPS must be cycled.

Section 25.1419(g) applies to airplanes with either a thermal anti-ice protection system or an IPS that operates in a cyclical manner. Thermal anti-ice protection systems operate continuously while deicing systems usually operate cyclically.

Section 25.1419(g)(1) applies primarily to thermal anti-ice protection systems. Thermal anti-ice protection systems typically use heat or freezing point depressant fluids to keep protected surfaces of the airplane free of ice accretions.

No additional manufacturing costs are associated with § 25.1419(g)(1) because once a thermal anti-ice protection system is activated, it is capable of operating continuously.

Section 25.1419(g)(2) and (3) applies to IPS that operate in a cyclical manner. Past delivery history has shown that about 97% of U.S manufactured part 25 airplanes delivered have thermal anti-ice protection systems and 3% have deicing IPSs that operate in a cyclical manner. Cessna is the only U.S. manufacturer that currently delivers new part 25 certificated airplanes with an IPS that operates in a cyclical manner. Those airplanes delivered with an IPS that operates in a cyclical manner were certificated in September 1971.[9] Later variants from that September 1971 type certificate and all later part 25 new Cessna certifications have thermal anti-ice protection systems that operate continuously. We believe the trend for new part 25 aircraft certifications is toward thermal anti-ice protection systems that operate continuously. Because of the trend of part 25 manufacturers to install thermal anti-ice protection systems in their newly certificated part 25 airplanes, we believe there are no costs imposed on the airplane manufacturers by § 25.1419(g).

We seek comments from U.S. manufacturers on their plans to produce a newly part 25 certificated aircraft with deicing systems that operate cyclically and the associated certification costs.

§ 25.1419(h). Future Airplane Flight Manuals can readily be prepared to include appropriate icing procedures for future certificated air transport category airplanes. Thus minimal costs are associated with § 25.1419(h).

4. *Conclusion.* Since this final rule has minimal costs, a full regulatory evaluation was not prepared. The FAA requests comments with supporting justification about our determination of a minimal impact from this proposal.

Regulatory Flexibility Determination

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

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

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

All United States transport category aircraft manufacturers exceed the Small Business Administration small-entity criteria of 1,500 employees.

Therefore, the FAA certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. The FAA solicits comments regarding this determination.

Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39) prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this proposed rule and has determined that it would impose the same costs on domestic and international entities and thus has a neutral trade impact.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (adjusted annually for inflation with the base year 1995) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $128.1 million in lieu of $100 million. This proposed rule does not contain such a mandate.

Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action 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, and therefore would not have federalism implications.

Regulations Affecting Intrastate Aviation in Alaska

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the Administrator, when modifying regulations in 14 CFR in a manner affecting intrastate aviation in Alaska, to consider the extent to which Alaska is not served by transportation modes other than aviation, and to establish such regulatory distinctions as he or she considers appropriate. Because this proposed rule would apply to the certification of future designs of transport category airplanes and their subsequent operation, it could, if adopted, affect intrastate aviation in Alaska. The FAA therefore specifically requests comments on whether there is justification for applying the proposed rule differently in intrastate operations in Alaska.

Plain English

Executive Order 12866 (58 FR 51735, Oct. 4, 1993) requires each agency to write regulations that are simple and easy to understand. We invite your comments on how to make these proposed regulations easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain unnecessary technical language or jargon that interferes with their clarity?
- Would the proposed regulations be easier to understand if they were divided into more (but shorter) sections?
- Is the description in the preamble helpful in understanding the proposed regulations?

[9] Type Certification Data Sheet No. A22CE.

Please send your comments to the address specified in the **ADDRESSES** section.

Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined that this proposed rulemaking action qualifies for the categorical exclusion identified in paragraph 4(j).

Regulations That Significantly Affect Energy Supply, Distribution, or Use

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

Appendix 1—Definition of Terms Used in This NPRM

For the purposes of this NPRM, the following definitions are applicable. These definitions of terms are intended for use *only* with this NPRM:

a. *Advisory ice detection system:* An advisory system annunciates the presence of icing conditions or ice accretion. The advisory ice detection system provides information advising the flightcrew of the presence of ice accretion or icing conditions. It can only be used in conjunction with other means (most commonly, visual observation by the flightcrew) to determine the need for, or timing of, activating the anti-icing or deicing system. The flightcrew is responsible for monitoring the icing conditions or ice accretion as defined in the AFM (typically using total air temperature and visible moisture criteria or visible ice accretion) and activating the anti-icing or deicing system(s).

b. *Airframe icing:* Airframe icing is ice accretions on portions of the airplane, with the exception of the propulsion system, on which supercooled liquid droplets may impinge.

c. *Anti-icing:* Anti-icing is the prevention of ice accretions on a protected surface, either:

- By evaporating the impinging water; or
- By allowing it to run back and off the surface or freeze on non-critical areas.

d. *Automatic cycling mode:* An automatic cycling mode is a mode of operation of the airframe deicing system that provides repetitive cycles of the system without the need for the pilot to select each cycle. This is generally done with a timer, and there may be more than one timing mode.

e. *Deicing:* Deicing is the removal or the process of removal of an ice accretion after it has formed on a surface.

f. Ice *Protection System:* An ice protection system (IPS) is a system that protects certain critical airframe parts from ice accretion. To be an approved system, it must satisfy the requirements of § 25.1419.

g. *Primary ice detection system:* A primary ice detection system is used to determine when the IPS must be activated. The system annunciates the presence of ice accretion or icing conditions, and may also provide information to other aircraft systems. A primary *automatic* system automatically activates the anti-icing or deicing IPS. With a primary *manual* system, the flightcrew activates the anti-icing or deicing IPS upon indication from the primary ice detection system.

h. *Static air temperature:* The air temperature as would be measured by a temperature sensor not in motion with respect to that air. This temperature is also referred to in other documents as ''outside air temperature,'' ''true outside temperature,'' or ''ambient temperature.''

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements, Safety, Transportation.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 25 of Title 14, Code of Federal Regulations, as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. The authority citation for part 25 continues to read as follows:

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

2. Amend § 25.1419 by adding new paragraphs (e), (f), (g), and (h) to read as follows:

§ 25.1419 Ice Protection.

* * * * *

(e) One of the following methods of icing detection and activation of the airframe ice protection system must be provided:

(1) A primary ice detection system that automatically activates or alerts the flightcrew to activate the airframe ice protection system;

(2) A definition of visual cues for recognition of the first sign of ice accretion on a specified surface combined with an advisory ice detection system that alerts the flightcrew to activate the airframe ice protection system; or

(3) Identification of conditions conducive to airframe icing as defined by an appropriate static or total air temperature and visible moisture for use by the flightcrew to activate the airframe ice protection system.

(f) Unless the applicant shows that the ice protection system need not be operated during specific phases of flight, the requirements of paragraph (e) are applicable to all phases of flight.

(g) After the initial activation of the ice protection system—

(1) The ice protection system must operate continuously;

(2) The airplane must be equipped with a system that automatically cycles the ice protection system; or

(3) An ice detection system must be provided to alert the flightcrew each time the ice protection system must be cycled.

(h) Procedures for operation of the ice protection system must be established and documented in the Airplane Flight Manual.

Issued in Washington, DC, on April 11, 2007.

John J. Hickey,

Director, Aircraft Certification Service.

[FR Doc. E7–7944 Filed 4–25–07; 8:45 am]

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