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WHEN: Tuesday, June 12, 2007
9:00 a.m.–Noon

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Conference Room, Suite 700
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Washington, DC 20002

RESERVATIONS: (202) 741–6008

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Federal Register

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

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

2 CFR Part 2200

45 CFR Parts 2541, 2542 and 2545

RIN 3045–AA48

Corporation for National and Community Service Implementation of OMB Guidance on Nonprocurement Debarment and Suspension

AGENCY: Corporation for National and Community Service.

ACTION: Direct final rule.

SUMMARY: The Corporation for National and Community Service is establishing a new part 2200 in 2 CFR as the Corporation's policies and procedures for nonprocurement debarment and suspension. The new part 2200 adopts and supplements the Office of Management and Budget's (OMB's) guidance in 2 CFR part 180. The Corporation for National and Community Service is also removing 45 CFR part 2542, which contains the Corporation's implementation of the governmentwide common rule on nonprocurement debarment and suspension. 2 CFR part 2200 will serve the same purpose as the common rule in a simpler way. These changes constitute an administrative simplification that would make no substantive change in Corporation's policies or procedures for nonprocurement debarment and suspension.

DATES: This final rule is effective on July 23, 2007 without further action, unless adverse comment is received by the Corporation for National and Community Service by June 22, 2007. If adverse comment is received, Corporation for National and Community Service will publish a timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: You may submit comments by e-mail to *dhilton@cns.gov.* Include RIN 3045–AA48 in the subject line of the message. You may also submit comments by mail to Douglas H. Hilton, Office of the General Counsel, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC 20525. Contact Douglas H. Hilton for copies of comments.

FOR FURTHER INFORMATION CONTACT: Douglas H. Hilton, Associate General Counsel, 202–606–6892, *dhilton@cns.gov.*

SUPPLEMENTARY INFORMATION:

Background

Corporation for National and Community Service's current regulation on nonprocurement suspension and debarment is found in 45 CFR part 2542. This regulation is the Corporation for National and Community Service's promulgation of the governmentwide ''common rule'' on this subject, which was issued November 26, 2003 (68 FR 66586).

On August 31, 2005, the Office of Management and Budget (OMB) issued interim final guidance for governmentwide nonprocurement suspension and debarment (70 FR 51863). This guidance, located in 2 CFR part 180, is substantively the same as the common rule, but is published in a form that each agency can adopt, thus eliminating the need for each agency to publish its separate version of the same rule. It also facilitates the ability to update governmentwide requirements without each agency having to re-promulgate its own rules.

The Corporation for National and Community Service is therefore establishing new 2 CFR part 2200, which adopts as its regulation the OMB guidance set forth in 2 CFR part 180 as supplemented with the few required agency-specific provisions. Current 45 CFR part 2542 is being removed, and parts 2541 and 2545 are being amended to conform to the removal of part 2542.

No substantive change in Corporation for National and Community Service's nonprocurement suspension and debarment regulation is intended by these actions.

Executive Order 12866

OMB has determined this rule to be not significant.

Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b))

This regulatory action will not have a significant adverse impact on a substantial number of small entities.

Unfunded Mandates Act of 1995 (Sec. 202, Pub. L. 104–4)

This regulatory action does not contain a Federal mandate that will result in the expenditure by State, local, and tribal governments, in aggregate, or by the private sector of $100 million or more in any one year.

Paperwork Reduction Act of 1995 (44 U.S.C., Chapter 35)

This regulatory action will not impose any additional reporting or recordkeeping requirements under the Paperwork Reduction Act.

Federalism (Executive Order 13132)

This regulatory action does not have Federalism implications, as set forth in Executive Order 13132. 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.

List of Subjects

2 CFR Part 2200

Administrative practice and procedure, Debarment and suspension, Grant programs, Reporting and recordkeeping requirements.

45 CFR Part 2541

Accounting, Grant programs, Indians, Intergovernmental relations, Reporting and recordkeeping requirements.

45 CFR Part 2542

Administrative practice and procedure, Debarment and suspension, Grant programs, Reporting and recordkeeping requirements.

45 CFR Part 2545

Administrative practice and procedure, Drug abuse, Grant programs, Reporting and recordkeeping requirements.

■ Accordingly, under the authority of 22 U.S.C. 2503(b), the Corporation for National and Community Service amends the Code of Federal Regulations, Title 2, Subtitle B, and Title 45, Chapter XXV, as follows:

Title 2—Grants and Agreements

■ 1. Add Chapter XXII, consisting of part 2200, to Subtitle B to read as follows:

CHAPTER XXII—CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

PART 2200—NONPROCUREMENT DEBARMENT AND SUSPENSION

Sec.
2200.10 What does this Part do?
2200.20 Does this Part apply to me?
2200.30 What policies and procedures must I follow?
2200.137 Who in the Corporation for National and Community Service may grant an exception to let an excluded person participate in a covered transaction?
2200.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?
2200.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?
2200.437 What method do I use to communicate to a participant the requirements described in the OMB guidance at 2 CFR 180.435?

Authority: Sec. 2455, Pub. L. 103–355, 108 Stat. 3327; E.O. 12549, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 3 CFR, 1989 Comp., p. 235; 22 U.S.C. 2503(b).

§ 2200.10 What does this Part do?

This Part adopts the Office of Management and Budget (OMB) guidance in Subparts A through I of 2 CFR part 180, as supplemented by this part, as the Corporation for National and Community Service policies and procedures for nonprocurement debarment and suspension. It thereby gives regulatory effect for the Corporation for National and Community Service to the OMB guidance as supplemented by this part. This Part satisfies the requirements in section 3 of Executive Order 12549, ''Debarment and Suspension'' (3 CFR 1986 Comp., p. 189), Executive Order 12689, ''Debarment and Suspension'' (3 CFR 1989 Comp., p. 235) and 31 U.S.C. 6101 note (Section 2455, Pub. L. 103–355, 108 Stat. 3327).

§ 2200.20 Does this Part apply to me?

This Part and, through this Part, pertinent portions of the OMB guidance in Subparts A through I of 2 CFR Part (see table at 2 CFR 180.100(b)) apply to you if you are a—

(a) Participant or principal in a ''covered transaction.'' (see Subpart B of 2 CFR part 180 and the definition of ''nonprocurement transaction'' at 2 CFR 180.970.

(b) Respondent in a Corporation for National and Community Service suspension or debarment action;

(c) Corporation for National and Community Service debarment or suspension official; or

(d) Corporation for National and Community Service grants officer, agreements officer, or other official authorized to enter into any type of nonprocurement transaction that is a covered transaction.

§ 2200.30 What policies and procedures must I follow?

The Corporation for National and Community Service policies and procedures that you must follow are the policies and procedures specified in each applicable section of the OMB guidance in Subparts A through I of 2 CFR part 180, as that section is supplemented by the section in this Part with the same section number. The contracts that are covered transactions, for example, are specified by section 220 of the OMB guidance (*i.e.*, 2 CFR 180.220) as supplemented by section 220 in this Part (*i.e.*, Sec. 2200.220). For any section of OMB guidance in Subparts A through I of 2 CFR part 180 that has no corresponding section in this part, Corporation for National and Community Service policies and procedures are those in the OMB guidance.

§ 2200.137 Who in the Corporation for National and Community Service may grant an exception to let an excluded person participate in a covered transaction?

The Chief Executive Officer (or another official designated by the Chief Executive Officer) has the authority to grant an exception to let an excluded person participate in a covered transaction, as provided in the OMB guidance at 2 CFR 180.135.

§ 2200.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

Although the OMB guidance at 2 CFR 180.220(c) allows a Federal agency to do so (also see optional lower tier coverage in the figure in the Appendix to 2 CFR part 180), Corporation for National and Community Service does not extend coverage of nonprocurement suspension and debarment requirements beyond first-tier procurement contracts under a covered nonprocurement transaction.

§ 2200.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

You as a participant must include a term or condition in lower-tier transactions requiring lower-tier participants to comply with Subpart C of the OMB guidance in 2 CFR part 180.

§ 2200.437 What method do I use to communicate to a participant the requirements described in the OMB guidance at 2 CFR 180.435?

To communicate to a participant the requirements described in 2 CFR 180.435 of the OMB guidance, you as an agency official must include a term or condition in the transaction that requires the participant's compliance with subpart C of 2 CFR part 180, and requires the participant to include a similar term or condition in lower-tier covered transactions.

Title 45—Public Welfare

CHAPTER XXV—CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

PART 2541—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

■ 2. The authority citation for part 2541 continues to read as follows:

Authority: 42 U.S.C. 4950 *et seq.* and 12501 *et seq.*

■ 3. Revise the introductory text to § 2541.30 to read as follows:

§ 2541.30 Definitions.

The following definitions apply to terms used in this part.

* * * * *

PART 2542—[REMOVED]

■ 4. Remove part 2542.

PART 2545—GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE)

■ 5. The authority citation for part 2545 continues to read as follows:

Authority: 41 U.S.C. 701, *et seq.*; 42 U.S.C. 12644 and 12651(c).

■ 6. Revise § 2545.510 to read as follows:

§ 2545.510 What actions will the Federal Government take against a recipient determined to have violated this part?

If a recipient is determined to have violated this part, as described in § 2545.500 or § 2545.505, the Corporation may take one or more of the following actions—

(a) Suspension of payments under the award;

(b) Suspension or termination of the award; and

(c) Suspension or debarment of the recipient under 2 CFR part 180 (as

implemented by 2 CFR part 2200), for a period not to exceed five years.

Dated: May 17, 2007.

Frank R. Trinity,

General Counsel.

[FR Doc. 07–2575 Filed 5–22–07; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. APHIS–2007–0032]

Citrus Canker; Interstate Movement of Regulated Nursery Stock From Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule; extension of comment period.

SUMMARY: We are extending the comment period for our interim rule that amended the citrus canker quarantine regulations to explicitly prohibit, with limited exceptions, the interstate movement of regulated nursery stock from a quarantined area. This action will allow interested persons additional time to prepare and submit comments.

DATES: We will consider all comments that we receive on or before June 11, 2007.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*, select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click ''Submit.'' In the Docket ID column, select APHIS–2007–0032 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.
- *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2007–0032, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2007–0032.

Reading Room: You may read any comments that we receive on Docket No. APHIS–2007–0032 in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Poe, Senior Operations Officer, Emergency Domestic Programs, Plant Protection and Quarantine, APHIS, 4700 River Road Unit 137, Riverdale, MD 20737–1231; (301) 734–4387.

SUPPLEMENTARY INFORMATION: On March 22, 2007, we published in the **Federal Register** (72 FR13423–13428, Docket No. APHIS–2007–0032) an interim rule that amended the citrus canker quarantine regulations to explicitly prohibit, with limited exceptions, the interstate movement of regulated nursery stock from a quarantined area. The interim rule was effective on March 16, 2007. We took this action because the interstate movement of regulated nursery stock from an area quarantined for citrus canker poses a high risk of spreading citrus canker outside the quarantined area. The interim rule included two exceptions to the prohibition. We allowed calamondin and kumquat plants, two types of citrus plants that are highly resistant to citrus canker, to move interstate from a quarantined area under a protocol designed to ensure that they are free of citrus canker prior to movement. We also continued to allow the interstate movement of regulated nursery stock for immediate export, under certain conditions. This action was necessary to clarify our regulations and to address the risk associated with the interstate movement of regulated nursery stock from areas quarantined for citrus canker.

In an order dated April 26, 2007, the United States District Court of the Middle District of Florida, Ocala Division, instructed the U.S. Department of Agriculture to begin a new round of notice-and-comment rulemaking on the issue of the interstate movement of regulated nursery stock from areas quarantined for citrus canker.

We solicited comments on the interim rule for 60 days after its publication. Comments on the interim rule were required to be received on or before May 21, 2007. We are extending the comment period on Docket No. APHIS–2007–0032 for an additional 21 days, until June 11, 2007. This action will allow interested persons additional time to prepare and submit comments.

We encourage members of the public, including regulated industry, to submit comments regarding the interim rule, including the scientific and regulatory basis of the rule. We will carefully consider all the comments we receive. If our review of the comments indicates that changes to the regulations promulgated in the interim rule are warranted, we will amend the regulations accordingly.

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

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

Done in Washington, DC, this 17th day of May 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–9898 Filed 5–22–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26120; Directorate Identifier 2006–NM–184–AD; Amendment 39–15051; AD 2007–10–10]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300–600 Series Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus Model A300–600 series airplanes. This AD requires revising the Airworthiness Limitations section of the Instructions for Continued Airworthiness to incorporate new limitations for fuel tank systems. This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors caused by latent failures, alterations, repairs, or maintenance actions, could result in fuel tank explosions and consequent loss of the airplane.

DATES: This AD becomes effective June 27, 2007.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of June 27, 2007.

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

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

FOR FURTHER INFORMATION CONTACT: Tom Stafford, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1622; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Examining the Docket

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

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to all Airbus Model A300 B4–600, B4–600R, and F4–600R series airplanes and Model C4–605R Variant F airplanes (collectively called A300–600 series airplanes). That NPRM was published in the **Federal Register** on December 14, 2006 (71 FR 75145). That NPRM proposed to require revising the Airworthiness Limitations section (ALS) of the Instructions for Continued Airworthiness to incorporate new limitations for fuel tank systems.

Comments

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

Request To Extend Compliance Time for Task 28–18–00–03–1

Airbus requests that we extend the compliance time for the initial accomplishment of Task 28–18–00–03–1, ''Operational check of lo-level/underfull/calibration sensors,'' from 34,000 total flight hours to 40,000 flight hours since first aircraft entry into service. Airbus states that it is reviewing all the European Aviation Safety Agency (EASA) airworthiness directives for fuel airworthiness limitations and has found a deviation in the compliance time from what the EASA and Airbus had intended to be a grace period for operators. Airbus also states that the EASA is considering further rulemaking to extend the compliance time.

We agree to extend the initial compliance time of Task 28–18–00–03–1. Therefore, we have revised paragraph (g)(1) of this AD to specify an initial compliance time of prior to the accumulation of 40,000 total flight hours. We have coordinated this change with the EASA. Further, we have also revised paragraph (f) of this AD to clarify the initial compliance time for all other tasks specified in Section 1, ''Maintenance/Inspection Tasks,'' of Airbus A300–600 Fuel Airworthiness Limitations, Document 95A.1929/05, Issue 1, dated December 19, 2005 (hereafter referred to as ''Section 1 of Document 95A.1929/05''). The initial compliance time of those tasks starts from the later of the following times: (1) The effective date of this AD, or (2) the date of issuance of the original French standard airworthiness certificate or the date of issuance of the original French export certificate of airworthiness. We have also coordinated these compliance time changes with the EASA. Since the changes are relieving, the scope of this AD has not been expanded.

Request To Reference the Airplane Maintenance Manual (AMM)

FedEx requests that either Airbus revise Section 1 of Document 95A.1929/05, or we revise this AD to refer to the applicable sections of the Airbus A300–600 AMM or other service documents that describe the actions necessary to comply with this AD. As justification for its request, FedEx states that although Section 1 of Document 95A.1929/05 refers to maintenance tasks 28–18–00–01–1, 28–18–00–02–1, and 28–18–00–03–1, those tasks are not defined in the document.

We agree to identify the applicable sections of the Airbus A300–600 AMM necessary for accomplishing the tasks specified in Section 1 of Document 95A.1929/05. Airbus issued Operator Information Telex (OIT) SE 999.0076/06, dated June 20, 2006, to identify the applicable sections of the AMM. We have added Note 2 to this AD to reference that OIT.

Request To Extend Compliance Time for Incorporating Section 1

FedEx requests that we extend the compliance time for incorporating Section 1 of Document 95A.1929/05 into its maintenance program. FedEx states that it will have to develop, review, and approve inspection and maintenance documents, as well as have those documents approved by the FAA. FedEx further states that its experience has shown that accomplishing this requirement will take more time; therefore, FedEx requests that we extend the compliance time from 3 months to 6 months.

We disagree with extending the compliance time. The compliance time in this AD agrees with what the EASA mandated in airworthiness directive 2006–0201, dated July 11, 2006, to ensure the continued airworthiness of Model A300–600 series airplanes in the European Union. We accept the EASA's position that 3 months is an appropriate amount of time to update maintenance procedures. Additionally, we are aware that some operators have already updated their maintenance tasks and have done so within 3 months, regardless of fleet size. However, under the provisions of paragraph (j) of this AD, we may approve requests for adjustments to the compliance time if data are submitted to substantiate that such an adjustment would provide an acceptable level of safety. We have not changed this AD in this regard.

Request To Specify the Revision Level of the Referenced Maintenance Documents

FedEx requests that Airbus revise Section 2 of Airbus A300–600 Fuel Airworthiness Limitations, Document 95A.1929/05, Issue 1, dated December 19, 2005 (hereafter referred to as ''Section 2 of Document 95A.1929/05'') to include revision levels for the referenced maintenance documents. As an alternative, FedEx proposes that we specify the appropriate revision levels in this AD. As justification, FedEx states that the maintenance documents referenced in Section 2 of Document 95A.1929/05 do not include the revision levels.

We disagree with revising this AD to refer to specific revision levels for the referenced maintenance documents. It is the responsibility of an operator to ensure that its internal documentation is amended to reflect the data contained in Section 2 of Document 95A.1929/05 and to include the appropriate text in the operator's FAA-approved maintenance manual. We have not changed this AD in this regard.

Request To Revise the Wording of the Requirements

FedEx states that instructing operators to ''Revise the ALS of the Instructions for Continued Airworthiness'' is confusing and does not clearly communicate what the requirements are. FedEx has proposed the following revision:

(1) Within 3 months, the operator's scheduled maintenance program must be revised to include the maintenance/inspection tasks given in Section 1 of Airbus document 95A.1929/05, and, (2) Within 12 months, the operator's maintenance documents listed in Section 2 of Airbus document 95A.1929/05 must be revised to the revision levels indicated. The Airbus manuals and revision levels listed in Section 2 include all the CDCCL information necessary for compliance with this AD.

We understand FedEx's comment and welcome any feedback that would improve the readability or usability of an AD. In this case, we do not agree with the proposed wording. The wording that was used represents a standard approach and has been used for many years. The intent is to have all airworthiness limitations, regardless of whether imposed by original type certification or by a later AD, located in one immediately recognizable document. In 1980, the FAA identified the Airworthiness Limitations section of the Instructions for Continued Airworthiness as the appropriate document. We consider that not having all airworthiness limitations in one document could lead to confusion as to what is or what is not a mandatory maintenance action as identified in Federal Aviation Regulation, part 25, Appendix H, section H25.4. This is the basis of our requirement to have each operator maintain a current copy of the Airworthiness Limitations section. Concerning FedEx's statement that the AD does not clearly communicate what the actual compliance requirements are, we infer that the commenter is wondering if, after revising its copy of the Airworthiness Limitation section, there are other required actions such as ensuring that the operator's maintenance program is updated to incorporate the actions specified in the revised Airworthiness Limitations. Ensuring that one's maintenance program and the actions of its maintenance personnel are in accordance with the Airworthiness Limitations is required, but not by the AD. 14 CFR 91.403(c) specifies that no person may operate an aircraft for which airworthiness limitations have been issued unless those limitations have been complied with. Therefore, there is no need to further expand the requirements of the AD beyond that which was proposed because section 91.403(c) already imposes the appropriate required action after the airworthiness limitations are revised. We have not changed this AD in this regard.

Changes to Language for Repetitive Intervals

In paragraph (f) of the NPRM, we stated that all tasks identified in Section 1 of Document 95A.1929/05 ''* * * must be accomplished within the repetitive interval specified in Section 1 of Document 95A.1929/05 * * *.'' We have revised paragraph (f) of this AD to more clearly state that ''* * * the repetitive inspections must be accomplished thereafter at the intervals specified in Section 1 of Document 95A.1929/05 * * *.'' In paragraph (g) of the NPRM, we stated that task 28–18–00–03–1 must be accomplished ''within'' the repetitive interval specified in Section 1 of Document 95A.1929/05. We have revised paragraph (g) of this AD to state that task 28–18–00–03–1 must be accomplished ''at'' the repetitive interval specified in Section 1 of Document 95A.1929/05.

Explanation of Change to Applicability

We have revised the applicability of this AD to identify model designations as published in the most recent type certificate data sheet for the affected models.

Clarification of Alternative Method of Compliance (AMOC) Paragraph

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

Conclusion

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

Costs of Compliance

This AD affects about 138 airplanes of U.S. registry. The required actions take about 2 work hours per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the AD for U.S. operators is $22,080, or $160 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2007–10–10 Airbus: Amendment 39–15051. Docket No. FAA–2006–26120; Directorate Identifier 2006–NM–184–AD.

Effective Date

(a) This AD becomes effective June 27, 2007.

Affected ADs

(b) None.

Applicability

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

Note 1: This AD requires revisions to certain operator maintenance documents to include new inspections and critical design configuration control limitations (CDCCLs). Compliance with the operator maintenance documents is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections and CDCCLs, the operator may not be able to accomplish the inspections and CDCCLs described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (j) of this AD. The request should include a description of changes to the required inspections and CDCCLs that will preserve the critical ignition source prevention feature of the affected fuel system.

Unsafe Condition

(d) This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors caused by latent failures, alterations, repairs, or maintenance actions, could result in fuel tank explosions and consequent loss of the airplane.

Compliance

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

Revise Airworthiness Limitations Section (ALS) To Incorporate Fuel Maintenance and Inspection Tasks

(f) Within 3 months after the effective date of this AD, revise the ALS of the Instructions for Continued Airworthiness to incorporate Airbus A300–600 ALS Part 5—Fuel Airworthiness Limitations, dated May 31, 2006, as defined in Airbus A300–600 Fuel Airworthiness Limitations, Document 95A.1929/05, Issue 1, dated December 19, 2005 (approved by the European Aviation Safety Agency (EASA) on March 13, 2006), Section 1, ''Maintenance/Inspection Tasks'' (hereafter referred to as ''Section 1 of Document 95A.1929/05''). For all tasks identified in Section 1 of Document 95A.1929/05, the initial compliance times start from the later of the times specified in paragraphs (f)(1) and (f)(2) of this AD, and the repetitive inspections must be accomplished thereafter at the intervals specified in Section 1 of Document 95A.1929/05, except as provided by paragraph (g) of this AD.

(1) The effective date of this AD.

(2) The date of issuance of the original French standard airworthiness certificate or the date of issuance of the original French export certificate of airworthiness.

Note 2: Airbus Operator Information Telex (OIT) SE 999.0076/06, dated June 20, 2006, identifies the applicable sections of the Airbus A300–600 airplane maintenance manual necessary for accomplishing the tasks specified in Section 1 of Document 95A.1929/05.

Initial Compliance Time for Task 28–18–00–03–1

(g) For Task 28–18–00–03–1, ''Operational check of lo-level/underfull/calibration sensors,'' identified in Section 1 of Document 95A.1929/05: The initial compliance time is the later of the times specified in paragraphs (g)(1) and (g)(2) of this AD. Thereafter, Task 28–18–00–03–1 must be accomplished at the repetitive interval specified in Section 1 of Document 95A.1929/05.

(1) Prior to the accumulation of 40,000 total flight hours.

(2) Within 72 months or 20,000 flight hours after the effective date of this AD, whichever occurs first.

Revise ALS To Incorporate CDCCLs

(h) Within 12 months after the effective date of this AD, revise the ALS of the Instructions for Continued Airworthiness to incorporate Airbus A300–600 ALS Part 5—Fuel Airworthiness Limitations, dated May 31, 2006, as defined in Airbus A300–600 Fuel Airworthiness Limitations, Document 95A.1929/05, Issue 1, dated December 19, 2005 (approved by the EASA on March 13, 2006), Section 2, ''Critical Design Configuration Control Limitations.''

No Alternative Inspections, Inspection Intervals, or CDCCLs

(i) Except as provided by paragraph (j) of this AD: After accomplishing the actions specified in paragraphs (f) and (h) of this AD, no alternative inspections, inspection intervals, or CDCCLs may be used.

Alternative Methods of Compliance (AMOCs)

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

(2) 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.

Related Information

(k) EASA airworthiness directive 2006–0201, dated July 11, 2006, also addresses the subject of this AD.

Material Incorporated by Reference

(l) You must use Airbus A300–600 ALS Part 5—Fuel Airworthiness Limitations, dated May 31, 2006; and Airbus A300–600 Fuel Airworthiness Limitations, Document 95A.1929/05, Issue 1, dated December 19, 2005; as applicable; to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, 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 May 7, 2007.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–9399 Filed 5–22–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26696; Directorate Identifier 2006–SW–19–AD; Amendment 39–15058; AD 2007–11–01]

RIN 2120–AA64

Airworthiness Directives; Robinson Helicopter Company Model R44 and R44 II Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for Robinson Helicopter Company (Robinson) Model R44 and R44 II helicopters that have a certain seat belt buckle (buckle) assembly installed, that requires removing the buckle assembly and the buckle assembly spacer, and replacing them with airworthy parts. This amendment is prompted by an accident in which a seat belt failed, and also by reports of cracking in the buckle assembly stainless support strap (support strap). The actions specified by this AD are intended to prevent cracking

in the support strap and failure of a seat belt.

DATES: Effective June 27, 2007.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 27, 2007.

ADDRESSES: You may get the service information identified in this AD from Robinson Helicopter Company, 2901 Airport Drive, Torrance, California 90505, telephone (310) 539–0508, fax (310) 539–5198.

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

FOR FURTHER INFORMATION CONTACT: Venessa Stiger, Aviation Safety Engineer, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Blvd., Lakewood, California 90712–4137, telephone (562) 627–5337, fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend 14 CFR part 39 to include an AD for the specified model helicopters was published in the **Federal Register** on January 9, 2007 (72 FR 918). That action proposed to require, for Robinson Model R44 helicopters, through serial number (S/N) 1576, and Model R44 II helicopters, through S/N 11107, that have a C628–4, revision M or prior, buckle assembly installed, removing the buckle assembly and the A130–52 buckle assembly spacer and replacing them with a C628–4, revision N buckle assembly and a new A130–52 buckle assembly spacer within 100 hours time-in-service.

We have reviewed Robinson Service SB–56, dated March 29, 2006, which describes procedures for inspecting the buckle assemblies for cracks and replacing the buckle assemblies. This AD does not require inspecting the buckle assemblies for cracks.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that this AD will affect 900 helicopters of U.S. registry, and replacing a buckle assembly will take approximately 0.2 work hour per buckle to accomplish at an average labor rate of $80 per work hour. Required parts will cost approximately $105 for each C628–4, revision N buckle assembly, and $8.25 for each A130–52 buckle assembly spacer. Based on these figures, we estimate the total cost impact of the AD on U.S. operators to be $517 for each helicopter, or $465,300 for the entire fleet, assuming that four buckle assemblies and buckle assembly spacers are replaced in each helicopter.

Regulatory Findings

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

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

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

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

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

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

Authority for This Rulemaking

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2007–11–01 Robinson Helicopter Company: Amendment 39–15058. Docket No. FAA–2006–26696; Directorate Identifier 2006–SW–19–AD.

Applicability: Model R44 helicopters, through serial number (S/N) 1576, and Model R44 II helicopters, through S/N 11107, with a seat belt buckle assembly (buckle assembly) part number C628–4, revision M or prior, installed, certificated in any category.

Compliance: Required within 100 hours time-in-service, unless accomplished previously.

To prevent cracking in the buckle assembly stainless support strap and failure of a seat belt, accomplish the following:

(a) Remove the buckle assembly and any A130–52 buckle assembly spacer, and replace them with a C628–4, revision N buckle assembly and a new A130–52 buckle assembly spacer, in accordance with the Compliance Procedure, paragraph 3, in Robinson Helicopter Company Service Bulletin SB–56, dated March 29, 2006. The new A130–52 buckle assembly spacers have been redesigned to be slightly longer than the previous A130–52 buckle assembly spacers, to reduce friction in the joint.

Note: Inspecting the buckle assembly for cracks is not required by this AD.

(b) Replacing the buckle assembly and buckle assembly spacer with a C628–4, Revision N buckle assembly and a new A130–52 buckle assembly spacer is a terminating action for the requirements of this AD.

(c) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Manager, Los Angeles Aircraft Certification Office, FAA, ATTN: Venessa Stiger, Aviation Safety Engineer, 3960 Paramount Blvd., Lakewood, California 90712–4137, telephone (562) 627–5337, fax (562) 627–5210, for information about previously approved alternative methods of compliance.

(d) The replacements shall be done in accordance with Robinson Helicopter Company Service Bulletin SB–56, dated March 29, 2006. The Director of the Federal Register approved this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Robinson Helicopter Company, 2901

Airport Drive, Torrance, California 90505, telephone (310) 539–0508, fax (310) 539–5198. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 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/code_of_federal_regulations/ibr_locations.html.*

(e) This amendment becomes effective on June 27, 2007.

Issued in Fort Worth, Texas, on May 8, 2007.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. E7–9687 Filed 5–22–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–26864; Directorate Identifier 2006–NM–228–AD; Amendment 39–15053; AD 2007–10–12]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–200, –300, –400, –500, –600, –700, –800, and –900 Series Airplanes; Boeing Model 757–200 and –300 Series Airplanes; and McDonnell Douglas Model DC–10–10, DC–10–10F, DC–10–30, DC–10–30F, DC–10–40, MD–10–30F, MD–11, and MD–11F Airplanes; Equipped With Reinforced Flight Deck Doors Installed in Accordance With Supplemental Type Certificate (STC) ST01335LA, STC ST01334LA, and STC ST01391LA, Respectively

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

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD), which applies to certain transport category airplanes identified above. That AD currently requires modification of the reinforced flight deck door and other actions related to the reinforced flight deck door. Those other actions include modifying the door, inspecting and modifying wiring in the area, and revising the maintenance program to require more frequent testing of the decompression panels of the flight deck door. This new AD continues to require the existing requirements. This new AD adds airplanes to the existing requirement of a one-time inspection for chafing of wire bundles in the area of the flight deck door and corrective actions if necessary. This proposed AD also removes certain airplanes from the applicability. This AD results from a report of smoke and fumes in the cockpit of a Model 737–300 series airplane. We are issuing this AD to prevent inadvertent release of the decompression latch and consequent opening of the decompression panel in the flight deck door, or penetration of the flight deck door by smoke, any of which could result in injury to the airplane flightcrew. We are also proposing this AD to detect and correct wire chafing, which could result in arcing, fire, and/or reduced controllability of the airplane.

DATES: This AD becomes effective June 27, 2007.

On July 19, 2005 (70 FR 34316, June 14, 2005), the Director of the Federal Register approved the incorporation by reference of certain service information.

On July 25, 2003 (68 FR 41063, July 10, 2003), the Director of the Federal Register approved the incorporation by reference of certain other service information.

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

Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207; Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024); or C&D Aerospace, 5701 Bolsa Avenue, Huntington Beach, California 92647–2063; for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Ron Atmur, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5224; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Examining the Docket

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

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that supersedes AD 2005–12–05, amendment 39–14121 (70 FR 34316, June 14, 2005). (A correction of that AD was published in the **Federal Register** on June 28, 2005 (70 FR 37152).) The existing AD applies to Boeing Model 737–200, –300, –400, –500, –600, –700, –800, and –900 series airplanes; Boeing Model 757–200 and –300 series airplanes; and McDonnell Douglas Model DC–10–10, DC–10–10F, DC–10–30, DC–10–30F, DC–10–40, MD–10–10F, MD–10–30F, MD–11, and MD–11F airplanes. That NPRM was published in the **Federal Register** on January 19, 2007 (72 FR 2475). That NPRM proposed to continue to require modification of the reinforced flight deck door and other actions related to the reinforced flight deck door. Those other actions include modifying the door, inspecting and modifying wiring in the area, and revising the maintenance program to require more frequent testing of the decompression panels of the flight deck door. That NPRM also proposed to add airplanes to the existing requirement of a one-time inspection for chafing of wire bundles in the area of the flight deck door and corrective actions if necessary. That NPRM also proposed to remove certain airplanes from the applicability.

Comments

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

Support for the NPRM

Boeing, United Airlines, and the Air Line Pilots Association, International (ALPA) support the intent of the NPRM.

Request To Issue a Separate AD

United Airlines requests that rather than superseding the existing AD, we issue a separate AD action since the new proposed actions are applicable only to the Model 737–300, –400, and –500 series airplanes. The commenter states that if the existing AD is superseded, numerous documents must be updated for all airplane models affected by the earlier actions. The commenter asserts that superseding an already complex compliance plan provides an opportunity for non-compliance and unnecessarily increases an operator's workload.

We acknowledge that the less burdensome approach is to issue a separate AD that applies only to the Model 737–300, –400, and –500 series airplanes. Further, our normal policy is to issue a separate AD when any new requirements would affect only a small portion of the affected airplanes, so that we do not burden operators with the workload associated with revising maintenance record entries. However, in this case, we determined that the existing AD needed to be superseded because we are also removing certain airplanes from the applicability. For certain operators, this final rule is relieving in nature. Therefore, we have not revised this AD in this regard.

Clarification of Alternative Method of Compliance (AMOC) Paragraph

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

Conclusion

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

Costs of Compliance

We have determined that about 1,047 additional airplanes (Model 737–300, –400, and –500 series airplanes) in the worldwide fleet are subject to this AD; therefore, there are now about 3,423 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs, at an average labor rate of $80 per work hour, for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action	Model	Work hours	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Modification in paragraph (f) of this AD (required by AD 2005–12–05).	737–200, –300, –400, –500, –600, –700, –800, and –900 series airplanes, with flight deck door assembly P/N B221001.	1	[1] $0	$80	1,040	$83,200
	757–200 and –300 series airplanes, with flight deck door assembly P/N B231001.	2	[1] 0	160	519	83,040
	DC–10–10F, DC–10–30, DC–10–30F, DC–10–40, MD–10–30F, MD–11, and MD–11F airplanes, with flight deck door assembly P/N B211200.	2	[1] 0	160	21	3,360
Revision in paragraph (i) of this AD (required by AD 2005–12–05).	757–200 and –300 series airplanes	1	None	80	651	52,080
Modification in paragraph (j) of this AD (required by AD 2005–12–05).	737–200, –300, –400, –500, –600, –700, –800, and –900 series airplanes; and 757–200 and –300 series airplanes; with flight deck door assembly P/N B221200.	1	[1] 0	80	1,673	133,840
	DC–10–10, DC–10–10F, DC–10–30, DC–10–30F, DC–10–40, MD–10–30F, MD–11, and MD–11F airplanes, with flight deck door assembly P/N B211200.	1	[1] 0	80	155	12,400
	MD–11 and MD–11F airplanes, with flight deck door assembly P/N B251200.	1	[1] 0	80	6	480
Wiring rework in paragraph (m)(1) of this AD (required by AD 2005–12–05).	737–200 series airplanes, with flight deck door assembly P/N B221001.	1	None	80	134	10,720
Inspection in paragraph (m)(2) of this AD (required by AD 2005–12–05).	737–200 series airplanes, with flight deck door assembly P/N B221001.	2	None	160	134	21,440
Inspection in paragraph (o) of this AD (additional airplanes).	737–300, –400, –500 series airplanes, with flight deck door assembly P/N B221001.	2	None	160	529	84,640

[1] The parts manufacturer states that it will supply required parts to operators at no cost.

Authority for This Rulemaking

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

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

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on

the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–14121 (70 FR 34316, June 14, 2005), corrected at 70 FR 37152, June 28, 2005, and by adding the following new airworthiness directive (AD):

2007–10–12 Boeing: Amendment 39–15053. Docket No. FAA–2007–26864; Directorate Identifier 2006–NM–228–AD.

Effective Date

(a) This AD becomes effective June 27, 2007.

Affected ADs

(b) This AD supersedes AD 2005–12–05.

Applicability

(c) This AD applies to airplanes identified in Table 1 of this AD, certificated in any category.

TABLE 1.—APPLICABILITY

Airplane manufacturer	Airplane model	Equipped with C&D Zodiac, Inc. reinforced flight deck doors installed in accordance with Supplemental Type Certificate (STC)—
Boeing	737–200, –300, –400, –500, –600, –700, –800, and –900 series airplanes	ST01335LA
Boeing	757–200 and –300 series airplanes	ST01334LA
McDonnell Douglas	DC–10–10, DC–10–10F, DC–10–30, DC–10–30F, DC–10–40, MD–10–30F, MD–11, and MD–11F airplanes.	ST01391LA

Unsafe Condition

(d) This AD results from a report of smoke and fumes in the cockpit of a Model 737–300 series airplane. We are issuing this AD to prevent inadvertent release of the decompression latch and consequent opening of the decompression panel in the flight deck door, or penetration of the flight deck door by smoke, any of which could result in injury to the airplane flightcrew. We are also issuing this AD to detect and correct wire chafing, which could result in arcing, fire, and/or reduced controllability of the airplane.

Compliance

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

Restatement of Requirements of AD 2005–12–05

Note 1: Where there are differences between this AD and the referenced service bulletins, this AD prevails.

Modification

(f) For airplanes listed in Table 2 of this AD: Within 90 days after July 25, 2003 (the effective date of AD 2003–14–04, amendment 39–13223), modify the reinforced flight deck door according to paragraph (f)(1), (f)(2), or (f)(3) of this AD, as applicable. (AD 2003–14–04 was superseded by AD 2005–12–05.)

TABLE 2.—AIRPLANE MODELS SUBJECT TO REQUIREMENTS OF AD 2003–14–04

Airplane manufacturer	Airplane models	Identified in C&D Aerospace Service Bulletin
Boeing	737–200, –300, –400, –500, –600, –700, –800, and –900 series airplanes.	B221001–52–03, Revision 3, dated March 25, 2003.
Boeing	757–200 and –300 series airplanes	B231001–52–02, Revision 4, dated March 19, 2003.
McDonnell Douglas	DC–10–10F, DC–10–30, DC–10–30F, DC–10–40, MD–10–30F, MD–11, and MD–11F airplanes.	B211200–52–02, Revision 1, dated June 3, 2003.

(1) For Boeing Model 737–200, –300, –400, –500, –600, –700, –800, and –900 series airplanes: Modify the upper and lower pressure relief latch assemblies on the flight deck door by doing all actions specified in and according to paragraphs 3.A., 3.B., and 3.C. of the Accomplishment Instructions of C&D Aerospace Service Bulletin B221001–52–03, Revision 3, dated March 25, 2003. One latch strap should be installed at the bottom of the upper pressure relief assembly, and a second latch strap should be installed at the top of the lower pressure relief assembly. When properly installed, the strap should cover a portion of the latch hook.

(2) For Boeing Model 757–200 and –300 series airplanes: Modify the upper and lower pressure relief latch assemblies on the flight deck door by doing all actions specified in and according to paragraphs 3.A., 3.B., and 3.C. of the Accomplishment Instructions of C&D Aerospace Service Bulletin B231001–52–02, Revision 4, dated March 19, 2003. One latch strap should be installed at the bottom of the upper pressure relief assembly, and a second latch strap should be installed at the top of the lower pressure relief assembly. When properly installed, the strap should cover a portion of the latch hook.

(3) For McDonnell Douglas DC–10–10F, DC–10–30, DC–10–30F, DC–10–40, MD–10–30F, MD–11, and MD–11F airplanes: Install spacers in the upper and lower pressure

relief latch assemblies of the flight deck door, by doing all actions specified in and according to paragraphs 3.A., 3.C., and 3.D. of C&D Aerospace Service Bulletin B211200–52–02, Revision 1, dated June 3, 2003; or Revision 2, dated September 29, 2003.

Modifications Accomplished Per Previous Issues of Service Bulletin

(g) For airplanes listed in Table 2 of this AD: Modifications accomplished before July 25, 2003, in accordance with a service bulletin listed in paragraph (g)(1), (g)(2), or (g)(3) of this AD; as applicable; are considered acceptable for compliance with the corresponding action specified in paragraph (f) of this AD.

(1) For Boeing Model 737–200, –300, –400, –500, –600, –700, –800, and –900 series airplanes: C&D Aerospace Service Bulletin B221001–52–03, dated December 6, 2002; Revision 1, dated January 2, 2003; or Revision 2, dated February 20, 2003.

(2) For Boeing Model 757–200 and –300 series airplanes: C&D Aerospace Service Bulletin B231001–52–02, dated December 6, 2002; Revision 1, dated January 2, 2003; Revision 2, dated February 20, 2003; or Revision 3, dated March 7, 2003.

(3) For McDonnell Douglas DC–10–10F, DC–10–30, DC–10–30F, DC–10–40, MD–10–30F, MD–11, and MD–11F airplanes: C&D Aerospace Service Bulletin B211200–52–02, dated April 30, 2003.

Parts Installation

(h) As of July 25, 2003, no person may install, on any airplane, a reinforced flight deck door having any part number (P/N) listed in paragraph 1.A. of C&D Aerospace Service Bulletin B221001–52–03, Revision 3, dated March 25, 2003; B231001–52–02, Revision 4, dated March 19, 2003; or B211200–52–02, Revision 1, dated June 3, 2003; as applicable; unless the door has been modified as required by paragraph (f) of this AD.

Model 737 and 757 Series Airplanes: Revise Maintenance Program

(i) For Boeing Model 737–200, –300, –400, –500, –600, –700, –800, and –900 series airplanes; and Model 757–200 and –300 series airplanes: Within 6 months after July 19, 2005 (the effective date of AD 2005–12–05), revise the FAA-approved maintenance inspection program to include the information specified in C&D Aerospace Report CDRB22–69, Revision E, dated November 8, 2002.

Modifications to Flight Deck Door

(j) Modify the reinforced flight deck door by doing all applicable actions specified in the applicable service bulletin listed in Table 3 of this AD at the applicable compliance time specified in that table. Where the applicable service bulletin includes an instruction to install a placard to show that the service bulletin has been accomplished, this AD does not require that action.

TABLE 3.—NEW MODIFICATIONS TO THE FLIGHT DECK DOOR

For these models—	Equipped with a flight deck door assembly having this P/N—	Within this compliance time after July 19, 2005—months	Do all actions in the accomplishment instructions of—
McDonnell Douglas Model DC–10–10, DC–10–10F, DC–10–30, DC–10–30F, DC–10–40, MD–10–30F, MD–11, and MD–11F airplanes.	B211200	6	C&D Aerospace Service Bulletin B211200–52–01, Revision 3, dated September 18, 2003.
McDonnell Douglas Model MD–11 and MD–11F airplanes.	B251200	6	C&D Aerospace Service Bulletin B251200–52–01, dated April 30, 2003.
Boeing Model 737–200, –300, –400, –500, –600, –700, –800, and –900 series airplanes; and Model 757–200 and –300 series airplanes.	B221200	18	C&D Aerospace Service Bulletin B221200–52–01, Revision 1, dated June 27, 2003.
Boeing Model 737–200, –300, –400, –500, –600, –700, –800, and –900 series airplanes.	B221001	18	C&D Aerospace Service Bulletin B221001–52–03, Revision 3, dated March 25, 2003; except as provided by paragraph (k) of this AD.
Boeing Model 757–200 and –300 series airplanes ..	B231001	18	C&D Aerospace Service Bulletin B231001–52–02, Revision 4, dated March 19, 2003; except as provided by paragraph (k) of this AD.
McDonnell Douglas DC–10–10, DC–10–10F, DC–10–30, DC–10–30F, DC–10–40, MD–10–30F, MD–11, and MD–11F airplanes.	B211200	18	C&D Aerospace Service Bulletin B211200–52–02, Revision 1, dated June 3, 2003; or Revision 2, dated September 29, 2003; except as provided by paragraph (k) of this AD.

(k) For airplanes subject to paragraph (f) of this AD: Actions required by paragraph (f) of this AD that were done within the compliance time specified in paragraph (f) of this AD do not need to be repeated in accordance with paragraph (j) of this AD.

Modifications Accomplished per Previous Issues of Service Bulletin

(l) Modifications accomplished before July 19, 2005, in accordance with an applicable service bulletin listed in Table 4 of this AD are considered acceptable for compliance with the corresponding action specified in paragraph (j) of this AD.

TABLE 4.—ACCEPTABLE SERVICE INFORMATION FOR PREVIOUS MODIFICATIONS

Service Bulletin	Revision level	Date
C&D Aerospace Service Bulletin B211200–52–01	Original	February 27, 2003.
C&D Aerospace Service Bulletin B211200–52–01	1	March 7, 2003.
C&D Aerospace Service Bulletin B211200–52–01	2	June 3, 2003.
C&D Aerospace Service Bulletin B211200–52–02	Original	April 30, 2003.
C&D Aerospace Service Bulletin B221001–52–03	Original	December 6, 2002.
C&D Aerospace Service Bulletin B221001–52–03	1	January 2, 2003.
C&D Aerospace Service Bulletin B221001–52–03	2	February 20, 2003.
C&D Aerospace Service Bulletin B221200–52–01	Original	April 30, 2003.
C&D Aerospace Service Bulletin B231001–52–02	Original	December 6, 2002.
C&D Aerospace Service Bulletin B231001–52–02	1	January 2, 2003.
C&D Aerospace Service Bulletin B231001–52–02	2	February 20, 2003.
C&D Aerospace Service Bulletin B231001–52–02	3	March 7, 2003.

Model 737–200 Series Airplanes: Wiring Modification/Inspection

(m) For Boeing Model 737–200 series airplanes equipped with flight deck door assembly P/N B221001: Within 18 months after July 19, 2005, do paragraphs (m)(1) and (m)(2) of this AD.

(1) Rework the wiring for the flight deck door to relocate a power wire for the flight deck door, in accordance with the Accomplishment Instructions of C&D Aerospace Alert Service Bulletin B221001–52A05, Revision 3, dated October 3, 2003. Actions accomplished before July 19, 2005, in accordance with C&D Aerospace Alert Service Bulletin B221001–52A05, dated April 17, 2003; Revision 1, dated May 14, 2003; or Revision 2, dated June 19, 2003; are acceptable for compliance with the corresponding action required by this paragraph.

(2) Perform a general visual inspection for chafing of wire bundles in the area of the flight deck door and applicable corrective actions by doing all of the actions in the Accomplishment Instructions of C&D Aerospace Alert Service Bulletin B221001–52A02, dated November 5, 2002; except where the service bulletin specifies installing a placard, this AD does not require that action. Any applicable corrective actions must be done before further flight.

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 normal available lighting conditions such as daylight, hangar lighting, flashlight or drop-light 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.''

Parts Installation

(n) As of July 19, 2005, no person may install a reinforced flight deck door under any STC listed in Table 1 of this AD, on any airplane, unless all applicable requirements of this AD have been done on the door.

New Requirements of This AD

Inspection and Corrective Actions if Necessary for Certain Airplanes

(o) For Boeing Model 737–300, –400, and –500 series airplanes equipped with flight deck door assembly P/N B221001: Within 18 months after the effective date of this AD, do the actions specified in paragraph (m)(2) of this AD.

Alternative Methods of Compliance (AMOCs)

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

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

(3) AMOCs approved previously in accordance with AD 2005–12–05 are approved as AMOCs for the corresponding provisions of this AD.

Material Incorporated by Reference

(q) You must use the service information listed in Table 5 of this AD to perform the actions that are required by this AD, unless the AD specifies otherwise.

TABLE 5.—MATERIAL INCORPORATED BY REFERENCE

Service information	Revision level	Date
C&D Aerospace Alert Service Bulletin B221001–52A02	Original	November 5, 2002.
C&D Aerospace Alert Service Bulletin B221001–52A05	3	October 3, 2003.
C&D Aerospace Service Bulletin B211200–52–01	3	September 18, 2003.
C&D Aerospace Service Bulletin B211200–52–02	1	June 3, 2003.
C&D Aerospace Service Bulletin B211200–52–02	2	September 29, 2003.
C&D Aerospace Service Bulletin B221001–52–03	3	March 25, 2003.
C&D Aerospace Service Bulletin B221200–52–01	1	June 27, 2003.
C&D Aerospace Service Bulletin B231001–52–02	4	March 19, 2003.
C&D Aerospace Service Bulletin B251200–52–01	Original	April 30, 2003.
C&D Aerospace Report CDRB22–69	E	November 8, 2002.

(1) On July 19, 2005 (70 FR 34316, June 14, 2005), the Director of the Federal Register approved the incorporation by reference of the service information listed in Table 6 of this AD.

TABLE 6.—MATERIAL INCORPORATED BY REFERENCE ON JULY 19, 2005

Service information	Revision level	Date
C&D Aerospace Alert Service Bulletin B221001–52A02	Original	November 5, 2002.
C&D Aerospace Alert Service Bulletin B221001–52A05	3	October 3, 2003.
C&D Aerospace Service Bulletin B211200–52–01	3	September 18, 2003.
C&D Aerospace Service Bulletin B211200–52–02	2	September 29, 2003.
C&D Aerospace Service Bulletin B221200–52–01	1	June 27, 2003.
C&D Aerospace Service Bulletin B251200–52–01	Original	April 30, 2003.
C&D Aerospace Report CDRB22–69	E	November 8, 2002.

(2) On July 25, 2003 (68 FR 41063, July 10, 2003), the Director of the Federal Register approved the incorporation by reference of the service information listed in Table 7 of this AD.

TABLE 7.—MATERIAL INCORPORATED BY REFERENCE ON JULY 25, 2003

Service Bulletin	Revision level	Date
C&D Aerospace Service Bulletin B211200–52–02	1	June 3, 2003.

TABLE 7.—MATERIAL INCORPORATED BY REFERENCE ON JULY 25, 2003—Continued

Service Bulletin	Revision level	Date
C&D Aerospace Service Bulletin B221001–52–03	3	March 25, 2003.
C&D Aerospace Service Bulletin B231001–52–02	4	March 19, 2003.

(3) Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207; Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024); or C&D Aerospace, 5701 Bolsa Avenue, Huntington Beach, California 92647–2063; 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 May 7, 2007.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 158

[Docket No. FAA–2006–23730; Amendment No. 158–4]

RIN 2120–AI68

Passenger Facility Charge Program, Debt Service, Air Carrier Bankruptcy, and Miscellaneous Changes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This final rule amends FAA regulations dealing with the Passenger Facility Charge (PFC) program to add more eligible uses for revenue, protect such revenue in bankruptcy proceedings, and eliminate charges to passengers on military charters. These changes respond to the Vision 100—Century of Aviation Reauthorization Act. This final rule also revises current reporting requirements to reflect technological improvements, and to clarify and update existing references and regulations. This final rule further streamlines the existing policies of the PFC program.

DATES: This amendment becomes effective June 22, 2007.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this final rule, contact Sheryl Scarborough, Airports Financial Analysis and Passenger Facility Charge Branch, APP–510, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; *telephone:* (202) 267–8825; *facsimile:* (202) 267–5302; *e-mail: sheryl.scarborough@faa.gov*. For legal questions concerning this final rule, contact Beth Weir, Airports Law Branch, AGC–610, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–5880; facsimile: (202) 267–5769.

SUPPLEMENTARY INFORMATION:

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 I, Section 40117. Under that section, the FAA is charged with prescribing regulations to impose a passenger facility fee to finance eligible airport-related projects. This regulation is within the scope of that authority because Vision 100 requires the FAA to change the PFC program. Many actions in this document are in response to Vision 100.

Background

On March 23, 2005, the FAA published a final rule establishing a 3-year pilot program for non-hub airports to test new application and application approval procedures for the PFC program (70 FR 14928). The 2005 final rule contains several changes designed to streamline the PFC application and amendment procedures for all PFC applications and amendments, thereby improving the entire PFC program.

The FAA published the 2005 final rule to address Congressional mandates in the Vision 100—Century of Aviation Reauthorization Act (Vision 100). The non-hub pilot program, with the PFC application streamlining procedures, however, was only one of six mandates specified in Vision 100. The FAA separated the non-hub program and related changes from the other mandates because Congress had required the FAA to publish proposed rules on the pilot program within 180 days of enactment of Vision 100.

On February 1, 2006, the FAA published the notice of proposed rulemaking (NPRM), ''Passenger Facility Charge Program, Debt Service, Air Carrier Bankruptcy, and Miscellaneous Changes'' (71 FR 5188) to address the remaining mandates in Vision 100. These mandates include:

(1) Making low-emission airport vehicles and ground support equipment eligible for PFC funding,

(2) Using PFCs to pay debt service on projects that are ''not an eligible airport-related project'' when there is a financial need at an airport,

(3) Clarifying the PFC status of military charters,

(4) Structuring PFC account requirements for carriers in bankruptcy, and

(5) Making eligible the use of PFC revenue as local share for projects under the air traffic modernization cost-sharing program.

In addition, the FAA is adopting other changes that streamline benefits beyond those contained in the 2005 final rule. These changes will:

(1) Provide for the electronic filing of notices and reports,

(2) Provide a process for periodic review and change of the carrier compensation level, and

(3) Modify the content and due date for some public agency reports and notices.

Summary of Comments

The FAA received 12 comments. All of the commenters generally support the proposed changes. These comments include suggested changes, as discussed below.

Seven of the comments are from public agencies: Allegheny County Airport Authority, Pittsburgh, PA; Charlottesville-Albemarle Airport Authority, Charlottesville, VA; City and County of Denver, Denver, CO; Mahlon Sweet Field, Eugene, OR; Port Authority of New York and New Jersey, New York, NY; Norman Y. Mineta San Jose International Airport, San Jose, CA; and City of St. Louis, St. Louis, MO. Two comments are from aviation industry

groups: The Air Transport Association of America and the Airports Council International—North America. Two comments are from private citizens: Steven E. Myers and Kanisha K. Carty. One comment was submitted anonymously.

In the discussion of comments below, the following applies:

(1) *Acronyms:* The FAA uses the following acronyms or shortened names to identify the associated commenters:

- Air Transport Association of America (ATA)
- Airports Council International—North America (ACI)
- Allegheny County Airport Authority (Pittsburgh)
- Charlottesville-Albemarle Airport Authority (Charlottesville)
- City of St. Louis (St. Louis)
- City and County of Denver (Denver)
- Mahlon Sweet Field (Eugene)
- Norman Y. Mineta San Jose International Airport (San Jose)
- Port Authority of New York and New Jersey (PANYNJ)

General Comments

The FAA received general comments about the PFC program from Pittsburgh, ACI, and Charlottesville.

Pittsburgh believes the FAA has not gone far enough to make the PFC program a much more efficient and effective capital funding source for all domestic commercial service airports. Pittsburgh contends there should be an increase in the PFC level with the maximum level indexed on a yearly basis to inflation. Pittsburgh also claims the use of PFCs should be expanded to any airport-related capital project.

ACI believes the PFC program should become an ''impose and audit'' program where an airport would make the local decision to impose a PFC and then certify to the FAA the airport used the PFC revenues on eligible capital projects or debt service. ACI would also like to see the non-hub pilot program (§ 158.30) expanded to more airports.

ACI also expressed concern about potential administrative problems which could arise from the lengthy payout process for projects financed by debt instruments. ACI argued it is concerned about the potential for an ''administrative accident'' that could impair the ability of an airport to continue to make its debt service payments for the full term of the indebtedness.

Charlottesville is concerned about airlines requiring airports to accept PFC remittances by wire transfer. Charlottesville stated its bank charges the airport $0.26 per wire received. Charlottesville requested the FAA consider adding language to the proposed rulemaking to make the method of PFC remittance the airport's choice, not the airline's requirement.

Pittsburgh's and ACI's comments regarding recasting the PFC program as an ''impose and audit program'' and expanding the non-hub pilot program to additional airports address areas outside the scope of this rulemaking. The proposals suggested by Pittsburgh and ACI would require changes to the PFC statute (49 U.S.C. 40117).

ACI was unclear in its comments as to who, public agencies or the FAA, might have caused the ''administrative accidents'' during the closeout process. The FAA recently completed development and implementation of a program management system that should prevent the FAA from prematurely closing a PFC decision. The database requires the charge expiration date to be reached, and all projects to be physically and financially completed before the FAA can close a decision. Financial completion occurs after the approved amount of PFC revenue has been collected and the PFC portion of the project, including any debt instruments, paid. Public agencies may access and use the system to better monitor their PFC programs, thus minimizing administrative problems.

Charlottesville's comments regarding the method of PFC remittance are also outside the scope of this rulemaking and were not included in the economic analysis. The FAA may consider this issue in a future rulemaking. However, it is unlikely that the FAA would consider a $0.26 charge for each wire transfer as burdensome on the airport. Such a charge would cost the airport no more than $3.12 per air carrier each year. Weighed against the systematic convenience of a wire transfer which could reduce the chance of loss or delay, this cost appears reasonable.

The FAA made no changes to part 158 because of these general comments.

Changes Mandated by Vision 100

Low-Emission Airport Vehicles and Ground Support Equipment

This provision makes low-emission airport vehicles and ground support equipment eligible for PFC funding if the airport is located in an air quality nonattainment or maintenance area.

Kanisha Carty recommended, for a future rulemaking, that airport projects to reduce emissions from vehicles and ground support equipment be made mandatory.

PANYNJ does not agree with the low emission standards contained in the Voluntary Airport Low Emission (VALE) Technical Guidance document. PANYNJ argued the current VALE criteria are inflexible and unrealistic. PANYNJ believes there is a gap between the equipment the FAA has determined is eligible for VALE funding and the equipment actually available for purchase.

ACI requested clarification of the eligibility for PFC funding of safety and security vehicles. ACI believes these types of vehicles were already eligible for full PFC funding and this preexisting eligibility is not clearly discussed in the NPRM. ACI also believes it would be beneficial to extend the eligibility to areas covered by Early Action Compacts. (Early Action Compacts are areas for which the effective date of the nonattainment designation has been deferred because the area is expected to reach or maintain attainment status by December 31, 2006. Note 6, List of U.S. Commercial Service Airports and Their Nonattainment and Maintenance Status.) ACI also pointed out a typographic error in § 158.15(b)(8).

Ms. Carty's recommendation would be a fundamental change in the PFC program that could require a statutory change, as the PFC program does not enforce Federal priorities for project selection. Even if the proposal does not require statutory changes, public comment would be required before the FAA could adopt such a change. Therefore, the proposal to make the VALE Program mandatory is not included in this rulemaking.

The FAA's Airports Planning and Environmental Division and the Environmental Protection Agency, as directed by Vision 100, determined the types of equipment eligible under the VALE Program jointly. This guidance, found in the VALE Technical Report at *http://www.faa.gov/airports_airtraffic/airports/environmental/vale/media/VALE_TR_v3_092206.pdf*, was developed outside the parameters of this rulemaking. PANYNJ's comments have been forwarded to FAA's Airports Planning and Environmental Division for its consideration.

This final rule adds a definition of ''Ground Support Equipment'' to § 158.3 to cover those vehicles that are eligible for the VALE Program but are not otherwise eligible for PFC funding. Aircraft rescue and firefighting, security, and snow removal vehicles are not included in this definition because these vehicles are already PFC-eligible under § 158.15(b)(1). To ease confusion over which vehicles are eligible for the VALE Program, the FAA is revising proposed § 158.15(b)(8) to clarify that the references to ''vehicles'' mean vehicles eligible under § 158.15(b)(1).

The FAA is also correcting the typographic error identified by ACI in paragraph § 158.15(b)(8).

Vision 100 specifically limits VALE projects to airports located in air quality nonattainment areas or maintenance areas as defined by sections 171(2) and 175A of the Clean Air Act, respectively. A statutory change is required to add areas covered by Early Action Compacts to this eligibility.

Use of PFC Revenue To Pay for Debt Service for Non-Eligible Projects

This provision allows the use of PFC revenue to pay debt service on projects that are not eligible airport-related projects when there is a financial need at the airport.

Eugene argued, in the case of an airline bankruptcy which results in the rejection of a significant portion of air carrier gate leases, ''significant'' should be defined as rejection of 20 percent or more of the airport's leased gates. Eugene further holds that a significant reduction in air service should be defined as anything greater than a 10 percent reduction in enplanements at the airport.

Eugene also believes that this provision should be geared towards something less than catastrophic changes in the airport's financial position. Eugene maintained the triggering events should include an airport having difficulty meeting industry standards for financial stability. Eugene suggested indicators of financial instability should include high airline rates and charges, a high percentage of reliance on airline revenue, reductions in force, deferred maintenance, negative equity, insufficient capital reserves, and other negative impacts created by a significant change.

Finally, Eugene suggested that requests for use of PFCs to pay debt service for otherwise ineligible projects be treated differently than other requests for PFC collection authority. Eugene suggested, under circumstances in which the airport asserts that a financial need has been demonstrated and the incumbent carriers unanimously agree the existing part 158 criteria have been met, the FAA should grant extraordinary flexibility in the application of this rule. Eugene requested that, if the application is denied under this process, the FAA's decision include an explanation of the denial.

PANYNJ believes airports should be given the flexibility to use PFCs for any airport project that is connected to the movement of people and cargo for the purposes of commerce, trade, travel, and tourism. PANYNJ also argued airports should be given the flexibility to use PFCs to pay debt service on non-eligible projects if the airport determines this use would be good fiscal management and would enable airport management to effectively maintain and operate the airport.

ATA pointed out three inconsistencies between the statute and the proposed regulatory language. ATA noted that 49 U.S.C. 40117(b)(6) refers to ''debt service on indebtedness'' but §§ 158.13(e) and 158.18 refer to ''debt service or indebtedness.'' ATA expressed concern that the proposed language in §§ 158.13(e) and 158.18 referring to ''indebtedness incurred to carry out an airport project'' could be interpreted to permit the use of PFC funds for projects located off airport property. Finally, ATA noted that 49 U.S.C. 40117(b)(6) refers to ''the financial need of the airport'' but proposed §§ 158.13(e) and 158.18 refer to ''the financial need of the public agency.'' ATA is concerned this change from the statutory language could result in approval of debt service even if the financial need is not related to the airport.

ACI requested clarification of the term ''reserve fund'' as it is used within the definition of ''financial need.'' ACI also requested clarification of the statement ''cannot meet its operational or debt service obligations.'' ACI is concerned the FAA meant an airport had to miss a required payment in order to qualify.

ACI asked that several events be added to the list of events, provided in the NPRM preamble, which might contribute to a financial crisis at an airport. The first of ACI's suggested events is an airport being found in violation (including technical violation) of its bond covenant, trust indenture, or other financing requirements. ACI also would like to add the failure of an air carrier, whether or not in bankruptcy, to use the facilities at the airport for a significant period of time to the list of events contributing to a financial crisis at the airport. Two final triggering events suggested by ACI are the failure of a carrier to make timely payments to the airport and the failure of a carrier to collect or remit PFCs. ACI would also like the FAA to clarify when discussing air carriers in this context that the FAA means both domestic and foreign air carriers.

ACI would also like to alter the proposed procedures airports must use to gain approval to use PFCs under this provision. ACI argued an airport should be allowed to use PFCs under this provision if the airport could demonstrate it otherwise would not be able to pay its debt service, meet coverage requirements, or otherwise be in violation of bond covenants based on prospective calculations. ACI argued if airports cannot rely on prospective calculations, PFCs would not be available for debt service until after a financial crisis. ACI also recommended airports not be required to go through the normal application process. Rather ACI recommended the following four-step process:

(1) The airport declares that it is experiencing a financial crisis;

(2) The airport notifies the FAA of the basis of the crisis;

(3) The airport applies (existing) PFCs to the immediate need; and

(4) The FAA reviews the application within 60 days of submission and either ''ratifies'' the airport's use of PFCs or requires some modification of the airport's use of PFCs.

ACI concluded its comments on this provision by requesting that the proposed prohibition on an airport issuing new debt be revised. The first suggested revision would allow an airport to issue new debt to refund outstanding debt. The second revision would allow an airport to issue new debt if it can be shown that failure to do so would have greater financial repercussions.

The comments submitted anonymously argued the proposed rule unnecessarily limits the use of PFCs to pay debt service on ineligible projects. The commenter also argued the FAA has not undertaken a substantive alternatives analysis on this provision. The commenter believes the FAA should provide ''significant justifications'' beyond the statutory mandate for the proposed rulemaking.

In order to provide the maximum flexibility to each airport, the FAA has elected not to specify percentages with respect to a significant number of gates or reduction in air service since the appropriate percentage could vary from airport to airport. The FAA suggests an airport applying to collect and use PFCs under this provision determine what percentage of gates or air service is significant for its operations and defend that choice in its application.

The FAA suggested several events in the preamble of the NPRM that might result in an airport finding itself in financial need. The FAA did not consider this listing to be comprehensive. An airport seeking to demonstrate its financial need is welcome to discuss any triggering events applicable to its unique situation.

The FAA does not agree that all of the proposed indicators of financial instability provided by Eugene and ACI

are, in fact, indicators of instability. Some of these indicators, including reductions in force and deferred maintenance, could be indicators of prudent financial management and/or changing priorities. Furthermore, terms such as ''high airline rates and charges,'' ''a high percentage of reliance on airline revenue,'' ''the failure of an air carrier to use airport facilities for a significant period of time,'' and ''failure of a carrier to make timely payments to the airport'' are vague and subjective and must be considered on an airport-by-airport basis. The FAA encourages each airport applying to use PFC revenue under this provision to thoroughly discuss in its application those factors it believes most clearly indicate its financial need.

After reviewing ATA's comments on §§ 158.13(e) and 158.18(a), the FAA has concluded that an unintended consequence of the wording ''indebtedness incurred to carry out an airport project'' could be airports applying to use PFC revenue to pay the debt services costs for projects located off airport property if those projects were labeled as ''airport projects.'' The FAA does not believe that Congress intended for this provision to be used on off-airport projects. Therefore, the FAA has returned to the statutory language, ''indebtedness incurred to carry out at the airport a project,'' in this final rule. The FAA also acknowledges the typographic error, ''debt service or indebtedness,'' and has returned this rule language to ''debt service on indebtedness.'' Finally, the FAA acknowledges that the term ''financial need of the public agency'' could lead to requests to use PFCs to pay debt service on an otherwise ineligible project due to a financial crisis unrelated to the airport. The FAA does not believe Congress intended for this provision to be on a non-airport related financial need. Therefore, the FAA has returned to the statutory language ''financial need of the airport,'' in this final rule.

The term ''reserve fund'' used within the new definition of ''financial need'' refers only to the operational or capital reserve fund and not any reserve funds required under financing documents. The FAA's definition of financial need as it concerns this provision concentrates on the ability of an airport to maintain airport/flight operations. However, the FAA does not intend that an airport miss required payments in order to demonstrate that it ''cannot meet its operational or debt service obligations.'' Rather, the FAA expects an airport attempting to demonstrate that it faces a financial crisis to discuss factors likely to affect its ability to make required payments in the future. Projections of revenue streams and cash flow would be relevant to that demonstration.

The discussion in the preamble to the NPRM regarding the issuance of new debt does not prohibit the issuance of new debt. Rather, the FAA believes any airport that is granted authority to collect and use PFC revenue under this provision should use this revenue to help it return to a position of financial stability as quickly as possible. Therefore, as a part of its deliberations on the application, FAA will consider the airport's plans to return to financial stability. If an airport believes incurring new debt (for any purpose) will help it return to financial stability as soon as possible, it should discuss this factor in the application.

The various proposals submitted by Eugene, PANYNJ, and ACI for the FAA on processing requests to collect and use PFC revenue to pay debt service for otherwise ineligible projects and defining eligibility are not being adopted in this final rule. Vision 100 clearly requires the FAA (representing the Secretary of Transportation) rather than the airport itself to determine that an airport is in financial need. Furthermore, Vision 100 does not provide any special processing language for this provision. Therefore, the processing provided for in 49 U.S.C. 40117, which requires the FAA make its decision prior to an airport collecting or using PFC revenue, must be applied to this provision. Similarly, proposals for defining eligibility go beyond the scope of the statute and cannot be implemented by rulemaking. The FAA has, since the beginning of the PFC program, included its reasons for every partial approval and disapproval of a project in its decisions. The FAA will continue this practice for any requests submitted under this provision that are denied.

The anonymous commenter's argument appears to be based on the assumption that the FAA would not consider alternatives in its financial needs analysis of an airport's proposal. The FAA stated in the preamble to the NPRM that we will analyze each proposal on a case-by-case basis. This provision responds to a statutory mandate that is based on an airport's financial need. A structured model has the potential to be overly restrictive in a financial needs analysis. The FAA has chosen to make this provision flexible in order to allow each airport to tailor its application to its particular circumstances.

Clarification of Applicability of PFCs to Military Charters

This provision clarifies the PFC status of military charters.

ACI expressed concern that § 158.9(a)(6), as written, would allow individual passengers flying on scheduled commercial air carrier flights to be exempt from paying PFCs.

The FAA reviewed the proposed language in § 158.9(a)(6) and does not agree with this comment. Section 158.9(a)(6) reads as follows: ''Enplaning at an airport if the passenger did not pay for the air transportation that resulted in the enplanements because of Department of Defense (DOD) charter arrangements and payment.'' By the use of the word ''and,'' the language, as written, imposes two conditions for the exemption—the passenger is on a flight chartered by DOD and the flight is paid for by DOD. This language does not apply to individuals who pay for their own transportation nor does it apply to individuals who are not traveling under DOD charter arrangements.

Accordingly, the FAA made no changes to § 158.9(a)(6).

Financial Management of Passenger Facility Fees

This provision structures PFC account requirements for air carriers in bankruptcy.

Denver expressed concern that the changes to the regulation proposed in the NPRM do not address who enforces compliance with the PFC statute and regulation when an air carrier files for bankruptcy protection.

Denver requested that the regulations be modified to state that an airport has the legal standing to protect its PFCs. Denver requested the regulation specifically state an airport has a sufficient stake in the PFC program such that it is entitled to seek legal protection from a court with appropriate jurisdiction to compel an air carrier's compliance with the PFC regulation. In support of this request, Denver cited a recent bankruptcy case in which the bankrupt air carrier argued public agencies had no standing to enforce this provision of Vision 100.

Denver also requested § 158.49 be modified to state that any party that holds PFCs for a public agency holds such PFCs in trust for the benefit of the public agency. Denver contended this relationship should extend to third parties, including credit card companies. Denver would also like the regulation to describe which parties beyond the covered air carrier shall be subject to the PFC regulations. Denver contended that § 158.49(b) recognizes

the concept of an agent of the air carrier but does not define which third parties would be considered agents.

Denver is concerned the proposed § 158.49(c) does not require a separate trust account for PFCs but leaves open the possibility that an air carrier could simply create a sub-account within an existing trust account and claim compliance with the ''designate separate PFC account'' requirement. Denver is concerned sub-accounts in existing trust fund accounts are typically controlled by the secured creditors and are subject to provisions in complex agreements not made available to the public agencies.

Denver claimed the regulation should clarify post-petition accounting requirements and require covered air carriers to demonstrate how the ''PFC reserve'' for each affected airport was calculated. Denver also requested that the regulation make clear that any funds in the PFC reserve are in the nature of trust funds. Denver holds that these PFC reserve funds should be available to pay PFCs in the event a covered air carrier fails to make its PFC payments. Denver contended funds in the PFC reserve should only be released for non-PFC purposes after all affected airports have received the appropriate PFC remittances. Denver also argued the funds in the PFC reserve should be equitably allocated to all affected airports if a covered air carrier ceases operations.

In addition, Denver requested the regulation provide the procedure to allow an airport to recover its costs when an airport is forced to protect its PFCs. Denver claimed it has expended funds to hire outside and local counsel, file motions, appear in court, and otherwise incur costs to protect its PFC revenues in four bankruptcy cases since Vision 100 was enacted. Denver believes it is unclear from the proposed regulation whether it should invoice a non-compliant air carrier, seek recovery through the FAA, or file a motion or complaint in the appropriate court. Denver suggests the regulation clarify that the right to compensation is a post-petition claim which should be treated as an administrative expense entitled to priority under 11 U.S.C. 503(b). Denver further suggests that the regulation provide that the claim should be allowed irrespective of any requirement in the Bankruptcy Code that the airport prove a ''benefit to the estate.'' Denver also suggests that the claim should be allowed in the event the bankruptcy case converts from Chapter 11 to Chapter 7. Denver would also like clarification regarding which costs are eligible for reimbursement.

ACI recommended the definition of ''covered air carrier'' be expanded beyond the category specified by Vision 100 to include air carriers in financial distress, even if they have not yet declared or been forced into bankruptcy. ACI goes on to recommend that an air carrier which fails to remit PFCs in a timely manner or fails to properly report PFC collections to any airport be required, from that point forward, to place its PFC collections daily into a segregated escrow account or trust fund absolutely dedicated to the airports for which the air carrier collected them.

ACI also argued that an air carrier that ''cannot prove it can provide accurate accounting, on an airport-by-airport basis'' should be required to establish separate PFC trust accounts for each airport.

ACI also requested clarification of § 158.49(c)(1)(v), regarding reconciliation of an estimated PFC monthly balance. ACI is concerned this paragraph does not cover air carriers to reconcile the amounts in the PFC account if they deposit PFC revenues directly into the segregated PFC account.

ACI also argued the word ''unnecessarily'' should be deleted from § 158.49(c)(4). ACI believes Vision 100 clearly states that any failure by a carrier to comply with any provision of subsection (m) of Vision 100 that causes an airport to spend money to recover or retain its PFCs imposes an obligation on that carrier to compensate the airport for such costs.

St. Louis is concerned with the language in § 158.49(c)(3) regarding the prohibition on covered air carriers granting security or other interests in PFC revenues to third parties. St. Louis claimed it has been told by air carriers that this language would prevent the carrier from granting a security interest in the PFCs to the airports on whose behalf the charges are collected. St. Louis requested the FAA clarify § 158.49(c)(3) since this section does not apply to public agencies but rather applies to banks and other airline creditors.

ATA is concerned the definition of ''covered air carrier'' is overly broad because it does not protect air carriers from frivolous involuntary bankruptcy filings. ATA asserts that contracts which contain involuntary bankruptcy provisions typically include a grace period (usually 30 to 90 days) to obtain dismissal of any involuntary petition. ATA believes this grace period gives an air carrier time to resolve ''illegitimate bankruptcy petitions and petty disputes.'' ATA requested the definition of ''covered air carrier'' be modified to state an air carrier ceases to be a covered air carrier upon its exit from bankruptcy protection. ATA also requested the FAA allow for some flexibility in § 158.49(c) to reflect the complex nature of airline financial management.

Neither 49 U.S.C. 40117 nor 14 CFR part 158 restricts the legal remedies available to public agencies. Since the beginning of the PFC program, public agencies have had legal rights with respect to PFC revenue. Public agencies are entitled to avail themselves of all legal remedies to ensure they receive the PFC revenue to which they are entitled. Specific enforcement responsibilities are not described in the existing PFC statute, 49 U.S.C. 40117, and further clarification to assist public agencies would require legislative action. The FAA believes the air carriers' assertion that airports have no standing with regard to PFC revenue in bankruptcy cases is ill-founded. However, in the case of PFC collection issues, the FAA works with all air carriers to bring them into compliance with PFC collection, handling, and remittance requirements so that the public agencies need not resort to legal challenges. On those occasions where, for whatever reason, the air carrier has insufficient PFC revenue in its accounts to meet all of its PFC obligations, the FAA works with the affected public agencies to ensure they are treated equally and receives their proportionate share of the available revenue.

In the context of the PFC regulation, an ''agent'' of an air carrier is a third party who is authorized to issue airline tickets for the air carrier. Credit card companies, banks, and other secured creditors that are not authorized to issue airline tickets are not agents of the air carrier. Collecting air carriers are statutorily prohibited (49 U.S.C. 40117(m)(3)) from granting any third party an interest in trust moneys such as PFCs. If, through an agreement with an air carrier, a third party holds 100 percent of ticket revenue (which would include applicable PFCs), it would appear that the air carrier is violating this statutory prohibition. The only authorized holders of PFC revenue are air carriers and public agencies.

Section 158.49(c)(1) specifies that a covered air carrier must segregate its PFC revenue in a designated separate PFC account. This PFC account is intended to hold all PFC revenue separate from any other air carrier revenue so that it is easier to identify in bankruptcy proceedings. A subaccount within an existing account would not meet this requirement for a separate PFC account.

The ''PFC reserve fund'' is not calculated on an airport-by-airport basis. Rather, the reserve is equal to the one-month average of the air carrier's total PFC collections for the 12 months preceding its filing for bankruptcy protection. The FAA is adding language to § 158.49(c)(1)(ii) to indicate that, in the event a covered air carrier ceases operations while still owing PFC remittances, the PFC reserve fund could be used to make those remittances. The FAA is also adding language that the remaining balance, after all PFC obligations are met, will be returned to the air carrier's general account after the carrier emerges from bankruptcy and ceases to be a covered air carrier.

The FAA is removing the word ''unnecessarily'' from § 158.49(c)(4). As mentioned above, this provision applies only to the reasonable and necessary costs incurred by a public agency seeking to recover or retain payment of PFCs when a covered air carrier refuses to remit the PFCs.

Vision 100 does not contain formal instructions for public agencies on how to recover funds expended to recover or retain PFCs from a covered air carrier. Federal oversight has served to assist public agencies in the initial recovery of PFCs. However, public agencies are entitled to avail themselves of all legal remedies, to include filing of a post-petition administrative claim to recoup funds used for recovery or retaining PFCs with the appropriate Bankruptcy Court. The FAA takes this opportunity to clarify that the public agency's expenses discussed in § 158.49(c)(4) apply to those expenses that a public agency may incur when a covered air carrier refuses to remit PFCs. Bankruptcy law makes participation in a bankruptcy proceeding unavoidable for public agencies seeking to assure a carrier implements the PFC financial management requirements of Vision 100. Participation may be necessary even when the air carrier is willing to implement the provision. Expenses a public agency may choose to incur to generally represent its claims in a bankruptcy proceeding are not included in this provision.

The FAA is not granting ACI's request to expand the definition of covered air carrier beyond those carriers filing for bankruptcy protection. ACI's request to include carriers in financial distress within the covered air carrier definition would require a statutory change. In addition, the FAA is not modifying part 158 to require an air carrier (not just a covered air carrier) that fails to remit PFCs or report PFC collections in a timely manner to place all PFC revenue daily in a segregated escrow account or a dedicated trust fund. This proposal goes beyond the scope of the NPRM and would require the opportunity for public comment before it could be adopted.

The FAA did not include a requirement in § 158.49(c)(1)(iv) that a covered air carrier undertake a monthly reconciliation of actual monthly PFC amount for those carriers that are depositing the daily PFC amount in the segregated PFC account. Covered air carriers that deposit the daily PFC amount are depositing the actual amount collected less the air carrier compensation fee. The FAA is requiring covered air carriers that opt for the estimated monthly collection amount in § 158.49(c)(1)(v) to undertake a monthly reconciliation. We are adopting this requirement because the actual amount could be different from the estimated amount and we want to ensure the PFC account contains the funds necessary for the covered air carrier to meet its PFC obligations.

The FAA is partially granting the relief sought by ATA with regard to frivolous involuntary bankruptcy filings. The FAA is modifying the definition of covered air carrier to provide a 90-day grace period to allow an air carrier to seek dismissal of an involuntary bankruptcy filing before the air carrier becomes a covered air carrier. However, this grace period will be limited to those air carriers that are current on their PFC remittances. The FAA is also revising the definition of ''covered air carrier'' to indicate that an air carrier ceases to be a covered air carrier when it emerges from bankruptcy protection.

Changes Associated With Technological Improvements

This provision updates various PFC procedures to take advantage of technological improvements since the PFC program's inception in 1990 including the use of electronic or paperless airline ticketing, the use of electronic mail to send documents, and Web sites to post information.

ATA argued that the proposed definition of the point of issuance of airline tickets would result in negative unintended consequences including extensive airline ticketing programming changes and unequal tax treatment for international passengers depending on the form of payment.

ATA also supported the database development discussed in the NPRM. ATA recommended that the FAA work with a committee of airport and airline representatives to design airport and airline modules. ATA suggested that having the airports and airlines participate in the design of the modules they will use would help to achieve widespread buy-in to this new database. ATA also recommended the FAA develop standards and procedures for airports, airlines, and other reporting entities that need access to reports, summaries, and other information necessary to ensure accurate information is being input in the database.

The FAA proposed the definition of point of issuance of airline tickets as part of a strategy to ensure PFCs collected for tickets with wholly U.S. itineraries are collected using the procedures in § 158.45 rather than the procedures in § 158.47. A second part of this strategy was a proposal to insert language in § 158.47 regarding tickets for wholly U.S. travel. Based on the concerns raised by ATA, the FAA has decided to drop the proposed definition of point of issuance of airline tickets in § 158.3. The FAA believes that the proposed revisions to § 158.47 are sufficient to ensure that all applicable PFCs will be collected.

Since the NPRM was published, the FAA has completed development of the public agency module of the PFC database. The module was deployed in June 2006. The FAA plans to work closely with air carriers regarding design and development of the air carrier module, and welcomes ATA's participation.

As each module of the database is developed and deployed, the FAA is gathering business rules and data standards applicable to that module. The FAA will work with all system users to determine the most effective method of publication for these rules and standards.

Changes To Streamline PFC Procedures, Codify PFC Policies, or Address Issues or Questions About the PFC Program

PFC Administrative Costs

This provision directs public agencies wishing to use PFC revenue to pay for allowable PFC administrative support costs to treat those costs as a separate and distinct PFC project in a PFC application or notice of intent.

San Jose believes that PFC administrative support costs should be a part of the project costs. San Jose suggests that its administrative costs are minimal compared to its overall PFC program. San Jose also argued that it would not be cost effective to submit and maintain a separate application for PFC administrative support costs.

ACI requested that the FAA clarify that the costs of administering a PFC

project; *i.e.*, managing a construction project, remain eligible and should continue to be included in the general projects.

The FAA agrees with San Jose that it would not be cost effective for a public agency to submit and maintain a separate application for PFC administrative support costs. However, the proposal in the NPRM does not require public agencies to submit and maintain a separate PFC application for these costs. Rather, the proposal would require that PFC administrative support costs be treated as a separate project in an application, not a separate application, if the public agency wishes to reimburse itself for these costs using PFC revenue. PFC administrative support costs include the cost to prepare a PFC application or notice of intent as well as amendments, and other actions associated with that application or notice; prepare and distribute quarterly reports; and annual audits of its PFC program. PFC administrative support costs do not include construction or project management associated with a specific development project. Construction or project management costs may be treated either as an incidental cost within the development project or as a separate stand-alone project within an application.

The FAA made no changes to part 158 because of the comments received on this section.

Duration of Authority To Impose a PFC Before Project Implementation

This provision clarifies the required timing of PFC project implementation.

ACI believes the proposed revisions are confusing and recommends alternate language. ACI also argued the time period for when the decision date is used rather than the charge effective date should be 30 days rather than the 60 days specified in the NPRM due to other recent or proposed changes regarding charge effective dates.

The FAA has reviewed the proposed revision in the NPRM and ACI's suggested alternative language. As a result of this review, the FAA has made minor revisions to the regulatory language to reduce confusion. However, the FAA has retained the 60-day time period as proposed. Section 158.43(b)(3), as revised in this rulemaking, requires the charge effective date be the first day of the month and at least 30 days after the approval date. For example, an application approved April 2, would have a charge effective date of June 1, 59 days after the decision date. Thus, the FAA has concluded that a 60-day time period is the correct differential between the charge effective and decision dates.

Amendment of Approved PFC

This provision modifies the PFC amendment procedures to set a minimum dollar threshold for amendments requiring additional air carrier consultation and public notice and comment. For projects with original approved amounts at or above this threshold and for projects that are amended to or above this threshold, an increase of more than 25 percent would trigger the need for consultation and public comment. For projects with original approved amounts below this threshold, public agencies would not need to consult with air carriers and provide the opportunity for public comment, regardless of the percentage increase in costs proposed.

ATA recommended that, for projects with an original approved amount under $1 million, a limit of 50 percent be placed on the percentage of increase in the approved project amount allowed before the public agency is required to undertake additional airline consultation and public notice and comment. ATA also recommended that public agencies be required to undertake additional airline consultation and public notice for any project with an original approved amount of less than $1 million whenever the approved amount for that project is amended to over $1 million.

The FAA understands the concerns underlying ATA's comments and recommendations. Our intention in proposing a consultation-triggering threshold is to eliminate the burden on public agencies and air carriers that is related to the required consultation for low-cost projects. In the NPRM, the FAA attempted to devise a threshold that would capture significant changes to projects without also capturing small projects. The FAA is aware of only a few projects in the entire history of the PFC program that have been approved as low-cost projects and later amended to significantly over $1 million. After further review and consideration, the FAA concludes that the threshold proposed in the NPRM is reasonable and practical.

However, in addition to the threshold proposed in the NPRM, the FAA has decided to adopt ATA's proposal to require additional air carrier consultation and public notice and comment when the PFC amount of a project is amended to over $1 million.

The FAA declines to adopt ATA's proposal regarding a 50 percent limit on the amendment amount for projects under $1 million at this time. However, the FAA will closely monitor future amendments. The FAA will also pay particular attention to projects originally approved for low PFC amounts and later increased significantly. The FAA may undertake future rulemaking on amendments if it concludes public agencies are using the amendment thresholds to deliberately avoid future air carrier consultation and public notice.

Nonrefundable Tickets

This provision clarifies that failure to travel on a nonrefundable or expired airline ticket is not a change in itinerary. Ticket purchasers holding nonrefundable or expired tickets are not entitled to a refund of any associated PFCs if the ticket purchaser is not entitled to any fare refund.

Steven Myers is concerned the proposal regarding nonrefundable tickets is based on ticket costs. Mr. Myers argued PFCs should be refundable or nonrefundable to all travelers regardless of the airfare. Mr. Myers is also concerned this proposal would disproportionately affect minority and low-income travelers. He argued that, if this proposal disproportionately affects minority and low-income travelers, it should be subject to appropriate National Environmental Policy Act (NEPA) analysis.

While the FAA agrees with Mr. Myers that nonrefundable tickets tend to cost less than refundable tickets, the FAA does not agree that nonrefundable tickets tend to be used disproportionately by lower income travelers. Most travel web sites provide an initial sort of ticket options by fare. Generally, most travelers' first review of flights shows the more restricted or nonrefundable fares; therefore, most travelers searching for coach class tickets are likely to have been presented with the option of purchasing a nonrefundable ticket.

However, the FAA's proposed clarification that passengers holding nonrefundable or expired tickets are not entitled to a refund of any associated PFCs is not based on ticket price. Rather it is based on proposed travel in conjunction with air carrier fare and refund rules. Air carriers offer many different fare types with specific rules associated with each fare type. Some of those fare rules specify that a passenger is not entitled to a cash refund of the fare if the passenger does not travel as ticketed. The FAA is ensuring that PFCs are treated similarly. Mr. Myers is reminded that where a fare is applied to another ticket, so too is the PFC.

This provision applies to all travelers and thus does not disproportionately affect minority or low-income travelers. Under the circumstances, NEPA is not triggered.

Air Carrier Collection Compensation

This provision establishes a procedure for the FAA to periodically review and set the air carrier collection compensation level.

ATA requested clarification of the term ''audited air carrier collection'' in § 158.53(c)(1). It questions whether the FAA would require an opinion from the carriers' auditors as to the accuracy of the costs. ATA further questioned whether the air carriers' auditors would be able to provide this opinion if the carriers' accounting systems do not capture this information specifically for PFC collection, handling, and remittance.

ATA also requested the regulations state that any future handling fee revision adopted as a result of the FAA's periodic review of collection compensation may not be reduced below the current $0.11. Alternatively, ATA suggested the submission of cost data be made mandatory to ensure the FAA has a complete set of industry data to use as the basis for re-setting the handling fee. ATA also suggests the FAA establish a 5-year cycle for review of the handling fee, establish a set of air carrier data points that will be used in establishing the fee, and publicize this endeavor so that air carriers can track the data prospectively rather than having to look back every 5 years.

ACI is concerned that any change in the carrier compensation level may have an adverse affect on public agencies that have pledged their PFCs to bond payments. ACI is also concerned that escrow costs may be interpreted as being the cost a carrier in bankruptcy incurs to set up trusts for PFCs in accordance with § 158.49(b).

ACI argued § 158.53 should be modified so that any carrier, whether or not in bankruptcy, which has failed to properly remit PFCs to any airport would not be entitled to receive compensation for the collection or remittance of any PFCs for any airport until that carrier has ''made good the PFCs it owes.''

ACI also argued that, when considering any adjustment to the collection compensation level, the FAA should disregard any costs submitted by carriers that have failed to properly collect or remit PFCs. ACI believes the FAA should deduct the aggregate amount the airports have had to expend to collect PFCs from carriers that have improperly withheld them along with the amount of PFCs improperly withheld.

The FAA mistakenly used the term ''audited costs'' in the preamble to the NPRM. Rather, the FAA intended to indicate costs submitted by a carrier should include a certification from the airline's Chief Financial Officer or independent auditor that the costs submitted are accurate.

The FAA also mistakenly used the term ''escrow costs'' in the preamble to the NPRM. The FAA does not intend to allow the inclusion of costs related to the provisions of § 158.49(c) in the calculation of the carrier compensation rate.

The FAA is not aware of any adverse affects experienced by public agencies as a result of previous changes in the carriers' compensation rate. However, the FAA's proposed procedures for review of compensation rates will provide the opportunity for public agencies to comment on how any proposed change to the rate might affect the public agency before that proposed change goes into effect.

Under 49 U.S.C. 40117, the FAA is required to calculate the carriers' collection compensation rate based on an average of the carriers' reasonable and necessary costs of collecting, handling, and remitting the PFCs. Therefore, the FAA cannot agree to set the current compensation rate of $0.11 per PFC collected as the permanent minimum rate as requested by ATA. Nor can the FAA agree to forgo consideration of certain carriers' costs when determining the average of their costs, as requested by ACI.

The FAA continues to keep the submission of cost data by carriers as a voluntary effort. However, the FAA agrees it would be less burdensome on the carriers if the FAA published a schedule well in advance of the next FAA review of the compensation rate. Therefore, the FAA expects to publish a **Federal Register** notice at an appropriate time in the future providing this information. As for specific data elements air carriers should consider tracking, § 158.53(c)(1) includes a list of cost categories applicable to the FAA's calculation of the air carrier PFC compensation rate. The FAA has added a new § 158.53(c)(2). The FAA will review data submitted by air carriers, if data represents at least 75 percent of PFCs collected nationwide. Based on analysis of this data, the FAA may set a new compensation level. This paragraph will ensure that the FAA does not make a decision based on grossly incomplete industry data.

The FAA has determined that ACI's proposal that a carrier not be entitled to compensation until it properly remits all PFCs it owes is not practical given the collection, handling, and remittance procedures in place. First, carriers are entitled to keep the interest earned on the PFC revenue between the time the PFC is collected from the passenger and the time it is remitted to the airport. A carrier could not be identified as failing to properly remit PFCs to any airport until after the carrier earned this interest. Second, the airports would need to set up some sort of clearinghouse to process payments to carriers and to monitor carrier remittances to all airports. Finally, carriers are entitled to compensation based on the PFCs collected. This compensation is currently taken at the time of ticket issuance. ACI's proposal would appear to delay this compensation by at least two months due to the need to determine if a carrier had remitted the PFCs properly (remittance occurs at the end of the month following collection) and then collect all compensation payments from the airports. Any significant change to part 158 such as this must first be subject to public scrutiny and comment. This proposal has not been subject to such scrutiny. The FAA is accordingly not adopting ACI's proposal regarding withholding carrier compensation in this rulemaking.

Environmental Analysis

Steven Myers stated he could not locate paragraph 3f of FAA Order 1050.1E, referred to in the Environmental Analysis section of the NPRM. FAA mistakenly referred to an incorrect paragraph number. The correct reference should have been paragraph 312d of FAA Order 1050.1E. The FAA corrected the paragraph reference in the Environmental Analysis section of the final rule.

Corrections and Other Minor Changes to the Proposed Rule

This final rule also corrects typograpgical errors that appear in the rule text of the proposed rule. The following is a list of these corrections to the rule text.

1. § 158.3, Notice of intent—Put ''/'' between ''and'' and ''or.''
2. § 158.13(c)—Put ''§ '' before ''§ 158.15(b).''
3. § 158.13(d)(2)—Change ''§ 158.13(b)(1)'' to ''§ 158.13(d)(1).''
4. § 158.13(g)—Change ''Airport Improvement Program'' to ''Airport Grant Program.''
5. § 158.15(b)(6)—Delete ''or'' at the end of this paragraph.
6. § 158.15(7)—Delete punctuation after ''Projects.''

7. § 158.18(a)—Change ''PFC on payments'' to ''PFC to make payments.''

8. § 158.20(b)—Start paragraph ''Once the database development is completed, with air carrier capability, public.''

9. § 158.37(b)(1)(ii)(C)—Add ''or'' at the end of the paragraph.

10. § 158.37(b)(1)(ii)(D)—Add ''; or'' at the end of the paragraph.

11. § 158.37(b)(5)—Change ''a change'' to ''an increase.''

12. § 158.39(a)—Add ''the'' between ''use'' and ''excess.''

13. § 158.47(c)(3) should be § 158.47(c)(4).

14. § 158.49(c)(1)(iv)—Change ''its PFCs'' to ''the PFCs it collects.''

15. § 158.53(b)—Change ''account'' at the end of the first sentence to ''PFC Revenue.''

16. § 158.53(c)(1)—Change ''file in the first sentence to ''provide.''

17. § 158.53(c)(2)—Change ''filed'' to ''provided.''

18. § 158.65(b)(2) Add ''following'' between ''the'' and ''month'' at the end of the first sentence.

19. § 158.67(c)(2)—Change ''PFC is specifically addressed by the auditor'' to auditor specifically addresses the PFC.''

Paperwork Reduction Act

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the FAA submitted a copy of the new information collection requirement(s) in this final rule to the Office of Management and Budget (OMB) for its review. OMB approved the collection of this information and assigned OMB Control Number 2120–0557. This final rule addresses the remaining mandates in Vision 100. Part 158 recordkeeping/reporting requirements affect two groups of respondents—air carriers and public agencies. There are 450 respondents who will respond an estimated 2,400 times annually. It should be noted that air carriers have been collecting, keeping records and reporting on other aviation related fees (passenger tax, customs user fees, international transportation tax and immigration user fees) for many years. As a result, various sophisticated manual and computer systems are currently in place and have been modified to implement the PFC program. The total reporting burden hours is 22,805. The total recordkeeping burden is 1,220 hours. There were no comments directed to the information collection burden.

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

International Compatibility

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

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

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (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, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by state, local, or tribal governments, in the aggregate or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this final rule. We suggest readers seeking greater detail read the full regulatory evaluation, a copy of which we have placed in the docket for this rulemaking.

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

This final rule addresses the remaining provisions not addressed in previously issued final rules mandated by Vision 100-Century of Aviation Reauthorization Act (Vision 100) and will include changes to administrative procedures to improve the efficiency of the PFC program.

The total cost of this final rule is estimated to be $1.1 million ($983,000 present value), and the quantified cost savings are estimated to be $3.6 million ($2.5 million present value). In addition, a number of unquantified benefits will be attributable to the Vision 100 statutory provisions and streamlining procedures. The net cost savings of this final rule are estimated to be $2.5 million ($1.6 million present value) over the ten-year analysis period.

Regulatory Flexibility Determination

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

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

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

The FAA uses the size standards from the Small Business Administration (SBA), which classifies ''small'' entities based on either annual revenues or

employment. An airport operator (North America Industry Classification System (NAICS) 488119) is classified as a small entity if it has annual revenues of $6 million or less. According to financial reports filed with the FAA in 2003, 195 airports received PFC revenues with annual operating revenues of $6 million or less. These small airports account for over 60 percent of all airports receiving PFC revenues and, therefore, constitute a substantial number of small entities. The average revenue for these airports was $1.7 million and the median revenue was $1.1 million for 2003. The entire cost to all airports is estimated to be $17,100, thus no small airport could experience a significant economic impact. Small airports will benefit proportionately from the establishment of the national internet database, and could also benefit from section 158.13(g), which permits the use of PFC revenues to fund the non-Federal share of air traffic modernization projects, thus easing the local financial burden. Four airports at which military enplanements exceed one percent of all enplanements are small entities. The deferred collection of PFC will result in an extension of the period of collection but will not result in any loss of revenue. The FAA has determined the final rule will not have a significant economic impact on small commercial airports.

The SBA standard classifies a scheduled and nonscheduled passenger air carrier (NAICS 481111) to be a small entity if it has 1,500 employees or less. FAA has identified 57 air carriers with authorization to carry passengers that meet this classification. These small air carriers provide scheduled services under their own code at nearly 100 airports that have PFCs. In addition, some small entities provide air service on behalf of a large air carrier under a code sharing agreement. The large carrier handles all the ticketing and accounting procedures. There are a number of provisions of the PFC program that mitigate any impact on a small air carrier. Section 158.9 prohibits the imposition of a PFC on Essential Air Services (EAS) routes on flights between two or more points in Hawaii or Alaska aboard an aircraft with less than 60 seats. There are 150 EAS routes, a number of which are served by small carriers. Section 158.11 also permits airports to request that a class of carriers that constitutes not more than one percent of total enplanements not collect PFCs. Thus some small carriers will not be affected by the final rule under these provisions. Since no small carrier voluntarily submitted PFC collection compensation information to the NPRM issued on November 20, 2002, the FAA assumed none of the small carriers will incur the cost of participating in the final compensation collection provision. In addition, small carriers that do collect PFCs will not be adversely affected. Any adjustments to modify ticketing or other administrative costs that small air carriers may incur as a result of this final rule are at least partially if not fully recoverable under the existing compensation provisions of the rule. The FAA has determined the final rule will not have a significant economic impact on small air carriers.

Therefore, as the Administrator of the FAA, I certify that this final rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreements Act of 1979 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 Federal agencies to consider international standards and, where appropriate, use the foreign standards as the basis for U.S. standards. Foreign carriers would be required to collect PFCs on wholly domestic U.S. travel that U.S. carriers are already required to collect, and the foreign carriers will be entitled to the same compensation provisions as U.S. carriers. The FAA has assessed the potential effect of this final rule and determined that it will impose the same costs on domestic and international entities and thus have a neutral trade impact.

Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (the Act) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on state, local, and tribal governments.

Section 202(a) (2 U.S.C. 1532) of Title II of the Act requires that each Federal agency, to the extent permitted by law, prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by state, local, tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year; 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. Section 203(a) of the Act (2 U.S.C. 1533) provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, an agency shall have developed a plan under which the agency shall: (1) Provide notice of the requirements to potentially affected small governments, if any; (2) enable officials of affected small governments to provide meaningful and timely input in the development of regulatory proposals containing significant Federal intergovernmental mandates; and, (3) inform, educate, and advise small governments on compliance with the requirements. With respect to (2), Section 204(a) of the Act (2 U.S.C. 1534) requires the Federal agency to develop an effective process to permit elected officers of state, local, and tribal governments (or their designees) to provide the input described.

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

Executive Order 13132, Federalism

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

Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 312d and involves no extraordinary circumstances.

Regulations That Significantly Affect Energy Supply, Distribution, or Use

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

Availability of Rulemaking Documents

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

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

Small Business Regulatory Enforcement Fairness Act

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

List of Subjects in 14 CFR Part 158

Air carriers, Airports, Passenger facility charge, Public agencies, Collection compensation.

The Amendment

■ Because of the above, the Federal Aviation Administration amends part 158 of Title 14, Code of Federal Regulations, as follows:

PART 158—PASSENGER FACILITY CHARGES (PFC'S)

Subpart A—General

■ 1. The authority citation for part 158 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40116–40117, 47106, 47111, 47114–47116, 47524, 47526.

■ 2. Amend § 158.3 as follows:

■ a. Revise the definitions for *Air travel ticket, Approved project,* and *State* to read as set forth below.

■ b. Add definitions for *Covered air carrier, Financial need, Ground support equipment, Notice of intent (to impose a PFC or use PFC revenue),* and *PFC administrative support costs* in alphabetical order to read as set forth below.

§ 158.3 Definitions.

* * * * *

Air travel ticket includes all documents, electronic records, boarding passes, and any other ticketing medium about a passenger's itinerary necessary to transport a passenger by air, including passenger manifests.

* * * * *

Approved project means a project for which the FAA has approved using PFC revenue under this part. The FAA may also approve specific projects contained in a single or multi-phased project or development described in an airport capital plan separately. This includes projects acknowledged by the FAA under § 158.30 of this part.

* * * * *

Covered air carrier means an air carrier that files for bankruptcy protection or has an involuntary bankruptcy proceeding started against it after December 12, 2003. An air carrier that is currently in compliance with PFC remittance requirements and has an involuntary bankruptcy proceeding commenced against it has 90 days from the date such proceeding was filed to obtain dismissal of the involuntary petition before becoming a covered air carrier. An air carrier ceases to be a covered air carrier when it emerges from bankruptcy protection.

* * * * *

Financial need means that a public agency cannot meet its operational or debt service obligations and does not have at least a 2-month capital reserve fund.

* * * * *

Ground support equipment means service and maintenance equipment used at an airport to support aeronautical operations and related activities. Baggage tugs, belt loaders, cargo loaders, forklifts, fuel trucks, lavatory trucks, and pushback tractors are among the types of vehicles that fit this definition.

* * * * *

Notice of intent (to impose or use PFC revenue) means a notice under § 158.30 from a public agency controlling a non-hub airport that it intends to impose a PFC and/or use PFC revenue. Except for §§ 158.25 through 30, ''notice of intent'' can be used interchangeably with ''application.''

* * * * *

PFC administrative support costs means the reasonable and necessary costs of developing a PFC application or amendment, issuing and maintaining the required PFC records, and performing the required audit of the public agency's PFC account. These costs may include reasonable monthly financial account charges and transaction fees.

* * * * *

State means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and Guam.

* * * * *

■ 3. Amend § 158.9 by revising paragraphs (a)(4) and (5) and by adding paragraph (a)(6) to read as follows:

§ 158.9 Limitations.

(a) * * *

(4) On flights, including flight segments, between 2 or more points in Hawaii;

(5) In Alaska aboard an aircraft having a certificated seating capacity of fewer than 60 passengers; or

(6) Enplaning at an airport if the passenger did not pay for the air transportation that resulted in the enplanement due to Department of Defense charter arrangements and payments.

* * * * *

■ 4. Amend § 158.13 by revising paragraphs (b), (c), (d), and (e) and adding paragraphs (f), (g), and (h) to read as follows:

§ 158.13 Use of PFC revenue.

* * * * *

(b) *PFC administrative support costs.* Public agencies may use PFC revenue to pay for allowable administrative support costs. Public agencies must submit these costs as a separate project in each PFC application.

(c) *Maximum cost for certain low-emission technology projects.* If a project involves a vehicle or ground support equipment using low emission technology eligible under § 158.15(b), the FAA will determine the maximum cost that may be financed by PFC revenue. The maximum cost for a new vehicle is the incremental amount between the purchase price of a new low emission vehicle and the purchase

price of a standard emission vehicle, or the cost of converting a standard emission vehicle to a low emission vehicle.

(d) *Bond-associated debt service and financing costs.* (1) Public agencies may use PFC revenue to pay debt service and financing costs incurred for a bond issued to carry out approved projects.

(2) If the public agency's bond documents require that PFC revenue be commingled in the general revenue stream of the airport and pledged for the benefit of holders of obligations, the FAA considers PFC revenue to have paid the costs covered in § 158.13(d)(1) if—

(i) An amount equal to the part of the proceeds of the bond issued to carry out approved projects is used to pay allowable costs of such projects; and

(ii) To the extent the PFC revenue collected in any year exceeds the debt service and financing costs on such bonds during that year, an amount equal to the excess is applied as required by § 158.39.

(e) *Exception providing for the use of PFC revenue to pay for debt service for non-eligible projects.* The FAA may authorize a public agency under § 158.18 to impose a PFC for payments for debt service on indebtedness incurred to carry out an airport project that is not eligible if the FAA determines that such use is necessary because of the financial need of the airport.

(f) *Combination of PFC revenue and Federal grant funds.* A public agency may combine PFC revenue and airport grant funds to carry out an approved project. These projects are subject to the record keeping and auditing requirements of this part, as well as the reporting, record keeping and auditing requirements imposed by the Airport and Airway Improvement Act of 1982 (AAIA).

(g) *Non-Federal share.* Public agencies may use PFC revenue to meet the non-Federal share of the cost of projects funded under the Federal airport grant program or the FAA ''Program to Permit Cost-Sharing of Air Traffic Modernization Projects'' under 49 U.S.C. 44517.

(h) *Approval of project following approval to impose a PFC.* The public agency may not use PFC revenue or interest earned thereon except on an approved project.

■ 5. Amend § 158.15 by revising paragraphs (b)(5) and (6) and adding paragraphs (b)(7) and (8) to read as follows:

§ 158.15 Project eligibility at PFC levels of $1, $2, or $3.

* * * * *

(b) * * *

(5) Noise compatibility measures eligible for Federal assistance under 49 U.S.C. 47504, without regard to whether the measures are approved under 49 U.S.C. 47504;

(6) Construction of gates and related areas at which passengers are enplaned or deplaned and other areas directly related to the movement of passengers and baggage in air commerce within the boundaries of the airport. These areas do not include restaurants, car rental and automobile parking facilities, or other concessions. Projects required to enable added air service by an air carrier with less than 50 percent of the annual passenger boardings at an airport have added eligibility. Such projects may include structural foundations and floor systems, exterior building walls and load-bearing interior columns or walls, windows, door and roof systems, building utilities (including heating, air conditioning, ventilation, plumbing, and electrical service), and aircraft fueling facilities next to the gate;

(7) A project approved under the FAA's ''Program to Permit Cost-Sharing of Air Traffic Modernization Projects'' under 49 U.S.C. 44517; or

(8) If the airport is in an air quality nonattainment area (as defined by section 171(2) of the Clean Air Act (42 U.S.C. 7501(2)) or a maintenance area referred to in section 175A of such Act (42 U.S.C. 7505a), and the project will result in the airport receiving appropriate emission credits as described in 49 U.S.C. 47139, a project for:

(i) Converting vehicles eligible under § 158.15(b)(1) and ground support equipment powered by a diesel or gasoline engine used at a commercial service airport to low-emission technology certified or verified by the Environmental Protection Agency to reduce emissions or to use cleaner burning conventional fuels; or

(ii) Acquiring for use at a commercial service airport vehicles eligible under § 158.15(b)(1) and, subject to § 158.13(c), ground support equipment that include low-emission technology or use cleaner burning fuels.

* * * * *

■ 6. Add § 158.18 to read as follows:

§ 158.18 Use of PFC revenue to pay for debt service for non-eligible projects.

(a) The FAA may authorize a public agency to impose a PFC to make payments for debt service on indebtedness incurred to carry out at the airport a project that is not eligible if the FAA determines it is necessary because of the financial need of the airport. The FAA defines financial need in § 158.3.

(b) A public agency may request authority to impose a PFC and use PFC revenue under this section using the PFC application procedures in § 158.25. The public agency must document its financial position and explain its financial recovery plan that uses all available resources.

(c) The FAA reviews the application using the procedures in § 158.27. The FAA will issue its decision on the public agency's request under § 158.29.

■ 7. Add § 158.20 to read as follows:

§ 158.20 Submission of required documents.

(a) Letters and reports required by this part may be transmitted to the appropriate recipient (the public agency, air carrier, and/or the FAA) via e-mail, courier, facsimile, or U.S. Postal Service.

(1) Documents sent electronically to the FAA must be prepared in a format readable by the FAA. Interested parties can obtain the format at their local FAA Airports Office.

(2) Any transmission to FAA Headquarters, using regular U.S. Postal Service, is subject to inspection that may result in delay and damage due to the security process.

(b) Once the database development is completed with air carrier capability, public agencies and air carriers may use the FAA's national PFC database to post their required quarterly reports, and, in that case, do not have to distribute the reports in any other way.

Subpart B—Application and Approval

■ 8. Revise § 158.29(a)(1)(ii) and (b)(1)(ii) to read as follows:

§ 158.29 The Administrator's decision.

(a) * * *

(1) * * *

(ii) The project will achieve the objectives and criteria set forth in § 158.15 except for those projects approved under § 158.18.

* * * * *

(b) * * *

(1) * * *

(ii) The project will achieve the objectives and criteria set forth in § 158.15 except for those projects approved under § 158.18.

* * * * *

■ 9. Amend § 158.30 by revising the section heading to read as follows:

§ 158.30 PFC Authorization at Non-Hub Airports.

* * * * *

■ 10. Amend § 158.31 by revising the introductory text and paragraph (b) to read as follows:

§ 158.31 Duration of authority to impose a PFC after project implementation.

A public agency that has begun implementing an approved project may impose a PFC until—

* * * * *

(b) The total PFC revenue collected plus interest earned thereon equals the allowable cost of the approved project;

* * * * *

■ 11. Amend § 158.33 by revising paragraphs (a)(2), (c)(1) introductory text, and (c)(2), and adding paragraph (a)(3) to read as follows:

§ 158.33 Duration of authority to impose a PFC before project implementation.

(a) * * *

(2) 5 years after the charge effective date; or

(3) 5 years after the FAA's decision on the application (if the charge effective date is more than 60 days after the decision date) if an approved project is not implemented.

* * * * *

(c) * * *

(1) 3 years after the charge effective date; or 3 years after the FAA's decision on the application if the charge effective date is more than 60 days after the decision date unless—

* * * * *

(2) 5 years after the charge effective date; or 5 years after the FAA's decision on the application (if the charge effective date is more than 60 days after the decision date) unless the public agency has obtained project approval.

* * * * *

■ 12. Amend § 158.37 by revising the section heading, revising paragraphs (b)(1)(i)(A), (b)(1)(ii)(C), (b)(1)(ii)(D), (b)(1)(ii)(E) and (b)(5), redesignating paragraphs (b)(1)(i)(B) and (C) as (b)(1)(i)(C) and (D), and adding new paragraphs (b)(1)(i)(B) and (b)(1)(ii)(F) to read as follows:

§ 158.37 Amendment of approved PFC.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(A) Amend the approved PFC amount for a project by more than 25 percent of the original approved amount if the amount was $1,000,000 or greater, (B) Amend the approved PFC amount for a project by any percentage if the original approved amount was below $1,000,000 and the amended approved amount is $1,000,000 or greater,

* * * * *

(ii) * * *

(C) To institute an increase of 25 percent or less of the original approved amount if the amount was more than $1,000,000; or

(D) To institute an increase of any amount if the original approved amount of the project was less than $1,000,000 and if the amended approved amount of the project remains below $1,000,000; or

(E) To establish a new class of carriers under § 158.11 or amend any such class previously approved; or

(F) To delete an approved project.

* * * * *

(5) Justification, if the amendment involves an increase in the PFC amount for a project by more than 25 percent of the original approved amount if that amount is $1,000,000 or greater, an increase in the PFC amount by any percentage if the original approved amount was less than $1,000,000 and the amended approved amount is $1,000,000 or greater, a change in the approved project scope, or any increase in the approved PFC level to be collected from each passenger.

* * * * *

■ 13. Amend § 158.39 by revising paragraphs (a) and (d) to read as follows:

§ 158.39 Use of excess PFC revenue.

(a) If the PFC revenue remitted to the public agency, plus interest earned thereon, exceeds the allowable cost of the project, the public agency must use the excess funds for approved projects or to retire outstanding PFC-financed bonds.

* * * * *

(d) Within 30 days after the authority to impose a PFC has expired or been terminated, the public agency must present a plan to the appropriate FAA Airports office to begin using accumulated PFC revenue. The plan must include a timetable for submitting any necessary application under this part. If the public agency fails to submit such a plan, or if the plan is not acceptable to the Administrator, the Administrator may reduce Federal airport grant program apportioned funds.

Subpart C—Collection, Handling and Remittance of PFCs

■ 14. Amend § 158.43 by revising paragraphs (b)(3) and (c) to read as follows:

§ 158.43 Public agency notification to collect PFCs.

* * * * *

(b) * * *

(3) The charge effective date will always be the first day of the month; however, it must be at least 30 days after the date the public agency notified the air carriers of the FAA's approval to impose the PFC.

* * * * *

(c) The public agency must notify air carriers required to collect PFCs at its airport and the FAA of changes in the charge expiration date at least 30 days before the existing charge expiration date or new charge expiration date, whichever comes first. Each notified air carrier must notify its agents, including other issuing carriers, of such changes.

* * * * *

■ 15. Amend § 158.45 by revising paragraph (a)(3) to read as follows:

§ 158.45 Collection of PFCs on tickets issued in the U.S.

(a) * * *

(3) Issuing carriers and their agents shall collect PFCs based on the itinerary at the time of issuance.

(i) Any change in itinerary initiated by a passenger that requires an adjustment to the amount paid by the passenger is subject to collection or refund of the PFC as appropriate.

(ii) Failure to travel on a nonrefundable or expired ticket is not a change in itinerary. If the ticket purchaser is not permitted any fare refund on the unused ticket, the ticket purchaser is not permitted a refund of any PFC associated with that ticket.

* * * * *

■ 16. Amend § 158.47 by revising paragraphs (a) and (c)(4) to read as follows:

§ 158.47 Collection of PFCs on tickets issued outside the U.S.

(a) For tickets issued outside the U.S., an air carrier or foreign air carrier may follow the requirements of either § 158.45 or this section, unless the itinerary is for travel wholly within the U.S. Air carriers and foreign air carriers must comply with § 158.45 where the itinerary is for travel wholly within the U.S. regardless of where the ticket is issued.

* * * * *

(c) * * *

(4) Issuing carriers and their agents shall collect PFCs based on the itinerary at the time of issuance.

(i) Any change in itinerary initiated by a passenger that requires an adjustment to the amount paid by the passenger is subject to collection or refund of the PFC as appropriate.

(ii) Failure to travel on a nonrefundable or expired ticket is not a change in itinerary. If the ticket purchaser is not permitted any fare refund on the unused ticket, the ticket

purchaser is not permitted a refund of any PFC associated with that ticket.

* * * * *

■ 17. Amend § 158.49 by revising paragraph (b), redesignating paragraph (c) as (d) and revising it, and adding new paragraph (c) to read as follows:

§ 158.49 Handling of PFCs.

* * * * *

(b) Collecting carriers must account for PFC revenue separately. PFC revenue may be commingled with the air carrier's other sources of revenue except for covered air carriers discussed in paragraph (c) of this section. PFC revenues held by an air carrier or an agent of the air carrier after collection are held in trust for the beneficial interest of the public agency imposing the PFC. Such air carrier or agent holds neither legal nor equitable interest in the PFC revenues except for any handling fee or interest collected on unremitted proceeds as authorized in § 158.53.

(c)(1) A covered air carrier must segregate PFC revenue in a designated separate PFC account. Regardless of the amount of PFC revenue in the covered air carrier's account at the time the bankruptcy petition is filed, the covered air carrier must deposit into the separate PFC account an amount equal to the average monthly liability for PFCs collected under this section by such air carrier or any of its agents.

(i) The covered air carrier is required to create one PFC account to cover all PFC revenue it collects. The designated PFC account is solely for PFC transactions and the covered air carrier must make all PFC transactions from that PFC account. The covered air carrier is not required to create separate PFC accounts for each airport where a PFC is imposed.

(ii) The covered air carrier must transfer PFCs from its general accounts into the separate PFC account in an amount equal to the average monthly liability for PFCs as the ''PFC reserve.'' The PFC reserve must equal a one-month average of the sum of the total PFCs collected by the covered air carrier, net of any credits or handling fees allowed by law, during the past 12-month period of PFC collections immediately before entering bankruptcy.

(iii) The minimum PFC reserve balance must never fall below the fixed amount defined in paragraph (c)(1)(ii) of this section.

(iv) A covered air carrier may continue to deposit the PFCs it collects into its general operating accounts combined with ticket sales revenue. However, at least once every business day, the covered air carrier must remove all PFC revenue (Daily PFC amount) from those accounts and transfer it to the new PFC account. An estimate based on 1/30 of the PFC reserve balance is permitted in substitution of the Daily PFC amount.

(A) In the event a covered air carrier ceases operations while still owing PFC remittances, the PFC reserve fund may be used to make those remittances. If there is any balance in the PFC reserve fund after all PFC remittances are made, that balance will be returned to the covered air carrier's general account.

(B) In the event a covered air carrier emerges from bankruptcy protection and ceases to be a covered air carrier, any balance remaining in the PFC reserve fund after any outstanding PFC obligations are met will be returned to the air carrier's general account.

(v) If the covered air carrier uses an estimate rather than the daily PFC amount, the covered air carrier shall reconcile the estimated amount with the actual amount of PFCs collected for the prior month (Actual Monthly PFCs). This reconciliation must take place no later than the 20th day of the month (or the next business day if the date is not a business day). In the event the Actual Monthly PFCs are greater than the aggregate estimated PFC amount, the covered air carrier will, within one business day of the reconciliation, deposit the difference into the PFC account. If the Actual Monthly PFCs are less than the aggregate estimated PFC amount, the covered air carrier will be entitled to a credit in the amount of the difference to be applied to the daily PFC amount due.

(vi) The covered air carrier is permitted to recalculate and reset the PFC reserve and daily PFC amount on each successive anniversary date of its bankruptcy petition using the methodology described above.

(2) If a covered air carrier or its agent fails to segregate PFC revenue in violation of paragraph (c)(1) of this section, the trust fund status of such revenue shall not be defeated by an inability of any party to identify and trace the precise funds in the accounts of the air carrier.

(3) A covered air carrier and its agents may not grant to any third party any security or other interest in PFC revenue.

(4) A covered air carrier that fails to comply with any requirement of paragraph (c) of this section, or causes an eligible public agency to spend funds to recover or retain payment of PFC revenue, must compensate that public agency for those cost incurred to recover the PFCs owed.

(5) The provisions of paragraph (b) of this section that allow the commingling of PFCs with other air carrier revenue do not apply to a covered air carrier.

(d) All collecting air carriers must disclose the existence and amount of PFC funds regarded as trust funds in their financial statements.

■ 18. Revise § 158.53 to read as follows:

§ 158.53 Collection compensation.

(a) As compensation for collecting, handling, and remitting the PFC revenue, the collecting air carrier is entitled to:

(1) $0.11 of each PFC collected.

(2) Any interest or other investment return earned on PFC revenue between the time of collection and remittance to the public agency.

(b) A covered air carrier that fails to designate a separate PFC account is prohibited from collecting interest on the PFC revenue. Where a covered air carrier maintains a separate PFC account in compliance with § 158.49(c), it will receive the interest on PFC accounts as described in paragraph (a)(2) of this section.

(c)(1) Collecting air carriers may provide collection cost data periodically to the FAA after the agency issues a notice in the **Federal Register** that specifies the information and deadline for filing the information. Submission of the information is voluntary. The requested information must include data on interest earned by the air carriers on PFC revenue and air carrier collection, handling, and remittance costs in the following categories:

(i) Credit card fees;

(ii) Audit fees;

(iii) PFC disclosure fees;

(iv) Reservations costs;

(v) Passenger service costs;

(vi) Revenue accounting, data entry, accounts payable, tax, and legal fees;

(vii) Corporate property department costs;

(viii) Training for reservations agents, ticket agents, and other departments;

(ix) Ongoing carrier information systems costs;

(x) Ongoing computer reservations systems costs; and

(xi) Airline Reporting Corporation fees.

(2) The FAA may determine a new compensation level based on an analysis of the data provided under paragraph (c)(1) of this section, if the data is submitted by carriers representing at least 75 percent of PFCs collected nationwide.

(3) Any new compensation level determined by the FAA under

paragraph (b)(2) of this section will replace the level identified in paragraph (a)(1) of this section.

Subpart D—Report, Recordkeeping and Audits

■ 19. Amend § 158.63 by revising paragraphs (a) and (c) to read as follows:

§ 158.63 Reporting requirements: Public agency.

(a) The public agency must provide quarterly reports to air carriers collecting PFCs for the public agency with a copy to the appropriate FAA Airports Office. The quarterly report must include:

(1) Actual PFC revenue received from collecting air carriers, interest earned, and project expenditures for the quarter;

(2) Cumulative actual PFC revenue received, interest earned, project expenditures, and the amount committed for use on currently approved projects, including the quarter;

(3) The PFC level for each project; and

(4) Each project's current schedule.

* * * * *

(c) For medium and large hub airports, the public agency must provide to the FAA, by July 1 of each year, an estimate of PFC revenue to be collected for each airport in the following fiscal year.

■ 20. Revise § 158.65 to read as follows:

§ 158.65 Reporting requirements: Collecting air carriers.

(a) Each air carrier collecting PFCs for a public agency must provide quarterly reports to the public agency unless otherwise agreed by the collecting air carrier and public agency, providing an accounting of funds collected and funds remitted.

(1) Unless otherwise agreed by the collecting air carrier and public agency, reports must state:

(i) The collecting air carrier and airport involved,

(ii) The total PFC revenue collected,

(iii) The total PFC revenue refunded to passengers,

(iv) The collected revenue withheld for reimbursement of expenses under § 158.53, and

(v) The dates and amounts of each remittance for the quarter.

(2) The report must be filed by the last day of the month following the calendar quarter or other period agreed by the collecting carrier and public agency for which funds were collected.

(b) A covered air carrier must provide the FAA with:

(1) A copy of its quarterly report by the established schedule under paragraph (a) of this section; and

(2) A monthly PFC account statement delivered not later than the fifth day of the following month. This monthly statement must include:

(i) The balance in the account on the first day of the month,

(ii) The total funds deposited during the month,

(iii) The total funds disbursed during the month, and

(iv) The closing balance in the account.

■ 21. Amend § 158.67 by revising paragraph (c)(2) to read as follows:

§ 158.67 Recordkeeping and auditing: Public agency.

* * * * *

(c) * * *

(2) Conducted as part of an audit under Office of Management and Budget Circular A–133 (the Single Audit Act of 1984, Pub. L. 98–502, and the Single Audit Act Amendments of 1996, Pub. L. 104–156) provided the auditor specifically addresses the PFC.

* * * * *

Subpart E—Termination

■ 22. Revise § 158.81 to read as follows:

§ 158.81 General.

This subpart contains the procedures for termination of PFCs or loss of Federal airport grant funds for violations of this part or 49 U.S.C. 40117. This subpart does not address the circumstances under which the authority to collect PFCs may be terminated for violations of 49 U.S.C. 47523 through 47528.

§ 158.97 [Removed]

■ 23. Remove § 158.97.

■ 24. Amend appendix A to part 158 by revising paragraphs 10 and 12 of section B of this appendix to read as follows:

Appendix A to Part 158—Assurances

* * * * *

* * *

10. Recordkeeping and Audit. It will maintain an accounting record for audit purposes for 3 years after physical and financial completion of the project. All records must satisfy the requirements of 14 CFR part 158 and contain documentary evidence for all items of project costs.

* * * * *

12. Compliance with 49 U.S.C. 47523 through 47528. It understands 49 U.S.C. 47524 and 47526 require that the authority to impose a PFC be terminated if the Administrator determines the public agency has failed to comply with those sections of the United States Code or with the implementing regulations published under the Code.

Issued in Washington, DC, on May 14, 2007.

Marion C. Blakey,

Administrator.

[FR Doc. E7–9941 Filed 5–22–07; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 4

Access Requests From Foreign Law Enforcement Agencies for Consumer Protection Materials

AGENCY: Federal Trade Commission.

ACTION: Final rule amendment.

SUMMARY: The Federal Trade Commission is amending Rule 4.11 of its Rules of Practice, which addresses disclosure requests, to add a new provision, Rule 4.11(j). The new provision conforms the agency's rules to its authority to share confidential information in non-antitrust matters with foreign law enforcers, with appropriate confidentiality assurances and subject to certain restrictions, as provided for under the recently-enacted U.S. SAFE WEB Act of 2006, Pub. L. No. 109–455, 120 Stat. 3372 (2006). The Commission is also amending Rules 4.10(d) and (e), which describe certain materials subject to prohibitions on disclosures and exceptions for specified circumstances, to cross-reference the new Rule 4.11(j).

DATES: *Effective Date:* May 23, 2007.

FOR FURTHER INFORMATION CONTACT: Joannie T. Wei, Attorney, Office of the General Counsel, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2840, *jwei@ftc.gov*.

SUPPLEMENTARY INFORMATION: The Undertaking Spam, Spyware and Fraud Enforcement With Enforcers beyond Borders Act of 2006 (U.S. SAFE WEB Act), Pub. L. No. 109–455, 120 Stat. 3372 (2006), was enacted to enhance the Federal Trade Commission's enforcement activities against a range of practices that harm U.S. consumers, including illegal spam, spyware, cross-border fraud and deception, misleading health and safety advertising, privacy and security breaches, and other law violations. The practices the FTC enforces against are increasingly global in nature, and the U.S. SAFE WEB Act improves the FTC's ability to cooperate with its foreign counterparts to combat such practices.

Authority to share certain materials with foreign law enforcement agencies. Information sharing is one area in which the U.S. SAFE WEB Act strengthens the

Commission's authority to cooperate with its foreign counterparts. Sections 4 and 6 of the U.S. SAFE WEB Act amend sections 6(f) and 21(b)(6) of the Federal Trade Commission Act to allow the Commission to share certain confidential and compelled information in its files with foreign law enforcement agencies.[1] 15 U.S.C. 46(f), 57b–2(b)(6). These sections of the U.S. SAFE WEB Act do not provide authority for the disclosure of material obtained in connection with the administration of the Federal antitrust laws or foreign antitrust laws (as defined in paragraphs (5) and (7), respectively, of section 12 of the International Antitrust Enforcement Assistance Act of 1994 (15 U.S.C. 6211)). 15 U.S.C. 57b–2(b)(6).

The Commission's disclosure authority under the U.S. SAFE WEB Act is subject to appropriate limitations and assurances. Under section 6 of the statute, the Commission must obtain certification from an appropriate official of the foreign law enforcement agency, either by prior agreement or memorandum of understanding or by other written certification, that such material will be maintained in confidence and will only be used for official law enforcement purposes. 15 U.S.C. 57b–2(b)(6). The foreign law enforcement agency must have set forth a bona fide legal basis for its authority to maintain the material in confidence. In addition, the foreign law enforcement agency must be using the materials for purposes of investigating or engaging in enforcement proceedings related to possible violations of: (1) Foreign laws prohibiting fraudulent or deceptive practices or other practices substantially similar to practices prohibited by any law administered by the Commission; (2) a law administered by the Commission if disclosure would further a Commission investigation or proceeding; or (3) with the approval of the Attorney General, other foreign criminal laws that are encompassed in an applicable mutual legal assistance treaty. 15 U.S.C. 57b–2(b)(6)(A), 57b–2(b)(6)(B).

If the materials to be provided to the foreign law enforcement agency are requested for the purpose of investigating or engaging in enforcement proceedings based on possible violations by a bank, savings and loan institution, or Federal credit union, the material will not be disclosed unless the appropriate Federal banking agency, or the National Credit Union Administration in the case of a Federal credit union, has given its prior approval. 15 U.S.C. 57b–2(b)(6)(C).

Further, section 6 of the U.S. SAFE WEB Act does not permit disclosure to foreign law enforcement agencies from foreign states that the Secretary of State has determined, in accordance with section 6(j) of the Export Administration Act of 1979, 50 U.S.C. App. 2405, have repeatedly provided support for acts of international terrorism, unless and until such determination has been rescinded pursuant to section 6(j)(4) of that Act, 50 U.S.C. App. 2405(j)(4).

Rule provisions. To implement this new authority under the U.S. SAFE WEB Act, the Commission's Rules of Practice have been amended to create a new provision, Rule 4.11(j), that delineates the internal procedure for handling requests from foreign law enforcement agencies for nonpublic material other than material subject to disclosure pursuant to other delegations. Rule 4.11(j) is not intended to supersede existing Commission delegations or to preclude additional future delegations, subject to any statutory constraints.

The new provision, Rule 4.11(j), generally adopts the procedures of the current Rule 4.11(c) (sharing confidential information with Federal and State law enforcement agencies), and incorporates the requirements and restrictions of the U.S. SAFE WEB Act. Under the new provision, requests for nonpublic records from foreign law enforcement agencies will be addressed to the Director of the Office of International Affairs or the Director's designee. For any material requested that is subject to the disclosure restrictions in sections 6(f)[2] or 21(b)[3] of the FTC Act or Rule 4.10(d) of the Commission's Rules of Practice,[4] the Director or the Director's designee will obtain any certification required by the U.S. SAFE WEB Act from an appropriate official of such foreign law enforcement agency. Rule 4.11(j)(3) establishes the requirements for access to such material in accordance with the U.S. SAFE WEB Act. The Director will then, with approval of the Bureau of Consumer Protection, forward the requests to the General Counsel with recommendations for disposition. The General Counsel or the General Counsel's designee is delegated the authority to dispose of the requests in accordance with the requirements of the U.S. SAFE WEB Act. Under Rule 4.11(j), the General Counsel may refer such requests to the Commission for determination, and must do so when the Bureau of Consumer Protection or the Office of International Affairs do not agree with the General Counsel's proposed disposition.

The Commission has also amended Rules 4.10(d) and (e) of its Rules of Practice, which describe materials that the Commission generally cannot make public at all or can make public only after finding the material is not confidential and giving ten days' notice to the submitter. These provisions also set forth exceptions to these restrictions, including, inter alia, certain disclosures to Federal and State law enforcement agencies. Rules 4.10(d) and (e) have been amended to include disclosure to foreign law enforcement agencies pursuant to the new Rule 4.11(j) as a specifically stated exception.

The amendments to Rules 4.10(d) and (e) and Rule 4.11(j)(3) will apply to all material that is subject to the disclosure restrictions in sections 6(f) and 21(b) of the FTC Act or in Rule 4.10(d) of the Commission's Rules of Practice, and that was submitted to the Commission on or after December 22, 2006, the date of enactment of the U.S. SAFE WEB Act.

Procedural matters. These amendments adopted herein will reconcile the Commission's rules with existing agency memoranda of understanding (MOUs), under which the Commission has an obligation to use its best efforts to share relevant consumer protection law enforcement material requested by applicable foreign agencies to the extent consistent with national laws, international obligations, enforcement policies and other important interests. Under these MOUs, the Commission has the implied obligation to implement any internal procedures required to allow the Commission to take into account all applicable laws, including the new U.S. SAFE WEB Act authority, in processing and considering applicable foreign

[1] "Foreign law enforcement agency" means—(1) any agency or judicial authority of a foreign government, including a foreign state, a political subdivision of a foreign state, or a multinational organization constituted by and comprised of foreign states, that is vested with law enforcement or investigate authority in civil, criminal, or administrative matters; and (ii) any multinational organization, to the extent that it is acting on behalf of an entity described in paragraph (i). 15 U.S.C. 44.

[2] Section 6(f) of the FTC Act protects from public disclosure "any trade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential," except in certain specified circumstances. 15 U.S.C. 46(f).

[3] Section 21(b) of the FTC Act protects from public disclosure material received by the Commission "pursuant to compulsory process in an investigation, a purpose of which is to determine whether any person may have violated any provision of the laws administered by the Commission," except in certain specified circumstances. 15 U.S.C. 57b–2(b).

[4] In addition to the two categories listed above, Rule 4.10(d) also protects from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552, material submitted to the Commission voluntarily in lieu of compulsory process in a law enforcement investigation and marked or otherwise identified as confidential. 16 CFR 4.10(d).

agency requests for information. Because failure to make the proposed amendments would impair the Commission's ability to meet its foreign obligations, the amendments are exempt, by virtue of the foreign affairs exemption to the Act, 5 U.S.C. 553(a)(1), from both the Administrative Procedure Act's notice and comment requirement, 5 U.S.C. 553(b), and its restriction on the rules' effective date, 5 U.S.C. 553(d).

These amendments are also exempt from the notice and comment requirement and effective date restriction of the Commission's Rules of Practice by virtue of the good cause exceptions in Rules 1.26(b) and 1.26(e). 16 CFR 1.26(b), (e). In these circumstances, providing a period of public comment would delay implementation of these rules and is both unnecessary and contrary to the public interest.[5]

Finally, these amendments are not a collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., and are not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601(2).

List of Subjects in 16 CFR Part 4

Administrative practice and procedure, Freedom of Information Act, Sunshine Act.

■ For the reasons set forth in the preamble, the Federal Trade Commission amends Title 16, chapter I, subchapter A, of the Code of Federal Regulations as follows:

Subchapter A—Organization, Procedures, And Rules Of Practice

PART 4—MISCELLANEOUS RULES

■ 1. The authority citation for part 4 continues to read as follows:

Authority: 15 U.S.C. 46, unless otherwise noted.

■ 2. Amend § 4.10 by revising paragraphs (d) and (e) to read as follows:

§ 4.10 Nonpublic material.

* * * * *

(d) Except as provided in paragraphs (f) or (g) of this section or in § 4.11(b), (c), (d), (i), or (j), no material that is marked or otherwise identified as confidential and that is within the scope of § 4.10(a)(8), and no material within the scope of § 4.10(a)(9) that is not otherwise public, will be made available without the consent of the person who produced the material, to any individual other than a duly authorized officer or employee of the Commission or a consultant or contractor retained by the Commission who has agreed in writing not to disclose the information. All other Commission records may be made available to a requester under the procedures set forth in § 4.11 or may be disclosed by the Commission except where prohibited by law.

(e) Except as provided in paragraphs (f) or (g) of this section or in § 4.11(b), (c), (d), (i), or (j), material not within the scope of § 4.10(a)(8) or § 4.10(a)(9) that is received by the Commission and is marked or otherwise identified as confidential may be disclosed only if it is determined that the material is not within the scope of § 4.10(a)(2), and the submitter is provided at least ten days notice of the intent to disclose the material.

* * * * *

■ 3. Amend § 4.11 by adding a new paragraph (j) to the end that reads as follows:

§ 4.11 Disclosure requests.

* * * * *

(j)(1) The procedures specified in this section apply to disclosures of certain records to foreign law enforcement agencies in specified circumstances in accordance with the U.S. SAFE WEB Act of 2006. Nothing in this section authorizes the disclosure of material obtained in connection with the administration of the Federal antitrust laws or foreign antitrust laws, as defined in paragraph (j)(5)(i) of this section.

(2) Requests from foreign law enforcement agencies, as defined in paragraph (j)(5)(ii) of this section, for nonpublic records shall be addressed to the Director of the Office of International Affairs or the Director's designee, who shall forward them to the General Counsel with recommendations for disposition after obtaining any required certification described in paragraph (j)(3) of this section and approval of the Bureau of Consumer Protection. With respect to requests under this paragraph, the General Counsel or the General Counsel's designee is delegated the authority to dispose of them. Alternatively, the General Counsel may refer such requests to the Commission for determination, except that requests must be referred to the Commission for determination where the Bureau of Consumer Protection or the Office of International Affairs disagrees with the General Counsel's proposed disposition.

(3) Access under this section to any material subject to the disclosure restrictions in sections 6(f) or 21(b) of the FTC Act or § 4.10(d) may not be granted unless—

(i) An appropriate official of the foreign law enforcement agency has certified, either by prior agreement or memorandum of understanding or by other written certification, that such material will be maintained in confidence and will be used only for official law enforcement purposes; and

(ii)(A) The foreign law enforcement agency has set forth a bona fide legal basis for its authority to maintain the material in confidence;

(B) The materials are to be used for purposes of investigating, or engaging in enforcement proceedings related to, possible violations of:

(*1*) Foreign laws prohibiting fraudulent or deceptive commercial practices, or other practices substantially similar to practices prohibited by any law administered by the Commission;

(*2*) A law administered by the Commission, if disclosure of the material would further a Commission investigation or enforcement proceeding; or

(*3*) With the approval of the Attorney General, other foreign criminal laws, if such foreign criminal laws are offenses defined in or covered by a criminal mutual legal assistance treaty in force between the government of the United States and the foreign law enforcement agency's government;

(C) The appropriate Federal banking agency, (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)) or, in the case of a Federal credit union, the National Credit Union Administration has given its prior approval if the materials to be provided under paragraph (j)(3)(ii)(B) of this section are requested by the foreign law enforcement agency for the purpose of investigating, or engaging in enforcement proceedings based on, possible violations of law by a bank, a savings and loan institution described in section 18(f)(3) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(3)), or a Federal credit union described in section 18(f)(4) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(4)); and

(D) The foreign law enforcement agency is not from a foreign state that the Secretary of State has determined, in accordance with section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), has repeatedly provided support for acts of international terrorism, unless and until such determination is rescinded pursuant to section 6(j)(4) of that Act (50 U.S.C. App. 2405(j)(4)).

(4) A copy of the certificate described in paragraph (j)(3) of this section will be forwarded to the submitter of the

[5] *See Int'l Brotherhood of Teamsters* v. *Peña*, 17 F. 3d 1478 (D.C. Cir. 1994) (applying APA foreign affairs exemption and good cause exception of agency rule).

information at the time the request is granted unless the foreign law enforcement agency requests that the submitter not be notified.

(5) For purposes of this section:

(i) ''Federal antitrust laws'' and ''foreign antitrust laws'' are to be interpreted as defined in paragraphs (5) and (7), respectively, of section 12 of the International Antitrust Enforcement Assistance Act of 1994 (15 U.S.C. 6211); and

(ii) ''Foreign law enforcement agency'' is defined as:

(A) Any agency or judicial authority of a foreign government, including a foreign state, a political subdivision of a foreign state, or a multinational organization constituted by and comprised of foreign states, that is vested with law enforcement or investigative authority in civil, criminal, or administrative matters and

(B) Any multinational organization, to the extent that it is acting on behalf of an entity described in paragraph (j)(5)(i)(A) of this section.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. E7–9966 Filed 5–22–07; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9319]

RIN 1545–BD52

Limitations on Benefits and Contributions Under Qualified Plans; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to final regulations (TD 9319) that were published in the **Federal Register** on Thursday, April 5, 2007 (72 FR 16878) regarding the limitations of section 415, including updates to the regulations for numerous statutory changes since comprehensive final regulations were last published under section 415.

DATES: These correcting amendments are effective May 23, 2007.

FOR FURTHER INFORMATION CONTACT: Vernon S. Carter at (202) 622–6060 or Linda S. F. Marshall at (202) 622–6090 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this document are under sections 401(a), 401(a)(4), 401(a)(9), 401(k), 402, 414(s), 415, 416, 457, and 924 of the Internal Revenue Code.

Need for Correction

As published, final regulations (TD 9319) contain errors that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

■ Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.415(b)–1 is amended by revising paragraph (c)(5)(i)(A), and the second sentence of paragraph (c)(6) *Example 6*, paragraph (iv). The revisions read as follows:

§ 1.415(b)–1 Limitations for defined benefit plans.

* * * * *

(c) * * *

(5) * * *

(i) * * *

(A) The benefit is paid in a form to which section 417(e)(3) does not apply.

* * * * *

(6) * * *

Example 6. * * *

(iv) * * * With respect to the single-sum distribution, the annual amount of the actuarially equivalent straight life annuity commencing at the same age determined using the plan's actuarial factors is equal to $45,000. * * *

* * * * *

■ **Par. 3.** Section 1.415(d)–1 is amended by revising its heading to read as follows:

§ 1.415(d)–1 Cost-of-living adjustments.

* * * * *

■ **Par. 4.** Section 1.415(f)–1 is amended by revising the last sentence of paragraph (d)(1) to read as follows:

§ 1.415(f)–1 Aggregating plans.

* * * * *

(d) * * *

(1) * * * Instead, the transferee plan takes into account the transferred benefits that are actually provided under the transferee plan (see § 1.415(b)–1(b)(3)(i)(C)) and, pursuant to paragraph (c)(1) of this section, any nontransferred benefits provided under plans maintained by the predecessor employer with respect to a participant whose benefits have been transferred to the transferee plan.

* * * * *

■ **Par. 5.** Section 1.457–5(d), *Example 2*, paragraphs (ii) and (iii) are amended by revising the third sentence of (ii) and all of (iii) to read as follows:

§ 1.457–5 Individual limitation for combined annual deferrals under multiple eligible plans.

* * * * *

(d) * * *

Example 2. * * *

(ii) * * * Alternatively, Participant E could instead elect to defer the following combination of amounts: An aggregate total of $15,000 to Plans X, Y, and Z, if no contribution is made to Plan W; an aggregate total of $20,000 to any of the four plans, assuming at least $5,000 is contributed to Plan W; or $22,000 to Plan W and none to any of the other three plans.

(iii) * * * If the underutilized amount under Plans W, X, and Y for year 2006 were in each case zero (because E had always contributed the maximum amount or E was a new participant) or an amount not in excess of $5,000, the maximum exclusion under this section would be $20,000 for Participant E for year 2006 ($15,000 plus the $5,000 age 50 catch-up amount), which Participant E could contribute to any of the plans assuming at least $5,000 is contributed to Plan W.

LaNita Van Dyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. E7–9877 Filed 5–22–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9319]

RIN 1545–BD52

Limitations on Benefits and Contributions Under Qualified Plans; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains a correction to final regulations (TD 9319) that were published in the **Federal Register** on Thursday, April 5, 2007 (72 FR 16878) regarding the limitations of section 415, including updates to the regulations for numerous statutory changes since comprehensive final

regulations were last published under section 415.

DATES: This correction is effective May 23, 2007.

FOR FURTHER INFORMATION CONTACT: Vernon S. Carter at (202) 622–6060 or Linda S. F. Marshall at (202) 622–6090 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

The correction notice that is the subject of this document is under sections 401(a), 401(a)(4), 401(a)(9), 401(k), 402, 414(s), 415, 416, 457, and 924 of the Internal Revenue Code.

Need for Correction

As published, final regulations (TD 9319) contain an error that may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (TD 9319), which was the subject of FR Doc. E7–5750, is corrected as follows:

On page 16883, column 2, in the preamble, under the paragraph heading ''*C. Determination of High-3 Average Compensation*'', first line from the bottom of the last paragraph of that heading, the language ''participant in rehired.'' is corrected to read ''participant is rehired.''.

LaNita Van Dyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. E7–9878 Filed 5–22–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 593

Former Liberian Regime of Charles Taylor Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control of the U.S. Department of the Treasury is adding new part 593 to chapter V of 31 CFR to carry out the purposes of Executive Order 13348 of July 22, 2004, ''Blocking Property of Certain Persons and Prohibiting the Importation of Certain Goods from Liberia.'' These regulations implement targeted sanctions directed at the regime of former President Charles Taylor. The sanctions are not directed against the country of Liberia, the Government of Liberia, or the Central Bank of Liberia.

DATES: *Effective Date:* May 23, 2007.

FOR FURTHER INFORMATION CONTACT: Assistant Director for Compliance, Outreach & Implementation, tel.: 202/622–2490, Assistant Director for Licensing, tel.: 202/622–2480, Assistant Director for Policy, tel.: 202/622–4855, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622–2410, Office of the General Counsel, Department of the Treasury, Washington, DC 20220 (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning the Office of Foreign Assets Control (''OFAC'') are available from OFAC's Web site (*http://www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on demand service, tel.: (202) 622–0077.

Background

On July 22, 2004, the President, invoking the authority of, *inter alia*, the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (''IEEPA'') and section 5 of the United Nations Participation Act (22 U.S.C. 287c), issued Executive Order 13348 (69 FR 44885, July 27, 2004) (''the Order''), effective at 12:01 a.m. eastern daylight time on July 23, 2004. The Order also noted United Nations Security Council Resolutions 1521 of December 22, 2003, and 1532 of March 12, 2004, which, *inter alia*, called on member states to impose an asset freeze on certain senior members of former Liberian President Charles Taylor's government and certain other persons and to prevent the importation into their territories of all round logs and timber products originating in Liberia.

Section 1(a) of the Order blocks, with certain exceptions, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, of: (1) The persons listed in an Annex to the Order; and (2) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State:

- To be or have been an immediate family member of Charles Taylor;
- To have been a senior official of the former Liberian regime headed by Charles Taylor or otherwise to have been or be a close ally or associate of Charles Taylor or the former Liberian regime;
- To have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the unlawful depletion of Liberian resources, the removal of Liberian resources from that country, and the secreting of Liberian funds and property by any person whose property and interests in property are blocked pursuant to the Order; or
- To be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to the Order.

In Section 1(b) of the Order, the President determined that the exemption from IEEPA regulation provided in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) for the making of donations of the types of articles specified in such section (*i.e.*, articles, such as food, clothing, and medicine, intended to be used to relieve human suffering) by, to, or for the benefit of, any person whose property and interests in property are blocked pursuant to the Order would seriously impair his ability to deal with the national emergency declared in the Order, and prohibited such donations. Accordingly, the donation of such items is not exempted from the scope of these regulations and is prohibited, unless authorized by OFAC.

Section 1(c) of the Order provides that the blocking of property and interests in property includes, but is not limited to, the making or receiving of any contribution or provision of funds, goods or services by, to, or for the benefit of, any person listed in or designated pursuant to the Order, and the receipt of any contribution or provision of funds, goods, or services from any such person.

Section 2 of the Order prohibits, with certain exceptions, the direct or indirect importation into the United States of any round log or timber product originating in Liberia.

Section 3 of the Order prohibits any transaction by a United States person that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in the Order, as well as any conspiracy formed to violate such prohibitions.

Section 6 of the Order authorizes the Secretary of the Treasury, in consultation with the Secretary of State, to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of the Order. Acting under authority delegated by the Secretary of

the Treasury, the Department of the Treasury's Office of Foreign Assets Control (''OFAC'') is promulgating these Former Liberian Regime of Charles Taylor Sanctions Regulations, 31 CFR part 593 (the ''Regulations'').

These regulations are promulgated in furtherance of the sanctions set forth in Executive Order 13348, which are targeted sanctions directed at the regime of former President Charles Taylor. The sanctions are not directed against the country of Liberia, the Government of Liberia, or the Central Bank of Liberia. They do not generally prohibit the provision of banking services to the country of Liberia, including the maintenance of correspondent banking relationships with Liberian banks, unless the bank in question, or any other person engaged in the transaction, is a person whose property and interests in property are blocked pursuant to § 593.201(a). In addition, the importation into the United States of rough diamonds from Liberia is governed by the Rough Diamonds Control Regulations, 31 CFR part 592.

Subpart B of the Regulations implements the prohibitions contained in Sections 1, 2, and 3 of the Order. *See* §§ 593.201, 593.205, and 593.206. Appendix A to 31 CFR chapter V has previously been amended to incorporate the names of persons set forth in the Annex to the Order. Persons identified in the Annex to the Order or designated by or under the authority of the Secretary of the Treasury pursuant to the Order are referred to throughout the Regulations as ''persons whose property and interests in property are blocked pursuant to § 593.201(a).'' Their names are or will be published on OFAC's Specially Designated Nationals and Blocked Persons List, which is accessible via OFAC's Web site, announced in the **Federal Register**, and incorporated on an ongoing basis into appendix A to 31 CFR chapter V, which lists persons who are the targets of various sanctions programs administered by OFAC.

Sections 593.202 and 593.203 of subpart B detail the effect of transfers of blocked property in violation of the Regulations and set forth the requirement to hold blocked funds, such as currency, bank deposits, or liquidated financial obligations, in interest-bearing blocked accounts. Section 593.204 of subpart B provides that all expenses incident to the maintenance of blocked physical property shall be the responsibility of the owners and operators of such property, and that such expenses shall not be met from blocked funds. The section further provides that blocked property may, in the discretion of the Director of OFAC, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

Section 593.205 sets forth the prohibition contained in Section 2 of the Order with respect to the importation into the United States of round logs or timber products from Liberia. However, in Resolution 1689 of June 20, 2006, the United Nations Security Council decided to lift the multilateral prohibition on importation of round logs and timber products set forth in paragraph 10 of Resolution 1521. In accordance with the decision of the Security Council in Resolution 1689, OFAC is issuing § 593.510, a general license authorizing the importation into the United States of round logs and timber products originating in Liberia.

Subpart C of part 593 defines key terms used throughout the Regulations, and subpart D sets forth interpretive sections regarding the general prohibitions contained in subpart B. Transactions otherwise prohibited under part 593 but found to be consistent with U.S. policy may be authorized by one of the general licenses contained in subpart E or by a specific license issued pursuant to the procedures described in subpart E of 31 CFR part 501.

Subpart F of part 593 refers to subpart C of part 501 for applicable recordkeeping and reporting requirements. Subpart G describes the civil and criminal penalties applicable to violations of the Regulations, as well as the procedures governing the potential imposition of a civil monetary penalty.

Subpart H of part 593 refers to subpart D of part 501 for applicable provisions relating to administrative procedures. Subpart I of the Regulations sets forth a Paperwork Reduction Act notice.

Public Participation

Because the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable.

Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information related to the Regulations are contained in 31 CFR part 501 (the ''Reporting, Procedures and Penalties Regulations''). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505–0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 593

Administrative practice and procedure, Banks, Banking, Blocking of assets, Credit, Foreign trade, Imports, Liberia, Penalties, Reporting and recordkeeping requirements, Securities.

■ For the reasons set forth in the preamble, the Office of Foreign Assets Control adds part 593 to 31 CFR Chapter V to read as follows:

PART 593—FORMER LIBERIAN REGIME OF CHARLES TAYLOR SANCTIONS REGULATIONS

Subpart A—Relation of This Part to Other Laws and Regulations

Sec.

593.101 Relation of this part to other laws and regulations.

Subpart B—Prohibitions

593.201 Prohibited transactions involving blocked property.
593.202 Effect of transfers violating the provisions of this part.
593.203 Holding of blocked physical funds in interest-bearing accounts; investment and reinvestment.
593.204 Expenses of maintaining blocked physical property; liquidation of blocked account.
593.205 Prohibition on the importation of any round log or timber product originating in Liberia.
593.206 Evasions; attempts; conspiracies.

Subpart C—General Definitions

593.301 Blocked account; blocked property.
593.302 Effective date.
593.303 Entity.
593.304 Interest.
593.305 Licenses; general and specific.
593.306 Originating in Liberia.
593.307 Person.
593.308 Property; property interest.
593.309 Round log or timber product.
593.310 Transfer.
593.311 United States.
593.312 U.S. financial institution.
593.313 United States person; U.S. person.

Subpart D—Interpretations

593.401 Reference to amended sections.
593.402 Effect of amendment.
593.403 Termination and acquisition of an interest in blocked property.
593.404 Transactions ordinarily incident to a licensed transaction.
593.405 Provision of services.
593.406 Offshore transactions.
593.407 Payments from blocked accounts to satisfy obligations prohibited.

593.408 Charitable Contributions.
593.409 Credit extended and cards issued by U.S. financial institutions.
593.410 Setoffs prohibited.
593.411 Importation into the United States.
593.412 Release of any round log or timber product originating in Liberia from a bonded warehouse or foreign trade zone.
593.413 Transshipments or transit through the United States prohibited.

Subpart E—Licenses, Authorizations and Statements of Licensing Policy

593.501 General and specific licensing procedures.
593.502 Effect of license or authorization.
593.503 Exclusion from licenses.
593.504 Payments and transfers to blocked accounts in U.S. financial institutions.
593.505 Entries in certain accounts for normal service charges authorized.
593.506 Investment and reinvestment of certain funds.
593.507 Provision of certain legal services authorized.
593.508 Authorization of emergency medical services.
593.509 Transactions related to mail authorized.
593.510 Transactions related to the importation of any round log and timber product originating in Liberia authorized.

Subpart F—Reports

593.601 Records and reports.

Subpart G—Penalties

593.701 Penalties.
593.702 Prepenalty notice.
593.703 Response to prepenalty notice; informal settlement.
593.704 Penalty imposition or withdrawal.
593.705 Administrative collection; referral to United States Department of Justice.

Subpart H—Procedures

593.801 Procedures.
593.802 Delegation by the Secretary of the Treasury.

Subpart I—Paperwork Reduction Act

593.901 Paperwork Reduction Act notice.

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; 22 U.S.C. 287c; Pub. L. 109–177, 120 Stat. 192; E.O. 13348, 69 FR 44885, 3 CFR, 2004 Comp., p. 189.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 593.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 593.201 Prohibited transactions involving blocked property.

(a) Except as authorized by regulations, orders, directives, rulings, instructions, licenses or otherwise, and notwithstanding any contracts entered into or any license or permit granted prior to the effective date, property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches, of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(1) Any person listed in the Annex to Executive Order 13348 of July 22, 2004 (69 FR 44885, July 27, 2004); and

(2) Any person determined by the Secretary of the Treasury, in consultation with the Secretary of State:

(i) To be or have been an immediate family member of Charles Taylor;

(ii) To have been a senior official of the former Liberian regime headed by Charles Taylor or otherwise to have been or be a close ally or associate of Charles Taylor or the former Liberian regime;

(iii) To have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the unlawful depletion of Liberian resources, the removal of Liberian resources from that country, and the secreting of Liberian funds and property by any person whose property and interests in property are blocked pursuant to this paragraph (a); or

(iv) To be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this paragraph (a).

Note to paragraph (a) of § 593.201. The names of persons whose property and interests in property are blocked pursuant to paragraph (a) of this section are published on the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (the ''SDN List''), which is accessible via the Office of Foreign Assets Control's Web site, announced in the **Federal Register**, and incorporated on an ongoing basis with the identifier [LIBERIA] into Appendix A to 31 CFR chapter V. In addition, section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (''IEEPA'') explicitly authorizes the blocking of property and interests in property of a person or entity during the pendency of an investigation. The names of such persons also are published on the SDN List, announced in the **Federal Register**, and incorporated on an ongoing basis with the identifier [BPI–LIBERIA] into Appendix A to 31 CFR chapter V. Sections 501.806 and 501.807 of this chapter V describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, or administrative reconsideration of their listing or designation pursuant to § 593.201(a).

(b) The blocking of property and interests in property pursuant to § 593.201(a) includes, but is not limited to, the prohibition of the making or receiving by a United States person of any contribution or provision of funds, goods, or services by, to, or for the benefit of a person whose property and interests in property are blocked pursuant to § 593.201(a).

(c) Unless otherwise authorized by this part or by a specific license expressly referring to this section, any dealing in any security (or evidence thereof) held within the possession or control of a U.S. person and either registered or inscribed in the name of, or known to be held for the benefit of, or issued by, any person whose property and interests in property are blocked pursuant to § 593.201(a) is prohibited. This prohibition includes but is not limited to the transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of, or the endorsement or guaranty of signatures on, any such security on or after the effective date. This prohibition applies irrespective of the fact that at any time (whether prior to, on, or subsequent to the effective date) the registered or inscribed owner of any such security may have or might appear to have assigned, transferred, or otherwise disposed of the security.

§ 593.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 593.201(a), is null and void and shall

not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or property interests.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 593.201(a), unless the person with whom such property is held or maintained, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Director of the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of IEEPA, Executive Order 13348, this part, and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property is or was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Director of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property is or was held or maintained;

(2) The person with whom such property is or was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property is or was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other direction or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by the Director of the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

Note to paragraph (d) of § 593.202. The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (d)(2) of this section have been satisfied.

(e) Except to the extent otherwise provided by law, unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property in which, on or since the effective date, there existed an interest of a person whose property and interests in property are blocked pursuant to § 593.201(a).

§ 593.203 Holding of blocked funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraph (c) or (d) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 593.201(a) shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term *blocked interest-bearing account* means a blocked account:

(i) In a federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(3) Funds held or placed in a blocked account pursuant to this paragraph (b) may not be invested in instruments the maturity of which exceeds 180 days. If interest is credited to a separate blocked account or subaccount, the name of the account party on each account must be the same.

(c) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 593.201(a) may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraph (b) or (d) of this section.

(d) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 593.201(a) may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(e) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity securities, to sell or liquidate such property at the time the property becomes subject to § 593.201(a). However, the Office of Foreign Assets Control may issue licenses permitting or directing such sales in appropriate cases.

(f) Funds subject to this section may not be held, invested, or reinvested in a manner that provides immediate financial or economic benefit or access to any person whose property and interests in property are blocked pursuant to § 593.201(a), nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

§ 593.204 Expenses of maintaining blocked physical property; liquidation of blocked account.

(a) Except as otherwise authorized, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or contract entered into or any license or permit granted prior to the effective date, all expenses incident to the maintenance of physical property blocked pursuant to § 593.201(a) shall be the responsibility of the owners or operators of such property, which expenses shall not be met from blocked funds.

(b) Property blocked pursuant to § 593.201(a) may, in the discretion of the Director of the Office of Foreign Assets Control, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

§ 593.205 Prohibition on the importation of any round log or timber product originating in Liberia.

Except as otherwise authorized by regulations, orders, directives, rulings, instructions, licenses, or otherwise, and notwithstanding any contract entered into or any license or permit granted prior to the effective date of this section, the importation into the United States, directly or indirectly, of any round log or timber product originating in Liberia is prohibited.

Note to § 593.205. See section 593.510, which authorizes transactions related to the importation of any round log or timber product originating in Liberia. This general license has been issued in accordance with United Nations Security Council Resolution 1689 of June 20, 2006.

§ 593.206 Evasions; attempts; conspiracies.

(a) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any transaction by any U.S. person or within the United States on or after the effective date that evades or avoids, has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in this part is prohibited.

(b) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any conspiracy formed to violate the prohibitions set forth in this part is prohibited.

Subpart C—General Definitions

§ 593.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibitions in § 593.201 held in the name of a person whose property and interests in property are blocked pursuant to § 593.201(a), or in which such person has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control expressly authorizing such action.

§ 593.302 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part as follows:

(a) With respect to a person whose property and interests in property are blocked pursuant to § 593.201(a)(1), or with respect to the prohibitions set forth at § 593.205, 12:01 a.m. eastern daylight time, July 23, 2004;

(b) With respect to a person whose property and interests in property are blocked pursuant to § 593.201(a)(2), the earlier of the date of actual or constructive notice of such person's designation.

§ 593.303 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

§ 593.304 Interest.

Except as otherwise provided in this part, the term interest, when used with respect to property (*e.g.*, ''an *interest* in property''), means an interest of any nature whatsoever, direct or indirect.

§ 593.305 Licenses; general and specific.

(a) Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

(b) The term *general license* means any license or authorization the terms of which are set forth in subpart E of this part.

(c) The term *specific license* means any license or authorization not set forth in subpart E of this part but issued pursuant to this part.

Note to § 593.305. See § 501.801 of this chapter on licensing procedures.

§ 593.306 Originating in Liberia.

The term *originating in Liberia* means:

(a) Any product determined to be a good of Liberian origin pursuant to the rules of origin of U.S. Customs and Border Protection; or

(b) Any product that has entered into Liberian commerce.

§ 593.307 Person.

The term *person* means an individual or entity.

§ 593.308 Property; property interest.

The terms *property* and *property interest* include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations there under, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future or contingent.

§ 593.309 Round log or timber product.

The term *round log or timber product* means any product classifiable in Chapter 44 of the Harmonized Tariff Schedule of the United States.

§ 593.310 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and, without limitation upon the foregoing, shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 593.311 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 593.312 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent; including but not limited to, depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

§ 593.313 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

Subpart D—Interpretations

§ 593.401 Reference to amended sections.

Except as otherwise specified, reference to any provision in or appendix to this part or chapter or to any regulation, ruling, order, instruction, direction, or license issued pursuant to this part refers to the same as currently amended.

§ 593.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Director of the Office of Foreign Assets Control does not affect any act done or omitted, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 593.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of blocked property (including any property interest) away from a person, such property shall no longer be deemed to be property blocked pursuant to § 593.201(a), unless there exists in the property another interest that is blocked pursuant to § 593.201(a) or any other part of this chapter, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property and interests in property are blocked pursuant to § 593.201(a), such property shall be deemed to be property in which that person has an interest and therefore blocked.

§ 593.404 Transactions ordinarily incident to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(a) An ordinarily incident transaction, not explicitly authorized within the terms of the license, by or with a person whose property and interests in property are blocked pursuant to § 593.201(a); or

(b) An ordinarily incident transaction, not explicitly authorized within the terms of the license, involving a debit to a blocked account or a transfer of blocked property.

§ 593.405 Provision of services.

(a) The prohibitions on transactions involving blocked property contained in § 593.201 apply to services performed in the United States or by U.S. persons, wherever located, including by an overseas branch of an entity located in the United States:

(1) On behalf of or for the benefit of a person whose property and interests in property are blocked pursuant to § 593.201(a); or

(2) With respect to property interests subject to § 593.201.

(b) *Example.* U.S. persons may not, except as authorized by or pursuant to this part, provide legal, accounting, financial, brokering, freight forwarding, transportation, public relations, or other services to a person whose property and interests in property are blocked pursuant to § 593.201(a).

Note to § 593.405. See §§ 593.507 and 593.508, respectively, on licensing policy with regard to the provision of certain legal or medical services.

§ 593.406 Offshore transactions.

The prohibitions in § 593.201 on transactions involving blocked property apply to transactions by any U.S. person in a location outside the United States with respect to property held in the name of a person whose property and interests in property are blocked pursuant to § 593.201(a), or property in which a person whose property and interests in property are blocked pursuant to § 593.201(a) has or has had an interest since the effective date.

§ 593.407 Payments from blocked accounts to satisfy obligations prohibited.

Pursuant to § 593.201, no debits may be made to a blocked account to pay obligations to U.S. persons or other persons, except as authorized by or pursuant to this part.

§ 593.408 Charitable contributions.

Unless otherwise specifically authorized by the Office of Foreign Assets Control by or pursuant to this part, no charitable contribution or donation of funds, goods, services, or technology, including those to relieve human suffering, such as food, clothing or medicine, may be made by, to, or for the benefit of a person whose property or interests in property are blocked pursuant to Sec. 593.201(a). For purposes of this part, a contribution or donation is made by, to, or for the benefit of a person whose property or interests in property are blocked pursuant to Sec. 593.201(a) if made by, to, or in the name of such a person; if made by, to, or in the name of an entity or individual acting for or on behalf of, or owned or controlled by, such a person; or if made in an attempt to violate, to evade, or to avoid the bar on the provision of contributions or donations by, to, or for such a person.

§ 593.409 Credit extended and cards issued by U.S. financial institutions.

The prohibition in § 593.201 on dealing in property subject to that section prohibits U.S. financial institutions from performing under any existing credit agreements, including, but not limited to, charge cards, debit cards, or other credit facilities issued by a U.S. financial institution to a person whose property and interests in property are blocked pursuant to § 593.201(a).

§ 593.410 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether

by a U.S. bank or other U.S. person, is a prohibited transfer under § 593.201 if effected after the effective date.

§ 593.411 Importation into the United States.

With respect to the prohibitions set forth in § 593.205, the term *importation into the United States* generally means the bringing of any such products into the United States. In the case of round logs or timber products originating in Liberia being transported by vessel, *importation into the United States* means the bringing of any such products into the United States with the intent to unlade. See also § 593.413 and § 593.510.

§ 593.412 Release of any round log or timber product originating in Liberia from a bonded warehouse or foreign trade zone.

(a) The prohibitions in § 593.205 apply to importation into a bonded warehouse or a foreign trade zone in the United States.

(b) Section 593.205 does not prohibit the release from a bonded warehouse or foreign trade zone of any round log or timber product originating in Liberia imported into a bonded warehouse or foreign trade zone either prior to the effective date or in a transaction authorized pursuant to this part on or after the effective date.

(c) Notwithstanding paragraph (b) of this section, any round log or timber product originating in Liberia in which persons whose property and interests in property are blocked pursuant to § 593.201(a) have an interest may not be released unless authorized by the Office of Foreign Assets Control.

Note to § 593.412. See § 593.510.

§ 593.413 Transshipment or transit through the United States prohibited.

Except as otherwise specified:

(a) The prohibitions in § 593.205 apply to the importation into the United States, for transshipment or transit to third countries, of any round log or timber product originating in Liberia.

(b) In the case of any round log or timber product originating in Liberia, the prohibitions in § 593.205 apply to the unlading in the United States and the intent to unlade in the United States of such products intended or destined for third countries.

Note to § 593.413. See § 593.510.

Subpart E—Licenses, Authorizations and Statements of Licensing Policy

§ 593.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

§ 593.502 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control, authorizes or validates any transaction effected prior to the issuance of such license or other authorization, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any provision of this chapter unless the regulation, ruling, instruction, or license specifically refers to such provision.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

§ 593.503 Exclusion from licenses.

The Director of the Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license or from the privileges conferred by any license. The Director of the Office of Foreign Assets Control also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon all persons receiving actual or constructive notice of the exclusions or restrictions.

§ 593.504 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a person whose property and interests in property are blocked pursuant to § 593.201(a) has any interest that comes within the possession or control of a U.S. financial institution must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may be made only to another blocked account held in the same name.

Note to § 593.504. Please refer to § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. See also § 593.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 593.505 Entries in certain accounts for normal service charges authorized.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(b) As used in this section, the term *normal service charges* shall include charges in payment or reimbursement for interest due; cable, telegraph, internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 593.506 Investment and reinvestment of certain funds.

Subject to the requirements of § 593.203, U.S. financial institutions are authorized to invest and reinvest assets blocked pursuant to § 593.201, subject to the following conditions:

(a) The assets representing such investments and reinvestments are credited to a blocked account or subaccount which is held in the same name at the same U.S. financial institution, or within the possession or control of a U.S. person, but funds shall not be transferred outside the United States for this purpose;

(b) The proceeds of such investments and reinvestments shall not be credited to a blocked account or subaccount under any name or designation that differs from the name or designation of the specific blocked account or subaccount in which such funds or securities were held; and

(c) No immediate financial or economic benefit accrues (*e.g.*, through pledging or other use) to a person whose

property and interests in property are blocked pursuant to § 593.201(a).

§ 593.507 Provision of certain legal services authorized.

(a) The provision of the following legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 593.201(a) is authorized, provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part;

(2) Representation of persons when named as defendants in or otherwise made parties to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation and conduct of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction;

(4) Representation of persons before any Federal or State agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(b) The provision of any other legal services to persons whose property and interests in property are blocked pursuant to § 593.201(a), not otherwise authorized in this part, requires the issuance of a specific license.

(c) Entry into a settlement agreement affecting property and interests in property or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property and interests in property blocked pursuant to § 593.201(a) is prohibited unless specifically licensed in accordance with § 593.202(e).

§ 593.508 Authorization of emergency medical services.

The provision of nonscheduled emergency medical services in the United States to persons whose property and interests in property are blocked pursuant to § 593.201(a) is authorized, provided that all receipt of payment for such services must be specifically licensed.

§ 593.509 Transactions related to mail authorized.

All transactions by U.S. persons, including payment and transfers to common carriers, incident to the receipt or transmission of mail between a U.S. person and a person whose property and interests in property are blocked pursuant to § 593.201(a) are authorized, provided the mail is limited to personal communications not involving a transfer of anything of value and not exceeding 12 ounces in weight.

§ 593.510 Transactions related to the importation of any round log or timber product originating in Liberia authorized.

Except as otherwise prohibited by § 593.201, all transactions that are prohibited by § 593.205 with respect to the importation into the United States of any round log or timber product originating in Liberia are authorized.

Subpart F—Reports

§ 593.601 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C, of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

Subpart G—Penalties

§ 593.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (IEEPA) (50 U.S.C. 1705), which is applicable to violations of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under IEEPA.

(1) A civil penalty not to exceed the amount set forth in Section 206 of IEEPA, as amended, may be imposed on any person who violates or attempts to violate any license, order, or regulation issued under IEEPA;

Note to paragraph (a)(1) of § 593.701. As of May 23, 2007, the maximum civil penalty for a violation of IEEPA is $50,000.

(2) Whoever willfully violates or willfully attempts to violate any license, order, or regulation issued under IEEPA, upon conviction, shall be fined not more than $50,000, and if a natural person, may also be imprisoned for not more than 20 years; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.

(b) Attention is directed to section 5 of the United Nations Participation Act, as amended (22 U.S.C. 287c(b)) (''UNPA''), which provides that any person who willfully violates or evades or attempts to violate or evade any order, rule, or regulation issued by the President pursuant to the authority granted in that section, upon conviction, shall be fined not more than $10,000 and, if a natural person, may also be imprisoned for not more than 10 years; and the officer, director, or agent of any corporation who knowingly participates in such violation or evasion shall be punished by a like fine, imprisonment, or both and any property, funds, securities, papers, or other articles or documents, or any vessel, together with her tackle, apparel, furniture, and equipment, or vehicle, or aircraft, concerned in such violation shall be forfeited to the United States.

(c) Violations involving transactions described at section 203(b)(1), (3–4) of IEEPA (50 U.S.C. 1702(b)(1), (3–4)) shall be subject only to the penalties set forth in paragraph (b) of this section.

(d)(1) The civil penalties provided in IEEPA are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note).

(2) The criminal penalties provided in IEEPA and UNPA are subject to increase pursuant to 18 U.S.C. 3571.

(e) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the United States, knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any materially false, fictitious or fraudulent statement or representation or makes or uses any false writing or document knowing the same to contain any materially false, fictitious or fraudulent statement or entry, shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.

(f) Violations of this part may also be subject to relevant provisions of other applicable laws.

§ 593.702 Prepenalty notice.

(a) *When required.* If the Director of the Office of Foreign Assets Control has reason to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or

authorization of the Secretary of the Treasury pursuant to this part or otherwise under IEEPA, and the Director determines that further proceedings are warranted, the Director shall notify the alleged violator of the agency's intent to impose a monetary penalty by issuing a prepenalty notice. The prepenalty notice shall be in writing. The prepenalty notice may be issued whether or not another agency has taken any action with respect to the matter.

(b) *Contents of notice.*—(1) *Facts of violation.* The prepenalty notice shall describe the violation, specify the laws and regulations allegedly violated, and state the amount of the proposed monetary penalty.

(2) *Right to respond.* The prepenalty notice also shall inform the respondent of the respondent's right to make a written presentation within the applicable 30-day period set forth in § 593.703 as to why a monetary penalty should not be imposed or why, if imposed, the monetary penalty should be in a lesser amount than proposed.

(c) *Informal settlement prior to issuance of prepenalty notice.* At any time prior to the issuance of a prepenalty notice, an alleged violator may request in writing that, for a period not to exceed 60 days, the agency withhold issuance of the prepenalty notice for the exclusive purpose of effecting settlement of the agency's potential civil monetary penalty claims. In the event the Director grants the request, under terms and conditions within the Director's discretion, the Office of Foreign Assets Control will agree to withhold issuance of the prepenalty notice for a period not to exceed 60 days and will enter into settlement negotiations of the potential civil monetary penalty claim.

§ 593.703 Response to prepenalty notice; informal settlement.

(a) *Deadline for response.* The respondent may submit a response to the prepenalty notice within the applicable 30-day period set forth in this paragraph. The Director may grant, at the Director's discretion, an extension of time in which to submit a response to the prepenalty notice. The failure to submit a response within the applicable time period set forth in this paragraph shall be deemed to be a waiver of the right to respond.

(1) *Computation of time for response.* A response to the prepenalty notice must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to the Office of Foreign Assets Control by courier) on or before the 30th day after the postmark date on the envelope in which the prepenalty notice was mailed. If the prepenalty notice was personally delivered to the respondent by a non-U.S. Postal Service agent authorized by the Director, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(2) *Extensions of time for response.* If a due date falls on a Federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the Director's discretion, only upon the respondent's specific request to the Office of Foreign Assets Control.

(b) *Form and method of response.* The response need not be in any particular form, but it must be typewritten and signed by the respondent or a representative thereof. A copy of the written response may be sent by facsimile, but the original also must be sent to the Office of Foreign Assets Control Civil Penalties Division by mail or courier and must be postmarked or date-stamped, in accordance with paragraph (a) of this section.

(c) *Contents of response.* A written response must contain information sufficient to indicate that it is in response to the prepenalty notice and must identify the Office of Foreign Assets Control identification number listed on the prepenalty notice.

(1) A written response must include the respondent's full name, address, telephone number, and facsimile number, if available, or those of the representative of the respondent.

(2) A written response should either admit or deny each specific violation alleged in the prepenalty notice and also state if the respondent has no knowledge of a particular violation. If the written response fails to address any specific violation alleged in the prepenalty notice, that alleged violation shall be deemed to be admitted.

(3) A written response should include any information in defense, evidence in support of an asserted defense, or other factors that the respondent requests the Office of Foreign Assets Control to consider. Any defense or explanation previously made to the Office of Foreign Assets Control or any other agency must be repeated in the written response. Any defense not raised in the written response will be considered waived. The written response also should set forth the reasons why the respondent believes the penalty should not be imposed or why, if imposed, it should be in a lesser amount than proposed.

(d) *Failure to Respond.* If the Office of Foreign Assets Control receives no response to a prepenalty notice within the applicable time period set forth in paragraph (a) of this section, a penalty notice generally will be issued, taking into account the mitigating and/or aggravating factors present in the record. If there are no mitigating factors present in the record, or the record contains a preponderance of aggravating factors, the proposed prepenalty amount generally will be assessed as the final penalty.

(e) *Informal settlement.* In addition to or as an alternative to a written response to a prepenalty notice, the respondent or respondent's representative may contact the Office of Foreign Assets Control's Civil Penalties Division as advised in the prepenalty notice to propose the settlement of allegations contained in the prepenalty notice and related matters. However, the requirements set forth in paragraph (g) of this section as to oral communication by the representative must first be fulfilled. In the event of settlement at the prepenalty stage, the claim proposed in the prepenalty notice will be withdrawn, the respondent will not be required to take a written position on allegations contained in the prepenalty notice, and the Office of Foreign Assets Control will make no final determination as to whether a violation occurred. The amount accepted in settlement of allegations in a prepenalty notice may vary from the civil penalty that might finally be imposed in the event of a formal determination of violation. In the event no settlement is reached, the time limit specified in paragraph (a) of this section for written response to the prepenalty notice will remain in effect unless additional time is granted by the Office of Foreign Assets Control.

(f) *Guidelines.* Guidelines for the imposition or settlement of civil penalties by the Office of Foreign Assets Control are available on OFAC's Web site (*http://www.treas.gov/ofac*).

(g) *Representation.* A representative of the respondent may act on behalf of the respondent, but any oral communication with the Office of Foreign Assets Control prior to a written submission regarding the specific allegations contained in the prepenalty notice must be preceded by a written letter of representation, unless the prepenalty notice was served upon the respondent in care of the representative.

§ 593.704 Penalty imposition or withdrawal.

(a) *No violation.* If, after considering any response to the prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was no violation

by the respondent named in the prepenalty notice, the Director shall notify the respondent in writing of that determination and of the cancellation of the proposed monetary penalty.

(b) *Violation.* (1) If, after considering any written response to the prepenalty notice, or default in the submission of a written response, and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was a violation by the respondent named in the prepenalty notice, the Director is authorized to issue a written penalty notice to the respondent of the determination of the violation and the imposition of the monetary penalty.

(2) The penalty notice shall inform the respondent that payment or arrangement for installment payment of the assessed penalty must be made within 30 days of the date of mailing of the penalty notice by the Office of Foreign Assets Control.

(3) The penalty notice shall inform the respondent of the requirement to furnish the respondent's taxpayer identification number pursuant to 31 U.S.C. 7701 and that such number will be used for purposes of collecting and reporting on any delinquent penalty amount.

(4) The issuance of the penalty notice finding a violation and imposing a monetary penalty shall constitute final agency action. The respondent has the right to seek judicial review of that final agency action in Federal district court.

§ 593.705 Administrative collection; referral to United States Department of Justice.

In the event that the respondent does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Director of the Office of Foreign Assets Control within 30 days of the date of mailing of the penalty notice, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a Federal district court.

Subpart H—Procedures

§ 593.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

§ 593.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13348 of July 22, 2004 (69 FR 44885, July 27, 2004), and any further Executive orders relating to the national emergency declared therein, may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 593.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to record keeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Dated: March 20, 2007.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. E7–9822 Filed 5–22–07; 8:45 am]

BILLING CODE 4811–42–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD01–07–049]

RIN 1625–AA87

Security Zone: Coast Guard Academy Commencement, New London, CT

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone for the 2007 Coast Guard Academy Commencement Ceremony on Wednesday May 23, 2007. This zone will provide security in the waters of the Thames River adjacent to the Coast Guard Academy, New London, Connecticut during the 2007 Commencement Exercises. This temporary security zone is necessary to protect senior government officials, dignitaries, participants and guests attending the Commencement, members of the general public, and the surrounding area from sabotage or other subversive acts, accidents, or other hazards of a similar nature. Entry into this security zone is prohibited unless authorized by the Captain of the Port, Long Island Sound, New Haven, Connecticut.

DATES: This rule is effective from 10 a.m. until 3 p.m. on May 23, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD01–07–049 and are available for inspection or copying at Sector Long Island Sound between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Douglas Miller, Waterways Management Division, Sector Long Island Sound at (203) 468–4596.

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 security zone was requested by the U.S. Secret Service for the Commencement Exercises as the attendance of several senior level government officials and other dignitaries, combined with the nature of and location of the Ceremonies, presents a target for terrorist activity. The sensitive and unpredictable schedules of several of the Commencement Ceremony attendees precluded sufficient notice to the Coast Guard that a security zone would be necessary.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The delay in notification of the need for the security zone left insufficient time to publish a notice of proposed rulemaking in advance of the effective date of this security zone. The delay in notification also does not allow 30 days between publication of the rule and its effective date. Making this rule effective less than 30 days after publication is necessary as this immediate action is needed to protect the senior government officials and dignitaries attending Commencement exercises, other participants and guests to the Coast Guard Academy Commencement, and the surrounding community from sabotage or other subversive acts, accidents, or other hazards of a similar nature.

Background and Purpose

Several senior United States government officials and other

dignitaries will be attending the Coast Guard Academy Commencement Exercises. The attendance of these individuals along with the military nature of the Ceremonies and anticipated national media coverage make this event a potential target for sabotage, subversive acts, or other terrorist activity. Coast Guard Academy Commencement Ceremonies are scheduled for Wednesday, May 23, 2007, from 11 a.m. to 2 p.m.

Discussion of Rule

The Coast Guard is establishing a security zone in the vicinity of the Coast Guard Academy for 2007 Commencement Exercises. This security zone encompasses all navigable waters of the Thames River within a 500-yard radius of Jacobs Rock, located at approximate position 41°22″23′ N, 072°05″39′ W. The security zone will not encompass the navigable channel in the Thames River therefore commercial traffic will be able to pass unimpeded. This security zone will be enforced from 10 a.m., one hour prior to the start of Commencement Exercises, and will be effective until 3 p.m. The enforcement period of this zone will be broadcast to the maritime community immediately prior to its enforcement via broadcast notice to mariners. All coordinates are in North American Datum 1983 (NAD 1983).

This temporary security zone is necessary to protect senior U.S. Government officials and dignitaries attending Coast Guard Academy Commencement, other participants and guests, members of the public and the surrounding area from sabotage, terrorist or other subversive acts, accidents, or other hazards of a similar nature. Entry into this zone is prohibited unless authorized by the Captain of the Port, Long Island Sound.

Any violation of the security zone described herein is punishable by, among others, civil and criminal penalties, in rem liability against the offending vessel, and license sanctions.

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.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. This regulation may have some impact on the public, but these potential impacts will be minimized for the following reasons: the zone is only for a temporary period of not more than 5 hours and will be enforced for the minimum period necessary to ensure the security of the Coast Guard Academy Commencement Exercises; the Federal navigation channel in the Thames River parallel to the Coast Guard Academy will be open to commercial and recreational traffic during the enforcement period; and, vessels may transit in all other areas of the Thames River not included in the security zone at all times.

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 would 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 or operators of vessels intending to transit or anchor in those portions of the Thames River covered by the security zone from 10 a.m. to 3 p.m. on May 23, 2007.

In addition to the reasons outlined in the Regulatory Evaluation section above, this safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. The rule will be in effect for a maximum of 5 hours on a week day when recreational and small vessel traffic is expected to be minimal. Vessel traffic, both recreational and commercial, can pass safely around the security zone. Before the security zone is effective, the Coast Guard will issue maritime advisories widely available to users of this area of the Thames River.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Doug Miller, Waterways Management Division, Sector Long Island Sound, at (203) 468–4596.

Small business 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 (1–888–737–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This 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 a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this 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 will 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 would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Government

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.

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 procedures; and related management systems 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 M16475.1D and Department of Homeland Security Management Directive 5100.0, which guide 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, this rule is categorically excluded under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This rule falls under the provisions of paragraph (34)(g) because the rule is established in response to an emergency situation and will be in effect for less than one week in duration.

Under figure 2–1, paragraph (34)(g), of the Instruction, an ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are not required for this rule.

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, 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 temporary § 165.T01–049 to read as follows:

§ 165.T01–049 Security Zone: 2007 Coast Guard Academy Commencement, New London, CT.

(a) *Location.* The following area is a security zone: All navigable waters of the Thames River in a 500-yard radius from Jacobs Rock, approximate position 41°22″23′ N., 072°05″39′ W. All coordinates are North American Datum 1983.

(b) *Regulations.* (1) Entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port, Long Island Sound.

(2) Persons desiring to transit the area of the security zone may contact the Captain of the Port at telephone number 203–468–4404 or on VHF channel 16 (156.8 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his or her designated representative.

(c) *Enforcement period.* This section will be enforced from 10 a.m. until 3 p.m. on Wednesday May 23, 2007.

Dated: May 14, 2007.

Peter J. Boynton,

Captain, U.S. Coast Guard, Captain of the Port, Long Island Sound.

[FR Doc. E7–9946 Filed 5–22–07; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2006–0577–200624(c); FRL–8317–3]

Approval and Promulgation of Implementation Plans; Georgia: Removal of Douglas County Transportation Control Measure; Correcting Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correcting amendment.

SUMMARY: This action corrects an inadvertent omission of the entry number for the Alternative Fuel Refueling Station/Park and Ride Transportation Center, Project DO–AR–211 in EPA's direct final rulemaking action, published in the **Federal Register** on November 28, 2006, for the Georgia State Implementation Plan.

DATES: This action is effective May 23, 2007.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2006–0577. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR**

FURTHER INFORMATION CONTACT section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lynorae Benjamin, Air Quality Modeling and Transportation Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9040. Ms. Benjamin can also be reached via electronic mail at *Benjamin.Lynorae@epa.gov.*

SUPPLEMENTARY INFORMATION: This action corrects an inadvertent omission of the entry number for the Alternative Fuel Refueling Station/Park and Ride Transportation Center, Project DO–AR–211, in EPA's direct final rulemaking action, published in the **Federal Register** on November 28, 2006 (71 FR 68740), for the Georgia State Implementation Plan. Through that November 28 action, we included an entry for the table in § 52.570(e), entitled ''EPA Approved Georgia Nonregulatory Provisions,'' as ''Alternative Fuel Refueling Station/ Park and Ride Transportation Center, Project DO–AR–211 is removed.'' However, we did not include an entry number. All previous entries for the table in § 52.570(e) included entry numbers. Today, EPA is correcting this inadvertent error by inserting the entry number ''24'' for the Alternative Fuel Refueling Station/Park and Ride Transportation Center, Project DO–AR–211.

EPA has determined that today's action falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation where public notice and comment procedures are impracticable, unnecessary, or contrary to the public interest. Public notice and comment for this action are unnecessary because today's action to identify, in the Code of Federal Regulations, the entry number for the Alternative Fuel Refueling Station/Park and Ride Transportation Center, Project DO–AR–211, has no substantive impact on EPA's November 28, 2006, approval. The omission of entry number for the Alternative Fuel Refueling Station/Park and Ride Transportation Center, Project DO–AR–211, in EPA's direct final rule published on November 28, 2006, makes no substantive difference to EPA's analysis as set out in that rule. In addition, EPA can identify no particular reason why the public would be interested in being notified of the correction of this omission, or in having the opportunity to comment on the correction prior to this action being finalized, since this correction action does not change EPA's analysis for the removal of the Alternative Fuel Refueling Station/Park and Ride Transportation Center, Project DO–AR–211, from the Georgia State Implementation Plan. *See,* 71 FR 68740.

EPA also finds that there is good cause under APA section 553(d)(3) for this correction to become effective on the date of publication of this action. Section 553(d)(3) of the APA allows an effective date less than 30 days after publication ''as otherwise provided by the agency for good cause found and published with the rule.'' 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in APA section 553(d)(3) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today's rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today's rule merely corrects an inadvertent error of omission for the entry number related to the Alternative Fuel Refueling Station/ Park and Ride Transportation Center, Project DO–AR–211, for the table in § 52.570(e), entitled ''EPA Approved Georgia Nonregulatory Provisions.'' For these reasons, EPA finds good cause under APA section 553(d)(3) for this correction to become effective on the date of publication of this action.

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 corrects an inadvertent error of omission for the entry number related to the Alternative Fuel Refueling Station/Park and Ride Transportation Center, Project DO-AR–211, for the table in § 52.570(e), entitled ''EPA Approved Georgia Nonregulatory Provisions,'' and it 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 merely corrects an inadvertent error of omission for the entry number related to the Alternative Fuel Refueling Station/Park and Ride Transportation Center, Project DO–AR–211, for the table in § 52.570(e), entitled ''EPA Approved Georgia Nonregulatory Provisions,'' and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule merely corrects an inadvertent error of omission for the entry number related to the Alternative Fuel Refueling Station/Park and Ride Transportation Center, Project DO–AR–211, for the table in § 52.570(e), entitled ''EPA Approved Georgia Nonregulatory Provisions,'' and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act (CAA). This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant. In addition, this rule does not involve technical standards, 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 also does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a

copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 23, 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* CAA section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: May 14, 2007.

Russell L. Wright, Jr.,

Acting Regional Administrator, Region 4.

■ 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 L—Georgia

■ 2. Section 52.570(e) is amended by revising an entry at the end of the table for ''Douglas County, GA'' to read as follows:

§ 52.570 Identification of plan.

* * * * *

(e) * * *

EPA APPROVED GEORGIA NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date
24. Alternative Fuel Refueling Station/Park and Ride Transportation Center, Project DO–AR–211 is removed.	Douglas County, GA	09/19/06	5/23/07, [Insert citation of publication].

[FR Doc. E7–9909 Filed 5–22–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2007–0158; FRL–8129–4]

Aspergillus flavus AF36 on Pistachio; Temporary Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a temporary exemption from the requirement of a tolerance for residues of *Aspergillus flavus* AF36 on pistachio when applied/used to reduce aflatoxin-producing *Aspergillus flavus*. Interregional Research Project Number 4 (IR-4), Rutgers University, 500 College Road East, Suite 201W, Princeton, NJ 08540 on behalf of the Arizona Cotton Research and Protection Council], 3721 East Wier Avenue Phoenix, Arizona 85040-2933 submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA), requesting the temporary tolerance exemption. This regulation eliminates the need to establish a maximum permissible level for residues of *Aspergillus flavus* AF36. The temporary tolerance exemption expires on May 14, 2010.

DATES: This regulation is effective May 23, 2007. Objections and requests for hearings must be received on or before June 22, 2007, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2007–0158. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT: Shanaz Bacchus, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-8097; e-mail address: *bacchus.shanaz@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be

affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in Section 5 of FIFRA and the regulations promulgated to carry out that provision of FIFRA (40 CFR part 172). If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at *http://www.regulations.gov*, you may access this ''**Federal Register**'' document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2007–0158 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before July 23, 2007.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2007–0158, by one of the following methods.

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg), 2777 S. Crystal Dr, Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305-5805.

II. Background and Statutory Findings

In the **Federal Register** of March 21, 2007 (72 FR 13277) (FRL–8117–4), EPA issued a notice pursuant to section 408(d)(3) of the FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 6E7118) by Interregional Research Project Number 4 (IR-4), Rutgers University, 500 College Road East, Suite 201W, Princeton, NJ 08540 on behalf of the Arizona Cotton Research and Protection Council, 3721 E. Wier Ave., Phoenix, AZ 85040–2933. The petition requested that 40 CFR part 180 be amended by establishing a temporary exemption from the requirement of a tolerance for residues of *Aspergillus flavus* AF36 on pistachio. This notice included a summary of the petition prepared by the petitioner IR-4, on behalf of the Arizona Cotton Research and Protection Council. One comment received in response to the notice of filing suggested that the area should be notified of the proposed application of the pesticide. In this respect, a **Federal Register** Notice of the receipt of the application for the Experimental Use Permit was published in the **Federal Register** on March 9, 2007 (72 FR–10751) (FRL–8117–6). Another announcement, regarding the filing of the pesticide petition discussed herein, was published in the **Federal Register** on March 21, 2007 (72 FR 13277) (FRL–8117–4).

Section 408(c)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of the FFDCA defines ''safe '' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Pursuant to section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in section 408(b)(2)(C), which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. * * *'' Additionally, section 408(b)(2)(D) of the FFDCA requires that the Agency consider ''available information concerning the cumulative effects of a particular pesticide's residues'' and ''other substances that have a common mechanism of toxicity.''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

III. Toxicological Profile

Consistent with section 408(b)(2)(D) of the FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

The toxicological profile of the conditionally registered microbial pesticide, *Aspergillus flavus* AF36 has been previously described in the final rule of the **Federal Register** of July 14, 2003 (68 FR 41535) (FRL–7311–6). The exemption from tolerance of *Aspergillus flavus* AF36, a non-aflatoxin-producing strain of *Aspergillus flavus*, on cotton was established in 40 CFR §180.1206. The database supporting that exemption from tolerance also supports the proposed temporary exemption of this active ingredient on pistachio. The pesticide was neither toxic nor infective via the oral and pulmonary routes. It was placed in Toxicity Category IV for acute oral effects. The Toxicity Category

III designation for acute inhalation effects is based on the granular nature of the pesticide and the submitted pulmonary studies. This pesticide has been used for more than a decade in experimental laboratory and field trials and in agricultural practice on cotton in Arizona, Texas and California without any reports of adverse dermal irritation or hypersensitivity effects.

The petitioner now seeks to amend that exemption from tolerance of *Aspergillus flavus* AF36 on cotton, to include a temporary exemption from tolerance for residues of the fungal active ingredient on pistachio. An Experimental Use Permit, EPA Registration Number 71693-EUP-1, is proposed for three years to treat 3,000 acre pistachio trees per year by ground application. Treatment of a total of 9,000 acres over three years in 2007, 2008, and 2009, will utilize a total of approximately 0.72 pound of the active ingredient, *Aspergillus flavus* AF36. No further toxicological data are required for this temporary exemption from the requirement of a tolerance for *Aspergillus flavus* AF36 on pistachio.

IV. Aggregate Exposures

In examining aggregate exposure, section 408 of the FFDCA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

A. Dietary Exposure

1. *Food*. The aforesaid final rule for the exemption from tolerance for residues of *Aspergillus flavus* AF 36 on cotton considered all studies submitted by the applicant and found them to be acceptable. Roasting of pistachio nuts and other post harvest agricultural practices, such as treatment with phosphine, are expected to further reduce any aflatoxin contamination of pistachio nuts.

2. *Drinking water exposure*. Those data are also acceptable to demonstrate that the proposed use of *Aspergillus flavus* AF36 on pistachio will not harm the U.S adult, infant and children population from dietary exposure, including food, and drinking water. Percolation through the soil and municipal treatment of drinking water are expected to preclude exposure of the U.S population, infants and children to residues of the pesticide.

B. Other Non-Occupational Exposure

1. *Dermal exposure*. Dermal non-occupational exposure is expected to be minimal to non-existent for the proposed use of *Aspergillus flavus* AF36 on pistachio. The pesticide is to be applied to agricultural sites not in the proximity of residential areas, schools, nursing homes or daycares.

2. *Inhalation exposure*. For the same reasons non-occupational inhalation exposure to AF36 is expected to be minimal to non-existent.

V. Cumulative Effects

Another non-aflatoxin-producing strain of *Aspergillus flavus*, NRRL 21882 is registered, but not for use on pistachio. Cumulative effects of these strains are not expected to exceed the risk cup for the registered *Aspergillus flavus* strains, AF36 and NRRL 21882. Furthermore, these strains are expected to decrease the presence of aflatoxin-producing colonies of the fungus on treated commodities and thus decrease the risks posed by the potent liver carcinogen, aflatoxin.

VI. Determination of Safety for U.S. Population, Infants and Children

Based on the previously evaluated data, it is not necessary to use a safety factor to determine safety to children 9 (see **Federal Register**, July 14, 2003, as cited in Unit III.)

VII. Other Considerations

A. Endocrine Disruptors

See **Federal Register**, July 14, 2003, cited in Unit III.

B. Analytical Method(s)

See **Federal Register**, July 14, 2003, cited in Unit III.

C. Codex Maximum Residue Level

There is no Codex Maximum Residue Level (MRL) for residues of *Aspergillus flavus* AF36 on pistachio.

VIII. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000) do not apply to this rule. In addition, This rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. 104-113, section 12(d) (15 U.S.C. 272 note).

IX. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller

General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 14, 2007.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.1206 is amended by designating the existing text as paragraph (a) and by adding paragraph (b) to read as follows:

§ 180.1206 Aspergillus flavus AF36 on pistachio; exemption from the requirement of a tolerance.

(a) * * *

(b) *Apergillus flavus* AF36 is temporarily exempt from the requirement of a tolerance on pistachio when used in accordance with the Experimental Use Permit 71693-EUP-1. This temporary exemption from tolerance will expire on May 14, 2010.

[FR Doc. E7–9729 Filed 5–22–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2006–0820; FRL–8131–4]

Coumaphos; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of coumaphos in or on honey and honeycomb. Interregional Research Project #4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective May 23, 2007. Objections and requests for hearings must be received on or before July 23, 2007, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2006–0820. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or,if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr. Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT: Barbara Madden, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-6463; e-mail address:*madden.barbara@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to those engaged in the following activities:

- Crop production (NAICS code 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS code 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS code 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

This listing is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at *http://www.regulations.gov*, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of the FFDCA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2006–0820 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before July 23, 2007.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in

ADDRESSES. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA–HQ–OPP–2006–0820, by one of the followingmethods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305-5805.

II. Petition for Tolerance

In the **Federal Register** of October 18, 2006 (71 FR 61465) (FRL–8097–9), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 2E6504) by Interregional Research Project #4 (IR-4), Rutgers, The State University of New Jersey, 500 College Road East, Suite 201 W, Princeton, NJ 08540. The petition requested that 40 CFR 180.189 be amended by establishing a tolerance for residues of the insecticide coumaphos (O,O -diethyl O -3-chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl phosphorothioate) and its oxygen analog (O,O -diethyl O -3-chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl phosphate) in or on honey at 0.10 parts per million (ppm) and honeycomb at 100 ppm. That notice referenced a summary of the petition prepared by Bayer CropScience, the registrant, which is available to the public in the docket, *http://www.regulations.gov*. Comments were received on the notice of filing. EPA's response to these comments is discussed in Unit IV.C.

Based upon review of the data supporting the petition, EPA has determined tolerance levels for honey and honeycomb should be modified. The reason for these changes is explained in Unit V. EPA is also deleting the established tolerances in §180.189(b) for honey and honeycomb that are no longer needed. The tolerance deletions under §180.189(b) are time-limited tolerances established under section 18 emergency exemptions that are superceded by the establishment of general tolerances for coumaphos under §180.189(a).

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of the FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of the FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .'' These provisions were added to the FFDCA by the Food Quality Protection Act (FQPA) of 1996.

Consistent with section 408(b)(2)(D) of the FFDCA, and the factors specified in section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for the petitioned-for tolerance for residues of coumaphos (O,O -diethyl O -3-chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl phosphorothioate) and its oxygen analog (O,O -diethyl O -3-chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl phosphate) on honey at 0.15 ppm and honeycomb at 45 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by coumaphos as well as the NOAEL and the LOAEL from the toxicity studies can be found in the Reregistration Eligibility Decision (RED) for coumaphos (*http://www.epa.gov/oppsrrd1/REDs/0018.pdf*), the Reregistration Eligibility Decision Addendum and FQPA Tolerance Reassessment Progress Report (TRED) for coumaphos (*http://www.epa.gov/oppsrrd1/REDs/0018tred.pdf*) and at *www.regulations.gov* in document Coumaphos: Human Health Risk Assessment for Proposed Use on Honey and Honeycomb page 11 in Docket ID EPA–HQ–OPP–2006–0820.

The mammalian toxicology database for coumaphos is complete. Acute toxicity studies in rats and rabbits; an acute delayed neurotoxicity study in hens; subchronic oral and dermal studies in rats; chronic/carcinogenicity studies in rats, mice, and dogs; developmental toxicity studies in rats and rabbits; a 2-generation study in rats; mutagenicity studies; and a metabolism study were discussed and considered in the Reregistration Eligibility Decision (RED) for coumaphos (*http://www.epa.gov/oppsrrd1/REDs/0018.pdf*). Acute and subchronic neurotoxicity studies in rats were received subsequent to the RED and were considered in the RED Addendum and FQPA Tolerance Reassessment Progress Report (TRED) for coumaphos (*http://www.epa.gov/oppsrrd1/REDs/0018tred.pdf*). Subsequent to the TRED, a developmental neurotoxicity study and a comparative cholinesterase study in rats were received; these studies are discussed in detail at www.regulations.gov in document Coumaphos: Human Health Risk Assessment for Proposed Use on Honey and Honeycomb at page 11 in Docket ID EPA–HQ–OPP–2006–0820.

The acute toxicity of coumaphos is high via the oral route of exposure (Category I), moderate via the inhalation route (Category II), and slight via the dermal route (Category III). Coumaphos is not a dermal sensitizer or a dermal irritant.

Coumaphos, an organophosphate insecticide, primarily affects the nervous system through cholinesterase (ChE) inhibition. Females are consistently more sensitive to the cholinergic effects than males. In the acute oral toxicity studies, female rats are approximately 17 times more sensitive to the toxic and lethal effects of coumaphos compared to male rats. In a single dose oral study, female rats had ChE inhibition and cholinergic symptoms at much lower doses than male rats. In a short-term (5 days) dermal toxicity study, brain ChE inhibition was the most sensitive

indication of the toxic effects of coumaphos dermal treatment. In subchronic and chronic studies in rats, the magnitude of ChE inhibition in red blood cell and plasma and brain was also more pronounced in females, compared to males. Coumaphos does not cause delayed neuropathy. In chronic studies, systemic effects other than cholinergic toxicity include decreases in body weight gain.

There was no evidence of malformations or decreases in the number of pups and/or litter or surviving offspring in any of the developmental toxicity or reproduction studies. In developmental toxicity studies in rats and rabbits, no developmental toxicity was observed, while clinical signs of ChE toxicity were seen in the maternal animals. In a 2-generation reproduction study, ChE inhibition was noted in both parents and offspring, with parents more susceptible. Reproductive toxicity was not observed in this study.

The developmental neurotoxicity study showed no increased susceptibility of the young. The maternal ChE activity was inhibited at both the mid and high does. Consistent with the other mammalian toxicity studies, female pups were more sensitive to cholinergic effects than males; at the high dose, female plasma, erythrocyte, and brain ChE activities were inhibited 27%, 33%, and 8%, respectively, but only plasma ChE activity was significantly inhibited (30%) at this dose in males. In the comparative ChE study increased quantitative susceptibility of the offspring was observed in that ChE inhibition was seen at a lower dose in neonatal rats, compared to young adult rats. The relative sensitivities to ChE inhibition at peak inhibition by coumaphos were measured in neonatal and young adult rats. This comparative ChE study does demonstrate increased quantitative susceptibility of the offspring. However, the degree of concern for this comparative ChE study is low because the effects are well characterized and there are clear no observed adverse effect levels (NOAELs) and lowest observed adverse effect levels (LOAELs) for both neonatal and adult animals. Furthermore, there are no residual uncertainties for prenatal and/or postnatal toxicity for the comparative ChE study because the endpoint of concern is the one used for the acute dietary exposure risk assessment and a more protective endpoint (based on long term-exposure) is used for chronic dietary exposure risk assessment.

Coumaphos is not carcinogenic and is classified as a Group E chemical, indicating that it is ''Not Likely'' to be carcinogenic in humans via relevant routes of exposure. This classification is based on adequate studies in two animal species. No evidence of mutagenicity was seen in any study.

B. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, the toxicological level of concern (LOC) is derived from the highest dose at which the NOAEL in the toxicology study identified as appropriate for use in risk assessment. However, if a NOAEL cannot be determined, the lowest dose at which the LOAEL of concern are identified is sometimes used for risk assessment. Uncertainty/safety factors (UF) are used in conjunction with the LOC to take into account uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. Safety is assessed for acute and chronic risks by comparing aggregate exposure to the pesticide to the acute population adjusted dose (aPAD) and chronic population (cPAD) adjusted dose. The aPAD and cPAD are calculated by dividing the LOC by all applicable uncertainty/safety factors. Short-term, intermediate, and long-term risks are evaluated by comparing aggregate exposure to the LOC to ensure that the margin of exposure (MOE) called for by the product of all applicable uncertainty/safety factors is not exceeded.

For non-threhold risk, the Agency assumes that any amount of exposure will lead to some degree of risk and estimates risk in terms of the probability of occurrence of additional adverse cases. Generally, cancer risks are considered non-threshold. For more information on the general principles EPA used in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/fedrgstr/EPA-PEST/1997/November/Day-26/p30948.htm*.

A summary of the toxicological endpoints for coumpahos used for human risk assessment can be found at www.regulations.gov in document Coumaphos: Human Health Risk Assessment for Proposed Use on Honey and Honeycomb page 15 in Docket ID EPA–HQ–OPP–2006–0820.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to coumaphos, EPA considered exposure under the petitioned-for tolerances as well as all existing coumaphos tolerances in (40 CFR 180.189). EPA assessed dietary exposures from coumaphos and coumaphos-oxon in food as follows:

i. *Acute exposure*. Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one-day or single exposure

In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture's (USDA) 1994-1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). As to residue levels in food, EPA relied upon anticipated residues incorporating 2002 (USDA) Pesticide Data Program (PDP) monitoring data for beef and 2004 PDP monitoring data for milk. Field trial data were used for honey to support the proposed use pattern. The dietary exposure assessment assumes 100% crop treated for all commodities.

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 1994-1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). As to residue levels in food, EPA relied upon anticipated residues incorporating 2002 USDA PDP monitoring data for beef and 2004 PDP monitoring data for milk. Field trial data were used for honey to support the proposed use pattern. The dietary exposure assessment assumes 100% crop treated for all commodities.

iii. *Cancer*. Coumaphos is not carcinogenic and is classified as a Group E chemical, indicating that it is ''Not Likely'' to be carcinogenic in humans via relevant routes of exposure. Therefore, the Agency concluded that coumaphos is not expected to pose a carcinogenic risk and quantification of cancer risk is not required.

iv. *Anticipated residue information*. Section 408(b)(2)(E) of the FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must pursuant to section 408(f)(1) require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such data call-ins as are required by section 408(b)(2)(E) and authorized under section 408(f)(1) of the FFDCA. Data will be required to be

submitted no later than 5 years from the date of issuance of this tolerance.

2. *Dietary exposure from drinking water*. The Agency lacks sufficient monitoring data to complete a comprehensive dietary exposure analysis and risk assessment for coumaphos in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the environmental fate characteristics of coumaphos. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm*.

The generic expected environmental concentration (GENEEC) and screening concentration in groundwater (SCI-GROW) screening models were used to estimate surface water and ground water concentrations of coumaphos and its oxygen analog, coumaphoxon. This degradate is considered in the drinking water assessment, as it was in the assessment for consumption of food (honey and livestock commodities). Based on the GENEEC and SCI-GROW models, the estimated environmental concentrations (EECs) of coumaphos and its oxygen analog, coumaphoxon for acute exposures are estimated to be 1.86 parts per billion (ppb) for surface water and 0.17 ppb for ground water. The EECs for chronic exposures are estimated to be 0.41 ppb for surface water and 0.17 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 1.86 ppb was used to assess the contribution to drinking water. For chronic dietary risk assessment, the water concentration of value 0.41 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Coumaphos is not registered for use on any sites that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) of the FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

FQPA (1996) stipulates that when determining the safety of a pesticide chemical, the EPA shall consider, among other things, available information concerning the cumulative effects on human health that may result from dietary, residential, or other non-occupational exposure to the pesticide chemical and other substances that have a common mechanism of toxicity. The reason for consideration of other substances is due to the possibility that low-level exposures to multiple chemical substances that cause a common toxic effect by a common mechanism could lead to the same adverse health effect as would a higher level of exposure to any of the substances individually. A person exposed to a pesticide at a level that is considered safe may, in fact, experience harm if that person is also exposed to other substances that cause a common toxic effect by a mechanism common with that of the subject pesticide, even if the individual exposure levels to the other substances are also considered safe.

The organophosphate pesticides (OPs) were established as the first common mechanism group by EPA in 1999, based on their shared ability to bind to and phosphorylate the enzyme acetylcholinesterase in both the central (brain) and peripheral nervous systems. Coumaphos is an OP pesticide. In December 2001, the Agency issued the ''Preliminary OP Cumulative Risk Assessment'', available at *http://www.epa.gov/pesticides/cumulative/pra_op_methods.htm*. In June 2002, the Agency released its Revised OP CRA, available at *http://www.epa.gov/pesticides/cumulative/rra-op/*, which included the cumulative risk due to the OPs from exposures in food, drinking water, and residential uses. In August 2006, the Agency issued an update to the 2002 Revised OP CRA document, which emphasized changes, modifications, and amendments. With the 2006 update, available at *http://www.epa.gov/pesticides/cumulative/2006-op/index.htm*, the Agency has developed a highly refined and complex cumulative risk assessment for the OPs that represents the state of the science regarding existing hazard and exposure data and the models and approaches used. Based upon the results from the 2006 update, the Agency concluded that the results of the OP cumulative risk assessment support a reasonable certainty of no harm finding.

In both the 2002 revised OP CRA, as well as the 2006 update, the cumulative dietary risk associated with the use of OP pesticides on food crops was assessed using residue monitoring data collected by the USDA PDP and dietary consumption data collected by USDA's Survey of Food Intakes by Individuals (CSFII). Both assessments relied primarily on the PDP for residue data; the 2006 update added PDP data collected in 2002–2004 to the 1994–2001 data used in the 2002 Revised Assessment. The PDP has been collecting pesticide residue data since 1991, primarily for purposes of estimating dietary exposure. The program focuses on high-consumption foods for children and reflects foods typically available throughout the year. A complete description of the PDP and all data through 2004 are available online (*http://www.ams.usda.gov/science/pdp*). No PDP data on honey currently exist that could have been used in a cumulative assessment. OP residues in honey were not included in the PDP data base, in part because honey is a low-consumption food. A quantitative estimate of honey consumption over a single day was obtained for the general U.S. population and subpopulations using the Dietary Exposure Evaluation Model (DEEM-FCID™, Version 2.03), which uses food consumption data from the USDA's CSFII from 1994-1996 and 1998. Consumption estimates at the 99.9th percentile of exposure range from 21 grams of honey/day in all infants (<1 year) to 96 grams/day in adults 50 + years, the population subgroup who reported the greatest amount of honey consumed. Estimates of honey consumption for all other subpopulations, including children 1-2, 3-5, and 6-12 years; youth 13-19 years; females 13-49 years; and adults 20-49 years are within this range.

Although PDP data on coumaphos data in honey is not available, monitoring for coumaphos in honey is conducted under the Food and Drug Administration's (FDA's) Center for Food Safety and Applied Nutrition (CFSAN) Surveillance Monitoring Program. This monitoring program is designed primarily for enforcement of EPA pesticide tolerances on imported foods and domestic foods shipped in interstate commerce. In this monitoring program, domestic samples are generally collected close to the point of production in the distribution system. Import samples are collected at the point of entry into U.S commerce. The emphasis in sample collection is on the agricultural commodity, which is analyzed as the unwashed, whole (unpeeled), raw commodity. Processed foods are also included in the program.

A description of the program and residue data for recent years can be found online (*http://vm.cfsan.fda.gov/~lrd/pestadd.html*). Because the emphasis of this program is not on dietary exposure, it was used in the 2006 cumulative assessment mostly as a semi-quantitative check on the potential for residues and as support for data from other sources. Data are available from 1996–2003. Although the Agency has granted emergency exemptions, starting in 1999, such that the coumaphos strips assessed in this document have been and continue to be used on beehives in 40–46 states (*http://www.epa.gov/opprd001/section18*), the FDA has detected coumaphos in honey only once, in 2003, at levels lower than the level of quantification. Thus, FDA data indicates that there is a low expectation of meaningful coumaphos residues in honey.

EPA does not believe that inclusion of anticipated coumaphos residues in honey in the OP CRA will significantly modify the calculated risk. This conclusion is based on three factors. First, honey is a low consumption food, and, thus, even if honey contained quantifiable levels of OPs, it would be unlikely to significantly alter the OP CRA. Second, available monitoring data indicates that, despite widespread use of coumaphos, residues of coumaphos in honey as consumed are exceedingly low, if present at all. Finally, a prior risk assessment for coumaphos indicated that aggregate risk from coumaphos was essentially unchanged when honey containing levels of coumaphos residues found in field trials was added to the coumaphos risk assessment, August 16, 2000 (65 FR 49927) (FRL–6738–3). In the current assessment, no discernible difference in exposure was observed when coumaphos residues in honey and beeswax were or were not included in an aggregate assessment (personal correspondence, S. Piper, January 1, 2007). If coumaphos exposure from honey is insignificant in comparison to exposure to coumaphos from other uses of the chemical, it necessarily is insignificant in comparison to exposure to the more than 30 other OPs. For these reasons, EPA concludes that the establishment of a coumaphos honey tolerance will not raise a concern regarding cumulative OP exposure.

D. Safety Factor for Infants and Children

1. *In general*. Section 408 of FFDCA provides that EPA shall apply an additional (''10X'') tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA safety factor. In applying this provision, EPA either retains the default value of 10X when reliable data do not support the choice of a different factor, or, if reliable data are available, EPA uses a different additional FQPA safety factor value based on the use of traditional uncertainty/safety factors and/or special FQPA safety factors, as appropriate.

2. *Prenatal and postnatal sensitivity*. There was no evidence of increased qualitative or quantitative susceptibility of the offspring in the developmental, reproduction, or developmental neurotoxicity studies. Increased quantitative susceptibility of the offspring was observed in the comparative ChE study in that ChE inhibition was seen at a lower dose in neonatal rats, compared to young adult rats. The degree of concern for this comparative ChE study is low because the effects are well characterized and there are clear NOAELs and LOAELs for both neonatal and adult animals. Furthermore, there are no residual uncertainties for pre- and/or postnatal toxicity for the comparative ChE study because the endpoint of concern is the one used for the acute dietary exposure risk assessment and a more protective endpoint (based on long-term exposure) is used for chronic dietary exposure risk assessment.

3. *Conclusion*. EPA has determined that reliable data show that it would be safe for infants and children to reduce the FQPA safety factor to 1X. That decision is based on the following findings:

i. The toxicity database for coumaphos is complete.

ii. As discussed in Unit III.D.2., there are no residual uncertainties regarding prenatal or postnatal toxicity or increased sensitivity of the young.

iii. There are no residual uncertainties identified in the exposure data bases. The dietary food exposure assessments were performed based on 100% crop treated and using reliable data (USDA PDP data for meat and milk and field trial data for honey) and will not underestimate the exposure and risk. Conservative ground water and surface water modeling estimates were used. These assessments will not underestimate the exposure and risks posed by coumaphos.

E. Aggregate Risks and Determination of Safety

Safety is assessed for acute and chronic risks by comparing aggregate exposure to the pesticide aPAD and cPAD. The aPAD and cPAD are calculated by dividing the LOC by all applicable uncertainty/safety factors. For linear cancer risks, EPA calculates the probability of additional cancer cases given aggregate exposure. Short-term, intermediate-term, and long-term risks are evaluated by comparing aggregate exposure to the LOC to ensure that the MOE called for by the product of all applicable uncertainty/safety factors is not exceeded.

1. *Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to coumaphos will occupy 15% of the aPAD for the U.S. population and 38% of the aPAD for all infants (< 1 year), the most highly exposed population subgroup.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to coumaphos from food and water will utilize 6% of cPAD for the U.S. population and 13% of the cPAD for all infants (< 1 year), the most highly exposed population subgroup. There are no residential uses for coumaphos that result in chronic residential exposure to coumaphos.

3. *Short-term and Intermediate-term risk*. Short-term and intermediate aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Coumaphos is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water.

4. *Aggregate cancer risk for U.S. population*. Coumaphos is not carcinogenic and is classified as a Group E chemical, indicating that it is ''Not Likely'' to be carcinogenic in humans via relevant routes of exposure. This classification is based on adequate studies in two animal species. Coumaphos is not expected to pose a cancer risk.

5. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to coumaphos residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology liquid chromatography/mass spectroscopy/ mass spectroscopy (LC/MS/MS) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755-5350; telephone number: (410) 305-2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

There are no CODEX, Canadian, or Mexican maximum residue limits (MRLs) for residues of coumaphos in honey or honeycomb. Therefore, harmonization with international tolerances is not an issue for this action.

C. Response to Comments

Several comments were received from a private citizen objecting to establishment of tolerances. The Agency has received similar comments from this commenter on numerous previous occasions. Refer to **Federal Register** June 30, 2005 (70 FR 37686) (FRL–7718–3), January 7, 2005 (70 FR 1354) (FRL–7691–4) and, October 29, 2004 (69 FR 63096) (FRL–7681–9) for the Agency's response to these objections.

V. Conclusion

Based upon review of the residue field trial data supporting the petition, EPA has determined tolerance levels for honey and honeycomb should be modified and tolerances levels should be 0.15 ppm for honey and 45 ppm for honeycomb.

Therefore, tolerance are established for residues of coumaphos (O,O -diethyl O -3-chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl phosphorothioate and its oxygen analog (O,O -diethyl O -3-chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl phosphate) on honey at 0.15 ppm and honeycomb at 45 ppm.

VI. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000) do not apply to this rule. In addition, This rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. 104–113, section 12(d) (15 U.S.C. 272 note).

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 15, 2007.

Daniel J. Rosenblatt,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.189 is amended by alphabetically adding commodities to the table in paragraph (a), and in paragraph (b), the text and table are removed and the paragraph is reserved to read as follows:

§ 180.189 Coumaphos; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Honey	0.15
Honeycomb	45.0
* * * * *	

(b) *Section 18 emergency exemptions.* [Reserved]

* * * * *

[FR Doc. E7–9813 Filed 5–22–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2006–0332; FRL–8128–6]

Famoxadone; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of famoxadone in or on grape, hop, and caneberry, Subgroup 13A. Interregional Research Project (IR–4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective May 23, 2007. Objections and requests for hearings must be received on or before July 23, 2007, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2006–0332. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov,* or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Shaja R. Brothers, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–3194; e-mail address: *brothers.shaja@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to those engaged in the following activities:

- Crop production (NAICS code 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS code 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS code 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

This listing is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at *http://www.regulations.gov*, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's pilot e–CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of the FFDCA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2006–0332 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before July 23, 2007.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA–HQ–OPP–2006–0332, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on–line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Petition for Tolerance

In the **Federal Register** of May 10, 2006 (71 FR 27247) (FRL–8067–5) and November 22, 2006 (71 FR 67572) (FRL–8101–9), EPA issued notices pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of pesticide petitions PP 5E7001 (grape and hop), and PP 6E7099 (caneberry) by the IR–4, 500 College Road East, Suite 201 W, Princeton, NJ 08540. The petitions requested that 40 CFR 180.587

be amended by establishing tolerances for residues of the fungicide famoxadone, 3-anilino-5-methyl-5-(4-phenoxyphenyl)-1,3-oxazolidine-2,4-dione, in or on grape (east of the rocky mountains) at 2.5 parts per million (ppm); hop, dried cone at 60 ppm; and caneberry at 11 ppm. These notices referenced a summary of the petitions prepared by Dupont, the registrant, which is available to the public in the docket, *http://www.regulations.gov*. A comment was received from a private citizen on the notice of filing for famoxadone on caneberry. EPA's response to comment is discussed in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of the FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of the FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .'' These provisions were added to the FFDCA by the Food Quality Protection Act (FQPA) of 1996.

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for the petitioned–for tolerances for residues of famoxadone grape (regional registration) at 2.5 ppm; hop, dried cone at 80 ppm; and caneberry subgroup 13A at 10 ppm on EPA's assessment of exposures and risks associated with establishing the tolerances follow.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by famoxadone as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies are discussed in the final rule published in the **Federal Register** at *http://www.epa.gov/EPA–PEST/2003/July/Day–02/p16736.htm*.

B. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, the toxicological level of concern (LOC) is derived from the highest dose at which no adverse effects are observed (the NOAEL) in the toxicology study identified as appropriate for use in risk assessment. However, if a NOAEL cannot be determined, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment. Uncertainty/safety factors (UF) are used in conjunction with the LOC to take into account uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. Safety is assessed for acute and chronic risks by comparing aggregate exposure to the pesticide to the acute population adjusted dose (aPAD) and chronic population adjusted dose (cPAD). The aPAD and cPAD are calculated by dividing the LOC by all applicable uncertainty/safety factors. Short-, intermediate, and long-term risks are evaluated by comparing aggregate exposure to the LOC to ensure that the margin of exposure (MOE) called for by the product of all applicable uncertainty/safety factors is not exceeded.

For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk and estimates risk in terms of the probability of occurrence of additional adverse cases. Generally, cancer risks are considered non–threshold. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/fedrgstr/EPA–PEST/1997/November/Day–26/p30948.htm*.

A summary of the toxicological endpoints for famoxadone can be found at www.regulations.gov in the Human Health Risk Assessment for Famoxadone to Support Tolerances for Residues in/on Grapes, Hops, and Caneberry, Crop Subgroup 13A, pages 10–11 in Docket ID EPA–HQ–OPP–2006–0332.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to famoxadone, EPA considered exposure under the petitioned-for tolerances as well as all existing famoxadone tolerances in (40 CFR 180.587). EPA assessed dietary exposures from famoxadone in food as follows:

i. *Acute exposure*. Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. No such effects were identified in the toxicological studies for famoxadone. Therefore, a quantitative acute dietary exposure assessment was not performed.

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). As to residue levels in food, EPA used Dietary Exposure Evaluation Model (DEEM™) default processing factors and anticipated residues (ARs) calculated from field trial data including the highest average field trial (HAFT) level for hop and caneberry, and existing ARs for grape commodities. Exposure estimates were further refined with percent crop treated (PCT) data for several registered commodities.

iii. *Cancer*. EPA has classified famoxadone as a ''not likely'' human carcinogen. Therefore, a cancer dietary exposure analysis was not performed.

iv. *Anticipated residue and PCT information*. Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must pursuant to section 408(f)(1) require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such Data Call-Ins as are required by section 408(b)(2)(E) of FFDCA and authorized under section 408(f)(1) of FFDCA. Data will be required to be submitted no later than 5 years from the date of issuance of this tolerance.

Section 408(b)(2)(F) of FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if:

a. The data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue;

b. The exposure estimate does not underestimate exposure for any significant subpopulation group; and

c. Data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by section 408(b)(2)(F) of FFDCA, EPA may require registrants to submit data on PCT.

The Agency used PCT information as follows:

Tomato at 10%; Cucumber, Pepper, Potato, Pumpkin at 5%; Squash and Watermelon at 1%EPA uses an average PCT for chronic dietary risk analysis. The average PCT figure for each existing use is derived by combining available federal, state, and private market survey data for that use, averaging by year, averaging across all years, and rounding up to the nearest multiple of five percent except for those situations in which the average PCT is less than one. In those cases <1% is used as the average and <2.5% is used as the maximum. EPA uses a maximum PCT for acute dietary risk analysis. The maximum PCT figure is the single maximum value reported overall from available federal, state, and private market survey data on the existing use, across all years, and rounded up to the nearest multiple of five percent. In most cases, EPA uses available data from United States Department of Agriculture/National Agricultural Statistics Service (USDA/NASS), Proprietary Market Surveys, and the National Center for Food and Agriculture Policy (NCFAP) for the most recent 6 years.

The Agency believes that the three conditions listed have been met. With respect to Condition 1, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions 2 and 3, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which famoxadone may be applied in a particular area.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring data to complete a comprehensive dietary exposure analysis and risk assessment for famoxadone in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the environmental fate characteristics of famoxadone. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm*.

The assessment was based on the registered potato use (highest application rate, 0.1875 lbs ai/acre, with 6 applications at 5 day intervals). The Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) Model was used to estimate surface water concentrations, and Screening Concentrations in Groundwater (SCI-GROW) Model was used to estimate ground water concentrations. The model values generally represent upper-bound estimates of the concentrations that might be found in surface water and ground water resulting from the use of famoxadone.

Based on the PRZM/EXAMS and SCI-GROW models, the estimated environmental concentrations (EECs) of famoxadone for chronic exposures are estimated to be 0.47 ppb for surface water and 0.23 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For chronic dietary risk assessment, the water concentration of value 0.47 ppb was used to access the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Famoxadone is not registered for use on any sites that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of the FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to famoxadone and any other substances and famoxadone does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that famoxadone has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative*.

D. Safety Factor for Infants and Children

1. *In general.* Section 408 of FFDCA provides that EPA shall apply an additional (''10X'') tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA safety factor. In applying this provision, EPA either retains the default value of 10X when reliable data do not support the choice of a different factor, or, if reliable data are available, EPA uses a different additional FQPA safety factor value based on the use of traditional uncertainty/safety factors and/or special FQPA safety factors, as appropriate.

2. *Prenatal and postnatal sensitivity.* There is no quantitative or qualitative evidence of increased susceptibility of rat and rabbit fetuses to *in utero* exposure in developmental studies. There is no quantitative or qualitative evidence of increased susceptibility of rat offspring in the multi-generation reproduction study.

3. *Conclusion*. EPA has determined that reliable data show that it would be safe for infants and children to reduce the FQPA safety factor to 1X. That decision is based on the following findings:

i. The toxicity database for famoxadone is complete.

ii. There is no indication that famoxadone is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional uncertainty factors to account for neurotoxicity.

iii. There is no evidence that famoxadone results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2–generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. Although the food exposure assessment was slightly refined, it is based in reliable data and will not underestimate the exposure and risk. Conservative ground water and surface water modeling estimates were used. These assessments will not underestimate the exposure and risks posed by famoxadone.

E. Aggregate Risks and Determination of Safety

Safety is assessed for acute and chronic risks by comparing aggregate exposure to the pesticide to the aPAD and cPAD. The aPAD and cPAD are calculated by dividing the LOC by all applicable uncertainty/safety factors. For linear cancer risks, EPA calculates the probability of additional cancer cases given aggregate exposure. Short-, intermediate, and long-term risks are evaluated by comparing aggregate exposure to the LOC to ensure that the MOE called for by the product of all applicable uncertainty/safety factors is not exceeded.

1. *Acute risk*. An acute aggregate risk assessment takes into account exposure estimates from acute dietary consumption and drinking water. There was no acute dietary endpoint selected. Therefore, famoxdane is not expected to pose an acute risk.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to famoxadone from food and water will utilize 65% of the cPAD for children 1-2 years old, the subpopulation group with the greatest exposure. There are no residential uses for famoxadone that result in chronic residential exposure to famoxadone.

3. *Short and intermediate-term risks*. Short and Intermediate-term aggregate exposures takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Famoxadone is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

4. *Aggregate cancer risk for U.S. population*. EPA has classified famoxadone as a ''not likely'' human carcinogen. Therefore, famoxdane is not expected to pose a cancer risk.

5. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to famoxadone residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

An analytical method AMR 3705–95; gas chromatography with nitrogen/phosphorus detector (GC/NPD) for plants was developed for data gathering and enforcement purposes to quantitate famoxadone. The method has undergone a successful independent laboratory validation (ILV) and Agency petition method validation (PMV). Therefore, adequate enforcement methodology is available to enforce this tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

There are no established CODEX maximum residue limits (MRLs) for famoxadone.

C. Response to Comments

One comment was received by a private citizen. The commenter argued that cancer rates in the United States are too high and no new pesticides should be approved until the causes of the increased cancers are found. Additionally, the commenter urged that EPA should test famoxdane in combination with the thousands of other chemicals to which humans are exposed. Famoxdane has been examined in the required carcinogenicity studies and EPA concluded that it is not likely to be carcinogenic to humans. This was discussed in a prior rulemaking published in the **Federal Register** at *http://www.epa.gov/EPA-PEST/2003/July/Day-02/p16736.htm*. EPA does not require the testing of pesticides in combination with other chemicals but does consider available data bearing on whether a pesticide shares a common toxicity with other substances that could result in cumulative effects. For specific information regarding EPA's approach to the use of common mechanism of toxicity to evaluate the cumulative effects of chemicals, please refer to EPA's website at *http://www.epa.gov/pesticides/cumulative* to see policy statements.

V. Conclusion

The proposed tolerance for hop, dried cone was requested at 60 ppm. The residue data from the hop field trials indicate that residues of famoxadone ranged from 14.70 ppm to 46.85 ppm in/on dried hops harvested 7-8 days after the last of six applications at a total rate of ~1.50 lb ai/A. The submitted data are adequate pending label revision to reflect the parameters of field trial data. The Agency recommends the following label revisions: apply a maximum single foliar application rate of 0.25 lb ai/A, with a 6-8 day RTI, a maximum seasonal rate of ~1.50 lb ai/A, and a 7–day PHI. Statistical analysis of the data show that a tolerance level of 80 ppm will be appropriate for hops.

The proposed tolerance for caneberry, subgroup 13-A was requested at 11 ppm. The results from these trials show that famoxadone residues ranged from 0.40 ppm to 6.7 ppm on/in treated caneberry when the test substance was applied at the proposed seasonal application rate of 1.125 lb ai/A using a 0–day PHI. Caneberry were stored frozen for a maximum of 181 days at –21°9C. Submitted storage stability studies indicate that famoxadone residues are stable on caneberry for up to 216 days. A residue decline study was not conducted by the applicant. Statistical analysis of the data show that a tolerance level of 10 ppm will be appropriate for caneberry, subgroup 13-A.

Therefore, the tolerances are established for residues of famoxadone, 3-anilino-5-methyl-5-(4-phenoxyphenyl)-1,3-oxazolidine-2,4-dione), in or on grape (regional registration) at 2.5 ppm; hop, dried cone at 80 ppm; and caneberry, Subgroup 13A at 10 ppm.

VI. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive

Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000) do not apply to this rule. In addition, This rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. 104–113, section 12(d) (15 U.S.C. 272 note).

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 15, 2007.

Daniel J. Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—AMENDED

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.587 is amended by revising the section heading; by alphabetically adding caneberry, Subgroup 13A and hop, dried cone to the table in paragraph (a) and removing grape from the table in paragraph (a); and adding text to paragraph (c) to read as follows:

§ 180.587 Famoxadone; tolerance for residues.

(a) * * *

Commodity	Parts per million
Caneberry, Subgroup 13A	10
* * *	* *
Hop, dried cone	80
* * *	* *

[1]There are no U.S. registrations as of May 15,2003.

* * * * *

(c) *Tolerances with a regional registrations.* Tolerances with a regional registration as defined in Sec. 180.1(n) are established for the residues of the fungicide famoxadone, 3-anilino-5-methyl-5-(4-phenoxyphenyl)-1,3-oxazolidine-2,4-dione) in or on the raw agricultural commodities:

Commodity	Parts per million
Grape	2.5

* * * * *

[FR Doc. E7–9823 Filed 5–22–07; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2006–0586; FRL–8126–6]

Propanil, Phenmedipham, Triallate, and MCPA; Tolerance Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is revoking certain tolerances for the herbicides propanil, triallate, and MCPA. EPA is modifying certain tolerances for the herbicides propanil, phenmedipham, triallate, and MCPA. In addition, EPA is establishing tolerances for the herbicides propanil, phenmedipham, triallate, and MCPA. The regulatory actions in this document are part of the Agency's reregistration program under the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996.

DATES: This regulation is effective May 23, 2007. Objections and requests for hearings must be received on or before July 23, 2007, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2006–0586. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as

copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Jane Smith, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–0048; e-mail address: *smith.jane-scott@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS code 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS code 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at *http://www.regulations.gov*, you may access this ''**Federal Register**'' document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2006–0586 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before July 23, 2007.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2006–0586, by one of the following methods.

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Background

A. What Action is the Agency Taking?

In the **Federal Register** of September 27, 2006 (71 FR 56425) (FRL–8089–5), EPA issued a proposed rule to revoke, modify and establish specific tolerances for residues of the herbicides propanil, phenmedipham, triallate and MCPA. Also, the proposal of September 27, 2006 (71 FR 56425) (FRL–8089–5) provided a 60–day comment period which invited public comment for consideration and for support of tolerance retention under the Federal Food, Drug, and Cosmetic Act (FFDCA) standards.

EPA is revoking, removing, modifying, and establishing specific tolerances for residues of the the herbicides propanil, phenmedipham, triallate and MCPA in or on commodities listed in the regulatory text.

EPA is finalizing these tolerance actions in order to implement the tolerance recommendations made during the reregistration and tolerance reassessment processes (including follow-up on canceled or additional uses of pesticides). As part of reregistration and when taking action on tolerances and exemptions EPA is required to determine whether each of the amended tolerances meets the safety standards under the FQPA. The safety finding determination of ''reasonable certainty of no harm'' is found in detail in each Reregistration Eligibility Decision (RED) and Report on FQPA Tolerance Reassessment Progress and Interim Risk Management Decision (TRED) for the active ingredient. REDs and TREDs recommend certain tolerance actions to be implemented to reflect current use patterns, to meet safety findings and change commodity names and groupings in accordance with new EPA policy. Printed copies of REDs and TREDs may be obtained from EPA's National Service Center for Environmental Publications (EPA/NSCEP), P.O. Box 42419, Cincinnati, OH 45242-2419, telephone: 1–800–490–9198; fax: 1–513–489–8695; internet at *http://www.epa.gov/ncepihom* and from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, telephone: 1–800–553–6847 or (703) 605–6000; internet at *http://www.ntis.gov.* Electronic copies of REDs and TREDs are available on the internet at *http://www.epa.gov/pesticides/reregistration/status.htm.* and in public dockets EPA–

HQ–OPP–2003–0348 and EPA–HQ–OPP–2002–0033 (propanil); EPA–HQ–OPP–2004–0384 (phenmedipham); and EPA–HQ–OPP–2004–0156 and EPA–HQ–OPP–2004–0239 (MCPA) at *http://www.regulations.gov*.

In this final rule, EPA is revoking certain tolerances and tolerance exemptions because these specific tolerances and exemptions correspond to uses no longer current or registered under FIFRA in the United States. The tolerances revoked by this final rule are no longer necessary to cover residues of the relevant pesticides in or on domestically treated commodities or commodities treated outside but imported into the United States. It is EPA's general practice to revoke those tolerances and tolerance exemptions for residues of pesticide active ingredients on crop uses for which there are no active registrations under FIFRA, unless any person in comments on the proposal indicates a need for the tolerance or tolerance exemption to cover residues in or on imported commodities or domestic commodities legally treated.

EPA's policy is to issue a final rule revoking those tolerances for residues of pesticide chemicals for which there are no active registrations under FIFRA, unless any person commenting on the proposal demonstrates a need for the tolerance to cover residues in or on imported commodities or domestic commodities legally treated.

Generally, EPA will proceed with the revocation of these tolerances on the grounds discussed in Unit II.A. if one of the following conditions applies:

1. Prior to EPA's issuance of a section 408(f) order requesting additional data or issuance of a section 408(d) or (e) order revoking the tolerances on other grounds, commenters retract the comment identifying a need for the tolerance to be retained.

2. EPA independently verifies that the tolerance is no longer needed.

3. The tolerance is not supported by data that demonstrate that the tolerance meets the requirements under FQPA.

This final rule does not revoke those tolerances for which EPA received comments stating a need for the tolerance to be retained. In response to the proposal published in the **Federal Register** of September 27, 2006 (71 FR 56425) (FRL–8089–5), EPA received three comments during the 60–day public comment period, as follows:

Comment. The MCPA Task Force Three submitted a comment requesting the published tolerance for ''cattle, meat and meat byproducts'' be changed from the proposed 0.1 ppm to 0.5 ppm. The Task force has conducted a new Magnitude of the Residues in Meat and Milk Study, according to the Agency guidelines, that supports a 0.5 ppm tolerance. The new study will be submitted to the Agency as soon as it is issued which, according to the MCPA Task Force Three, is well in advance of the due date requested by the Agency in the Data Call-In. The task force did not take issue with any of the proposed tolerances for revocation.

Agency response. The Agency acknowledges the cooperation and effort the MCPA Task Force Three has put forth to fulfill the requirements of the reregistration Data Call-In Notice. When the Magnitude of the Meat and Milk Study is received, reviewed, a risk assessment conducted and safety finding is made, EPA will make a determination as to the whether the current tolerance of 0.1 ppm is still appropriate or should be changed.

Comment. A comment was received from a private citizen that expressed concern with pesticide residues in general and that pesticide residue levels should be zero. Concern was also expressed for the number of chemicals found in the bodies of adults and children.

Agency response. The private citizen's comment did not take issue with the Agency's conclusion that specific tolerances in this action should be revoked, established and/or modified. The Agency conducts a detailed risk assessment to determine whether establishing and/or increasing tolerances is safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue. Also, it is EPA's general practice to propose revocation of tolerances for residues of pesticide active ingredients on crop uses for which FIFRA registrations no longer exist.

Comment. A comment was received from the California Rice Commission (CRC). CRC expressed concern that the increased U.S. tolerance for propanil in/on rice grain from 2 ppm to 10 ppm could result in a trade irritant with Japan, a major importer of California rice whose Maximum Residue Limit (MRL) on rice grain is 2 ppm. According to the CRC propanil is the most important herbicide to the California rice industry; a significant percentage of the rice grown in California is exported to Japan; propanil residues on California grown rice are non-detectable for propanil; and the tolerance level of 10 ppm is based on an outlier residue level of 8.7 ppm.

Agency response. The CRC brought this important issue to the attention of the Agency when the RED Amendment was released in 2006. The U.S. tolerance is a national level based on uses and residue data generated on rice grown in Arkansas, California, Louisiana, and Texas showing multiple residue detections above 2 parts per million (ppm) up to 8.7 ppm supporting a tolerance level of 10 ppm. Avoiding potential trade irritants is of paramount interest, unfortunately, no new data have been generated or submitted to the Agency to change the basis of the tolerance level. If additional propanil field trial residue data on rice were generated and provided to the Agency, the tolerance level on rice grain would be reconsidered.

1. *Propanil.* Currently, in 40 CFR 180.274(a)(1) and (2), tolerances are established for the combined residues of propanil and its metabolites (calculated as propanil) in or on both raw agricultural commodities (RACs) and processed foods and feeds. EPA is revising the tolerance expression to specify the residues of concern and combine the RACs and processed foods and feed tolerances in accordance with FFDCA 408 as amended by FQPA (1996) in 40 CFR 180.274(a) to read as follows: Tolerances are established for the combined residues of the herbicide propanil (3', 4'-dichloropropionanilide) and its metabolites convertible to 3, 4-dichloroaniline (3, 4-DCA).

Tolerances currently exist for rice milling fractions and rice polishings. Rice milling fractions are no longer considered significant animal feed items as delineated in ''Table 1. – Raw Agricultural and Processed Commodities and Feedstuffs Derived from Crops'' which is found in Residue Chemistry Test Guidelines OPPTS 860.1000 dated August 1996, available at *http://www.epa.gov/opptsfrs/publications/OPPTS_Harmonized/860_Residue_Chemistry_Test_Guidelines/Series/*. Therefore, EPA is removing the tolerances in 40 CFR 180.274(a) for the combined residues of propanil in/on rice milling fractions and rice, polishings at 10 ppm.

The registered uses on barley, oat, and wheat (small grains) have been voluntarily cancelled December 10, 2003; 68 FR 68901, FRL–7332–5, June 27, 2003; 68 FR 38328, FRL 7310–6. In the absence of registered uses, the tolerances associated with the small grains should be revoked. Therefore, EPA is revoking the tolerances in 40 CFR 180.274(a) for the combined propanil residues of concern in/on barley, straw; oat, straw; and wheat, straw at 0.75 ppm; barley, grain at 0.2 ppm; oat, grain at 0.2 ppm; and wheat, grain at 0.2 ppm.

Two studies depicting the magnitude of regulated propanil residues in/on rice grain exceeded the established tolerance of 2 ppm in/on treated rice grain samples demonstrating residues ranging from 0.03 ppm to 8.7 ppm. Based on these data, the EPA determined the tolerance should be 10 ppm on rice grain. Therefore, EPA is increasing the tolerance in 40 CFR 180.274(a) for the combined propanil residues of concern in/on rice, grain from 2 ppm to 10 ppm. The Agency determined that the increased tolerance is safe; i.e. there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

A rice processing study showed no concentration of residues in polished rice and average concentration factors of 3.5x for rice hulls and 4.6x for rice bran. The highest average field trial (HAFT) propanil residues found in rice were 8.7 ppm. Based on this HAFT and the observed concentration factors, the maximum expected residues are 30.45 ppm in/on rice hulls (8.7 ppm x 3.5) and 40.02 ppm in/on rice bran (8.7 ppm x 4.6). These expected residues are higher in the processed commodities than the reassessed tolerance of 10 ppm for rice, grain. Based on these data, EPA has determined that the tolerances should be 30 ppm on rice, hulls and 40 ppm on rice, bran. Therefore, EPA is increasing tolerances in 40 CFR 180.274(a) for the combined propanil residues of concern in or on rice, hulls from 10 to 30 ppm and rice, bran from 10 to 40 ppm. The Agency determined that the increased tolerances are safe; i.e. there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

The potential for secondary transfer of propanil residues to animal commodities exists because the herbicide is registered for use on rice, which may be used as animal feed. Based on a maximum theoretical dietary burden (x) and using the residue levels found in dairy cattle and milk fed 15 ppm (0.75x) resulted in residues of: 0.035 ppm in milk, 0.31 ppm in liver, 0.77 ppm in kidney, <0.05 ppm (non-detectable) in muscle, and 0.10 ppm in fat. Based on these data, the Agency determined the tolerances should be 0.05 ppm in cattle, meat; goat, meat; hog, meat; horse, meat; and sheep, meat and 1.0 ppm in cattle, meat byproducts; goat, meat byproducts; hog, meat byproducts; horse, meat byproducts; and sheep, meat byproducts. In addition, the term ''negligible residue'' and its designation, ''(N)'' associated with the milk and animal tissue tolerances is being removed to conform to current Agency policy and practice. Therefore, EPA is maintaining and revising tolerances in 40 CFR 180.274(a) for the combined propanil residues of concern in/on milk from 0.05(N) ppm to 0.05 ppm and cattle, fat; goat, fat; hog, fat; horse, fat; and sheep, fat from 0.1(N) ppm to 0.10 ppm; decreasing and revising the tolerances in/on cattle, meat; goat, meat; hog, meat; horse, meat; and sheep, meat from 0.1(N) to 0.05 ppm; and increasing and revising the tolerances in/on cattle, meat byproducts; goat, meat byproducts; hog, meat byproducts; horse, meat byproducts; and sheep, meat byproducts from 0.1(N) to 1.0 ppm. The Agency determined that the increased tolerances are safe; i.e. there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

Maximum propanil residues were 0.212, and 0.372 ppm, respectively, in eggs from hens dosed with propanil 15 ppm (0.9x), and 50 ppm (3.1x). Residues in liver from hens in the 15 ppm (0.9x), and 50 ppm (3.1x) dose groups were 0.183 - 0.236, and 0.824 - 1.755 ppm, respectively. Residues in muscle were <0.050 - 0.076 and 0.087 - 0.161 ppm from the 0.9x and 3.1x dose groups, respectively. In fat, propanil residues of concern were <0.05 ppm (<non-detectable) up to 0.9x feeding levels, and <0.139 - 0.348 ppm at 3.1x. Based on these data, the Agency has determined that the propanil tolerances should be 0.30 ppm for eggs, 0.50 ppm for meat byproducts, 0.05 ppm for poultry fat, and 0.10 ppm for poultry meat. In addition, the term ''negligible residue'' and its designation, ''(N)'' associated with the egg and animal tissue tolerances is being removed to conform to current Agency policy and practice. Therefore, EPA is revising tolerances in 40 CFR 180.274(a) for the combined propanil residues of concern to increase and revise the tolerance for eggs from 0.05(N) to 0.30 ppm and poultry, meat byproducts from 0.1(N) to 0.50 ppm; to decrease and revise the tolerances in/on poultry, fat from 0.1(N) to 0.05 ppm; and revise tolerances in/on poultry, meat from 0.10(N) to 0.10 ppm. The Agency determined that the increased tolerances are safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

Residues of propanil and its metabolites, determined as base-releasable 3, 4-DCA and expressed as propanil equivalents, were <0.01 - 0.03 ppm in/on the edible portions of crayfish (1x maximum season rate). Based on these data, the Agency determined the tolerance should be 0.05 ppm on crayfish. Therefore, EPA is establishing a tolerance in 40 CFR 180.274(a) for the combined propanil residues of concern in/on crayfish at 0.05 ppm.

In addition, the ''N'' (negligible residues) designation correlated with tolerances is being removed to conform to current Agency practice. Therefore, EPA is revising the tolerance in 40 CFR 180.278(a) for the combined propanil residues of concern in/on rice, straw from 75(N) ppm to 75 ppm.

2. *Phenmedipham.* The current tolerance expression in 40 CFR 180.278(a) refers to phenmedipham as methyl m-hydroxycarbanilate methyl carbanilate which should be changed to the more appropriate chemical name, 3-methoxycarbonylaminophenyl-3′-methylcarbanilate. Therefore, EPA is changing the chemical name in 40 CFR 180.278(a) for residues of the herbicide phenmedipham to 3-methoxycarbonylaminophenyl-3′-methylcarbanilate.

Spinach field trial residue data generated at the 1x seasonal application rate and 14-22 day pre-harvest interval (PHI) resulted in residues ranging from 2.1 - 3.6 ppm. Additional trials conducted at similar rates and PHIs yielded residues ranging from <0.05 to 0.17 ppm. Based on the more recent residue data and use pattern, EPA has determined the tolerance on spinach should be 4.0 ppm. Therefore, EPA is increasing the tolerance in 40 CFR 180.278(a) for residues of phenmedipham in/on spinach from 0.5 ppm to 4.0 ppm. The Agency determined that the increased tolerance is safe; i.e. there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

Sugar beet processing studies indicate that phenmedipham residues of concern concentrated 3x in dried pulp, 1.3x in molasses, and did not concentrate in sugar. Because of the concentration factors associated with dried pulp and molasses, the current tolerance of 0.1 ppm for raw beet, sugar, roots and tops is not adequate to cover the dried pulp and molasses from sugar beets; therefore, the Agency has determined that tolerances should be established for beet, sugar, dried pulp at 0.5 ppm and beet, sugar, molasses at 0.2 ppm. EPA is establishing tolerances in 40 CFR 180.278(a) for residues of phenmedipham in/on beet, sugar, dried pulp at 0.5 ppm and beet, sugar, molasses at 0.2 ppm.

In addition, the ''N'' (negligible residues) designation that is correlated with some of the tolerances is being removed to conform to current Agency

practice. Therefore, EPA is revising the tolerances in 40 CFR 180.278(a) for residues of phenmedipham in/on beet, garden at 0.2(N) ppm to beet, garden, roots at 0.2 ppm and beet, garden, tops at 0.2 ppm; beet, sugar, roots at 0.1(N) ppm to 0.1 ppm and beet, sugar, tops at 0.1(N) ppm to 0.1 ppm.

3. *Triallate.* The available data, reflecting the maximum registered use patterns, indicate that the maximum combined triallate residues of concern were 0.26 ppm in or on barley straw; 0.12 ppm in or on the seed and pods of succulent peas; 0.39 ppm in or on the vines of succulent peas; 0.27 ppm in or on the vines of dried peas; 0.73 ppm in or on the straw (hay) of succulent peas; 0.36 ppm in or on the straw of dried peas; and 0.94 ppm in or on wheat straw in the states of California, Colorado, Idaho, Kansas, Minnesota, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. In addition, the term ''negligible residue'' and its designation, ''(N)'' associated with the barley, grain tolerance is being removed to conform to current Agency policy and practice. Based on these data, the Agency determined the tolerances should be 0.3 ppm on barley, straw; 1.0 ppm on pea, field, hay; 0.5 ppm on pea, field, vines; 0.2 ppm on pea, succulent; and 1.0 ppm on wheat, straw and recodified under 40 CFR 180.314(c) as regional tolerances. Therefore, EPA is increasing and recodifying the tolerances in 40 CFR 180.314(a) to 40 CFR 180.314(c) for the combined triallate residues of concern in/on barley, straw from 0.05 to 0.3 ppm; pea, field, hay from 0.05 to 1.0 ppm; pea, field, vines from 0.05 to 0.5 ppm; pea, succulent from 0.05 to 0.2 ppm; wheat, straw from 0.05 to 1.0 ppm; and recodifying tolerances from 40 CFR 180.314(a) to 40 CFR 180.314(c) for barley, grain at 0.05 ppm and wheat, grain at 0.05 ppm. The Agency determined that the increased tolerances are safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

Lentil hay is no longer considered significant livestock feed item and has been removed from Table 1 (OPPTS GLN 860.1000) and lentil, seed is covered by the established pea tolerance in accordance with 40 CFR 180.1(g). As a result, EPA is removing the tolerances in 40 CFR 180.314(a) for the combined triallate residues of concern in/on lentil, hay at 0.05 ppm and lentil seed at 0.05 ppm.

Sugar beet processing studies were conducted on sugar beets treated at 5x the seasonal application rate resulting in maximum residues of 0.14 ppm in root, 0.30 ppm in dried pulp and <0.03 ppm in sugar and molasses. Therefore, EPA is maintaining the tolerances and correcting the terminology for sugar beets to include roots in 40 CFR 180.314(c) for the combined triallate residues of concern in or on beet, sugar, dried pulp at 0.2 ppm; beet, sugar, roots at 0.1 ppm and beet, sugar, tops at 0.5 ppm.

The available data, reflecting the maximum registered use patterns, indicate that the maximum combined triallate residues of concern were <0.02 ppm in/on the seed and pods of dry peas; and 0.94 ppm on wheat straw. Because of similar cultural practices and identical use rates, wheat straw data are used to support tolerances for barley hay and wheat hay. Based on these data, the Agency determined the tolerances should be 0.2 ppm for pea, dry and 1.0 ppm for barley, hay and wheat, hay by translating the data from wheat straw. Therefore, EPA is establishing tolerances in 40 CFR 180.314(c) for the combined triallate residues of concern in/on barley, hay at 1.0 ppm; pea, dry at 0.2 ppm; and wheat, hay at 1.0 ppm. The Agency determined that the establishment of these tolerances is safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

4. *MCPA.* The current tolerance expression in 40 CFR 180.339(a) regulates residues of the herbicide 2-methyl-4-chlorophenoxyacetic acid (MCPA) from application of the herbicide in acid form or in the form of its sodium, ethanolamine, diethanolamine, triethanolamine, isopropanolamine, diisopropanolamine, triisopropanolamine, or dimethylamine salts or isooctyl or butoxyethyl esters and in 40 CFR 180.339(b) tolerances are established for combined negligible residues (N) of the herbicide 2-methyl-4-chlorophenoxyacetic acid and its metabolite 2-methyl-4-chlorophenol. Based on toxicity data for 2-methyl-4-chlorophenol, a currently regulated livestock metabolite, EPA determined that it is of significantly less concern than the parent compound and therefore can be excluded from the tolerance expression. Although the chemical name for MCPA has been presented as ''(2-methyl-4-chlorophenoxy)acetic acid'', under current chemical naming conventions the ''(4-chloro-2-methylphenoxy)acetic acid'' designation is preferred. EPA determined the residues to be regulated in plant commodities (40 CFR 180.339(a)) are parent, free and conjugated MCPA. When MCPA is applied in various forms (e.g. ethanolamine and other salts and esters), a single common moiety is released that is the pesticidally active component and serves as the basis for tolerance regulation. Therefore, EPA is changing the tolerance expression in 40 CFR 180.339(a) to read as follows: Tolerances are established for residues of the herbicide MCPA [(4-chloro-2-methylphenoxy)acetic acid)], both free and conjugated, resulting from the direct application of MCPA or its sodium or dimethylamine salts or its 2-ethylhexyl ester and in 40 CFR 180.339(b) to read as follows: Tolerances are established for residues of the herbicide MCPA [(4-chloro-2-methylphenoxy)acetic acid)] resulting from the direct application of MCPA or its sodium or dimethylamine salts or its 2-ethylhexyl ester. EPA is revising 40 CFR 180.339(a) and (b) to 180.339 (a)(1) and (2) for consistency. Lastly, the term ''negligible residue'' and its designation, ''(N)'', associated with some tolerances is being removed to conform to current Agency policy and practice.

Currently, tolerances exist reflecting uses of MCPA on rice, sorghum, flax (straw) and canarygrass. The uses on rice, sorghum, and canarygrass are no longer registered uses June 30, 2004; 69 FR 39467; FRL 7363–4, April 26, 2006; 71 FR 24687; FRL 8059–2. EPA policy no longer requires tolerances be established for flax straw. Therefore, EPA is revoking tolerances in 40 CFR 180.339(a)(1) for the combined MCPA residues of concern in or on flax, straw at 2 ppm; grass, canary, annual, hay at 0.1 ppm; grass, canary, annual, seed at 0.1 ppm; rice, grain at 0.1(N) ppm; rice, straw at 2 ppm; sorghum, grain at 0.1 ppm; sorghum, forage at 20 ppm; and sorghum, grain, stover at 20 ppm.

The crop field trial data indicate that the maximum combined residues of MCPA and its metabolites are <0.29 ppm in or on alfalfa forage and <1.07 ppm in or on alfalfa hay. Alfalfa forage and alfalfa hay data will also be used to satisfy crop field trial requirements for the clover, forage; clover, hay; lespedeza, clover; lespedeza, hay; trefoil, forage; trefoil, hay; vetch, forage; and vetch, hay. Ordinarily, the Agency would not translate data from alfalfa to support uses on clover, lespedeza, trefoil, and vetch; however, because the only supported use of MCPA on these crops is to the crops underseeded to small grains it is reasonable to use alfalfa forage and alfalfa hay data to support these uses. Based on these data, EPA has determined the tolerance should be 0.5 ppm in or on alfalfa, forage; clover, forage; lespedeza, forage; trefoil, forage; and vetch, forage and 2.0 ppm in or on alfalfa, hay; clover, hay;

lespedeza, hay; trefoil, hay; and vetch, hay. Therefore, EPA is increasing and revising tolerances in 40 CFR 180.339(a)(1) for residues of MCPA in/on alfalfa, forage; clover, forage; lespedeza, forage; trefoil, forage; and vetch, forage from 0.1 to 0.5 ppm and alfalfa, hay; clover, hay; lespedeza, hay; trefoil, hay; and vetch, hay from 0.1 to 2.0 ppm. The Agency determined that the increased tolerances are safe; i.e. there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

The crop field trial data indicate that the maximum combined residues of MCPA and its metabolites are 0.72 ppm in or on wheat grain and 21.4 ppm in or on wheat straw. Based on the HAFT residue of 0.08 ppm for wheat grain, expected MCPA residues of concern in/on wheat bran and germ will not exceed the established tolerance of 0.1 ppm for wheat grain and for wheat processed commodities. Because of similar cultural practices and identical use rates, wheat residue field trial data are used to support tolerances for barley, oat and rye. Based on these data, EPA has determined the tolerance should be 1.0 ppm in/on barley, grain; oat, grain; rye, grain and wheat, grain and 25 ppm in or on barley, straw; oat, straw; rye, straw; and wheat, straw. Therefore, EPA is increasing the tolerances in 40 CFR 180.33(a)(1) for residues of MCPA in/on barley, grain; oat, grain; rye, grain; and wheat, grain from 0.1(N) to 1.0 ppm and barley, straw; oat, straw; rye, straw; and wheat, straw from 2 to 25 ppm. The Agency determined that these increased tolerances are safe; i.e. there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

The crop field trial data indicate that the maximum combined residues of MCPA and its metabolites are 19.4 ppm (7 day PHI) in or on wheat forage, 39.5 ppm and 111 ppm (7 and14 day PHIs, respectively) in or on wheat hay. Also these data are translated to support tolerances for barley, hay; oat, hay; oat, forage; and rye, forage. Based on these data, EPA determined the tolerances should be 20 ppm on oat, forage; rye, forage; and wheat, forage; 40 ppm on barley, hay; and 115 ppm in/on oat, hay; and wheat hay. EPA is establishing tolerances in 40 CFR 180.339(a)(1) for residues of MCPA in/on wheat, forage at 20 ppm; barley, hay at 40 ppm and oat, hay; and wheat, hay at 115 ppm. The Agency determined that these newly established tolerances are safe; i.e. there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemicals residue.

In addition, EPA is revising commodity terminology and tolerances to conform to current Agency practice in 40 CFR 180.339 as follows: ''grass, pasture and grass, rangeland at 300 ppm to grass, forage at 300 ppm:'' ''peavines at 0.1(N) ppm to pea, field, vines at 0.1 ppm;'' ''peavines, hay at 0.1(N) ppm to pea, field, hay at 0.1 ppm;'' ''vegetable, seed and pod at 0.1 ppm to pea, dry at 0.1 ppm and pea, succulent at 0.1 ppm;'' flax seed at 0.1(N) to 0.1 ppm; ''cattle, fat; goat, fat; hog, fat; horse, fat; and sheep, fat; cattle, meat byproducts; goat, meat byproducts; hog, meat byproducts; horse, meat byproducts; and sheep, meat byproducts; and cattle, meat; goat, meat; hog, meat; horse, meat; and sheep, meat at 0.1(N) ppm to 0.1 ppm;'' and milk at 0.1(N) ppm to 0.1 ppm.

B. What is the Agency's Authority for Taking this Action?

EPA may issue a regulation establishing, modifying, or revoking a tolerance under FFDCA section 408(e). In this final rule, EPA is establishing, modifying, and revoking tolerances to implement the tolerance recommendations made during the reregistration and tolerance reassessment processes, and as follow-up on canceled uses of pesticides. As part of these processes, EPA is required to determine whether each of the amended tolerances meets the safety standards under the Food Quality Protection Act (FQPA). The safety finding determination is found in detail in each Reregistration Eligibility Document (RED) and Tolerance Reassessment Document (TRED) for the active ingredient. REDs and TREDs recommend the implementation of certain tolerance actions, including modifications to reflect current use patterns, to meet safety findings, and change commodity names and groupings in accordance with new EPA policy. Printed and electronic copies of the REDs and TREDs are available as provided in Unit II.A.

EPA has issued post-FQPA REDs for propanil, phenmedipham, triallate, and MCPA, and a TRED for propanil. REDs and TREDs contain the Agency's evaluation of the data base for these pesticides, including statements regarding additional data on the active ingredients that may be needed to confirm the potential human health and environmental risk assessments associated with current product uses, and REDs state conditions under which these uses and products will be eligible for reregistration. The REDs and TREDs recommended the establishment, modification, and/or revocation of specific tolerances. RED and TRED recommendations such as establishing or modifying tolerances, and in some cases revoking tolerances, are the result of assessment under the FQPA standard of ''reasonable certainty of no harm.'' However, tolerance revocations recommended in REDs and TREDs that are made final in this document do not need such assessment when the tolerances are no longer necessary.

EPA's general practice is to revoke tolerances for residues of pesticide active ingredients on crops for which FIFRA registrations no longer exist and on which the pesticide may therefore no longer be used in the United States. Nonetheless, EPA will establish and maintain tolerances even when corresponding domestic uses are canceled if the tolerances, which EPA refers to as ''import tolerances,'' are necessary to allow importation into the United States of food containing such pesticide residues. However, where there are no imported commodities that require these import tolerances, the Agency believes it is appropriate to revoke tolerances for unregistered pesticides in order to prevent potential misuse.

When EPA establishes tolerances for pesticide residues in or on raw agricultural commodities, the Agency gives consideration to possible pesticide residues in meat, milk, poultry, and/or eggs produced by animals that are fed agricultural products (for example, grain or hay) containing pesticides residues (40 CFR 180.6). If there is no reasonable expectation of finite pesticide residues in or on meat, milk, poultry, or eggs, then tolerances do not need to be established for these commodities (40 CFR 180.6(b) and 180.6 (c)).

C. When Do These Actions Become Effective?

These actions become effective on the date of publication of this final rule in the **Federal Register** because their associated uses have been canceled for several years. The Agency believes that treated commodities have had sufficient time for passage through the channels of trade.

Any commodities listed in the regulatory text of this document that are treated with the pesticides subject to this final rule, and that are in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(1)(5), as established by the FQPA. Under this section, any residues of these pesticides in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of the Food and Drug Administration that:

1. The residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA, and

2. The residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from tolerance. Evidence to show that food was lawfully treated may include records that verify the dates that the pesticide was applied to such food.

III. Are There Any International Trade Issues Raised by this Final Action?

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international MRLs established by the Codex Alimentarius Commission, as required by section 408(b)(4) of FFDCA. The Codex Alimentarius is a joint U.N. food and agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, section 408(b)(4) of FFDCA requires that EPA explain the reasons for departing from the Codex level in a notice published for public comment. EPA's effort to harmonize with Codex MRLs is summarized in the tolerance reassessment section of individual REDs and TREDs, and in the Residue Chemistry document which supports the RED and TRED, as mentioned in the proposed rule cited in Unit II.A.

IV. Statutory and Executive Order Reviews

In this final rule, EPA establishes tolerances under FFDCA section 408(e), and also modifies and revokes specific tolerances established under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions (i.e., establishment and modification of a tolerance and tolerance revocation for which extraordinary circumstances do not exist) from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. 104–13, section 12(d) (15 U.S.C. 272 note). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether establishment of tolerances, exemptions from tolerances, raising of tolerance levels, expansion of exemptions, or revocations might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. These analyses for tolerance establishments and modifications, and for tolerance revocations were published on May 4, 1981 (46 FR 24950) and on December 17, 1997 (62 FR 66020), respectively, and were provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, and available information concerning the pesticides listed in this rule, the Agency hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities. In a memorandum dated May 25, 2001, EPA determined that eight conditions must all be satisfied in order for an import tolerance or tolerance exemption revocation to adversely affect a significant number of small entity importers, and that there is a negligible joint probability of all eight conditions holding simultaneously with respect to any particular revocation. (This Agency document is available in the docket of this proposed rule). Furthermore, for the pesticides named in this final rule, the Agency knows of no extraordinary circumstances that exist as to the present revocations that would change EPA's previous analysis. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

V. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides

that before a rule may take effect, the Agency promulgating the rule must submit a rule report to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 16, 2007.

Debra Edwards,

Director, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—AMENDED

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.274 is amended by revising paragraph (a) to read as follows:

§ 180.274 Propanil; tolerances for residues.

(a) *General.* Tolerances are established for the combined residues of the herbicide propanil (3′, 4′-dichloropropionanilide) and its metabolites convertible to 3, 4-dichloroaniline (3, 4-DCA) in or on the following food commodities:

Commodity	Parts per million
Cattle, fat	0.10
Cattle, meat	0.05
Cattle, meat byproducts	1.0
Crayfish	0.05
Egg	0.30
Goat, fat	0.10
Goat, meat	0.05
Goat, meat byproducts	1.0
Hog, fat	0.10
Hog, meat	0.05
Hog, meat byproducts	1.0
Horse, fat	0.10
Horse, meat	0.05
Horse, meat byproducts	1.0
Milk	0.05
Poultry, fat	0.05
Poultry, meat	0.10
Poultry, meat byproducts	0.50
Rice, bran	40
Rice, grain	10
Rice, hulls	30
Rice, straw	75
Sheep, fat	0.10
Sheep, meat	0.05
Sheep, meat byproducts	1.0

* * * * *

■ 3. Section 180.278 is revised to read as follows:

§180.278 Phenmedipham; tolerances for residues.

(a) *General.* Tolerances are established for the combined residues of the herbicide phenmedipham (3-methoxycarbonylaminophenyl-3′-methylcarbanilate) in or on the following food commodities:

Commodity	Parts per million
Beet, garden, roots	0.2
Beet, garden, tops	0.2
Beet, sugar, dried pulp	0.5
Beet, sugar, molasses	0.2
Beet, sugar, roots	0.1
Beet, sugar, tops	0.1
Spinach	4.0

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

■ 4. Section 180.314 is revised to read as follows:

§180.314 Triallate; tolerances for residues.

(a) *General.* [Reserved]

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* Tolerances with a regional registration, as defined in 180.1(m),are established for residues of the herbicide (S-2, 3, 4-trichloroallyl diisopropylthiocarbamate) and its metabolite 2, 3, 3-trichloroprop-2-enesulfonic acid (TCPSA) in or on the following food commodities:

Commodity	Parts per million
Barley, grain	0.05
Barley, hay	1.0
Barley, straw	0.3
Beet, sugar, dried pulp	0.2
Beet, sugar, roots	0.1
Beet, sugar, tops	0.5
Pea, dry	0.2
Pea, field, hay	1.0
Pea, field, vines	0.5
Pea, succulent	0.2
Wheat, grain	0.05
Wheat, hay	1.0
Wheat, straw	1.0

(d) *Indirect or inadvertent residues.* [Reserved]

■ 5. Section 180.339 is revised to read as follows:

§180.339 MCPA; tolerances for residues.

(a) *General.* (1) Tolerances are established for residues of the herbicide MCPA ((4-chloro-2-methylphenoxy)acetic acid), both free and conjugated, resulting from the direct application of MCPA or its sodium or dimethylamine salts, or its 2-ethylhexyl ester in or on the following food commodities:

Commodity	Parts per million
Alfalfa, forage	0.5
Alfalfa, hay	2.0
Barley, grain	1.0
Barley, hay	40
Barley, straw	25
Clover, forage	0.5
Clover, hay	2.0
Flax, seed	0.1
Grass, forage	300
Grass, hay	20
Lespedeza, forage	0.5
Lespedeza, hay	2.0
Oat, forage	20
Oat, grain	1.0
Oat, hay	115
Oat, straw	25
Pea, dry	0.1
Pea, field, hay	0.1
Pea, succulent	0.1
Pea, field, vines	0.1
Rye, forage	20
Rye, grain	1.0
Rye, straw	25
Trefoil, forage	0.5
Trefoil, hay	2.0
Vetch, forage	0.5
Vetch, hay	2.0
Wheat, forage	20
Wheat, grain	1.0
Wheat, hay	115
Wheat, straw	25

(2) Tolerances are established for residues of the herbicide MCPA ((4-chloro-2-methylphenoxy)acetic acid) resulting from the direct application of MCPA or its sodium or dimethylamine salts, or its 2-ethylhexyl ester in or on the following food commodities:

Commodity	Parts per million
Cattle, fat	0.1
Cattle, meat	0.1
Cattle, meat byproducts	0.1
Goat, fat	0.1
Goat, meat	0.1
Goat, meat byproducts	0.1
Hog, fat	0.1
Hog, meat	0.1
Hog, meat byproducts	0.1
Horse, fat	0.1
Horse, meat	0.1
Horse, meat byproducts	0.1
Milk	0.1
Sheep, fat	0.1
Sheep meat	0.1
Sheep meat byproducts	0.1

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. E7–9912 Filed 5–22–07; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[ET Docket No. 03–201; FCC 07–56]

Unlicensed Devices and Equipment Approval

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the Commission's rules to provide for more efficient equipment authorization of both existing modular transmitter devices and emerging partitioned (or ''split'') modular transmitter devices. These rule changes will benefit manufacturers by allowing greater flexibility in certifying equipment and providing relief from the need to obtain a new equipment authorization each time the same transmitter is installed in a different final product. The rule changes will also enable manufacturers to develop more flexible and more advanced unlicensed transmitter technologies. The Commission further finds that modular transmitter devices authorized in accordance with the revised equipment authorization procedures will not pose any increased risk of interference to other radio operations.

DATES: Effective June 22, 2007, except for § 15.212, which contains information collection requirements that have not been approved by the Office of Management and Budget. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date of this section.

FOR FURTHER INFORMATION CONTACT: Hugh Van Tuyl, Office of Engineering and Technology, (202) 418–7506, e-mail *Hugh.VanTuyl@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Second Report and Order,* ET Docket No. 03–201, FCC 07–56, adopted April 20, 2007, and released April 25, 2007. The full text of this document is available on the Commission's Internet site at *http://www.fcc.gov*. It is also available for inspection and copying during regular business hours in the FCC Reference Center (Room CY–A257), 445 12th Street., SW., Washington, DC 20554. The full text of this document also may be purchased from the Commission's duplication contractor, Best Copy and Printing Inc., Portals II, 445 12th St., SW., Room CY–B402, Washington, DC 20554; telephone (202) 488–5300; fax (202) 488–5563; e-mail *FCC@BCPIWEB.COM*.

Summary of the Report and Order

1. In the Second Report and Order the Commission codified the *Public Notice,* DA 00–1407, June 26, 2000, requirements for approving modular transmitters, with certain modifications. It also adopted requirements for the approval of split modular transmitters, including a requirement that only parts of a split module that have been approved in a single application for equipment authorization may operate together. Further, it allows manufacturers the flexibility to demonstrate alternative methods in the application for equipment authorization to ensure that a modular transmitter will meet all the applicable part 15 requirements under the operating conditions in which it will be used. The Commission finds that the increased flexibility adopted will facilitate the approval process for modular transmitters and provide relief from the need to obtain a new equipment authorization each time the same transmitter is installed in a different final product, and will promote an increase in the development of part 15 devices without increasing the potential for interference to authorized radio services.

Single Unit Modular Transmitters

2. The Commission codified the proposed requirements for approving single modular transmitters into the rules. This action will ensure that all equipment manufacturers are provided with adequate notice of the Commission's requirements for obtaining modular transmitter approvals. The Commission adopted a definition for a modular transmitter. Specifically, a modular transmitter will be defined as a completely self-contained radio-frequency transmitter device that is typically incorporated into another product, host or device. However, the Commission will not require ''module-like devices'' that contain part 15 transmitters to be approved as modular transmitters. Consistent with current Commission policy, it will continue to permit such devices to be approved as stand-alone transmitters under the present authorization procedures, although manufacturers may obtain approval for them as modules if they desire.

3. The Commission recognizes that there may be circumstances where there are alternative means that will enable a modular transmitter to meet all applicable part 15 requirements under the operating conditions in which the transmitter will be used. Therefore, the Commission adopted a rule that states that modular transmitters do not have to comply with all of the approval requirements if the manufacturer can demonstrate by alternative means in the application for equipment authorization that the equipment complies with the part 15 rules. Specifically, the Commission will permit manufacturers flexibility with respect to the requirements such as module shielding, buffered modulation/data inputs and power supply regulation, because compliance with these requirements may not be necessary in specific module installations. Consistent with the *Public Notice*, the Commission may grant a ''Limited Modular Approval'' in instances where the equipment does not meet all eight criteria for modular transmitters, but the grantee of equipment authorization can demonstrate that it will retain control over the final installation of the device such that compliance of the end product is assured. In such cases, the grantee must state how control of the end product into which the module will be installed will be maintained such that full compliance of the end product is always ensured. A limited modular approval is subject to conditions such as the device(s) into which the module can be installed, the antenna separation distance from persons or the locations where it may be used (e.g. outdoor only).

4. To provide additional flexibility to manufacturers and to parties incorporating modular transmitters into other devices, the Commission will permit electronic labeling of modular transmitters in the same manner as it allows for software defined radios. The FCC identification number may be shown on an electronic display on the module itself if the module contains a display that is visible to the user, or more typically, it may be displayed on the device into which the module is installed, such as a laptop computer or PDA. The information must be readily accessible, and the user manual must describe how to access the electronic display. In addition to the electronic display, the Commission requires a simple label on the product indicating when a module is installed inside a host device to facilitate identification of equipment that contains modular

transmitters. This approach will simplify the labeling procedure for parties that incorporate modules into other devices because they will not need to affix a different label on the outside of a device for each type of modular transmitter that may be installed inside.

5. The Commission declines to make changes to the antenna connector requirements for modular transmitters. The Commission previously addressed this issue in the *Report and Order*, 69 FR 54072, September 7, 2004, in this proceeding. It noted that the changes adopted in the *Report and Order* that allow intentional radiators to be authorized with multiple antenna types similarly apply to modular transmitters.

6. The Commission declined to modify the rules to state that the host device manufacturer is responsible for meeting the requirements specified in the modular transmitter authorization. It is ultimately the responsibility of the grantee of equipment authorization to comply with the terms of the equipment authorization. The Commission notes that in the case of equipment requiring special accessories, the rules state that it is the responsibility of the user to use the needed special accessories that the grantee is required to supply with the equipment. It also notes that some parties are assembling devices that contain multiple approved modules that may interact with each other and may cause the host device to operate out of compliance with the Commission's rules. In this case, the assembler is responsible for any interactions that cause the device to operate out of compliance with the Commission's rules, while the grantee of the equipment authorization for each module remains responsible for the compliance of the module with the equipment authorization. If an assembler makes any changes to an approved module, it becomes the party responsible for compliance of that module and must obtain a new equipment authorization.

Split Modular Transmitters

7. A new class of split modular transmitters is now under development. These transmitters consist of two basic components: the radio front end and the firmware on which the software that controls the radio operation resides. The separation of modular devices into these components will provide manufacturers with flexibility to design a larger variety of modular systems by mixing and matching individual components.

8. The *Public Notice* on modular transmitter approvals envisioned that a transmitter module would be a single component device, rather than split into two separate sections. Certain requirements in the *Public Notice* may not be appropriate or may be unnecessarily restrictive for split modules. Therefore, in the *Notice of Proposed Rule Making* (NPRM), the Commission proposed to modify the requirements for shielding, control information, and test procedures in the *Public Notice* to accommodate the special case of new split modules in which the antenna, radio front end, and firmware are independent of one another.

9. The Commission adopted modified and additional approval requirements for split modules. These rules will provide manufacturers relief from the need to obtain a new equipment authorization each time the same split modular transmitter is installed in a different device. Reducing the authorization burden for split modular transmitters will encourage and enable manufacturers to develop more flexible and more advanced unlicensed transmitter technologies. The Commission also finds that, with appropriate safeguards, split modules may be authorized while continuing to ensure that final products comply with the Commission's technical requirements.

10. The Commission will use the term ''transmitter control element'' in place of the proposed term ''firmware'' for split modular transmitters. The term firmware is generally used to describe computer instructions that are stored in a read-only memory. While that term may be appropriate for describing how transmitter functions are carried out in some split module implementations, it may not be appropriate in all cases. Thus, the Commission is using the more generic term ''transmitter control element''.

11. For a split modular transmitter, there are three pieces that must be tested together. The first is the RF front end, which consists of the power amplifier, antenna, and possibly the circuitry that produces the modulation. The second piece is the transmitter control element, which may be on its own chip or circuit board, or which may consist of components incorporated into another device. The transmitter control element may produce the modulation rather than the RF front end. The third piece is the host device, such as a notebook computer or personal digital assistant, which will be used to link the first two pieces of the split module together. The Commission will use some judgment at the time of equipment authorization as to whether the host device with which a modular transmitter is tested is representative of the intended use(s) of that modular transmitter.

12. The Commission adopted the proposed requirements that only the radio front end of a split module must be shielded. It does not believe that it is necessary to shield the transmitter control element because it is unlikely any stray RF energy to this circuitry would affect the emissions from the overall device. The adopted rules will allow the physical crystal and tuning capacitors to be located external to the shielded radio element. This approach recognizes that it would greatly complicate equipment design to shield the crystal and tuning capacitor and does not appear warranted by the negligible risk of any impact on the transmitter output. The Commission also adopted a requirement that the interface between sections of the split modular system must be digital with a minimum signaling amplitude of 150 millivolts peak-to-peak. These requirements will help ensure that the interface between sections of a split module is immune to stray signals that could cause the module to operate out of compliance with the part 15 rules. While these requirements should be appropriate in most cases, the Commission recognizes the concerns of parties who request additional flexibility in meeting these requirements. Therefore, consistent with its actions for single modules, the Commission will permit manufacturers to demonstrate alternatives to these requirements that will ensure that the split modular transmitter complies with the part 15 rules.

13. The Commission adopted a rule stating that control information and other data may be exchanged between the radio front end and transmitter control elements. The purpose of this rule is merely to clarify that in a split module, data may be sent not to just the module input as in a single module, but also between sections of the module.

14. The Commission declines to define a reference platform or specific cable lengths for testing split modules as proposed in the *NPRM.* Because split modules are a new technology, the Commission concludes that it would be premature to specify detailed testing procedures that may not be applicable to all implementations and could inadvertently hinder development of this technology. Rather, it will require manufacturers to comply with the basic objective of demonstrating, through testing, that their split module equipment will comply with the applicable part 15 requirements (*e.g.*, frequency, power, spurious emissions limits, and other rules). The

Commission will provide manufacturers with the flexibility to perform testing on a platform that is representative of actual use, such as a laptop or PDA, but may require a manufacturer to perform testing on additional platforms if necessary to demonstrate that the equipment will comply under the conditions in which it will be used. The sections of a split module must be tested together as a system and will be authorized as a system with a single FCC identification number.

15. The Commission declines to require a standard physical or logical interface between sections of a split module or to require the use of an industry standard. It now finds that such an action could hinder development of this nascent technology. Manufacturers are free to develop standard interfaces and use industry standards in designing split modules at their discretion. Parties may also mix and match radio front ends and transmitter control elements made by different manufacturers in split modules, but to ensure the compliance of these components as a module they must be tested and certified as a system on a platform representative of actual use. Each combination of radio front end and transmitter control elements must have its own FCC identification number that will indicate which party is responsible for compliance of the system. The Commission will not require a permanently affixed label on the transmitter control elements of a split module when electronic labeling is used, because the radio front end or transmitter control element may be integrated into another device, making physical labeling impractical. However, if electronic labeling is not used, the Commission will require a permanently affixed label to be located either on the radio front end, transmitter control elements, or the host device.

16. Because split modules are tested for compliance and authorized as a system, the Commission finds that it is necessary to adopt requirements to ensure that only sections of a split module system that have been approved together may be used together in a device. Therefore, it adopted a general security requirement for split modules that is similar to the security requirement for software defined radios that ensures that only hardware and software that has been approved together may operate in a device. Specifically, the Commission requires that manufacturers take steps to ensure that only transmitter control elements and radio front end components that have been approved together are capable of operating together. It also requires that the split module not operate unless it has verified that the installed transmitter control elements and radio front end have been authorized together. The Commission will permit manufacturers to use means including, but not limited to, coding in hardware and electronic signatures in software to meet these requirements, and will require them to describe the methods for ensuring that components operate only when connected with other components included under the same equipment authorization in their application for equipment authorization.

17. The Commission will not permit Telecommunication Certification Bodies (TCBs) to certify split modules at this time. Split modules are a new technology, and TCBs will not be permitted to certify them until the Commission has more experience with them and can properly advise TCBs on how to apply the applicable rules. The Commission's Laboratory maintains a list of types of devices that TCBs are excluded from certifying and will place split modules on this list until the Laboratory determines that TCBs are capable of certifying them.

Ordering Clauses

18. Part 15 of the Commission's rules is amended as specified in Appendix A, effective 30 days after publication in the **Federal Register**. The Second Report and Order contains information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Pub. L. 104–13, that are not effective until approved by the Office of Management and Budget. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date of the rules. This action is taken pursuant to the authority contained in sections 1, 4(i), 303(f), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 303(f), and 303(r).

19. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of the Second Report and Order, including the Final Regulatory Flexibility Analysis, to the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

Supplemental Final Regulatory Flexibility Analysis

20. As required by the Regulatory Flexibility Act (RFA),[1] an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice of Proposed Rulemaking* (*NPRM*) in this docket, ET Docket 03–201. The Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. This present Supplemental Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.[2]

A. Need for, and Objectives of, the Second Report and Order

21. In recent years, manufacturers have developed part 15 transmitter modules (or ''single'' modules) that can be incorporated into many different devices. A module generally consists of a completely self-contained radio-frequency transmitter missing only an input signal source and a power source to make it functional. Once a module is authorized by the Commission under its certification procedure, it may be incorporated into a number of host devices such as personal computers (PCs) or personal digital assistants (PDAs), which have been separately authorized. The completed product generally is not subject to requirements for further certification by the Commission. Therefore, modular transmitters save manufacturers the time and any related expenses that would be incurred if a new equipment authorization were needed for the same transmitter when it is installed in a new device.

22. On June 26, 2000, the Commission released a *Public Notice* detailing eight criteria that must be met in order for the Commission to grant certification to a part 15 transmitter as a module. Specifically, the module must: (1) Have its own radio-frequency shielding, (2) have buffered modulation/data inputs to ensure that the device will comply with the part 15 requirements with any type of input signal, (3) contain power supply regulation, (4) comply with the part 15 antenna requirements, (5) be tested in a stand-alone configuration, (6) be labeled with its own FCC ID, (7) comply with any specific rules applicable to the transmitter, and (8) comply with RF safety requirements. The *Public Notice* was released in response to manufacturers' requests to the FCC Laboratory for information about the conditions under which part 15 modular transmitter approvals may be granted. In the *NPRM* in this proceeding, the Commission proposed to codify the criteria from the *Public Notice* for approval of singular modular

[1] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. 104–121, Title II, 110 Stat. 857 (1996).

[2] *See* 5 U.S.C. 603, Title II, 110 Stat 857 (1996).

transmitters. In addition, the Commission proposed additional criteria that must be met for approval of split modular transmitters.

23. The Second Report and Order codifies the eight *Public Notice* requirements for approval of single modular transmitters. It also adopts specific requirements for the approval of split modular devices. Specifically, in a split modular device: (1) Only the radio-frequency section of the module must be shielded, (2) the two sections of the module may exchange data and control information, (3) the sections of a split module must be tested together in a representative device, and (4) split modules must contain measures such a security codes to ensure that only sections of a module that have been approved together will function together in a host device. These rule changes will benefit manufacturers by allowing greater flexibility in certifying equipment and providing relief from the need to obtain a new equipment authorization each time the same transmitter is installed in a different device. The rule changes will also enable manufactures to develop more flexible and more advanced unlicensed transmitter technologies.

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

24. No comments were filed in response to the IRFA.

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

25. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.[3] The RFA defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small business concern'' under section 3 of the Small Business Act.[4] Under the Small Business Act, a ''small business concern'' is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operations; and (3) meets additional criteria established by the Small Business Administration (SBA).[5]

26. The rules adopted in this Second Report and Order pertains to manufacturers of unlicensed communications devices. The appropriate small business size standard is that which the SBA has established for radio and television broadcasting and wireless communications equipment manufacturing. This category encompasses entities that primarily manufacture radio, television, and wireless communications equipment.[6] Under this standard, firms are considered small if they have 750 or fewer employees.[7] Census Bureau data for 1997 indicate that, for that year, there were a total of 1,215 establishments[8] in this category.[9] Of those, there were 1,150 that had employment under 500, and an additional 37 that had employment of 500 to 999. The percentage of wireless equipment manufacturers in this category is approximately 61.35%, so the Commission estimates that the number of wireless equipment manufacturers with employment under 500 was actually closer to 706, with an additional 23 establishments having employment of between 500 and 999. Given the above, the Commission estimates that the great majority of wireless communications equipment manufacturers are small businesses.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

27. Part 15 modular transmitters are already required to be certified before they can be legally imported into or marketed within the United States. The rule changes adopted in this proceeding will not alter any of the current reporting or recordkeeping requirements. Telecommunication Certification Bodies (TCBs) will not be permitted to certify split modular transmitters until the Commission has more experience with them and can properly advise TCBs on how to apply the applicable rules.

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

28. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its approach, which may include the following four alternatives: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.

29. Modular approvals save manufacturers, both large and small, the burden of having to test a transmitter multiple times for incorporation into multiple host devices. However, we recognize that in some instances, particularly with respect to small manufacturers, the drawback to modular approvals is that the certification of a module is somewhat more burdensome because the manufacturer must show compliance with the eight requirements from the June 2000 public notice that the current item incorporates into the rules. This could mean that a manufacturer has to incorporate shielding, modulation buffering or power supply regulation to make a device eligible for a modular approval, or that it has to be tested in different configurations than non-modular transmitters.

30. Because smaller manufacturers may find that these requirements impose an economically significant burden, we have provided for two alternatives to reduce this burden.

31. First, the rules do not require that a manufacturer approve a transmitter as a module. If a transmitter is only intended to be installed in a small number of different devices, a manufacturer may find it is more efficient, either cost-wise or time-wise, to simply obtain a separate certification for each device.

32. Second, the rules permit ''limited modular approvals'' for transmitters that do not comply with all eight requirements for modular certification if the manufacturer can demonstrate by alternative means in the application for equipment authorization that the equipment will comply with the part 15 rules. Specifically, manufacturers have flexibility with respect to requirements such as module shielding, buffered modulation/data inputs and power supply regulation, because compliance with these requirements may not be necessary in specific module installations. The manufacturer must demonstrate that it will retain control over the final installation of the device

[3] *See* U.S.C. 603(b)(3).

[4] *Id.* 601(3).

[5] *Id.* 632.

[6] NAICS code 334220.

[7] *Id.*

[8] The number of ''establishments'' is a less helpful indicator of small business prevalence in this context than would be the number of ''firms'' or ''companies,'' because the latter take into account the concept of common ownership or control. Any single physical location for an entity is an establishment, even though that location may be owned by a different establishment. Thus, the numbers given may reflect inflated numbers of businesses in this category, including the numbers of small businesses. In this category, the Census breaks-out data for firms or companies only to give the total number of such entities for 1997, which was 1,089.

[9] U.S. Census Bureau, 1997 Economic Census, Industry Series: Manufacturing, ''Industry Statistics by Employment Size,'' Table 4, NAICS code 334220.

such that compliance of the end product is assured. A limited modular approval is subject to conditions such as the device(s) into which the module can be installed, a requirement for professional installation, the antenna separation distance from persons or the locations where it may be used (e.g., outdoor only).

F. Report to Congress

33. The Commission will send a copy of the Second Report and Order, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act.[10] In addition, the Commission will send a copy of the second Report and Order, including the FRFA, to Congress and the Government Accountability Office.

List of Subjects in 47 CFR Part 15

Communications equipment.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rules

■ For the reasons discussed in the preamble, the Federal Communications Commission amends part 15 of Title 47 of the CFR to read as follows:

PART 15—RADIO FREQUENCY DEVICES

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

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

■ 2. Section 15.212 is added to read as follows:

§ 15.212 Modular transmitters.

(a) Single modular transmitters consist of a completely self-contained radiofrequency transmitter device that is typically incorporated into another product, host or device. Split modular transmitters consist of two components: a radio front end with antenna (or radio devices) and a transmitter control element (or specific hardware on which the software that controls the radio operation resides). All single or split modular transmitters are approved with an antenna. All of the following requirements apply, except as provided in paragraph (b) of this section.

(1) Single modular transmitters must meet the following requirements to obtain a modular transmitter approval.

(i) The radio elements of the modular transmitter must have their own shielding. The physical crystal and tuning capacitors may be located external to the shielded radio elements.

(ii) The modular transmitter must have buffered modulation/data inputs (if such inputs are provided) to ensure that the module will comply with part 15 requirements under conditions of excessive data rates or over-modulation.

(iii) The modular transmitter must have its own power supply regulation.

(iv) The modular transmitter must comply with the antenna and transmission system requirements of §§ 15.203, 15.204(b) and 15.204(c). The antenna must either be permanently attached or employ a ''unique'' antenna coupler (at all connections between the module and the antenna, including the cable). The ''professional installation'' provision of § 15.203 is not applicable to modules but can apply to limited modular approvals under paragraph (b) of this section.

(v) The modular transmitter must be tested in a stand-alone configuration, *i.e.*, the module must not be inside another device during testing for compliance with part 15 requirements. Unless the transmitter module will be battery powered, it must comply with the AC line conducted requirements found in § 15.207. AC or DC power lines and data input/output lines connected to the module must not contain ferrites, unless they will be marketed with the module (see § 15.27(a)). The length of these lines shall be the length typical of actual use or, if that length is unknown, at least 10 centimeters to insure that there is no coupling between the case of the module and supporting equipment. Any accessories, peripherals, or support equipment connected to the module during testing shall be unmodified and commercially available (see § 15.31(i)).

(vi) The modular transmitter must be equipped with either a permanently affixed label or must be capable of electronically displaying its FCC identification number.

(A) If using a permanently affixed label, the modular transmitter must be labeled with its own FCC identification number, and, if the FCC identification number is not visible when the module is installed inside another device, then the outside of the device into which the module is installed must also display a label referring to the enclosed module. This exterior label can use wording such as the following: ''Contains Transmitter Module FCC ID: XYZMODEL1'' or ''Contains FCC ID: XYZMODEL1.'' Any similar wording that expresses the same meaning may be used. The Grantee may either provide such a label, an example of which must be included in the application for equipment authorization, or, must provide adequate instructions along with the module which explain this requirement. In the latter case, a copy of these instructions must be included in the application for equipment authorization.

(B) If the modular transmitter uses an electronic display of the FCC identification number, the information must be readily accessible and visible on the modular transmitter or on the device in which it is installed. If the module is installed inside another device, then the outside of the device into which the module is installed must display a label referring to the enclosed module. This exterior label can use wording such as the following: ''Contains FCC certified transmitter module(s).'' Any similar wording that expresses the same meaning may be used. The user manual must include instructions on how to access the electronic display. A copy of these instructions must be included in the application for equipment authorization.

(vii) The modular transmitter must comply with any specific rules or operating requirements that ordinarily apply to a complete transmitter and the manufacturer must provide adequate instructions along with the module to explain any such requirements. A copy of these instructions must be included in the application for equipment authorization.

(viii) The modular transmitter must comply with any applicable RF exposure requirements in its final configuration.

(2) Split modular transmitters must meet the requirements in paragraph (a)(1) of this section, excluding paragraphs (a)(1)(i) and (a)(1)(v), and the following additional requirements to obtain a modular transmitter approval.

(i) Only the radio front end must be shielded. The physical crystal and tuning capacitors may be located external to the shielded radio elements. The interface between the split sections of the modular system must be digital with a minimum signaling amplitude of 150 mV peak-to-peak.

(ii) Control information and other data may be exchanged between the transmitter control elements and radio front end.

(iii) The sections of a split modular transmitter must be tested installed in a host device(s) similar to that which is representative of the platform(s) intended for use.

(iv) Manufacturers must ensure that only transmitter control elements and radio front end components that have been approved together are capable of operating together. The transmitter module must not operate unless it has verified that the installed transmitter

[10] See 5 U.S.C. 801(a)(1)(A).

control elements and radio front end have been authorized together. Manufacturers may use means including, but not limited to, coding in hardware and electronic signatures in software to meet these requirements, and must describe the methods in their application for equipment authorization.

(b) A limited modular approval may be granted for single or split modular transmitters that do not comply with all of the above requirements, *e.g.*, shielding, minimum signaling amplitude, buffered modulation/data inputs, or power supply regulation, if the manufacturer can demonstrate by alternative means in the application for equipment authorization that the modular transmitter meets all the applicable part 15 requirements under the operating conditions in which the transmitter will be used. Limited modular approval also may be granted in those instances where compliance with RF exposure rules is demonstrated only for particular product configurations. The applicant for certification must state how control of the end product into which the module will be installed will be maintained such that full compliance of the end product is always ensured.

[FR Doc. E7–9942 Filed 5–22–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[MB Docket No. 03–15; FCC 07–69]

Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: The Federal Communications Commission has received Office of Management and Budget (OMB) approval for information collection requirements contained in 47 CFR 15.117(k). Therefore, the Commission announces that 47 CFR 15.117(k) is effective May 25, 2007.

DATES: The effective date for the rule published at 72 FR 26554 (May 10, 2007) amending 47 CFR 15.117 is May 25, 2007.

SUPPLEMENTARY INFORMATION: The Federal Communications Commission has received OMB approval for the Consumer Alert labeling rule published at 72 FR 26554 (May 10, 2007). Through this document, the Commission announces that it received this approval on May 16, 2007.

Pursuant to the Paperwork Reduction Act of 1995, Pub. L. 104–13, an agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Notwithstanding any other provisions of law, no person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. OMB assigned OMB Control Number 3060–1100 to the collection of information contained in 47 CFR 15.117(k). Questions concerning the OMB control number should be directed to Cathy Williams, Federal Communications Commission, (202) 418–2918 or via the Internet at *Cathy.Williams@fcc.gov*.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–10053 Filed 5–22–07; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 72, No. 99
Wednesday, May 23, 2007

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

RIN 0563–AB98

Common Crop Insurance Regulations, Tobacco Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Common Crop Insurance Regulations by removing the Quota Tobacco Crop Insurance Provisions, revising the Guaranteed Tobacco Crop Insurance Provisions, and changing the title of the Guaranteed Tobacco Crop Insurance Provisions to Contracted Tobacco Crop Insurance Provisions. The intended effect of this action is to provide policy changes and clarify existing policy provisions to better meet the needs of insured producers. The changes will apply for the 2008 and succeeding crop years.

DATES: Written comments and opinions on this proposed rule will be accepted until close of business July 23, 2007, and will be considered when the rule is to be made final.

ADDRESSES: Interested persons are invited to submit comments, titled ''Tobacco Crop Insurance Provisions'', by any of the following methods:

- *By Mail to:* Director, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, 6501 Beacon Drive, Stop 0812, Room 421, Kansas City, MO 64133–4676.
- *E-mail: DirectorPDD@rma.usda.gov.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

A copy of each response will be available for public inspection and copying from 7 a.m. to 4:30 p.m., CDT. Monday through Friday, except holidays, at the above address.

FOR FURTHER INFORMATION CONTACT: Gary Johnson, Risk Management Specialist, Product Management, Product Administration and Standards Division, Risk Management Agency, at the Kansas City, Mo, address listed above, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be nonsignificant for the purposes of Executive Order 12866 and, therefore, it has not been reviewed by the Office of Management and Budget (OMB).

Paperwork Reduction Act of 1995

Pursuant to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information in this rule have been approved by OMB under control number 0563–0053 through November 30, 2007.

E-Government Act Compliance

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

Unfunded Mandates Reform Act of 1995

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. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 13132

It has been determined under section 1(a) of Executive Order 13132, Federalism, that this rule does not have sufficient implications to warrant consultation with the States. The provisions contained in this rule will not have a substantial direct effect on States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

FCIC certifies that this regulation will not have a significant economic impact on a substantial number of small entities. Program requirements for the Federal crop insurance program are the same for all producers regardless of the size of their farming operation. For instance, all producers are required to submit an application and acreage report to establish their insurance guarantees and compute premium amounts, and all producers are required to submit a notice of loss and production information to determine the amount of an indemnity payment in the event of an insured cause of crop loss. Whether a producer has 10 acres or 1000 acres, there is no difference in the kind of information collected. To ensure crop insurance is available to small entities, the Federal Crop Insurance Act authorizes FCIC to waive collection of administrative fees from limited resource farmers. FCIC believes this waiver helps to ensure small entities are given the same opportunities as large entities to manage their risks through the use of crop insurance. A Regulatory Flexibility Analysis has not been prepared since this regulation does not have an impact on small entities, and, therefore, this regulation is exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605).

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12988

This proposed rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. With respect to any direct action taken by FCIC or to require the insurance provider to take specific action under the terms of the

crop insurance policy, the administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action against FCIC for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant economic impact on the quality of the human environment, health, or safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

FCIC proposes to amend the Common Crop Insurance Regulations by removing the Quota Tobacco Crop Insurance Provisions and reserving § 457.156. The American Jobs Creation Act of 2004 eliminated the tobacco quota support program and quota support price as administrated by the Farm Service Agency (FSA). FCIC also proposes to revise the Guaranteed Tobacco Crop Insurance Provisions and change the title to Contracted Tobacco Crop Insurance Provisions. Under the new provisions, insurance will only be available for tobacco grown under a contract with a tobacco company. The entity named on the tobacco contract must be the same as the entity named on the application to indicate an insurable share.

Prior to the American Jobs Creation Act of 2004, tobacco was sold in United States Department of Agriculture (USDA) auction warehouses. The prices paid to the auction warehouses by tobacco companies were based upon the quality and grade of the tobacco. Today the majority of tobacco is grown under contract with a tobacco company. Therefore, a new environment exists for tobacco production and marketing and FCIC is proposing to revise the tobacco policy to reflect this new environment.

The proposed changes are as follows:

1. FCIC proposes to remove the paragraph immediately preceding section 1 which refers to the order of priority of provisions in the event of conflict. This same information is contained in the Basic Provisions; therefore, it is duplicative and should be removed in the Crop Provisions.

2. Section 1—Definitions—Add definitions of ''average price received,'' ''commercial tobacco producer,'' ''contract price,'' ''minimum acreage,'' ''price election,'' ''tobacco company or commercial marketing association (CMA),'' ''tobacco contract,'' ''tobacco handler,'' and ''tobacco types'' since these terms are required to provide insurance under a tobacco company contract.

FCIC proposes to revise the definition of ''basic unit'' so that a basic unit will be all insurable acreage of each tobacco type grown in the county for the crop year. Previously, basic units were available by farm serial number (FSN). However, due to the elimination of the tobacco quota and support program and the tobacco quota support price, the majority of tobacco is now sold under a contract with a tobacco company. The tobacco company contract indicates only the total quantity of tobacco production by tobacco type the producer agrees to deliver regardless of who shares in the production or from what FSN the tobacco production was produced. Basic units by tobacco types are more appropriate because tobacco types are planted, harvested and cured separately by growers. The types are graded, and purchased separately by tobacco companies. Therefore, verifiable production records will most likely be kept by type. Under the APH plan of insurance the producer is responsible for supplying verifiable production records for APH purposes.

FCIC is proposing to revise the definition of ''priming'' to clarify that priming applies to one or more leaf, not just each leaf.

FCIC proposes to remove the definitions of ''average value,'' ''carryover tobacco,'' ''discount variety,'' ''fair market value,'' ''market price,'' ''season average market price,'' and ''support price.'' These definitions are no longer necessary since the price support program has been eliminated.

FCIC proposes to remove the definition of ''adequate stand'' because even though the definition was added in 1999, the term was never used in the Crop Provisions.

FCIC proposes to remove the definition of ''approved yield,'' and ''replanting.'' These terms are defined in the Common Crop Insurance Policy Basic Provisions and do not require modification for the purpose of these Crop Provisions. FCIC also proposes to remove the definition of ''production guarantee (per acre)'' because the elimination of the quota tobacco program means that production will now be based on the actual production history of the producer, not the pounds on the actuarial documents or approved yield in the Special Provisions. Therefore, the definition in the Basic Provisions is appropriate.

3. Section 2—FCIC is proposing to revise section 2 by removing the sentence that states, ''The provisions in the Basic Provisions regarding optional units are not applicable, unless specified by the Special Provisions.'' FCIC is proposing only basic units by type be available to producers. Previously, optional units were available by farm serial number (FSN) for certain types of tobacco in certain areas as specified by the Special Provisions. Also, enterprise units were available by certain types of tobacco in certain areas as specified by the Special Provisions. However, due to the elimination of the tobacco quota and support program and the tobacco quota support price, the majority of tobacco is now sold under a contract with a tobacco company. The tobacco company contract indicates only the total quantity of tobacco production by tobacco type the producer agrees to deliver regardless of who shares in the production or from what FSN the tobacco production was produced. Optional and enterprise units will not be available to any producer. Basic units by tobacco types are more appropriate because tobacco types are planted, harvested and cured separately by growers. The types are graded, and purchased separately by tobacco companies. Therefore, verifiable production records will most likely be kept by type. Under the APH plan of insurance the producer is responsible for supplying verifiable production records for APH purposes.

4. Section 3—FCIC is proposing to revise section 3(a) by removing the word ''guaranteed'' because the tobacco quota support program through the FSA has been abolished so there is no longer guaranteed tobacco. FCIC is also proposing to add the word ''percentage'' after the phrase ''price election'' to clarify that producers actually select the percentage of the price election that is announced by FCIC.

FCIC proposes to remove section 3(b). Once the American Jobs Creation Act of 2004 eliminated the tobacco quota support program and quota support price, the guarantee became based on the actual production history of the producer. Therefore, the production report must be filed annually.

FCIC proposes to add a new section 3(b) to specify the producer's production guarantee will be adjusted if the producer has not planted a sufficient number of acres to produce the amount of tobacco necessary to fulfill the contracts. Whether sufficient acres have been planted is determined by dividing the pounds specified in the producer's tobacco contracts in the county by the applicable approved yield. If the producer does not plant the minimum acreage, the production guarantee will be reduced proportionately. These provisions are necessary to prevent the producer from over-insuring the tobacco.

5. Section 6—FCIC proposes to remove the provision requiring the producer to report any carryover tobacco from previous years because carryover production no longer needs to be reported since the tobacco quota support program has been eliminated. FCIC proposes the new paragraph (a) specify that a copy of all tobacco contracts must be provided to the approved insurance provider on or before the acreage reporting date and the entity named on the tobacco contract must be the same as the entity named on the application. This is consistent with other Crop Provisions that cover crops under contract. However, FCIC added the requirement that the name on the tobacco contract must be the same name on the application in order to be able to verify that the producer has an insurable interest in the crop.

FCIC proposes to add a new section 6(b) to specify that a copy of any written lease agreement, if applicable, between the insured and any landlord or tenant must identify all other persons sharing in the crop and be provided to the approved insurance provider on or before the acreage reporting date. This provision would permit the approved insurance provider to properly determine the appropriate share in the crop.

6. Section 7—FCIC is proposing to restructure section 7 and add new paragraphs (a) and (b). FCIC is proposing a new paragraph (a) that specifies that the insured tobacco crop must meet all rotation requirements on the Special Provisions, be grown in accordance with the requirements of the tobacco contract executed on or before the acreage reporting date, and not be excluded from the tobacco contract at any time during the insurance period. These requirements are consistent with the requirements of other Crop Provisions covering crops under contract and ensure that the coverage is only provided if the crop remains contracted throughout the insurance period. This will prevent a shifting of costs to the government if there has been an over-contracting of production.

FCIC is proposing to add a new section 7(b) to specify a tobacco company or commercial marketing association that produces its own tobacco may establish an insurable share if they comply with the Crop Provisions; the Board of Directors or officers of the tobacco company or commercial marketing association, or tobacco handler executes and adopts a resolution prior to the sales closing date that contains the same terms as an acceptable tobacco contract; and the approved insurance provider's inspection determines the processing facilities comply with the definition of a tobacco company or commercial marketing association. These requirements are consistent with the requirements of other Crop Provisions covering crops under contract and protect program integrity by ensuring that the persons responsible for decisions of the business determine the terms and conditions of the contract.

7. Section 8—FCIC is proposing to revise section 8 by removing paragraphs (a) and (b). Paragraph (a) is not necessary because the quota price support program has been eliminated. Paragraph (b) is not necessary because it was redundant with section 7, which specifies the premium rate for the tobacco type must be provided by the actuarial documents. Paragraph (c) and (d) have been redesignated as paragraphs (a) and (b) respectively. FCIC proposes to revise redesignated paragraph (b) to specify that acreage is not insured if it is damaged before the final planting date to the extent that a majority of the producers in the area would normally not care for the crop. Previously, the provision referred to ''most'' producers but FCIC has since been using the term ''majority'' in its other Crop Provisions because it provides a more determinable standard.

8. Section 9—FCIC proposes to revise the introductory paragraph to specify that section 9 is in lieu of the provisions in section 11 of the Basic Provisions. FCIC proposes to remove section 9(b) because tobacco under contract may no longer be weighed at a tobacco warehouse like it was under the previous tobacco quota program. FCIC proposes to redesignate sections 9(c) and (d) as sections 9(b) and (f), respectively and revise redesignated section 9(b) to remove the reference to delivery to the warehouse for the same reason as stated above. FCIC proposes to add new sections 9(c), (d), and (e) to incorporate the events that trigger the end of the insurance period from section 11 of the Basic Provisions that are still applicable and add a new event, which is the date the producer delivers sufficient production to fulfill all tobacco contracts in the county. This is consistent with other Crop Provisions covering crops under contract.

FCIC is proposing to revise redesignated section 9(f) to clarify that the end of insurance period is the date immediately following planting and it is designated by specific tobacco types and states, unless otherwise provided on the Special Provisions. This proposed revision changes the tobacco type from an assigned number to a specific name.

9. Section 10—FCIC is proposing to revise section 10(b) to clarify fire is a cause of loss if it is caused by lightning. Currently, the provisions provide for tobacco to be insured in the tobacco barn and fire is listed as a cause of loss. FCIC has received many inquiries asking if fire is an insurable cause of loss when the barn burns and there is no proof the fire was caused by a naturally occurring event. Since coverage can only be provided for naturally occurring events, FCIC is removing all ambiguity regarding what causes of the fire are covered.

FCIC is proposing to revise section 10(h) for clarity and to be consistent with other Crop Provisions. No substantive change has been made.

10. Section 11—FCIC proposes to revise section 11(a) to be consistent with the format of other similar Crop Provisions. No substantive change has been made.

FCIC proposes to revise section 11(b) to require producers who have filed a notice of damage to leave all tobacco stalks and stubble on the unit intact for the approved insurance provider's inspection. Previously this requirement only applied to specific tobacco types but FCIC has determined that inspection of the stalks and stubble can be useful in the adjustment of all types of tobacco.

11. Section 12—FCIC proposes to revise section 12(a) to remove the consequences for failure to provide acceptable records for optional units since such units are no longer available under the policy. As stated above, only basic units are available because the tobacco company contract indicates the total quantity of tobacco production the producer will deliver regardless of who shares in the production or from what FSN the tobacco production was grown. The consequences for failure to provide acceptable records by basic unit remains the same.

FCIC proposes to revise section 12(b) to remove the references to different types because now separate basic units are available by type. The loss calculation example has also been revised to remove the references to the type by number of guaranteed tobacco since types are proposed to be designated by name, not number, and the tobacco is not longer guaranteed because of the elimination of the quotas.

FCIC proposes to revise section 12(c) to be consistent with other Crop Provisions. FCIC also proposes to remove language in section 12(c)(1)(D) referring to specific tobacco types because FCIC is proposing that the requirement to leave all stubble and stalks intact be applicable to all tobacco. FCIC is proposing to remove the

references to the value of the production to count in section 12(c)(1)(E)(A) because there is no support price. The provision will now refer to the amount of production to count instead of the value of such production.

FCIC proposes to remove sections 12(e) through (g) since the tobacco quota support program has been eliminated.

FCIC proposes to redesignate section 12(d) as section 12(e) and add a new section 12(d) to specify the producer must destroy the production in those situations where an agreement is reached between the approved insurance provider and the insured that the current year's tobacco has no market value due to an insured cause of loss. FCIC is also proposing that failure to destroy such tobacco will result in the production considered as production to count valued at the price election.

FCIC proposes to revise redesignated section 12(e). Previously, quality deficiencies for tobacco were determined by using USDA Official Grade Standards at the tobacco warehouses. This allowed an objective third party to inspect the tobacco. However, most of the tobacco is now sold under contract and the elimination of the quota tobacco program has eliminated the need for tobacco warehouses. Therefore, there is no longer this disinterested third party available to grade and value the tobacco. Further, FCIC has not discovered any party other than the tobacco company, commercial marketing association, or tobacco handler who grades or values tobacco. This creates a serious program vulnerability because the person who would be grading and valuing the tobacco will be the same person who is purchasing it. This means there exists an incentive to undervalue the production, reduce the price the tobacco company, commercial marketing association, or tobacco handler has to pay the producer, and shift the costs to FCIC to pay the difference. There have been similar situations in other crop policies and there has been significant fraud and abuse.

One solution is the removal of the quality adjustment provisions but producers claim that the value of the insurance is seriously diminished without this coverage. FCIC recognizes its value and is not ready to remove the coverage in this rule. However, FCIC is proposing that insured producers, with damaged tobacco, will be required to notify approved insurance providers before any tobacco is delivered to the tobacco company, commercial marketing association, or tobacco handler so that at the approved insurance providers option they may inspect the tobacco to determine and document the extent of the damage. Without the opportunity to inspect the damaged tobacco, such tobacco is not eligible for quality adjustment. Such inspection will assist the approved insurance provider in determining the extent of damage and if the price for the damaged tobacco received by the producer is reasonable based on the quality of the tobacco observed by the approved insurance provider. If the price is not reasonable, the approved insurance provider will have the authority to adjust the price. FCIC is also proposing quality adjustment will apply only when the average price per pound received for the damaged tobacco is less than 75 percent of the producer's contract price. This will reduce the administrative burdens associated with minor quality adjustments. FCIC realizes that this is not a perfect solution and is seeking comments on alternative methods to ensure the integrity of the program. If the proposed solution is not workable or effective, and there are no viable alternatives, FCIC may be required to remove the quality adjustment provisions from the policy.

12. Section 13—FCIC is proposing to revise section 13 to remove the numeric figures and parenthesis surrounding such figures to be consistent with the other Crop Provisions. No substantive change has been made.

13. Section 14—FCIC is proposing to revise section 14 to add prevented planting coverage. Previously, prevented planting coverage was not available at all for tobacco. FCIC is proposing the producer's prevented panting coverage be 35 percent of the producer's production guarantee for timely planted acreage. However, no additional prevented planting coverage will be available.

List of Subjects in 7 CFR Part 457

Crop insurance, Tobacco, Reporting and recordkeeping requirements.

Proposed Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation proposes to amend 7 CFR part 457 to read as follows:

PART 457—COMMON CROP INSURANCE REGULATIONS

1. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

PART 457—[AMENDED]

§ 457.156 [Removed and Reserved]

2. Remove and reserve § 457.156.

3. Revise § 457.136 to read as follows:

§ 457.136 Contracted tobacco crop insurance provisions.

The contracted tobacco crop insurance provisions for the 2008 and succeeding crop years are as follows:

FCIC policies: United States Department of Agriculture, Federal Crop Insurance Corporation.

Reinsured policies: (Appropriate title for insurance provider).

Both FCIC and reinsured policies:

Contracted Tobacco Crop Insurance Provisions

1. Definitions.

Average price received. The price per pound for tobacco sold under contract by type, and is determined by dividing total receipts for the tobacco type sold by the number of pounds of the tobacco type sold, without regard to discounts or incentives. Failure to provide acceptable receipts will result in the average price received being the same as the price election.

Basic unit. In lieu of the definition in the Basic Provisions, a basic unit is all insurable acreage of each tobacco type grown in the county for the crop year.

Commercial tobacco producer. A producer who grows tobacco under a contract with tobacco company, commercial marketing association, or tobacco handler.

Contract price. The price for each type of tobacco specified in the tobacco contract without regard to discounts or incentives.

Harvest. Cutting or priming and removing all insured tobacco from the unit.

Hydroponic plants. Seedlings grown in liquid nutrient solutions.

Late planting period. In lieu of the definition in section 1 of the Basic Provisions, the period that begins the day after the final planting date for the insured crop and ends 15 days after the final planting date, unless otherwise specified in the Special Provisions.

Minimum acreage. The minimum number of acres required to be planted to produce the number of pounds of tobacco under contract, determined by dividing the pounds specified in your tobacco contract by the applicable approved yield.

Planted acreage. In addition to the definition contained in the Basic provisions, land in which tobacco seedlings, including hydroponic plants, have been transplanted by hand or machine from the tobacco bed to the field.

Pound. Sixteen ounces avoirdupois.

Price election. In lieu of the definition in the Basic Provisions, the price election will be the contract price multiplied by the percentage you elect.

Priming. A method of harvesting tobacco by which one or more leaves are removed from the stalk as they mature.

Tobacco bed. An area protected from adverse weather in which tobacco seeds are sown and seedlings are grown until transplanted into the tobacco field by hand or machine.

Tobacco company or commercial marketing association (CMA). Any business enterprise regularly engaged in buying and processing tobacco for human use, that possesses all licenses and permits for processing tobacco required by the state in which it operates, possesses facilities, or has contractual access to such facilities, with enough equipment to accept and process contracted tobacco within a reasonable amount of time after harvest.

Tobacco contract. A written agreement between the producer or entity and a tobacco company or commercial marketing association, or between the producer and a tobacco handler, containing at a minimum:

(a) The producer or entity's commitment to plant and grow tobacco of an insurable type and practice, and to deliver the amount of production stated in the contract to the tobacco company, commercial marketing association, or tobacco handler;

(b) The tobacco company's, commercial marketing association's, or tobacco handler's commitment to purchase the specified number of pounds of tobacco stated in the contract (an option to purchase is not a commitment); and

(c) A contract price.

Tobacco handler. A business enterprise that has all the licenses and permits required by the state in which it operates, and has an agreement in writing with a tobacco company or commercial marketing association to purchase and deliver tobacco.

Tobacco types. Insurable types as shown on the Special Provisions.

2. Unit Division.

A unit will be determined in accordance with the definition of basic unit contained in section 1 of these Crop Provisions. Enterprise and optional units are not available.

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities.

In addition to the requirements of section 3 of the Basic Provisions:

(a) You must select only one price election percentage and coverage level for each tobacco type designated in the Special Provisions that you elect to insure.

(b) Your total production guarantee will be the number of pounds in your tobacco contract multiplied by your selected coverage level, provided you have planted sufficient acreage of tobacco to fulfill all of your tobacco contracts in the county.

(1) Sufficient acreage is determined by dividing the pounds specified in your tobacco contracts in the county by the applicable approved yields. For example, you have three contracts for tobacco, each to deliver 2,000 pounds, and your approved yield is 1,700 pounds. You must plant at least 3.5 acres (6,000 ÷ 1,700).

(2) If you do not plant sufficient acreage, your production guarantee (per acre) will be reduced proportionately. For example, using the example in paragraph (2), you only plant 2.5 acres. This means you could only produce 4,250 pounds (1,700 x 2.5), which is 71 percent of the pounds specified in your tobacco contracts. Therefore, your production guarantee (per acre) will be reduced to 1207 pounds (.71 x 1,700).

4. Contract Changes.

In accordance with section 4 of the Basic Provisions, the contract change date is November 30 preceding the cancellation date.

5. Cancellation and Termination Dates.

In accordance with section 2 of the Basic Provisions, the cancellation and termination dates are March 15.

6. Report of Acreage.

In addition to the requirements of section 6 of the Basic Provisions, you must:

(a) Provide a copy of all tobacco contracts to us on or before the acreage reporting date. The entity named on the tobacco contract must be the same as the entity named on your application for you to have an insurable interest; and

(b) Provide a copy of any written lease agreement, if applicable, between you and any landlord or tenant. The written lease agreement must:

(1) Identify all other persons sharing in the crop; and

(2) Be submitted to us on or before the acreage reporting date.

7. Insured Crop.

(a) In accordance with section 8 of the Basic Provisions, the insured crop will be each tobacco type you elect to insure and for which a premium rate is provided by the actuarial documents:

(1) In which you have a share;

(2) That meets all rotation requirements on the Special Provisions; and

(3) That is grown and insured in accordance with the requirements of your tobacco contract executed on or before the acreage reporting date and the tobacco is not excluded from the tobacco contract at any time during the insurance period.

(b) You will be considered to have a share in the insured crop if you retain control of the acreage on which the tobacco is grown and you are at risk of loss.

(c) A commercial tobacco producer who is also a tobacco company, commercial marketing association, or tobacco handler may establish an insurable interest if the following requirements are met:

(1) You must comply with these Crop Provisions;

(2) Prior to the sales closing date, the Board of Directors or officers of the tobacco company, commercial marketing association, or tobacco handler must execute and adopt a resolution that contains the same terms as an acceptable tobacco contract. Such resolution will be considered a tobacco contract under this policy; and

(3) Our inspection determines the processing facilities comply with the definition of a tobacco company or commercial marketing association contained in these Crop Provisions.

8. Insurable Acreage.

In addition to the provisions of section 9 of the Basic Provisions, we will not insure any acreage that is:

(a) Planted in any manner other than as provided in the definition of ''planted acreage'' in section 1 of these Crop Provisions, unless otherwise provided by the Special Provisions or by written agreement; or

(b) Damaged before the final planting date to the extent that the majority of producers in the area would normally not further care for the tobacco crop, unless such crop is replanted or we agree that replanting is not practical.

9. Insurance Period.

In lieu of the provisions of section 11 of the Basic Provisions, coverage ends at the earlier of:

(a) Total destruction of the tobacco on the unit;

(b) Removal of the tobacco from the unit where grown, except for curing, grading, and packing;

(c) Abandonment of the crop on the unit;

(d) The date you deliver sufficient production to fulfill your tobacco contract with the tobacco company, commercial marketing association, or tobacco handler;

(e) Final adjustment of the loss on the unit; or

(f) The calendar date for the end of the insurance period, which is the date immediately following planting and designated by tobacco types and states (or as otherwise stated on the Special Provisions) as follows:

(i) Flue cured—November 30 in North Carolina and Virginia;

(ii) Flue cured—October 31 in Alabama, Florida, Georgia, and South Carolina;

(iii) Burley—February 28 in all states;

(iv) Dark air cured—March 15 in Kentucky, Tennessee, and Virginia;

(v) Fire cured—April 15 in Kentucky, Tennessee, and Virginia;

(vi) Cigar Binder, Cigar Filler, and Cigar Wrapper—April 30 in Connecticut, Massachusetts, Pennsylvania, and Wisconsin; and

(vii) Maryland type—May 15 in Maryland and Pennsylvania.

10. Causes of Loss.

In accordance with the provisions of section 12 of the Basic Provisions, insurance is provided only against the following causes of loss that occur during the insurance period:

(a) Adverse weather conditions;

(b) Fire, if caused by lightning;

(c) Insects, but not damage due to insufficient or improper application of pest control measures;

(d) Plant disease, but not damage due to insufficient or improper application of disease control measures;

(e) Wildlife;

(f) Earthquake;

(g) Volcanic eruption; or

(h) Failure of the irrigation water supply due to a cause of loss specified in sections 10(a) through (g) that also occurs during the insurance period.

11. Duties In The Event of Damage or Loss.

(a) In accordance with section 14 of the Basic Provisions, any representative sample we require of each unharvested tobacco type must be at least 5 feet wide (at least two rows), and extend the entire length of each field in the unit. The samples must not be harvested or destroyed until after our inspection.

(b) If you have filed a notice of damage, you must leave all tobacco stalks and stubble in the unit intact for our inspection. The stalks and stubble must not be destroyed until we give you written consent to do so or until 30 days after the end of the insurance period, whichever is earlier.

12. Settlement of Claim.

(a) We will determine your loss on a unit basis. In the event you are unable to provide records of production that are acceptable to us for any basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.

(b) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Multiplying the number of insured acres by your applicable production guarantee (per acre), as adjusted in accordance with section 3(b), if applicable;

(2) Multiplying the result of section 12(b)(1) by your price election;

(3) Multiplying the total production to count determined in section 12(c) by your price election;

(4) Subtracting the result of section 12(b)(3) from the result of section 12(b)(2); and

(5) Multiplying the result of section 12(b)(4) by your share.

For example:

You have 100 percent share in a tobacco contract to produce 3,000 pounds of Burley tobacco, a production guarantee of 1,950 pounds (APH yield of 3,000 pounds × .65 coverage level), you will plant 1.0 acre (which is the minimum acreage requirement in this situation), your price election is $1.50 per pound, and your production to count is 500 pounds. Your indemnity would be calculated as follows:

(1) 1.0 acre × 1,950 pound production guarantee = 1,950 pounds;

(2) 1,950 pounds × $1.50 price election = $2,925.00 value of the production guarantee;

(3) 500 pound production to count × $1.50 price election = $750.00 value of the production to count;

(4) $2,925.00 value of the production guarantee—$750.00 value of the production to count = $2,175.00; and

(5) $2,175.00 × 1.000 share = $2,175.00 indemnity.

(c) The total production (pounds) to count from all insurable acreage on the unit will include:

(1) All appraised production as follows:

(i) Not less than the production guarantee for acreage:

(A) That is abandoned;

(B) Put to another use without our consent;

(C) That is damaged solely by uninsured causes;

(D) For which you fail to provide records of production, that are acceptable to us; or

(E) Of any type of tobacco when the stalks and stubble have been destroyed without our consent;

(ii) Production lost due to uninsured causes.

(iii) Potential production on insured acreage you intend to put to another use or abandon, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end when you put the acreage to another use or abandon the crop. If agreement on the appraised amount of production is not reached:

(A) If you do not elect to continue to care for the crop, we may give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us (The amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be used to determine the amount of production to count.); or

(B) If you elect to continue to care for the crop, the amount of production to count for the acreage will be the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested; and

(2) All harvested production from insurable acreage.

(d) Once we agree the current year's tobacco has no market value due to an insured cause of loss, you must destroy it, and it will not be considered production to count. If you refuse to destroy such tobacco, we will include it as production to count and value it at your applicable price election.

(e) Mature tobacco may be adjusted for quality deficiencies when production has been damaged by insurable causes.

(1) You must contact us before any tobacco is delivered to the tobacco company, commercial marketing association, or tobacco handler so that at our option we may inspect the tobacco to determine and document the extent of the damage.

(2) Our inspection will be used to assist in determining whether the price paid for the quality deficient tobacco by the tobacco company, commercial marketing association, or tobacco handler is reasonable. Based on the degree of damage documented by the tobacco company compared to our inspection, if the price adjusted for quality is:

(i) Reasonable, such price will be used to determine the quality adjustment in section 12(e)(5);

(ii) Unreasonable, we may adjust the price used to calculate the quality adjustment in section 12(e)(5).

(3) If you deliver any production to the tobacco company, commercial marketing association, or tobacco handler without giving us the opportunity to inspect the tobacco you will not receive a quality adjustment for such tobacco, regardless of the price received by the tobacco company, commercial marketing association, or tobacco handler.

(4) Production to count will only be reduced if the average price received for damaged tobacco is less than 75 percent

of your tobacco contract price. You must provide us with a marketing record acceptable to us which clearly shows the number of pounds, price per pound, and the quality of such tobacco.

(5) Any reduction in the production to count will be determined by:

(i) Dividing the price per pound as determined by us in accordance with section 12(e)(2) of these Crop Provisions by your applicable tobacco contract price; and

(ii) Multiplying this result by the number of pounds of damaged production.

13. Late Planting.

In lieu of late planting provisions in the Basic Provisions regarding acreage initially planted after the final planting date, insurance will be provided for acreage planted to the insured crop after the final planting date as follows:

(a) The production guarantee (per acre) for acreage planted during the late planting period will be reduced by:

(1) One percent per day for the 1st through the 10th day; and

(2) Two percent per day for the 11th through the 15th day;

(b) The premium amount for insurable acreage planted to the insured crop after the final planting date will be the same as that for timely planted acreage. If the amount of premium you are required to pay (gross premium less our subsidy) for acreage planted after the final planting date exceeds the liability on such acreage, coverage for those acres will not be provided (no premium will be due and no indemnity will be paid for such acreage).

14. Prevented Planting.

Your prevented planting coverage will be 35 percent of your production guarantee for timely planted acreage. Additional prevented planting coverage levels are not available for tobacco.

Signed in Washington, DC, on May 15, 2007.

Eldon Gould,

Manager, Federal Crop Insurance Corporation.

[FR Doc. E7–9775 Filed 5–22–07; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1485

RIN Number: 0051–AA69

Market Access Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Advance notice of proposed rulemaking and public hearing.

SUMMARY: The Commodity Credit Corporation (CCC) is soliciting comments on whether to amend and revise the regulation at 7 CFR part 1485 for the purpose of improving the effectiveness of the program. This action announces the comment period and the date, time, and location for a public hearing on the proposed rulemaking. The Market Access Program (MAP) is administered by personnel of the Foreign Agricultural Service (FAS).

DATES: Written comments on the proposed rulemaking must be received on or before Monday, August 13, 2007, to be assured of consideration. FAS will conduct a public hearing in order to receive oral and written comments. The hearing is scheduled for Wednesday, July 25, 2007, from 9 a.m. to 2:30 p.m.

ADDRESSES: The hearing scheduled for July 25, 2007, will be held in the Jefferson Auditorium at the U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250.

Comments may be hand delivered (including FedEx, DHL, UPS, etc.) to: Program Policy Staff, Office of Trade Programs, Foreign Agricultural Service, U.S. Department of Agriculture, 1250 Maryland Avenue, SW., Suite 400, Washington, DC 20024–2162. Comments may also be delivered through the U.S. mail to: Program Policy Staff, Office of Trade Programs, Foreign Agricultural Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., STOP 1042, Washington, DC 20250–1042. All written comments received will be available for public inspection at the above address during business hours from 8 a.m. to 4 p.m., Monday through Friday. Persons with disabilities who require an alternative means for communication of information (Braille, large print, audiotape, etc.) should contact USDA's Target Center at (202) 720–2600 (voice and TDD).

FOR FURTHER INFORMATION CONTACT: Mark Slupek, Director, Program Policy Staff, Office of Trade Programs, Foreign Agricultural Service, U.S. Department of Agriculture, (202) 720–4327; fax (202) 720–9361.

SUPPLEMENTARY INFORMATION:

Background

The current regulation was last amended on June 2, 1998. FAS now has sufficient experience to propose further changes to improve the program's effectiveness. MAP funding helps to create, expand, and maintain commercial export markets for U.S. agricultural products. The program forms partnerships between non-profit U.S. agricultural trade associations, U.S. agricultural cooperatives, non-profit state-regional trade groups, small U.S. businesses, and the CCC to share the costs of international marketing and promotional activities. Any future amendment of the regulation could be expected to include revision of outdated language. For example, the current regulation does not reflect the organizational changes resulting from the recent reorganization of FAS.

Issues for Public Comment

I. With respect to proposed administrative changes, comments on these specific issues are being requested:

(a) Application process and activity plan. FAS is seeking comments on updating and merging the list of application requirements under § 1485.13(a) and the activity plan requirements under § 1485.15 to reflect the Unified Export Strategy system that is currently in place.

(b) Approval Criteria. FAS is seeking comments on the application approval criteria and allocation factors identified under § 1485.14(b) and (c).

II. With respect to amending and revising the scope and coverage of the regulation, FAS is soliciting comments regarding the feasibility of the changes proposed below and views regarding how they might be implemented.

(a) Expanding the scope of the program to include activities designed to address international market access issues. FAS is aware of the increasing numbers of trade barriers that disrupt the export of U.S. agricultural products in mature markets and is considering modifying the program to ensure that appropriate activities of this type would be reimbursable.

(b) Modifying the lists of eligible and ineligible contributions [currently found at § 1485.13(c)] to better identify in-kind and third party contributions.

(c) Modifying the lists of reimbursable and non-reimbursable activities [currently found at § 1485.16(b), (c), and (d)] to clarify existing activities and to include the use of electronic technologies not considered in the current regulation.

(d) Revising the portions of the regulation regarding contracting procedures [currently found at § 1485.23(c)]. The current regulation may not address the full range of contracting situations faced by participants. It may be necessary to identify the differences between employees, consultants, and contractors.

(e) Revising the portions of the regulation regarding the compliance review and appeals processes. The

current regulation does not describe the compliance review and appeals processes in a single, cohesive section. A unified compliance section may improve the regulation.

(f) Revising the portions of the regulation regarding evaluation [currently found at § 1485.20(c)] to include requirements for country progress reports and success stories.

(g) Eliminating the Export Incentive Program/Market Access Program (EIP/MAP) subcomponent. FAS does not currently operate the EIP/MAP subcomponent and is considering removing reference to the subcomponent from the regulation.

III. With respect to risk management, FAS is soliciting comments regarding the mitigation of the risk inherent to reimbursing third party contracting expenses and brand participant activities with program funds. This could include improved accounting controls, insurance against fraud, bonding employees, or other risk management tools.

IV. In addition, FAS requests comments on any other aspect of the program set forth at 7 CFR part 1485 which commenters believe should be addressed in any future amendment of the regulation.

Dated: May 10, 2007.

W. Kirk Miller,

Acting Administrator, Foreign Agricultural Service, and Vice President, Commodity Credit Corporation.

[FR Doc. 07–2552 Filed 5–22–07; 8:45 am]

BILLING CODE 3410–10–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 1

[Docket No. APHIS–2006–0158]

Animal Welfare; Petition for Rulemaking

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of petition and request for comments; extension of comment period.

SUMMARY: We are extending the comment period for our notice of petition and request for comments concerning the definition of *Class ''B'' licensee* in the Animal Welfare Act regulations. This action will allow interested persons additional time to prepare and submit comments.

DATES: We will consider all comments that we receive on or before July 9, 2007.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*, select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click ''Submit.'' In the Docket ID column, select APHIS–2006–0158 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.
- *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2006–0158, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2006–0158.

Reading Room: You may read any comments that we receive on Docket No. APHIS–2006–0158 in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Jerry DePoyster, Senior Veterinary Medical Officer, Animal Care, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737–1234; (301) 734–7586.

SUPPLEMENTARY INFORMATION: On April 10, 2007, we published in the **Federal Register** (72 FR 17814, Docket No. APHIS–2006–0158) a notice of petition and request for comments. That document notified the public that the Animal and Plant Health Inspection Service had received a petition from The Hunte Corporation requesting that we replace the definition of *Class ''B'' licensee* in the Animal Welfare Act regulations with four new categories of licensees: Pet distributor, exhibitor animal distributor, laboratory animal distributor, and other distributor.

Comments on the notice were required to be received on or before June 11, 2007. We are extending the comment period on Docket No. APHIS–2006–0158 for an additional 30 days. This action will allow interested persons additional time to prepare and submit comments.

Authority: 7 U.S.C. 2131–2159; 7 CFR 2.22, 2.80, and 371.7.

Done in Washington, DC, this 17th day of May 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–9901 Filed 5–22–07; 8:45 am]

BILLING CODE 3410–34–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM–50–84]

Mark Edward Leyse; Receipt of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; notice of receipt.

SUMMARY: The Nuclear Regulatory Commission (NRC) has received and requests public comment on a petition for rulemaking dated March 15, 2007, filed by Mark Edward Leyse. The petition has been docketed by the NRC and has been assigned Docket No. PRM–50–84. The petitioner is requesting that the NRC amend the regulations that govern domestic licensing of production and utilization facilities to require that nuclear power facilities be operated to limit the thickness of crud (corrosion products) layers and/or the thickness of oxide layers on fuel rod cladding surfaces. The petitioner also requests that the requirements pertaining to Emergency Core Cooling System (ECCS) evaluation models be amended to require that the steady-state temperature distribution and stored energy in reactor fuel at the onset of a postulated loss-of-coolant accident (LOCA) be calculated by factoring in the role that the thermal resistance of crud and/or oxide layers on cladding plays in increasing the stored energy in the fuel. Lastly, the petitioner requests that the acceptance criteria for emergency core cooling systems for light-water nuclear power reactors be amended to stipulate a maximum allowable percentage of hydrogen content in cladding of fuel rods.

DATES: Submit comments by August 6, 2007. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: You may submit comments by any one of the following methods. Please include the following number (PRM–50–84) in the subject line of your comments. Comments on petitions submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including personal information such as social security numbers and birth dates in your submission.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Rulemaking and Adjudications staff.

E-mail comments to: SECY@nrc.gov. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415–1966. You may also submit comments via the NRC's rulemaking Web site at *http://ruleforum.llnl.gov*. Address comments about our rulemaking Web site to Carol Gallagher, (301) 415–5905; (e-mail *cag@nrc.gov*). Comments can also be submitted via the Federal eRulemaking Portal *http:www.regulations.gov.*

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

Publicly available documents related to this petition may be viewed electronically on the public computers located at the NRC Public Document Room (PDR), O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee. Selected documents, including comments, may be viewed and downloaded electronically via the NRC rulemaking Web site at *http:// ruleforum.llnl.gov.*

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

For a copy of the petition, write to Michael T. Lesar, Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. *Telephone:* 301–415–7163 or Toll-Free: 1–800–368–5642 or *E-mail: MTL@NRC.Gov.*

SUPPLEMENTARY INFORMATION:

Background

The NRC has received a petition for rulemaking dated March 15, 2007, submitted by Mark Edward Leyse (petitioner). The petitioner requests that the NRC amend 10 CFR part 50, ''Domestic Licensing of Production and Utilization Facilities.'' Specifically, the petitioner requests that all holders of operating licenses for nuclear power plants be required to operate such plants at operating conditions (*e.g.*, levels of power production, fuel cycle lengths, and light-water coolant chemistries) necessary to effectively limit the thickness of crud (corrosion products) layers and/or oxide layers on fuel rod cladding surfaces. The petitioner believes that new regulations are needed for reactor-operation parameters, uranium-oxide and mixed-oxide fuel and cladding, in order to ensure that cladding is free of unsafe thicknesses of crud and/or oxide, which in turn would help ensure that nuclear power plants operate in compliance with 10 CFR 50.46(b). 10 CFR 50.46(b) stipulates that the calculated peak cladding temperature (PCT) must not exceed 2200°F in the event of a loss-of-coolant accident (LOCA). The petitioner also requests that 10 CFR part 50, Appendix K, ''ECCS Evaluation Models'' be amended to require that the steady-state temperature distribution and stored energy in the fuel at the onset of a postulated LOCA be calculated by factoring in the role that the thermal resistance of crud and/or oxide layers on cladding plays in increasing the stored energy in the fuel. Lastly, the petitioner requests that § 50.46 be amended to stipulate a maximum allowable percentage of hydrogen content in fuel cladding.

The NRC has determined that the petition meets the threshold sufficiency requirements for a petition for rulemaking under 10 CFR 2.802. The petition has been docketed as PRM–50–84. The NRC is soliciting public comment on the petition for rulemaking.

Discussion of the Petition

The petitioner states that layers of crud and oxide on cladding surfaces of nuclear fuel rods could cause the temperature of fuel rods to increase up to 300 °F to 600 °F during power plant operations. The petitioner also states that during a LOCA, the thermal resistance of insulating layers of crud and oxide on cladding, and increased fuel temperatures will cause the PCT to be higher than if the cladding were clean. The petitioner believes that if a large break (LB) LOCA occurred at a nuclear power plant that operated with heavy crud and oxide layers, there is a high probability that the PCT would exceed the 2200 °F limit in § 50.46(b)(1). The petitioner states that increased hydrogen content in cladding contributes to cladding embrittlement. The petitioner believes that § 50.46 should also be amended to specify a maximum allowable percentage of hydrogen in cladding.

The petitioner states that in 2001, the Indian Point Unit 2 facility had a PCT of 2188 °F during a computer simulated LB LOCA. The petitioner believes that if heavy crud and oxide layers were present and included in the calculation, it is ''highly probable'' the calculated PCT would have exceeded the 2200 °F limit, perhaps by hundreds of degrees Fahrenheit. The petitioner states that if the 2200 °F limit was exceeded during actual operation, the cladding could lose its physical integrity and result in a core meltdown that would release radioactive material and contaminate the environment. The petitioner states that in 1995, the Three Mile Island Unit 1 facility (TMI–1) operated with crud deposits on the surface of fuel rods that raised the cladding temperature by 180 to 270 °F or greater over the typical operating temperature of 346 °C during Cycle 10. The petitioner believes that if an actual LB LOCA had occurred at TMI–1, the crud and oxide layers on the cladding would have caused the PCT to exceed 2200 °F.

The petitioner states that because corrosion is not detected during plant operation, a significant length of time passes before corrosion progresses enough to perforate cladding and cause an increase in ''offgas'' activity meaning that heavily corroded fuel rods are often operated at full power for significant periods of time and could cause the cladding to fracture during the reflood period and lose structural integrity. The petitioner concludes that this could compromise the structural soundness

and the ability to keep the core cooled and illustrates the impact that the thermal resistance of heavy layers of oxide and crud on cladding would have during a LOCA.

The petitioner cites a September 30, 2003, Advisory Committee on Reactor Safeguards (ACRS) meeting transcript stating that the thickness of crud deposited on the cladding during pressurized water reactor (PWR) plant operation is often not known because ''a great deal of PWR crud comes off the cladding during reactor shutdown.'' The petitioner notes that crud deposits on cladding in PWRs have been measured at up to 125μm thick. The ACRS found that a crud layer with steam blanketing would have ''extremely poor conductivity'' and that crud is ''difficult to characterize'' because its thermal conductivities ''depend on [its] morpholog[ies].''

The petitioner also cites an Electric Power Research Institute (EPRI) study to be completed in 2008 that will attempt ''to determine the effect of tenacious crud on fuel surface heat transfer.'' The petitioner notes that this study is for crud in a boiling water reactor (BWR) but believes the results can also be applied to PWRs.

The petitioner also notes that the EPRI study found that Zirconium dioxide (ZrO_2) has a low thermal conductivity and is used industrially as an insulating material. The petitioner cites an EPRI-sponsored study entitled, ''Taming the Crud Problem: The Evolution,'' presented at the Advances in Nuclear Fuel Management II Conference in October 2003 which states that: ''Oxide can form, with or without the benefit of crud, in the presence of sustained cladding temperatures. Like crud, formation of an oxide layer inhibits heat transfer causing accelerated corrosion which can potentially lead to fuel failure.''

The petitioner describes a fuel rod that failed at TMI–1 during Cycle 10 that may have had about a 200μm-thick layer of crud and oxide. The petitioner believes that if a LB LOCA occurred during this fuel cycle, the layer of crud and oxide would have inhibited effective heat transfer and likely caused the PCT to exceed 2200 °F, possibly causing a meltdown. The petitioner also reiterates that in 2001, the Indian Point Unit 2 facility had a PCT of 2188 °F in a computer simulated LB LOCA. The petitioner believes that if Indian Point Unit 2 had cladding conditions similar to those of TMI–1 Cycle 10, it is highly probable the PCT would also have been greater than 2200 °F. The petitioner states that TMI–1 is not the only PWR to experience crud-induced corrosion failures. In 1997, the Palo Verde Unit 2 and Seabrook facilities both had the same problem.

The petitioner cites NUREG–1230, ''Compendium of ECCS Research for Realistic LOCA Analysis'' and states that the stored energy in the fuel increases because cladding encased in heavy amounts of crud and oxide cannot transfer heat efficiently to coolant during the blowdown phase of the event. The petitioner states that the increased stored energy caused by heavy crud and oxide layers on fuel cladding and the delay in the transfer of the heat to the coolant cause the cladding to be subjected to extremely high temperatures for much longer than if the cladding was clean (free of crud and oxidation) at the onset of the LOCA. The petitioner believes that this would result in more degradation of the fuel and embrittlement of cladding. The petitioner also states that when the cladding reacts with steam, an exothermic reaction occurs that generates additional heat on the cladding.

The petitioner cites an ACRS meeting transcript from February 2, 2007, in which an NRC staff member explained that a basic LOCA transient calculation includes an oxidation limit and involves time and temperature. The petitioner also notes that NUREG–1230 states that embrittled cladding can fragment upon contact with emergency cooling water in a severe accident. The embrittlement is a function of temperature, time, the supply of steam and zircaloy, and can lead to the loss of effective cooling, making it relevant to fuel rod safety. The petitioner also notes that NUREG–1230 also states, ''[the] amount of residual thermal energy [in the fuel rod] influences the *time* required to quench the reactor core with emergency cooling water [emphasis added].''

The petitioner states that absorption of hydrogen would also contribute to a loss of cladding ductility during a LOCA along with cladding degradation and massive oxidation. He cites a failed fuel rod from the TMI–1, Cycle 10 event when hydrogen absorption caused hydrided material to break away from the outer portions of the cladding. The petitioner believes that the effects of increased stored energy due to a heavy crud layer in the fuel and the severity of cladding oxidation, embrittlement, and resulting fuel degradation during an actual event would be substantially greater than in an ECCS calculation based on clean cladding.

The petitioner also states that little or no evidence exists that crud has ever been properly factored into PCT calculations for postulated LOCAs. He cites a June 17, 2003, Idaho National Engineering and Environmental Laboratory document that he believes stated that crud has not been applied to severe accident codes because it has not been demonstrated to be necessary and that users have not chosen to consider effects of crud. The petitioner also cites the 2002 annual report on ECCS evaluation from the Callaway facility that he believes proves that ''little attention'' was placed on effects of heavy crud on thermal resistance. The petitioner states that most cladding that experienced crud-induced corrosion failures recently at PWRs involved high-power, one-cycle fuel. He cites the TMI–1, Cycle 10 and Callaway, Cycle 6 events as examples and notes that the effects of crud can occur quickly. The cladding perforation at TMI–1 was detected only 121 days into the cycle.

The petitioner states that the values of the stored energy in BOL fuel or fuel with burnups between 30 to 35 GWd/MTU are used to calculate PCTs during postulated LOCAs. The petitioner also believes it is significant that the stored energy of fuel sheathed in cladding with heavy crud and oxide layers is substantially higher than fuel of the same burnup rate sheathed in clean cladding that he states is used in PCT calculations performed for postulated LOCAs and during safety evaluations of the certification process of newer designs such as the Westinghouse AP 1000 reactor. The petitioner believes that the AP 1000 PCTs were not calculated for the maximum stored energy that fuel can reach during operation and that recent experiences with fuel at TMI–1, Palo Verde Unit 2, and Seabrook were not considered in PCT calculations performed during recent power ''uprates'' at other nuclear power facilities.

The petitioner states that axial offset anomaly (AOA) or crud-induced power shift (CIPS) are phenomena caused by crud on cladding and can indicate how frequently crud affects nuclear power plant operation. The petitioner also states that AOA occurs in PWRs when crud deposits on cladding contain enough boron to reduce the rate of fission in the vicinity of the crud. He cites NRC Information Notice 97–85, ''Effects of Crud Buildup and Boron Deposition on Power Distribution and Shutdown Margin'' that describes how AOA causes power distribution shifts toward the bottom of the reactor core as a result of reduced fission in the upper reactor core. The petitioner states that although crud deposits must be at least 35μm thick for AOA to occur, it is possible that crud deposits thicker than 35μm do not cause AOA because not all

crud deposits contain enough boron to cause this phenomenon. The petitioner also states that according to a 2002 Department of Energy report on nuclear energy plant optimization, the thickest layer of crud measured in a PWR was 125μm thick that caused AOA but not cladding perforation and that as of 2003, more than 30 fuel cycles in 16 PWRs had exhibited AOA.

The petitioner also cites a 2006 EPRI report that acknowledged that crud has contributed to AOA at many power plants since the 1980s because fuel cycle operation and power up rates have increased appreciably and that excessive crud deposits create operational difficulties. According to a Westinghouse Electric Company official, AOAs are detectable and closely monitored to ensure that adequate shutdown margins can be maintained. Also, a plant can be operated at a lower power level if necessary. The petitioner cites the TMI–1, Cycle 10 event as an example that illustrates how low levels of boron can result in a slight AOA even though enough crud was present to induce fuel failure from corrosion. The petitioner states that if a heavy crud layer was detected during plant operation that did not cause an AOA, it is unlikely that the operation power level would be reduced because the thermal resistance of the crud and how it would raise the PCT during a LOCA would likely not be considered problematic.

The petitioner describes what he believes was a crud-induced cladding corrosion failure of fuel in a BWR at the River Bend facility during Cycle 8 from 1998–99. The petitioner states that the fuel failure occurred when crud nearly bridged the gap between adjacent rods and believes it is significant that most of the failed rods were high-power, one-cycle rods (much like the recent corrosion-induced PWR fuel failures during the TMI–1 Cycle 10, Palo Verde Unit 2 Cycle 9, and Seabrook Cycle 5 events). The River Bend Cycle 8 fuel failure resulted from thick layers of crud, augmented with copper that accelerated the oxidation process to produce a local steam blanketing and high heat transfer resistance that created perforations in the fuel cladding according to the ''Recent GE BWR Fuel Experience'' report published in 2000 by the American Nuclear Society and the NRC inspection report pertaining to this event. The petitioner concludes that the combined effects of crud and oxide layers increased the cladding temperatures from around 560 °F to temperatures approaching 1200 °F.

The petitioner states that if a LOCA had occurred during this event, the PCT could likely have exceeded the 2200 °F limit specified in § 50.46. The petitioner acknowledges that the NRC Licensee Event Report (LER) 50–458/99–016–00 states that the PCT was calculated to have been 1700 °F or less and demonstrates a substantial margin to the 2200 °F limit. However, the petitioner states that the LER ignores NRC guidelines for calculating the equivalent cladding reacted (ECR) and believes that the PCT would have exceeded 1700 °F during a LB LOCA. The petitioner states that in 2000 when this LER was filed there was not much knowledge about values for the thermal conductivity of crud and how crud layers should be modeled in severe accident codes and believes this lack of knowledge still exists in 2007. The petitioner reiterates there is little or no evidence that crud has ever been properly factored into PCT calculations for simulated LOCAs at nuclear power plants.

The petitioner states that essentially the same cladding condition occurred again at the River Bend facility between October 2001 to March 2003 during the Cycle 11 refueling event after a GE Nuclear Energy official had stated that heavy crud buildup during the Cycle 8 event was unique and had occurred only once in over 1000 reactor years of operation. He cites a paper presented at the 2004 International Meeting on LWR Fuel presented by the American Nuclear Society, ''Fuel Failures During Cycle 11 at River Bend.'' This paper stated that this fuel rod failure was caused by accelerated oxidation of the cladding resulting from unusually heavy deposits of tenacious crud that diminished heat transfer in local areas of the cladding surface. The petitioner notes that the failures occurred in high power, one-cycle rods where heavy crud and oxide layers were present. The petitioner believes that the PCT during a LB LOCA would have exceeded the 2200 °F limit specified in § 50.46 and means that the ECCS design basis for River Bend is non-conservative for calculating the PCT for a postulated LOCA when heavy crud and oxide layers exist on cladding.

The petitioner disputes GE Nuclear Energy's conclusion that because the heavy crud deposits on fuel rods at the River Bend facility occurred at the lower elevations of the fuel assembly and the more limiting axial elevations during a postulated LOCA occur at the upper elevations of a fuel assembly where at River Bend the crud characteristics were normal, the heavy crud deposits would have no significant effect on the fuel response to a postulated LOCA. The petitioner states that the cladding surface temperatures during the River Bend events reached 1200 °F, far above the specified licensing basis of about 578 °F. The petitioner believes that the higher temperatures due to the heavy crud and oxide layers would result in less coolant flow than for clean cladding, would cause the cladding to be subjected to extremely high temperatures for a substantially longer duration than used in the licensing basis, and result in more fuel degradation. The petitioner also believes that the degradation of fuel and cladding would further obstruct reflood coolant flow, delay transfer of stored energy to the coolant during quench, and that during a LOCA there would already be severe cladding degradation, massive oxidation, and absorption of hydrogen that would contribute to a loss of cladding ductility. The petitioner has concluded that these factors mean that the River Bend facility operated in violation of § 50.46(b) during cycles 8 and 11 of refueling. The petitioner also states that the Browns Ferry facility operated from April 2001 to March 2003 with thick oxide layers at the upper elevations of the fuel rods and believes it is significant that the heavy crud and oxide layers that caused overheating and cladding perforations at TMI–1 during cycle 10 were located at upper elevations of fuel assemblies.

The petitioner cites a 2004 paper, ''An Integrated Approach to Maximizing Fuel Reliability'' stating that a lack of understanding exists about the interplay of materials, fuel duty, and water chemistry variables and reports that crud or corrosion related fuel failures occurred at BWRs in six of the years between 1997 to 2004. The petitioner also cites an EPRI document, ''2006 Portfolio 41.002 Fuel Reliability'' which states that the fuel failure rate has increased in both BWRs and PWRs during the last couple of years due to extended and more aggressive fuel cycle operation. The petitioner states that although the nuclear industry observed that it appeared that nodular corrosion had been eliminated from BWR fuel cladding in 2000, by 2004 it had reemerged at several BWRs. The petitioner believes this is a result of increasing fuel duty by extending the length of fuel cycles and that problems with crud and oxide will continue unless the NRC implements regulations to ensure that BWRs and PWRs do not operate with high levels of crud and oxidation on cladding that cause violations of § 50.46(b).

The petitioner states that Appendix K to 10 CFR part 50, ''ECCS Evaluation Models'' requires stored energy in nuclear fuel to be calculated to yield the highest PCT. The petitioner believes that Appendix K should require thermal

conductivity of layers of crud and oxide to be factored into calculations of the stored energy in the fuel. The petitioner states that because a heavy crud layer would increase the quantity of stored energy in the fuel, the PCT would also increase above that of fuel with the same burnup sheathed in clean cladding. The petitioner also states that instructions specified in Appendix K for calculating the quantity of stored energy that contains heavy layers of crud and oxide are non-conservative.

The petitioner notes that values of stored energy in BOL fuel or fuel with burnups between 30 to 35 Gwd/MTU are used to calculate PCTs during postulated LOCAs. However, the petitioner cites a January 2007 ACRS Subcommittee on Materials, Metallurgy, and Reactor Fuels during which a Westinghouse official cited data from LOCA calculations showing that single cycle fuel with burnups from zero to approximately 20 or 25 GWd/MTU yielded the highest PCTs. Westinghouse also stated that at burnups of about 30 GWd/MTU, there is approximately a ten percent reduction in achievable power, which yields PCTs approximately 100 °C lower than those of fresh fuel. The petitioner concludes it is significant that an ECCS design based on Appendix K requirements is non-conservative and hazardous for calculating the quantity of stored energy in one-cycle fuel that has heavy crud on the cladding.

The petitioner states that an increase in hydrogen content in cladding contributes to cladding embrittlement. The petitioner cites an April 4, 2001, ACRS Reactor Fuels Subcommittee meeting during which an expert from Argonne National Laboratory stated that a reduction of ductility occurs when hydrogen levels reach about 600 to 700 parts-per-million (ppm) in Zircaloy cladding. According to the petitioner, another expert from the Atomic Energy Research Institute stated that a threshold for a reduction of ductility in Zircaloy cladding occurs at even a lower hydrogen level of about 150 to 200 ppm. The petitioner also cites the TMI–1 Cycle 10 event that included massive hydrogen absorption in fuel cladding. The petitioner notes that hydrogen content in the cladding of a rod that did not fail measured 700 ppm at TMI–1 and that this level of hydrogen content in one-cycle cladding is similar to the 800 ppm level measured in fuel cladding at the H.B. Robinson, Unit 2 facility, a PWR. The petitioner states that some of the cladding at TMI–1 Cycle 10 contained levels of hydrogen that Argonne National Laboratory found would have caused a loss of cladding ductility in addition to the embrittlement resulting from excessive oxide levels.

The Petitioner's Proposed Actions

The petitioner states that new regulations are needed for reactor operation parameters, uranium-oxide and mixed-oxide fuel, and fuel cladding to ensure that cladding does not contain unsafe amounts of crud and oxide to help ensure that nuclear power plants operate in compliance with 10 CFR 50.46(b). The petitioner also states that nuclear power plant licensees should be required to factor the thermal resistance effects of crud and oxide layers on cladding into calculations of PCTs for postulated LOCAs at their facilities. Also, the NRC needs to consider effects of crud and oxide when reviewing power plant operations reports under 10 CFR 50.46, and before approving power uprates at existing facilities and new nuclear power plant designs, such as the recently certified Westinghouse AP1000 design.

The petitioner requests that Appendix K to Part 50 be amended to require that the steady state temperature distribution and stored energy in the fuel at the onset of a postulated LOCA be calculated by factoring in the role that the thermal resistance of crud and oxide layers on cladding plays in increasing the stored energy in nuclear fuel. The petitioner also states that Appendix K should specify instructions to more accurately calculate the role that thermal resistance of crud and oxide layers on cladding plays in determining the stored energy in the fuel and the PCT during a postulated LOCA.

Lastly, the petitioner requests that § 50.46 be amended to include a requirement that stipulates a maximum allowable percentage of hydrogen content in cladding because there is extensive evidence that excessive hydrogen levels and oxidation on cladding contributes to cladding embrittlement. The petitioner concludes that the requested amendments should also apply to any NRC-approved, best-estimate ECCS evaluations used instead of Appendix K calculations. The petitioner believes its requested amendments would ensure that nuclear power facilities prevent unsafe amounts of crud and oxide layers on cladding from occurring during operation to reduce risks to plant workers and the public, and help nuclear power facility operations to comply with 10 CFR 50.46(b).

Dated at Rockville, Maryland, this 15th day of May 2007.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. E7–9910 Filed 5–22–07; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL TRADE COMMISSION

16 CFR Part 24

Guides for Select Leather and Imitation Leather Products

AGENCY: Federal Trade Commission.

ACTION: Request for public comments.

SUMMARY: The Federal Trade Commission (''FTC'' or ''Commission'') is requesting public comments on its Guides for Select Leather and Imitation Leather Products (''Leather Guides''). The Commission is soliciting the comments as part of its systematic review of all current Commission regulations and guides.

DATES: Written comments will be accepted until July 23, 2007.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to ''Guides for Select Leather and Imitation Leather Products, Matter No. P078008'' to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/ Office of the Secretary, Room H–135 (Annex L), 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments containing confidential material, however, must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with Commission Rule 4.9(c).[1] The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions. Comments filed in electronic form must be submitted by accessing the following site: *https://secure.commentworks.com/ftc-leatherguides*, and following the instructions on the web-based form.

The FTC Act and other laws the Commission administers permit the

[1] The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. See Commission Rule 4.9(c), 16 CFR 4.9(c).

collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC Web site, to the extent practicable, at *http://www.ftc.gov*. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy at *http://www.ftc.gov/ftc/privacy.htm.*

FOR FURTHER INFORMATION CONTACT: Susan E. Arthur, (214) 979–9370, Attorney, Southwest Region, Federal Trade Commission, 1999 Bryan Street, Suite 2150, Dallas, Texas 75201.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission's Leather Guides address misrepresentations regarding the composition and characteristics of specific leather and imitation leather products. The Guides apply to the manufacture, sale, distribution, marketing, or advertising of leather or simulated leather purses, luggage, wallets, footwear, and other similar products. Importantly, the Leather Guides state that disclosure of non-leather content should be made for material which has the appearance of leather but is not leather.

The Leather Guides ''are administrative interpretations of laws administered by the Commission for the guidance of the public in conducting its affairs in conformity with legal requirements. They provide the basis for voluntary and simultaneous abandonment of unlawful practices by members of industry.'' 16 CFR 1.5. Conduct inconsistent with the Guides may result in corrective action by the Commission under applicable statutory provisions.

The Commission adopted the Leather Guides in 1996, as part of its periodic review of its rules and guides.[2] The Leather Guides consolidated portions of the Guides for the Luggage and Related Products Industry (''Luggage Guides''), the Guides for Shoe Content Labeling and Advertising (''Shoe Content Guides''), and the Guides for the Ladies' Handbag Industry (''Handbag Guides'').[3] The Leather Guides also included provisions previously contained in the Commission's Trade Regulation Rule Concerning Misbranding and Deception as to Leather Content of Waist Belts (''Waist Belt Rule'').[4]

The language of the Luggage Guides, the Shoe Content Guides, the Handbag Guides, and the Waist Belt Rule was updated and clarified in the Leather Guides, and unnecessary provisions were deleted. Further, the Leather Guides modified a number of provisions from the older Guides and the Waist Belt Rule. Among these modifications were an expansion of the scope of the Leather Guides to include misrepresentations in the marketing and advertising of industry products, the removal of the restriction that only top grain leather could be called ''Leather'' without qualification, and the inclusion of a requirement that manufacturers disclose the percentage of non-leather and leather material contained in bonded leather.

II. Regulatory Review Program

The Commission has determined, as part of its oversight responsibilities, to review all Commission rules and guides periodically. These reviews seek information about the costs and benefits of the Commission's rules and guides and their regulatory and economic impact. The information obtained assists the Commission in identifying rules and guides that warrant modification or rescission. Therefore, the Commission solicits comment on, among other things, the economic impact of and the continuing need for the Leather Guides; possible conflict between the Guides and state, local, federal, or international laws; and the effect of any technological, economic, environmental, or other industry changes on the Guides.

III. Request for Comment

The questions below are designed to assist the public and should not be construed as a limitation on the issues on which public comment may be submitted:

(1) Is there a continuing need for the Leather Guides as currently promulgated?

(2) Have the leather and imitation leather industries adopted the Leather Guides as part of their routine business practices? If so, how, and what effect, if any, does this have on the continuing need for the Guides?

(3) What benefits have the Leather Guides provided to purchasers of the products affected by the Guides?

(4) Are there costs imposed on purchasers when businesses follow the Leather Guides? If so, explain.

(5) How have the leather and imitation leather industries been affected by the Leather Guides' modifications to provisions previously contained in the Luggage Guides, the Shoe Content Guides, the Handbag Guides, and the Waist Belt Rule? How have those modifications affected purchasers?

(6) What burdens or costs, including costs of compliance, are imposed on businesses that follow the Leather Guides? In particular, what burdens or costs are imposed on small businesses that follow the Guides? Do the Guides provide benefits to businesses that follow them? If so, what benefits?

(7) What changes, if any, should be made to the Leather Guides to increase their benefits to purchasers? How would these changes affect any burdens or costs to businesses that follow the Leather Guides? How would these changes benefit purchasers?

(8) What changes, if any, should be made to the Leather Guides to reduce the burdens or costs to businesses that follow the Guides? How would these changes affect the benefits provided by the Guides?

(9) Do the Leather Guides overlap or conflict with other federal, state, or local laws or regulations? If so, explain. Do the Guides overlap or conflict with any foreign or international laws or regulations? If so, explain.

(10) Have consumer perceptions or preferences changed since the Leather Guides were issued, and, if so, do these changes warrant revising the Guides? If you believe that these changes warrant revisions, how should the Guides be revised?

(11) Since the Leather Guides were issued, what effects, if any, have changes in relevant technology, economic conditions, or environmental conditions had on the Guides?

List of Subjects in 16 CFR Part 24

Advertising, Belts, Distribution, Footwear, Imitation leather products, Labeling, Ladies' handbags, Leather and leather products industry, Luggage and related products, Shoes, Trade practices, Waist belts.

Authority: 15 U.S.C. 41–58.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. E7–9965 Filed 5–22–07; 8:45 am]

BILLING CODE 6750–01–P

[2] 61 FR 51577 (October 3, 1996).

[3] The Luggage Guides, the Shoe Content Guides, and the Handbag Guides were repealed in 1995. 60 FR 48027 (September 18, 1995). On the same day, the Commission requested public comment regarding proposed Leather Guides. 60 FR 48056 (September 18, 1995).

[4] The Commission had previously repealed the Waist Belt Rule. 61 FR 25560 (May 22, 1966).

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–55777; File No. S7–08–07]

RIN 3235–AJ85

Amendments to Financial Responsibility Rules for Broker-Dealers

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Securities and Exchange Commission is extending the comment period for a release proposing amendments to its net capital, customer protection, books and records, and notification rules for broker-dealers under the Securities Exchange Act of 1934 (''Exchange Act''), which was issued by the Commission on March 9, 2007 (Exchange Act Release No. 55431, 72 FR 12862 (Mar. 19, 2007)). The original comment period for Release No. 34–55431 is scheduled to end on May 18, 2007. The Commission is extending the time period in which to provide the Commission with comments on the proposed amendments described in Release No. 34–55431 for thirty-one days until Monday, June 18, 2007. This action will allow all interested persons additional time to analyze the issues and prepare their comments.

DATES: Comments should be received on or before June 18, 2007.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/proposed*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number S7–08–07 on the subject line; or
- Use the Federal eRulemaking Portal (*http://www.regulations.gov*). Follow the instructions for submitting comments.

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 S7–08–07. This file number should be included on the subject line if e-mail is used. To help us 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/proposed*). Comments will also be available for public inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Michael A. Macchiaroli, Associate Director, at (202) 551–5525; Thomas K. McGowan, Assistant Director, at (202) 551–5521; Randall Roy, Branch Chief, at (202) 551–5522; or Bonnie Gauch, Attorney, (202) 551–5524; Division of Market Regulation, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–6628.

SUPPLEMENTARY INFORMATION: On March 9, 2007, the Commission requested comment on proposed amendments to the Commission's net capital, customer protection, books and records, and notification rules for broker-dealers under the Exchange Act.[1] Specifically, the proposed amendments are designed to address several emerging areas of concern regarding the financial requirements for broker-dealers. They also would update the financial responsibility rules and make certain technical amendments.

The Commission originally requested that comments on this proposal be received by May 18, 2007. The Commission thus far has received few public comments and believes that extending the comment period would be appropriate in order to give the public additional time to thoroughly consider the matters addressed by the release.[2] Therefore, the Commission is extending the comment period for Release No. 34–55431 (Amendments to Financial Responsibility Rules for Broker-Dealers) for thirty-one days, to Monday, June 18, 2007.[3]

Dated: May 17, 2007.

By the Commission.

Nancy M. Morris,

Secretary.

[FR Doc. E7–9833 Filed 5–22–07; 8:45 am]

BILLING CODE 8010–01–P

[1] *See* Exchange Act Release No. 55431, 72 FR 12862 (Mar. 19, 2007).

[2] *See also* Letter from Gerard J. Quinn, Vice President and Associate General Counsel of SIFMA to Michael Macchiaroli, date May 4, 2007 (noting the importance of the issues discussed in the release and the complexity of the issues involved).

[3] If the comment period was extended for thirty days, the due date would fall on a Sunday. Therefore, the Commission is extending the comment period for thirty-one days.

POSTAL SERVICE

39 CFR Part 111

New Address Quality Standards for First-Class Mail and Standard Mail

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule provides revisions to Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM) that we will adopt no earlier than 18 months from the publication date of this notice. Move Update, the process for updating names and addresses, is currently required for mailers to obtain discounted rates for First-Class Mail. All address records used on pieces in discounted-rate mailings of First-Class Mail must be matched with customer-filed change-of-address orders received and maintained by the USPS using a USPS-approved method within 185 days of the date of mailing.

Our proposal includes the following changes related to move update processing: (1) Extending the Move Update requirement to all Standard Mail and (2) reducing the window for move update processing of names and addresses used for mailings of discounted First-Class Mail from 185 days to 95 days prior to mailing. The revised timeframe would apply to all pieces in Standard Mail mailings.

DATES: We must receive your comments on or before June 22, 2007.

ADDRESSES: Mail or deliver written comments to the Office of Product Management—Addressing, National Customer Support Center, United States Postal Service, 6060 Primacy Parkway, Ste. 201, Memphis, TN 38188–0001. You may inspect and photocopy all written comments at USPS Headquarters Library, 475 L'Enfant Plaza, SW., 11th Floor N, Washington, DC 20260–1450 between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Charles B. Hunt, 901–681–4651; or Bert Olsen, 202–268–7276.

SUPPLEMENTARY INFORMATION: The decisions mailers make about address quality directly affect their ability to reach valued customers. Over the years, the Postal Service has invested heavily to create an automated mailstream to

help drive costs out of the delivery system. An efficient automated mailstream depends on accurate barcodes for success; but barcodes are only as accurate as the quality of the addressing information that is their foundation.

The Postal Service is committed to working with the mailing industry to maintain a cost-efficient mailstream that provides timely delivery of the mail and ensures customer value. We work with customers to make sure databases are updated frequently and accurately to improve the overall accuracy of address information. If either the recipient has moved or the address is incorrect or missing an important addressing element then the mailpiece could become undeliverable-as-addressed (UAA) mail—an unnecessary expense of time, effort, and money for both mailers and the Postal Service.

Move Update is one of a number of ways to help mailers reach their customers in an efficient and cost-effective way. Approximately 44 million Americans change their addresses each year. Mailers who want to keep in touch with their customers and reach new customers have to make sure their mail is delivered. It's good business to update address lists frequently.

The changes we are proposing to the Move Update standards are needed to improve the level of address quality for mailings entered at discounted First-Class Mail and Standard Mail rates and will result in higher-quality addressing on mailpieces and in timely delivery to intended recipients.

We will provide a minimum 18-month implementation phase from the date of this notice to allow mailers of discounted First-Class Mail and Standard Mail sufficient time to make modifications necessary to comply with the proposed Move Update standards.

Part A of this notice summarizes our proposal. Part B provides our proposed revisions to DMM standards.

Part A

(1) Extend Move Update Requirement to Standard Mail

We propose extending the Move Update standard, which currently applies only to discounted rate First-Class Mail, to Standard Mail. A key reason is that one of the conclusions of a independent study we commissioned in 2004 of the cost, volume, and characteristics of poorly addressed mail—what we call ''Undeliverable-as-Addressed'' mail or ''UAA'' mail—pointed out that mail entered as Standard Mail accounted for 62.8 percent of all UAA mail volume. Furthermore, the percent of Standard Mail that was UAA was higher than the percent for any other class of mail (Standard Mail was 6.4 percent, First-Class Mail was 3.4 percent, Periodicals was 2.2 percent, and Package Services was 3.0 percent).

The majority of UAA Standard Mail is disposed of as waste—only a small percent of mail is endorsed for forwarding or return. In fact, in 2004, we disposed of approximately 6 billion Standard Mail mailpieces at a cost of almost $248 million.

The cost of UAA Standard Mail is even greater to our customers, who must consider the wasted cost of producing those mailpieces destined for disposal. Furthermore, customers are impacted by the lost opportunities that UAA mail causes. When a Standard Mail mailpiece is discarded, the mailer's opportunity to connect with a potential customer is lost. This is where the greatest impact is felt from poor address quality.

Given the significant cost impact of UAA Standard Mail to both the Postal Service and customers, we believe it is reasonable to implement the Move Update requirement for those using the discounted Standard Mail rates.

Authorized Methods

The following are authorized methods to meet the Move Update standard for Standard Mail:

- NCOA^{Link}™ processing.
- FASTforward™ MLOCR processing (letter mail only).
- Address Change Service (ACS), including the new OneCode^{ACS}™.
- Ancillary service endorsements under DMM 507.1.5, except ''Forwarding Service Requested.''

(2) Increase Frequency of Use of Move Update Processing

Currently the DMM requires that addresses on all discounted-rate First-Class Mail be updated within 185 days before the mailing date using a USPS-approved method. We propose that this 185-day window be reduced to 95 days and linked to the previous proposal of expanding the Move Update requirement to Standard Mail.

Approximately 14 percent of all Americans move every year. In 2006, families and individuals filed over 41 million change-of-address orders. In that same year, there were 2.3 million business filings. With such a dynamic environment, managing addresses affected by customer moves is challenging. On average, the monthly rate of deterioration of address currency, due to family and individual moves alone, is approximately 1.2 percent. In 6 months (the current Move Update requirement for discounted First-Class Mail), about 7.2 percent of addresses in your files have the potential to be inaccurate. To minimize this natural deterioration, we are proposing that Move Update processing be completed closer to the mailing date. By reducing the processing window from 185 days to 95 days prior to the mailing date, the natural deterioration of address currency can be expected to significantly decrease UAA volume and the costs associated with the redirection and rehandling (including disposal) of mail.

Part B

Although we are exempt from the notice and comment requirements of the Administrative Procedure Act [5 U.S.C. 553(b), (c)] regarding proposed rulemaking by 39 U.S.C. 410(a), we invite comments on the following proposed revisions to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR part 111 is proposed to be amended as follows:

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Revise the following sections of Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM), as follows:

200 Discount Mail Letters and Cards

* * * * *

230 First-Class Mail

233 Rates and Eligibility

* * * * *

3.0 Basic Standards for First-Class Mail Letters

* * * * *

3.5 Move Update Standard

3.5.1 Basic Standards

* * * * *

[Revise item a as follows:]

a. Each address and associated occupant name used on the mailpieces in a mailing must be updated within 95 days before the mailing date, with one of the USPS-approved methods in 3.5.2.

* * * * *

[Revise item c as follows:]

c. The Move Update standard is met when an address used on a mailpiece in a mailing at any class of mail is updated with an approved method in 3.5.2, and the same address is used in a First-Class Mail mailing within 95 days after the address has been updated.

* * * * *

240 Standard Mail

243 Rates and Eligibility

* * * * *

3.0 Basic Standards for Standard Mail Letters

* * * * *

[Add new item 3.9 as follows:]

3.9 Move Update Standard

3.9.1 Basic Standards

The Move Update standard is a means of reducing the number of mailpieces in a mailing that require forwarding, return, or discard by the periodic matching of a mailer's address records with customer-filed change-of-address orders received and maintained by the USPS. For the purposes of this standard, ''address'' means a specific address associated with a specific occupant name. Addresses subject to the Move Update standard must meet these requirements:

a. Each address and associated occupant name used on the mailpieces in a mailing must be updated within 95 days before the mailing date, with one of the USPS-approved methods in 3.9.2.

b. Each individual address in the mailing is subject to the Move Update standard.

c. The Move Update standard is met when an address used on a mailpiece in a mailing at any class of mail is updated with an approved method in 3.9.2, and the same address is used in a Standard Mail mailing within 95 days after the address has been updated.

d. Except for mail bearing an alternative address format, addresses used on pieces claiming Standard Mail rates, regardless of any required surcharge, must meet the Move Update standard.

3.9.2 USPS-Approved Methods

The following methods are authorized for meeting the Move Update standard:

a. Address Change Service (ACS).

b. National Change of Address Linkage System (NCOALink).

c. FASTforward MLOCR processes if used each time before mail entry (for letter mail only). If a mailpiece that initially uses FASTforward MLOCR processing is rejected and then entered into a Direct View Encoding Desk (DVED) operation (or similar system), the piece does not meet the Move Update standard. The name and address information on the piece must then be processed through a FASTforward RVE system to meet the Move Update standard. FASTforward RVE processes also meet the Move Update standard if used each time before mail entry.

d. Ancillary service endorsements under 507.1.5.3, Standard Mail, except ''Forwarding Service Requested.''

3.9.3 Mailer Certification

The mailer's signature on the postage statement certifies that the Move Update standard has been met for each address in the corresponding mailing presented to the USPS.

* * * * *

300 Discount Mail Flats

* * * * *

330 First-Class Mail

333 Rates and Eligibility

* * * * *

3.0 Eligibility Standards for First-Class Mail Flats

* * * * *

3.5 Move Update Standard

3.5.1 Basic Standards

* * * * *

[Revise item a as follows:]

a. Each address and associated occupant name used on the mailpieces in a mailing must be updated within 95 days before the mailing date, with one of the USPS-approved methods in 3.5.2.

* * * * *

[Revise item c as follows:]

c. The Move Update standard is met when an address used on a mailpiece in a mailing at any class of mail is updated with an approved method in 3.5.2, and the same address is used in a First-Class Mail mailing within 95 days after the address has been updated.

* * * * *

340 Standard Mail

343 Rates and Eligibility

* * * * *

3.0 Basic Standards for Standard Mail Flats

* * * * *

[Add new item 3.9 as follows:]

3.9 Move Update Standard

3.9.1 Basic Standards

The Move Update standard is a means of reducing the number of mailpieces in a mailing that require forwarding, return, or discard by the periodic matching of a mailer's address records with customer-filed change-of-address orders received and maintained by the USPS. For the purposes of this standard, ''address'' means a specific address associated with a specific occupant name. Addresses subject to the Move Update standard must meet these requirements:

a. Each address and associated occupant name used on the mailpieces in a mailing must be updated within 95 days before the mailing date, with one of the USPS-approved methods in 3.9.2.

b. Each individual address in the mailing is subject to the Move Update standard.

c. The Move Update standard is met when an address used on a mailpiece in a mailing at any class of mail is updated with an approved method in 3.9.2, and the same address is used in a Standard Mail mailing within 95 days after the address has been updated.

d. Except for mail bearing an alternative address format, addresses used on pieces claiming Standard Mail rates, regardless of any required surcharge, must meet the Move Update standard.

3.9.2 USPS-Approved Methods

The following methods are authorized for meeting the Move Update standard:

a. Address Change Service (ACS).

b. National Change of Address Linkage System (NCOALink).

c. Ancillary service endorsements under 507.1.5.3, Standard Mail, except ''Forwarding Service Requested.''

3.9.3 Mailer Certification

The mailer's signature on the postage statement certifies that the Move Update standard has been met for each address in the corresponding mailing presented to the USPS.

* * * * *

400 Discount Mail Parcels

* * * * *

430 First-Class Mail

433 Rates and Eligibility

* * * * *

3.0 Basic Standards for First-Class Mail Parcels

* * * * *

3.5 Move Update Standard

3.5.1 Basic Standards

* * * * *

[Revise item a as follows:]

a. Each address and associated occupant name used on the mailpieces in a mailing must be updated within 95 days before the mailing date, with one of the USPS-approved methods in 3.6.2.

* * * * *

[Revise item c as follows:]

c. The Move Update standard is met when an address used on a mailpiece in a mailing at any class of mail is updated with an approved method in 3.6.2, and the same address is used in a First-Class Mail mailing within 95 days after the address has been updated.

* * * * *

440 Standard Mail

443 Rates and Eligibility

* * * * *

3.0 Basic Standards for Standard Mail Parcels

* * * * *

[Add new item 3.9 as follows:]

3.9 Move Update Standard

3.9.1 Basic Standards

The Move Update standard is a means of reducing the number of mailpieces in a mailing that require forwarding, return, or discard by the periodic matching of a mailer's address records with customer-filed change-of-address orders received and maintained by the USPS. For the purposes of this standard, ''address'' means a specific address associated with a specific occupant name. Addresses subject to the Move Update standard must meet these requirements:

a. Each address and associated occupant name used on the mailpieces in a mailing must be updated within 95 days before the mailing date, with one of the USPS-approved methods in 3.9.2.

b. Each individual address in the mailing is subject to the Move Update standard.

c. The Move Update standard is met when an address used on a mailpiece in a mailing at any class of mail is updated with an approved method in 3.9.2, and the same address is used in a Standard Mail mailing within 95 days after the address has been updated.

d. Except for mail bearing an alternative address format, addresses used on pieces claiming Standard Mail rates, regardless of any required surcharge, must meet the Move Update standard.

3.9.2 USPS-Approved Methods

The following methods are authorized for meeting the Move Update standard:

a. Address Change Service (ACS).

b. National Change of Address Linkage System (NCOALink).

c. Ancillary service endorsements under 507.1.5.3, Standard Mail, except ''Forwarding Service Requested.''

3.9.3 Mailer Certification

The mailer's signature on the postage statement certifies that the Move Update standard has been met for each address in the corresponding mailing presented to the USPS.

* * * * *

We will publish an appropriate amendment to 39 CFR part 111 if our proposal is adopted.

Neva Watson,

Attorney, Legislative.

[FR Doc. E7–9881 Filed 5–22–07; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 152, 156, 167, 168, 169, 172, and 174

[EPA–HQ–OPP–2006–1003; FRL–8132–1]

RIN 2070–AJ32

Plant-Incorporated Protectants; Potential Revisions to Current Production Regulations; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance Notice of Proposed Rulemaking (ANPRM); extension of comment period.

SUMMARY: EPA is extending the comment period for an ANPRM document concerning potential revisions to current production regulations for producers of plant-incorporated protectants (PIPs) published in the **Federal Register** of April 4, 2007. This document extends the comment period for an additional 30 days. The comment period is extended because EPA received a request from the Association of American Pesticide Control Officials (AAPCO), the association representing State pesticide regulatory officials. The extended comment period will allow State regulators to consider the ANPRM at the State-FIFRA Issues Research and Evaluation Group (SFIREG) national meeting June 25–26, 2007, and submit comments representing the consensus of their membership.

DATES: Comments must be received on or before July 13, 2007.

ADDRESSES: Follow the detailed instructions provided under **ADDRESSES** in the ANPRM published in the **Federal Register** of April 4, 2007.

FOR FURTHER INFORMATION CONTACT: Stephen Howie, Hazard Assessment Coordination and Policy Division, Office of Science Coordination and Policy, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–4146; fax number: (202) 564–8502; e-mail address: *howie.stephen@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

The Agency identified in the ANPRM those who may be potentially affected by that action. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How and to Whom Do I Submit Comments?

To submit comments, or access the public docket, follow the detailed instructions provided in Unit I.B of the **SUPPLEMENTARY INFORMATION** of the April 4, 2007 ANPRM.

II. What Action is EPA Taking?

This document extends the comment period established in the ANPRM published in the **Federal Register** of April 4, 2007 (72 FR 16312) (FRL–8118–2). In that document, EPA stated that it is considering amendments to the current pesticide establishment and production regulations promulgated under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and to other related FIFRA regulations as needed for producers of PIPs. EPA is extending the comment period, which expires on June 13, 2007, for an additional 30 days. The new comment period ends on July 13, 2007. The comment period is extended because EPA received a request from the AAPCO, the association representing State pesticide regulatory officials. The extended comment period will allow State regulators to consider the ANPRM at the State-FIFRA Issues Research and Evaluation Group (SFIREG) national meeting June 25–26, 2007, and submit comments representing the consensus of their membership.

List of Subjects in 40 CFR Parts 152, 156, 167, 168, 169, 172, 174

Environmental protection, Pesticides and pests, Plant-incorporated protectants, Reporting and recordkeeping requirements.

Dated: May 15, 2007.

James B. Gulliford,

Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. E7–9847 Filed 5–22–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2007–0261; FRL–8130–8]

Methamidophos, Oxydemeton-methyl, Profenofos, and Trichlorfon; Proposed Tolerance Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to revoke certain tolerances for the insecticides methamidophos and oxydemeton-methyl. Also, EPA is proposing to modify certain tolerances for the insecticides methamidophos, oxydemeton-methyl, profenofos, and trichlorfon. In addition, EPA is proposing to establish new tolerances for the insecticides methamidophos and profenofos. The regulatory actions proposed in this document are in follow-up to the Agency's reregistration program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and tolerance reassessment program under the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(q).

DATES: Comments must be received on or before July 23, 2007.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2007–0261, by one of the following methods:

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

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2007–0261. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website 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 regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. 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, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Joseph Nevola, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave, NW., Washington, DC 20460–0001; telephone number: (703) 308–8037; e-mail address: *nevola.joseph@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

• Crop production (NAICS code 111).

• Animal production (NAICS code 112).

• Food manufacturing (NAICS code 311).

• Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in Unit II.A. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Submitting CBI*. Do not submit this information to EPA through 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:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. 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.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

C. What Can I do if I Wish the Agency to Maintain a Tolerance that the Agency Proposes to Revoke?

This proposed rule provides a comment period of 60 days for any person to state an interest in retaining a tolerance proposed for revocation. If EPA receives a comment within the 60–day period to that effect, EPA will not proceed to revoke the tolerance immediately. However, EPA will take steps to ensure the submission of any needed supporting data and will issue an order in the **Federal Register** under FFDCA section 408(f) if needed. The order would specify data needed and the time frames for its submission, and would require that within 90 days some person or persons notify EPA that they will submit the data. If the data are not submitted as required in the order, EPA will take appropriate action under FFDCA.

EPA issues a final rule after considering comments that are submitted in response to this proposed rule. In addition to submitting comments in response to this proposal, you may also submit an objection at the time of the final rule. If you fail to file an objection to the final rule within the time period specified, you will have waived the right to raise any issues resolved in the final rule. After the specified time, issues resolved in the final rule cannot be raised again in any subsequent proceedings.

II. Background

A. What Action is the Agency Taking?

EPA is proposing to revoke, remove, modify, and establish specific tolerances for residues of the insecticides methamidophos, oxydemeton-methyl, profenofos, and trichlorfon in or on commodities listed in the regulatory text.

EPA is proposing these tolerance actions to implement the tolerance recommendations made during the reregistration and tolerance reassessment processes (including follow-up on canceled or additional uses of pesticides). As part of these processes, EPA is required to determine whether each of the amended tolerances meets the safety standard of the FFDCA. The safety finding determination of ''reasonable certainty of no harm'' is discussed in detail in each Reregistration Eligibility Decision (RED) and Report of the Food Quality Protection Act (FQPA) Tolerance Reassessment Progress and Risk Management Decision (TRED) for the active ingredient. REDs and TREDs recommend the implementation of certain tolerance actions, including modifications to reflect current use patterns, meet safety findings, and change commodity names and groupings in accordance with new EPA policy. Printed copies of many REDs and TREDs may be obtained from EPA's National Service Center for Environmental Publications (EPA/NSCEP), P.O. Box 42419, Cincinnati, OH 45242–2419, telephone: 1 (800) 490–9198; fax: 1 (513) 489–8695; internet at *http://www.epa.gov/ncepihom/* and from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, telephone: 1 (800) 553–6847 or (703) 605–6000; internet at *http://www.ntis.gov/*. Electronic copies of REDs and TREDs are available on the internet. The methamidophos, oxydemeton-methyl, and profenofos REDs and triclorfon TRED are found at *http://www.epa.gov/pesticides/reregistration/status.htm*.

The selection of an individual tolerance level is based on crop field residue studies designed to produce the maximum residues under the existing or proposed product label. Generally, the level selected for a tolerance is a value slightly above the maximum residue found in such studies, provided that the tolerance is safe. The evaluation of whether a tolerance is safe is a separate inquiry. EPA recommends the raising of a tolerance when data show that:

(1) Lawful use (sometimes through a label change) may result in a higher residue level on the commodity.

(2) The tolerance remains safe, notwithstanding increased residue level allowed under the tolerance. In REDs, Chapter IV on ''Risk management, Reregistration, and Tolerance reassessment'' typically describes the regulatory position, FQPA assessment, cumulative safety determination, determination of safety for U.S. general population, and safety for infants and children. In particular, the human health risk assessment document which supports the RED describes risk exposure estimates and whether the Agency has concerns. In TREDs, the Agency discusses its evaluation of the dietary risk associated with the active ingredient and whether it can determine that there is a reasonable certainty (with appropriate mitigation) that no harm to any population subgroup will result from aggregate exposure. EPA also seeks to harmonize tolerances with international standards set by the Codex Alimentarius Commission, as described in Unit III.

Explanations for proposed modifications in tolerances can be found in the RED and TRED document and in more detail in the Residue Chemistry Chapter document which supports the RED and TRED. Copies of the Residue Chemistry Chapter documents are found in the Administrative Record and paper copies for methamidophos, oxydemeton-methyl, profenofos, and trichlorfon are available in the public docket for this rule. Electronic copies are available through EPA's electronic public docket and comment system, regulations.gov at *http://www.regulations.gov/*. You may search for docket number EPA–HQ–OPP–2007–0261, then click on that docket number to view its contents.

EPA has determined that the aggregate exposures and risks are not of concern for the above mentioned pesticide active ingredients based upon the data identified in the RED or TRED which lists the submitted studies that the Agency found acceptable.

EPA has found that the tolerances that are proposed in this document to be modified, are safe; i.e., that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residues, in accordance with FFDCA section 408(b)(2)(C). (Note that changes to tolerance nomenclature do not constitute modifications of tolerances). These findings are discussed in detail in each RED or TRED. The references are available for inspection as described in this document under **SUPPLEMENTARY INFORMATION.**

In addition, EPA is proposing to revoke certain specific tolerances because either they are no longer needed or are associated with food uses that are no longer registered under FIFRA. Those instances where

registrations were canceled were because the registrant failed to pay the required maintenance fee and/or the registrant voluntarily requested cancellation of one or more registered uses of the pesticide. It is EPA's general practice to propose revocation of those tolerances for residues of pesticide active ingredients on crop uses for which there are no active registrations under FIFRA, unless any person, in comments on the proposal, indicates a need for the tolerance to cover residues in or on imported commodities or domestic commodities legally treated.

1. *Methamidophos*. Because methamidophos is a metabolite of acephate, EPA determined that residues of methamidophos resulting from the application of acephate should be included under the tolerance regulations for methamidophos as a pesticide. Therefore, EPA is proposing to recodify the tolerances for methamidophos from 40 CFR 180.315(a) into (a)(1) for permanent tolerances for residues of methamidophos (O,S-dimethyl phosphoramidothioate) in or on food commodities as a result of the application of the insecticide methamidophos and (a)(2) for residues of methamidophos (O,S-dimethyl phosphoramidothioate) in or on food commodities as a result of the application of the insecticide acephate.

Currently, 40 CFR 180.3, the section on tolerances for related pesticide chemicals, contains a paragraph (d)(8) stating that where tolerances are established for residues of O,S-dimethyl phosphoramidothioate, resulting from the use of acephate (O,S-dimethyl acetylphos-phoramidothioate) and/or O,S-dimethylphosphoramidothioate on the same agricultural commodity, the total amount of O,S-dimethyl-phosphoramidothioate shall not yield more residue than that permitted by the higher of the two tolerances. However, with the proposed change to include tolerances for methamidophos that result from the application of acephate under the methamidophos tolerance regulations in 40 CFR 180.315(a)(2), there is no longer a need for the related pesticide chemical regulation under 40 CFR 180.3(d)(8); and therefore, EPA is proposing to remove existing paragraph (d)(8).

With the exception of uses on cotton and potatoes, EPA canceled all methamidophos FIFRA section 3 registrations and, with the exception of uses on tomatoes, all section 24(c) regional registrations (62 FR 67071, December 23, 1997) (FRL–5764–2). Because there are no active registrations for uses of either methamidophos or acephate on broccoli, cabbage, cucumber, eggplant, and melon, the associated tolerances in 40 CFR 180.315 are no longer needed and should be revoked. Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.315 on broccoli, cabbage, cucumber, eggplant, and melon. Also, on July 31, 2002 (67 FR 49606)(FRL–7191–4), EPA published a final rule in the **Federal Register** in which it responded to the Canadian Horticultural Council's comment asking that certain tolerances in 40 CFR 180.315, including those on broccoli and cabbage, not be revoked. At that time, the Agency responded that it would not revoke the tolerances on broccoli and cabbage in 40 CFR 180.315, but would follow-up to see that data requirements were met should an interested party support those tolerances for import purposes. However, in the interim period, no interested party has declared an interest and committed in writing to do the required data to support the broccoli and cabbage tolerances for import purposes.

However, because there are registered acephate uses on Brussels sprouts, cauliflower, celery, and head lettuce, EPA is proposing to recodify the tolerances for Brussels sprouts, cauliflower, and lettuce from 40 CFR 180.315(a) into (a)(2) and celery from (b) into (a)(2). Also, in order to reflect active registered use of acephate on head lettuce, EPA is proposing in 40 CFR 180.315(a)(2) to revise ''lettuce'' to ''lettuce, head.'' In addition, because there is an existing tolerance for acephate use on cauliflower, which has been reassessed in the acephate RED at the same level, such that residues from metabolism to methamidophos are expected to be no greater than 0.5 parts per million (ppm), EPA is proposing to decrease the tolerance on cauliflower in 40 CFR 180.315(a)(2) from 1.0 to to 0.5 ppm. Also, this proposed level will harmonize with the Codex MRL of 0.5 mg/kg on cauliflower.

At the time of the completion of the methamidophos IRED, a registrant submitted an import tolerance petition for peppers, strawberries, and squash. This petition has not been reviewed. Because there is an existing tolerance for acephate use on peppers, which in the acephate RED has been reassessed at the same level, such that residues from metabolism to methamidophos are expected to be no greater than 1.0 ppm, EPA is proposing to recodify the tolerance on pepper from 40 CFR 180.315(a) to (a)(2) at 1.0 ppm. Also, this proposed level will harmonize with the Codex MRL of 1.0 mg/kg on sweet peppers.

Because there are registered methamidophos uses on potato, EPA is proposing to recodify the tolerance at 0.1 ppm on potato from 40 CFR 180.315(a) into (a)(1). There is a Codex MRL of 0.05 ppm on potato, but harmonization is not possible because of differences in agricultural practices.

Based on available data that showed methamidophos residues as high as 0.191 ppm on cottonseed, EPA determined that the tolerance on cottonseed should be increased from 0.1 to 0.2 ppm. Therefore, the Agency is proposing to recodify the tolerance on cotton, undelinted seed from 40 CFR 180.315(a) to (a)(1) and increase the tolerance to 0.2 ppm. The Agency determined that the increased tolerance is safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue. Also, this proposed level will harmonize with the Codex MRL of 0.2 mg/kg on cottonseed.

Based on available data that showed methamidophos residues as high as 8.03 ppm on cotton gin byproducts, EPA determined that a tolerance on cotton gin byproducts should be established at 10.0 ppm. Therefore, the Agency is proposing to establish a tolerance on cotton, gin byproducts in 40 CFR 180.315(a)(1) at 10.0 ppm.

Based on available data that showed methamidophos residues as high as 1.4 ppm on tomatoes, EPA determined that the tolerance on tomato should be increased from 1.0 to 2.0 ppm. Because there are only active FIFRA section 24(c) registrations for use of methamidophos on tomatoes and no active registrations for use of acephate on tomatoes, the Agency has determined that the tolerance should be recodified as a regional tolerance. Therefore, the Agency is proposing to recodify 40 CFR 180.315(b) as (c) and the tolerance on tomato from 40 CFR 180.315(a) to (c), and increase the tolerance to 2.0 ppm. The Agency determined that the increased tolerance is safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue. Also, EPA is proposing to revise the tolerance expression in newly recodified 40 CFR 180.315(c), as follows:

Tolerances with regional registration, as defined in 40 CFR 180.1(m), are established for residues of methamidophos (O,S-dimethyl phosphoramidothioate) in or on the following food commodities as a result of the application of the insecticide methamidophos.

In addition, EPA is proposing to revise 40 CFR 180.315 by adding separate paragraphs (b) and (d), and

reserving those sections for tolerances with section 18 emergency exemptions, and indirect or inadvertent residues, respectively.

Because there are existing tolerances for use of acephate on dry and succulent beans and cranberries, which in the acephate RED have been reassessed at the same level, such that residues from metabolism to methamidophos are expected to be no greater than 1.0 ppm and 0.1 ppm, respectively, EPA is proposing to establish tolerances in 40 CFR 180.315(a)(2) for residues of methamidophos as a result from the application of acephate on bean, dry, seed at 1.0 ppm, bean, succulent at 1.0 ppm, and cranberry at 0.1 ppm.

Because there is an existing tolerance for use of acephate on mint hay, which in the acephate RED has been reassessed to be increased from 15.0 to 27.0 ppm, such that residues from metabolism to methamidophos are expected to be increased from no greater than 1.0 to 2.0 ppm, EPA is proposing to establish a tolerance in 40 CFR 180.315(a)(2) for residues of methamidophos as a result from the application of acephate on mint, hay at 2.0 ppm and revise it to ''peppermint, tops'' and ''spearmint, tops.''

2. *Oxydemeton-methyl*. Currently, the tolerances in 40 CFR 180.330 are expressed for residues of oxydemeton-methyl and its cholinesterase-inhibiting metabolites. Based on the Agency's determination that only residues of oxydemeton-methyl and its metabolite oxydemeton-methyl sulfone are of concern in plants, the tolerances in 40 CFR 180.330 should be recodified for plant commodities from 40 CFR 180.330(a) to (a)(1) and animal commodities from 40 CFR 180.330(a) to (a)(2). Therefore, EPA is proposing to recodify plant tolerances in 40 CFR 180.330(a)(1) and animal tolerances in 40 CFR 180.330(a)(2) and revise the tolerance expression in 40 CFR 180.330 as follows:

(a) *General*. (1) Tolerances are established for the combined residues of the insecticide oxydemeton-methyl (S-(2-(ethylsulfinyl)-ethyl) O,O-dimethyl phosphorothioate) and its metabolite oxydemeton-methyl sulfone in or on the following food commodities.

(2) Tolerances are established for the combined residues of the insecticide oxydemeton-methyl (S-(2-(ethylsulfinyl)-ethyl) O,O-dimethyl phosphorothioate) and its cholinesterase-inhibiting metabolites in or on the following food commodities.

Because certain registered uses have product labels which prohibit harvest within one year of application, so that there is no reasonable expectation of residues on food commodities, the Agency considers them to be nonfood uses of oxydemeton-methyl. As a result, the tolerances in 40 CFR 180.330 for these nonfood uses are no longer needed and should be revoked for apple, apricot, grape, and plum, prune, fresh. Therefore, the Agency is proposing to revoke the tolerances in 40 CFR 180.330(a) on apple, grape, and plum, prune, fresh and in 40 CFR 180.330(c) on apricot.

Because bean, lima, forage; clover, seed screenings; and sorghum milled fractions (except flour) are no longer considered by the Agency to be significant animal feed items, their tolerances in 40 CFR 180.330 are no longer needed and should be revoked. Therefore, the Agency is proposing to revoke the tolerances in 40 CFR 180.330 on bean, lima, forage; clover, seed screenings; and sorghum, milled fractions (except flour).

In 1994, the technical registrant for oxydemeton-methyl (ODM) agreed not to market ODM on snap beans, field corn, popcorn, pears, and turnips but retained them on registrations with the possibility of requesting to reinstate them on marketing labels after EPA's review of needed ODM data and completion of dietary and worker risk assessments. In a letter to the Agency dated February 4, 2004, the technical registrant requested to amend the registrations for both a technical and end-use registration and delete those uses. In the **Federal Register** of November 4, 2005 (70 FR 67167) (FRL–7744–7), EPA published a notice announcing the receipt of requests for amendments to delete uses in certain pesticide registrations, including deletion for ODM use on snap beans, field corn, popcorn, pears, and turnips concerning registrations for one technical and one end use product. That notice had an effective date of December 5, 2005 and allowed the registrant to sell or distribute product under the previously approved labelling for a period of 18 months after approval of the revision. There have been no end use marketing labels for ODM use on these commodities since September 18, 1995. However, there has been one active technical registration with these uses from 1995 through the December 5, 2005 effective date that amended its label. Nevertheless, despite the allowance by EPA that existing stocks for the technical and end use registrations could be sold or distributed by the registrant for 18 months, the Agency believes that no end users have used ODM on snap beans, field corn, popcorn, pears, and turnip commodities since 1995. Therefore, EPA believes that existing stocks of end use product was exhausted years ago and that such ODM treated-snap beans, field corn, popcorn, pears, and turnip commodities passed through channels of trade long ago and that sufficient time has passed. Consequently, EPA is proposing to revoke the tolerances in 40 CFR 180.330 on bean, snap, succulent; bean, snap, forage; corn, grain; pear; turnip; and turnip, greens; all on the date of publication of the final rule.

Based on available data that showed combined oxydemeton-methyl residues of concern as high as 0.9 ppm in or on corn forage, EPA determined that the tolerance on corn forage should be decreased from 3.0 to 1.0 ppm. Therefore, the Agency is proposing in 40 CFR 180.330 to decrease the tolerance on corn, forage to 1.0 ppm and revise it to corn, sweet, forage. No tolerance on field corn forage is needed.

Based on available data that showed combined oxydemeton-methyl residues of concern as high as 9.84 ppm in or on clover hay grown for seed, EPA determined that the tolerance on clover hay grown for seed should be decreased from 11.0 to 10.0 ppm. Therefore, the Agency is proposing in 40 CFR 180.330 to decrease the tolerance on clover, hay, grown for seed to 10.0 ppm and revise it to clover, hay.

Based on available data that showed combined oxydemeton-methyl residues of concern as high as 0.15 ppm in or on lima beans, 0.2 ppm in or on melons, less than 0.1 ppm in or on pumpkins, and less than 0.05 ppm in or on walnuts, EPA determined that the tolerances on lima beans, cottonseed, melons, pumpkins, and walnuts should be decreased from 0.5 to 0.2 ppm, 0.1 to 0.02 ppm, 0.3 to 0.2 ppm, 0.3 to 0.2 ppm, and 0.3 to 0.05 ppm, respectively. Therefore, the Agency is proposing in 40 CFR 180.330 to decrease the tolerances on bean, lima to 0.2 ppm, cotton, undelinted seed to 0.02 ppm, melon to 0.2 ppm, pumpkin to 0.2 ppm, and walnut to 0.05 ppm.

Based on available data that showed combined oxydemeton-methyl residues of concern as high as 1.22 ppm in or on cabbage, EPA determined that the tolerance on cabbage should be increased from 1.0 to 2.0 ppm. Therefore, the Agency is proposing in 40 CFR 180.330 to increase the tolerance on cabbage to 2.0 ppm. The Agency determined that the increased tolerance is safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue. Also, because there is one active FIFRA section 24(c) registration for foliar use of oxydemeton-methyl on broccoli raab, EPA determined that data could be translated from cabbage and broccoli to broccoli raab, and therefore a tolerance

should be established on broccoli raab at 2.0 ppm. Therefore, EPA is proposing to establish a regional tolerance on broccoli raab in 40 CFR 180.330(c) at 2.0 ppm and revise the tolerance expression in 40 CFR 180.330(c) as follows:

(c) Tolerances with regional registrations, as defined in 40 CFR 180.1(m), are established for the combined residues of the insecticide oxydemeton-methyl (S-(2-(ethylsulfinyl)-ethyl) O,O-dimethyl phosphorothioate) and its metabolite oxydemeton-methyl sulfone in or on the following food commodities.

Based on a poultry metabolism study at the 6x feeding level that showed no residues of toxicological concern in poultry commodities and an earlier poultry metabolism study that showed residues were present in eggs and tissues, EPA determined that egg and poultry tolerances should be established at the limit of quantitation (LOQ) of 0.01 ppm. Therefore, the Agency is proposing to establish tolerances in 40 CFR 180.330(a)(2) on egg; poultry, fat; poultry, meat; and poultry, meat byproducts at 0.01 ppm.

Also, EPA is proposing to revise commodity terminology in 40 CFR 180.330 to conform to current Agency practice as follows: ''alfalfa, green'' to ''alfalfa, forage;'' ''alfalfa, hay, grown for seed'' to ''alfalfa, hay;'' ''beet, sugar'' to ''beet, sugar, roots;'' ''corn, stover'' to ''corn, sweet, stover'' (no tolerances are needed on field corn stover or popcorn stover) ''mint, hay'' to ''peppermint, tops'' and ''spearmint, tops;'' ''onion, dry bulb'' to ''onion, bulb;'' ''orange, sweet'' to ''orange;'' ''sorghum, forage'' to ''sorghum, forage, forage'' and ''sorghum, grain, forage;'' ''sorghum, grain'' to ''sorghum, grain, grain.''

There are no Codex MRLs for oxydemeton-methyl.

3. *Profenofos*. Currently, the tolerances in 40 CFR 180.404(a) are expressed for residues of profenofos and its metabolites converted to 4-bromo-2-chlorophenyl and calculated as profenofos. Based on the Agency's determination that only residues of profenofos *per se* are of toxicological concern, the tolerance expression in 40 CFR 180.404 should be revised to reflect that profenofos *per se* is the only regulated residue. Therefore, EPA is proposing to revise the tolerance expression in 40 CFR 180.404(a) as follows:

(a) *General*. Tolerances are established for residues of the insecticide profenofos (O-(4-bromo-2-chlorophenyl)-O-ethyl-S-propyl phosphorothioate) in or on the following food commodities.

Based on available data that showed profenofos residues were as high as 1.1 ppm on cottonseed, EPA determined that the tolerance should be decreased from 3.0 to 2.0 ppm. Therefore, the Agency is proposing to decrease the tolerance in 40 CFR 180.404 on cotton, undelinted seed to 2.0 ppm. Also, this proposed level will harmonize with the Codex MRL of 2 mg/kg on cottonseed.

Based on available data that showed profenofos residues as high as 53 ppm, EPA determined that a tolerance of 55.0 ppm should be established for cotton gin byproducts. Therefore, the Agency is proposing to establish a tolerance in 40 CFR 180.404 for the residues of profenofos on cotton, gin byproducts at 55.0 ppm.

4. *Trichlorfon*. There are no active registrations for the use of the insecticide trichlorfon for cattle commodities in the United States. However, trichlorfon is used as a dermal pour-on application for cattle for import purposes. Based on cattle metabolism data from dermal application of trichlorfon which showed residues of trichlorfon as high as 0.2 ppm in muscle and less than 0.5 ppm in fat, EPA determined that the tolerances on cattle meat and cattle fat should be increased from 0.1 ppm to 0.2 ppm and 0.1 to 0.5 ppm, respectively. Therefore, EPA is proposing in 40 CFR 180.198 to increase the tolerances on cattle, meat to 0.2 ppm and cattle, fat to 0.5 ppm. The Agency determined that the increased tolerances are safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue. Dichlorvos is a degradate of trichlorfon. However, as stated in the 2006 Dichlorvos RED, non-detectable dichlorvos residues in livestock commodities are expected as a result of trichlorfon use, and dichlorvos was not a significant metabolite in the trichlorfon dermal metabolism data. Therefore, dietary (food) exposure to dichlorvos residues resulting from use of trichlorfon is considered by the Agency to be negligible.

Also, in 40 CFR 180.198, EPA is proposing to remove the ''(N)'' designation from all entries to conform to current Agency administrative practice, where the ''(N)'' designation means negligible residues. In addition, in order to conform to current Agency practice, EPA is proposing to revise 40 CFR 180.198 and establish subparts (a) through (d), recodify general tolerances under 40 CFR 180.198(a) and reserve sections (b) for tolerances with section 18 emergency exemptions, (c) for regional registrations, and (d) for indirect or inadvertent residues.

There are no Codex MRLs for trichlorfon.

B. What is the Agency's Authority for Taking this Action?

A ''tolerance'' represents the maximum level for residues of pesticide chemicals legally allowed in or on raw agricultural commodities and processed foods. Section 408 of FFDCA, 21 U.S.C. 346a, as amended by the FQPA of 1996, Public Law 104–170, authorizes the establishment of tolerances, exemptions from tolerance requirements, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods. Without a tolerance or exemption, food containing pesticide residues is considered to be unsafe and therefore ''adulterated'' under section 402(a) of the FFDCA, 21 U.S.C. 342(a). Such food may not be distributed in interstate commerce (21 U.S.C. 331(a)). For a food-use pesticide to be sold and distributed, the pesticide must not only have appropriate tolerances under the FFDCA, but also must be registered under FIFRA (7 U.S.C. 136 *et seq.*). Food-use pesticides not registered in the United States must have tolerances in order for commodities treated with those pesticides to be imported into the United States.

EPA is proposing these tolerance actions in follow-up to the tolerance recommendations made during the reregistration and tolerance reassessment processes (including follow-up on canceled or additional uses of pesticides). The safety finding determination under section 408 of the FFDCA standard is discussed in detail in each Post-FQPA RED and TRED for the active ingredient. REDs and TREDs recommend the implementation of certain tolerance actions, including modifications to reflect current use patterns, to meet safety findings, and change commodity names and groupings in accordance with new EPA policy. Printed and electronic copies of the REDs and TREDs are available as provided in Unit II.A.

EPA has issued post-FQPA REDs for methamidophos, oxydemeton-methyl, and profenofos, and a TRED for trichlorfon, whose RED was completed prior to FQPA. REDs and TREDs contain the Agency's evaluation of the data base for these pesticides, including requirements for additional data on the active ingredients to confirm the potential human health and environmental risk assessments associated with current product uses, and in REDs state conditions under which these uses and products will be eligible for reregistration. The REDs and TREDs recommended the establishment,

modification, and/or revocation of specific tolerances. RED and TRED recommendations such as establishing or modifying tolerances, and in some cases revoking tolerances, are the result of assessment under the FFDCA standard of ''reasonable certainty of no harm.'' However, tolerance revocations recommended in REDs and TREDs that are proposed in this document do not need such assessment when the tolerances are no longer necessary.

EPA's general practice is to propose revocation of tolerances for residues of pesticide active ingredients on crops for which FIFRA registrations no longer exist and on which the pesticide may therefore no longer be used in the United States. EPA has historically been concerned that retention of tolerances that are not necessary to cover residues in or on legally treated foods may encourage misuse of pesticides within the United States. Nonetheless, EPA will establish and maintain tolerances even when corresponding domestic uses are canceled if the tolerances, which EPA refers to as ''import tolerances,'' are necessary to allow importation into the United States of food containing such pesticide residues. However, where there are no imported commodities that require these import tolerances, the Agency believes it is appropriate to revoke tolerances for unregistered pesticides in order to prevent potential misuse.

Furthermore, as a general matter, the Agency believes that retention of import tolerances not needed to cover any imported food may result in unnecessary restriction on trade of pesticides and foods. Under section 408 of the FFDCA, a tolerance may only be established or maintained if EPA determines that the tolerance is safe based on a number of factors, including an assessment of the aggregate exposure to the pesticide and an assessment of the cumulative effects of such pesticide and other substances that have a common mechanism of toxicity. In doing so, EPA must consider potential contributions to such exposure from all tolerances. If the cumulative risk is such that the tolerances in aggregate are not safe, then every one of these tolerances is potentially vulnerable to revocation. Furthermore, if unneeded tolerances are included in the aggregate and cumulative risk assessments, the estimated exposure to the pesticide would be inflated. Consequently, it may be more difficult for others to obtain needed tolerances or to register needed new uses. To avoid potential trade restrictions, the Agency is proposing to revoke tolerances for residues on crops uses for which FIFRA registrations no longer exist, unless someone expresses a need for such tolerances. Through this proposed rule, the Agency is inviting individuals who need these import tolerances to identify themselves and the tolerances that are needed to cover imported commodities.

Parties interested in retention of the tolerances should be aware that additional data may be needed to support retention. These parties should be aware that, under FFDCA section 408(f), if the Agency determines that additional information is reasonably required to support the continuation of a tolerance, EPA may require that parties interested in maintaining the tolerances provide the necessary information. If the requisite information is not submitted, EPA may issue an order revoking the tolerance at issue.

EPA has developed guidance concerning submissions for import tolerance support (65 FR 35069, June 1, 2000) (FRL–6559–3). This guidance will be made available to interested persons. Electronic copies are available on the internet at *http://www.epa.gov/*. On the Home Page select ''Laws, Regulations, and Dockets,'' then select Regulations and Proposed Rules and then look up the entry for this document under ''**Federal Register**—Environmental Documents.'' You can also go directly to the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

When EPA establishes tolerances for pesticide residues in or on raw agricultural commodities, consideration must be given to the possible residues of those chemicals in meat, milk, poultry, and/or eggs produced by animals that are fed agricultural products (for example, grain or hay) containing pesticides residues (40 CFR 180.6). When considering this possibility, EPA can conclude that:

1. Finite residues will exist in meat, milk, poultry, and/or eggs.

2. There is a reasonable expectation that finite residues will exist.

3. There is a reasonable expectation that finite residues will not exist. If there is no reasonable expectation of finite pesticide residues in or on meat, milk, poultry, or eggs, tolerances do not need to be established for these commodities (40 CFR 180.6(b) and (c)).

EPA has evaluated certain specific meat, milk, poultry, and egg tolerances proposed for revocation in this rule and has concluded that there is no reasonable expectation of finite pesticide residues of concern in or on those commodities.

C. When do These Actions Become Effective?

EPA is proposing that the actions herein become effective on the date of publication of the final rule in the **Federal Register**, because their associated uses have been canceled for several years. The Agency believes that existing stocks of pesticide products labeled for the uses associated with the tolerances proposed for revocation have been completely exhausted and that treated commodities have had sufficient time for passage through the channels of trade. However, if EPA is presented with information that existing stocks would still be available and that information is verified, the Agency will consider extending the expiration date of the tolerance. If you have comments regarding existing stocks and whether the effective date allows sufficient time for treated commodities to clear the channels of trade, please submit comments as described under **SUPPLEMENTARY INFORMATION**.

Any commodities listed in this proposal treated with the pesticides subject to this proposal, and in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(1)(5), as established by FQPA. Under this section, any residues of these pesticides in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of the Food and Drug Administration that:

1. The residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA, and

2. The residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from tolerance. Evidence to show that food was lawfully treated may include records that verify the dates when the pesticide was applied to such food.

III. Are the Proposed Actions Consistent with International Obligations?

The tolerance actions in this proposal are not discriminatory and are designed to ensure that both domestically produced and imported foods meet the food safety standards established by the FFDCA. The same food safety standards apply to domestically produced and imported foods.

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the

international Maximum Residue Limits (MRLs) established by the Codex Alimentarius Commission, as required by section 408(b)(4) of the FFDCA. The Codex Alimentarius is a joint U.N. Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, section 408(b)(4) of FFDCA requires that EPA explain the reasons for departing from the Codex level in a notice published for public comment. EPA's effort to harmonize with Codex MRLs is summarized in the tolerance reassessment section of individual REDs and TREDs, and in the Residue Chemistry document which supports the RED and TRED, as mentioned in Unit II.A. Specific tolerance actions in this rule and how they compare to Codex MRLs (if any) are discussed in Unit II.A.

IV. Statutory and Executive Order Reviews

In this proposed rule, EPA is proposing to establish tolerances under FFDCA section 408(e), and also modify and revoke specific tolerances established under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions (e.g., establishment and modification of a tolerance and tolerance revocation for which extraordinary circumstances do not exist) from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this proposed rule has been exempted from review under Executive Order 12866 due to its lack of significance, 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). This proposed rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether establishment of tolerances, exemptions from tolerances, raising of tolerance levels, expansion of exemptions, or revocations might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. These analyses for tolerance establishments and modifications, and for tolerance revocations were published on May 4, 1981 (46 FR 24950) and on December 17, 1997 (62 FR 66020), respectively, and were provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, and available information concerning the pesticides listed in this proposed rule, the Agency hereby certifies that this proposed action will not have a significant negative economic impact on a substantial number of small entities. In a memorandum dated May 25, 2001, EPA determined that eight conditions must all be satisfied in order for an import tolerance or tolerance exemption revocation to adversely affect a significant number of small entity importers, and that there is a negligible joint probability of all eight conditions holding simultaneously with respect to any particular revocation. (This Agency document is available in the docket of this proposed rule). Furthermore, for the pesticide named in this proposed rule, the Agency knows of no extraordinary circumstances that exist as to the present proposal that would change the EPA's previous analysis. Any comments about the Agency's determination should be submitted to the EPA along with comments on the proposal, and will be addressed prior to issuing a final rule. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This proposed rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this proposed rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This proposed rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this proposed rule.

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 16, 2007.

Debra Edwards,

Director, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR chapter I be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

§180.3 [Amended]

2. Section 180.3 is amended by removing paragraph (d)(8) and redesignationg paragraphs (d)(9) through (d)(14) as paragraphs (d)(8) through (d)(13).

3. Section 180.198 is revised to read as follows:

§180.198 Trichlorfon; tolerances for residues.

(a) *General*. Tolerances are established for residues of the insecticide trichlorfon (dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate) in or on the following food commodities:

Commodity	Parts per million
Cattle, fat [1]	0.5
Cattle, meat [1]	0.2
Cattle, meat byproducts [1]	0.1

[1]There are no U.S. registrations for cattle commodities as of June 24, 1999.

(b) *Section 18 emergency exemptions*. [Reserved]

(c) *Tolerances with regional registrations*. [Reserved]

(d) *Indirect or inadvertent residues*. [Reserved]

4. Section 180.315 is revised to read as follows:

§180.315 Methamidophos; tolerances for residues.

(a) *General*. (1) Tolerances are established for residues of methamidophos (O,S-dimethyl phosphoramidothioate) in or on the following food commodities as a result of the application of the insecticide methamidophos.

Commodity	Parts per million
Cotton, gin byproducts	10.0
Cotton, undelinted seed	0.2
Potato	0.1

(2) Tolerances are established for residues of methamidophos (O,S-dimethyl phosphoramidothioate) in or on the following food commodities as a result of the application of the insecticide acephate.

Commodity	Parts per million
Bean, dry, seed	1.0
Bean, succulent	1.0
Brussels sprouts	1.0
Cauliflower	0.5
Celery	1.0
Cranberry	0.1
Lettuce, head	1.0
Pepper	1.0
Peppermint, tops	2.0
Spearmint, tops	2.0

(b) *Section 18 emergency exemptions*. [Reserved]

(c) *Tolerances with regional registrations*. Tolerances with regional registration, as defined in 180.1(m), are established for residues of methamidophos (O,S-dimethyl phosphoramidothioate) in or on the following food commodities as a result of the application of the insecticide methamidophos.

Commodity	Parts per million
Tomato	2.0

(d) *Indirect or inadvertent residues*. [Reserved]

5. Section 180.330 is revised to read as follows:

§180.330 S-(2-(Ethylsulfinyl)ethyl) O,O-dimethyl phosphorothioate; tolerances for residues.

(a) *General*. (1) Tolerances are established for the combined residues of the insecticide oxydemeton-methyl (S-(2-(ethylsulfinyl)-ethyl) O,O-dimethyl phosphorothioate) and its metabolite oxydemeton-methyl sulfone in or on the following food commodities:

Commodity	Parts per million
Alfalfa, forage	5.0
Alfalfa, hay	11.0
Bean, lima	0.2
Beet, sugar, roots	0.3
Beet, sugar, tops	0.5
Broccoli	1.0
Brussels sprouts	1.0
Cabbage	2.0
Cauliflower	1.0
Clover, forage	5.0
Clover, hay	10.0
Corn, sweet, forage	1.0
Corn, sweet, kernel plus cob with husks removed	0.5
Corn, sweet, stover	3.0
Cotton, undelinted seed	0.02
Cucumber	1.0
Eggplant	1.0
Filbert	0.05
Grapefruit	1.0
Lemon	1.0
Lettuce, head	2.0
Melon	0.2
Onion, bulb	0.05
Orange	1.0
Pepper	0.75
Peppermint, tops	12.5
Pumpkin	0.2
Safflower, seed	1.0
Sorghum, forage, forage	2.0
Sorghum, grain, forage	2.0
Sorghum, grain, grain	0.75
Spearmint, tops	12.5
Squash, summer	1.0
Squash, winter	0.3
Strawberry	2.0
Walnut	0.05

(2) Tolerances are established for the combined residues of the insecticide oxydemeton-methyl (S-(2-(ethylsulfinyl)-ethyl) O,O-dimethyl phosphorothioate) and its cholinesterase-inhibiting metabolites in or on the following food commodities.

Commodity	Parts per million
Cattle, fat	0.01
Cattle, meat	0.01
Cattle, meat byproducts	0.01
Egg	0.01
Goat, fat	0.01
Goat, meat	0.01
Goat, meat byproducts	0.01
Hog, fat	0.01
Hog, meat	0.01
Hog, meat byproducts	0.01
Horse, fat	0.01
Horse, meat	0.01
Horse, meat byproducts	0.01
Milk	0.01
Poultry, fat	0.01
Poultry, meat	0.01
Poultry, meat byproducts	0.01
Sheep, fat	0.01
Sheep, meat	0.01
Sheep, meat byproducts	0.01

(b) *Section 18 emergency exemptions*. [Reserved]

(c) *Tolerances with regional registrations*. Tolerances with regional registrations, as defined in 180.1(m), are established for the combined residues of the insecticide oxydemeton-methyl (S-(2-(ethylsulfinyl)-ethyl) O,O-dimethyl phosphorothioate) and its metabolite oxydemeton-methyl sulfone in or on the following food commodities:

Commodity	Parts per million
Broccoli raab	2.0

(d) *Indirect or inadvertent residues*. [Reserved]

6. Section 180.404, paragraph (a) is revised to read as follows:

§180.404 Profenofos; tolerances for residues.

(a) *General*. Tolerances are established for residues of the insecticide profenofos (O-(4-bromo-2-chlorophenyl)-O-ethyl-S-propyl phosphorothioate) in or on the following food commodities:

Commodity	Parts per million
Cattle, fat	0.05

Commodity	Parts per million
Cattle, meat	0.05
Cattle, meat byproducts	0.05
Cotton, gin byproducts	55.0
Cotton, undelinted seed	2.0
Goat, fat	0.05
Goat, meat	0.05
Goat, meat byproducts	0.05
Horse, fat	0.05
Horse, meat	0.05
Horse, meat byproducts	0.05
Milk	0.01
Sheep, fat	0.05
Sheep, meat	0.05
Sheep, meat byproducts	0.05

* * * * *

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2006–0766; FRL–8126–1]

[RIN 2070–AJ28]

Pesticide Tolerance Crop Grouping Program; Proposed Expansion

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing revisions to its pesticide tolerance crop grouping regulations, which allow establishment of tolerances for multiple related crops, based on data from a representative set of crops. The present revision would create a new crop group for edible fungi (mushrooms), expand existing crop groups by adding new commodities, establish new crop subgroups, and revise the representative crops in some groups. Additionally, EPA is revising the generic crop group regulation to add a subsection explaining how the Agency will implement revisions to crop groups. EPA expects these revisions to promote greater use of crop groupings for tolerance-setting purposes and, in particular, will assist in retaining or making available pesticides for minor crop uses. This is the first in a series of planned crop group updates expected to be proposed over the next several years.

DATES: Comments must be received on or before July 23, 2007.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2006–0766, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2006–0766. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website 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 regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket 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, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Ramè Cromwell, Field and External Affairs Division, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9068; fax number: (703) 305–5884; e-mail address: *cromwell.rame@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS code 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS code 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *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:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date, and page number).

ii. 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.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. Tolerance-Setting Requirements and Petition from USDA IR-4 Program to Expand the Existing Crop Grouping System

EPA is authorized to establish tolerances for pesticide chemical residues in food under section 408 of the Federal Food, Drug and Cosmetic Act (FFDCA) (21 U.S.C. 346a). EPA establishes tolerances for each pesticide based on the potential risks to human health posed by that pesticide. A tolerance is the maximum permissible residue level established for pesticides in raw agricultural produce and processed foods. Tolerances are observed carefully by growers, pesticide users, processors, and food marketers. Food that contains residues of a pesticide for which there is no tolerance is considered to be adulterated. The U.S. Food and Drug Administration and the U.S. Department of Agriculture together enforce the EPA's tolerance limits. Adulterated food is not permitted in commerce.

To establish a tolerance, a petition is submitted to the Agency requesting the tolerance and furnishing information on the chemical identity and composition of the pesticide, its use pattern on the crop, toxicity data, and extensive residue data on the nature of the residue and the residue levels resulting from the proposed use pattern. The residue chemistry data requirements (40 CFR 158.240) have been identified as a limiting factor in making pesticide licensing and tolerance decisions for minor crops. This is particularly critical for low acreage minor crops where the expense and time investment for satisfying the residue chemistry requirements may preclude a registrant from petitioning the Agency for an individual crop tolerance for that use. A tolerance may be proposed for an individual commodity such as oranges or lemons, or for a group of related commodities in a crop group such as the citrus crop group.

The crop grouping regulations (40 CFR 180.41) enables the establishment of tolerances for a group of crops based on residue data for certain crops that are representative of the group. The crop grouping concept leads to an estimate of maximum level of residue that could occur on any crop within the group. The minimum data required for a group tolerance consists of residue data for all representative commodities for a group. For example, for Crop Group 12 the stone fruits group, the representative commodities are sweet cherry or tart cherry; peach; and plum or fresh prune (*Prunus domestica, Prunus* spp.). Crop group 12 includes the following commodities: Apricot; cherry; cherry, tart; nectarine; peach; plum; plum, chickasaw; plum, damsom; plum, Japanese; plumcot; prune (fresh). Once the group tolerance is established, the tolerance level applies to all agricultural commodities within the group. It is also possible to request a crop group tolerance with a particular member of the crop excluded. An example of exclusion to a crop group would be a tolerance for the Stone Fruit group 12, except peach. In this crop group residue data for cherry and plum are used to establish a group tolerance for the stone fruit group except peach.

This proposed rule builds on a related crop grouping system initially established via regulation on December 6, 1962 (27 FR 12100). That initial crop grouping scheme has been subsequently replaced and improved upon on two separate occasions (June 29, 1983 (48 FR 29855) and May 17, 1995 (60 FR 26626)). The May 1995 amendments established the current crop grouping scheme and presented the crop groups in tables. Subgroups were also created for 8 of the 19 crop groups, new commodities were added to existing groups and some representative commodities were revised. This provided petitioners with more flexibility in obtaining supporting residue data. During the rulemaking process for the 1995 amendments, EPA received comments requesting the inclusion of additional crop groups in the crop grouping scheme for crops such as oil seed crops, subtropical fruits, and tropical fruits. Those proposed changes were determined to be beyond the scope of the 1995 rulemaking. Nonetheless, EPA welcomed the opportunity to evaluate additional crop group and subgroup proposals submitted by interested parties for future consideration.

In 2002, a nation wide cooperative effort called the USDA Inter-regional Research Project No.4 (IR-4), along with the governments of Canada and Mexico held the first International Crop Grouping Symposium. One conclusion from the symposium was that EPA's crop group regulation should be updated to incorporate more than 500 ''orphan crops'' (both domestic and imported) which are not currently members of a crop group. The symposium also recommended that many of the existing crop groups in the crop group regulation be revised to facilitate harmonization of crop groups and simplification of commodity terminology for establishing Maximum Residue Levels (MRLs) internationally. The full proceedings from this symposium are available at *http://www.ir4.rutgers.edu/Other/USDACropGroupingSymposium.pdf.*

The International Crop Groupings Consulting Committee (ICGCC) was subsequently convened and is presently composed of over 180 crop, agrichemical and regulatory experts representing more than 40 countries, including the United States, Canada and the European Union (EU) members. The goal of the ICGCC is to harmonize international crop groupings and to that end, involves NAFTA. At the request of IR-4, the ICGCC reviews proposals for revised or new crop groups and develops crop petitions to submit to the EPA. The review process is conducted by an ICGCC workgroup which validates the crop group, subgroup, and commodities (including adding or deleting commodities), and provides

commodity information including cultural, nutritional, and medicinal information. The group makes MRL comparisons with Codex and EU crop classification and evaluates world production on relevant commodities. Within this process, growers and commodity experts provide valuable input on commodities and international members provide specific information on the commodities grown in their countries and regions which provides perspectives on harmonization approaches. The ICGCC prepares commodity monographs for each specific crop group as well as information tables for crop group comparison. The draft crop grouping petition is then examined by the workgroup and the final petition is submitted by USDA IR-4 to EPA for analysis.

Today's proposal is based upon three petitions developed by the ICGCC workgroup and submitted to EPA by IR-4. These petitions and the monographs supporting them have been included in the docket for the proposed rule. EPA expects that a series of additional petitions seeking amendments and changes to the crop groupings regulations (40 CFR 180.41) will originate from the ICGCC workgroup over the next few years.

EPA believes that this proposal is a burden-reducing regulation. It will provide for greater sharing of data by permitting the results from magnitude of residue field trial studies in one crop to be applied to other similar crops. The primary beneficiaries are minor crop producers and consumers. Minor crop producers will benefit because lower registration costs will encourage more products to be registered on minor crops, providing additional tools for pest control. Consumers are expected to benefit by having more affordable and abundant food products available. Secondary beneficiaries are pesticide registrants. Expanded markets for pesticide products will lead to increased sales. EPA's position is that data from representative crops will not underestimate the public exposure to pesticide residues through the consumption of treated crops. The IR-4 Project and EPA, which are publicly funded Federal government entities, will also more efficiently use some resources as a result of the rule. Revisions to the crop grouping scheme will result in no appreciable costs or negative impacts to consumers, minor crop producers, pesticide registrants, the environment, or human health. There is also a growing international need for harmonizing crop groupings as the benefits of work sharing become more apparent.

B. International Considerations

1. *NAFTA partner involvement in this proposal.* EPA's Chemistry Science Advisory Council (ChemSAC), an internal Agency peer review committee, provided a detailed analysis for each proposed crop group to Canada's Pest Management Regulatory Agency (PMRA), IR-4, and the government of Mexico for their review and comment and invited these parties to participate in the ChemSac meeting to finalize the report.

EPA scientists will present the amended crop grouping to PMRA's Science Management Committee (SMC) for their evaluation. EPA will provide a ''reviewer's guide'' describing the crop grouping amendments and explaining how to express the changes to the crop group in the **Federal Register** to IR-4 and PMRA in support of implementation and to inform the regulatory community.

2. *Relationship of this proposal to Codex activities.* In 2004 and 2005, Canada and the U.S. Codex delegation discussed possible opportunities that a linkage of the USDA IR-4 crop group initiative with ongoing limited revisions of the Codex system of Classification of Foods and Animal Feeds could bring to harmonizing MRL recommendations. In December 2005, the NAFTA TWG executive agreed that the United States and Canada should work together to advance incorporation of U.S. and Canadian bilateral activities on crop groups into the CCPR Codex work. Involvement by NAFTA TWG member countries in the Codex process will facilitate the adoption of the ICGCC crop groups, thereby providing a mechanism for developing residue data using representative crops at the international level. Standardization of commodity terminology within the global context and the adoption of Codex MRLs representative of the ICGCC Crop Groups will greatly facilitate international guideline harmonization. As a result of these efforts, minor crop growers will have easier access to crop protection tools by an improved extrapolation from representative crops to other crops in the same crop group, while a broader harmonization will minimize impediments to trade.

EPA believes that NAFTA partners will pursue such programmatic changes. PMRA will in parallel undertake to follow its procedures under the authority of Canada's Pest Control Products (PCP) Act (2002) to publish its regulatory directives. These regulatory documents will be used to update the Residue Chemistry Guidelines of each NAFTA member country. Once the new or updated crop groups become effective in the United States, Mexico will have them as a reference for the establishment of maximum residue limits in Mexico.

III. Specific Proposed Revisions

This section explains the proposed revisions to the crop group regulations.

A. Phasing out Pre-existing Crop Groups

Amending pre-existing crop groups may result in uncertainty as to the status of crop group tolerances established prior to such an amendment as well as confusion in distinguishing between groups established before and after the amendment. This problem is particularly acute when the amendment adds or removes commodities from the coverage of the crop group. To avoid potential confusion, EPA is proposing to amend the generic crop group regulations to include an explicit scheme for how revised crop groups will be organized in the regulations.

In brief, EPA is proposing that, when a crop group is amended in a manner that expands or contracts its coverage of commodities, EPA will (1) retain the pre-existing crop group in § 180.41; (2) insert the revised crop group immediately after the pre-existing crop group in the CFR; and (3) title the revised crop group in a way that clearly differentiates it from the pre-existing crop group.

Under the proposed nomenclature the revised crop group will retain roughly the same name and number as the pre-existing group except that the number will be followed by a hyphen and the final two digits of the year it is established. For example, today EPA is proposing to revise Crop Group 3: Bulb Vegetables (*Allium* spp.) Group. The revised group will be titled Crop Group 3-07: Bulb Vegetables Group. Dropping ''(*Allium* spp.)'' reflects the revised character of the group.

Where additions to a crop group make the pre-existing crop group name misleading, EPA will amend the name as well as the number. For example, today EPA is proposing to revise Crop Group 13: Berries Group. The revised group will be titled Crop Group 13-07: Berries and Small Fruit Group. This change is necessary because of the addition of commodities to this group.

Tolerances established for revised crop groups will include the new number (and new name, if applicable) so that it is apparent on the face of the tolerance regulation what commodities are covered. Similarly, it will be clear what tolerances for pre-existing crop

groups are covered since these existing tolerance regulations use the pre-existing crop group names.

Although EPA will initially retain pre-existing crop groups that have been superceded by revised crop groups, EPA will not establish new tolerances under the pre-existing groups. Further, EPA plans to eventually convert tolerances for any pre-existing crop groups to tolerances with the coverage of the revised crop group. This conversion will be effected both through the registration review process and in the course of preparing new risk assessments for a pesticide. To this end, EPA requests that petitioners for tolerances address this issue in their petitions. For example, assuming EPA adopts the amendment to Crop Group 3: Bulb Vegetables (*Allium* spp.) Group, any tolerance petition for a pesticide that has a Group 3 tolerance should include a request that the Group 3 tolerance be amended to a Group 3-07 tolerance, since the representative commodities are equivalent. When all crop group tolerances for a superceded crop group have been revised or removed, EPA will remove the superceded group from § 180.41.

B. Group 3-07: Bulb Vegetables Group

EPA is proposing to revise the bulb vegetables crop group in the following manner. EPA will retain the pre-existing Crop Group 3 and title the revised group as Crop Group 3-07.

1. *Add commodities*. EPA proposes to amend the existing Crop Group 3 from 7 to 25 commodities. The existing crop group consists of the following seven commodities: (1) Garlic (*Allium sativum L. var.sativum*); (2) Garlic, great-headed (elephant) (*Allium ampeloprasm L. var ampleloprasum*); (3) Leek (*Alliumporrum L.*); (4) Onion, dry bulb and green, (*Allium cepa L. var. cepa*); (5) Onion, Welsh, (*Allium fistulosm* L.); (6) Shallot, bulb (*Allium cepa var. aggregatum* G. Don); and (7) Shallot, fresh leaves (*Allium cepa var.aggregatum* G. Don).

The 18 commodities EPA proposes to add to the group are: (1) Chive, fresh leaves (*Allium schoenoprasum L.*); (2) Chive, Chinese, fresh leaves (*Allium tuberosum Rottler ex. Spreng.*); (3) Daylily, bulb (*Hemerocallis fulva L.*) (L. var. fulva); (4) Elegans hosta (*Hosta Sieboldiana (Hook) Engl*); (5) Fritillaria, bulb, (*Fritillaria L. fritillary*); (6) Fritillaria, leaves (*Fritillaria L. fritillary*); (7) Garlic, serpent, bulb, (*Allium sativum var. ophioscorodon*); (8) Kurrat (*Allium kurrat Schweinf. ex. K. Kause*) (9) Lady's leek (*Allium cernuum* Roth); (10) Lily, bulb (*Lilium* spp. (*Lilium Leichtlinii var maximowiczii, Lilium lancifolium*)); (11) Onion, Beltsville bunching (*Allium x proliferum* (Moench) Schrad. Ex. Willd); (12) Onion, Chinese, bulb (*Allium chinense* G. Don.); (13) Onion, fresh (*Allium fistulosum L. var. caespitosum Makino*); (14) Onion, macrostem (*Allium macrostemom* Bunge); (15) Onion, pearl (*Allium porrum var. sectivum*); (16) Onion, potato, bulb (*Allium cepa L. var. aggregatum* G. Don); (17) Onion, tree, tops (*Allium x proliferum* (Moench) Schrad. ex. Willd.); and (18) Wild leek (*Allium tricoccum* Aiton).

Commodities are being added to this crop group for several reasons. EPA is now able to place many minor or specialty crops that were considered ''orphan crops'' into an appropriate crop group. The publication of the ''Food and Feed Crops of the United States'' includes over 690 crops and provides the necessary information. Additionally, increased demand for these minor fruits and vegetables by U.S. growers and consumers, particularly immigrants, drives the need for pest control tools and thus the need to group crops. Increasing the variety of available pest control tools for a crop enables U.S. growers to develop integrated pest management programs (IPM), which can minimize pest resistance for these high cash value alternative crops.

2. *Change the names of representative commodities*. EPA proposes to change the names of the representative commodities for the crop group by designating onion, bulb and onion, green as the representative commodities. The representative commodities for the group are currently listed as onion, green and onion dry bulb. This change merely adopts current commodity name designations.

3. *Create crop subgroups*. EPA proposes to add two crop subgroups to the revised crop group. The subgroups are:

i. *Subgroup 3-07-A*. Bulb onion subgroup. *Representative crop*. Onion, bulb. Eleven commodities are included in this subgroup: Daylily, bulb; Fritillaria, bulb; Garlic, bulb; Garlic great-headed, bulb; Garlic, serpent, bulb; Lily, bulb; Onion, bulb; Onion, Chinese, bulb; Onion, pearl; Onion, potato, bulb; Shallot, bulb.

ii. *Subgroup 3-07-B*. Green onion subgroup. *Representative crop*. Onion, green. Fifteen commodities are included in this subgroup: Chive, fresh leaves; Chive, Chinese, fresh leaves; Elegans hosta; Fritillaria, leaves; Kurrat; Lady's leek; Leek; Leek, wild; Onion, Beltsville bunching; Onion, fresh; Onion, green; Onion, macrostem; Onion, tree, tops; Onion, Welsh; Shallots, fresh leaves.

Creation of subgroups provides flexibility in the establishment of crop group tolerances which can be important for international harmonization. EPA has determined that residue data on the designated representative crops will provide adequate information on residue levels in crops and subgroups. This determination is based on similarities in cultural practices, edible food portions (bulb vs. leaves), the fact that none of these crops are used as animal feed items, as well as existing data on residue levels in these crops.

4. *Change the format*. EPA proposes to convert the current narrative format of the existing group to tabular form. This format will make it easier to read and understand.

5. *Change the name*. EPA is proposing to drop the descriptor ''(*Allium* spp.)'' from the name because, commodities not in Allium spp. are now included in the group.

C. Crop Group 13-07: Berry and Small Fruit Group

EPA is proposing to revise and expand the berries crop group in the following manner. EPA will retain pre-existing Crop Group 13 and title the revised group as Crop Group 13-07.

1. *Add commodities*. Crop Group 13 currently contains the following 11 commodities: (1) Blackberries (*Rubus eubatus*); (2) Blueberry, highbush; (3) Blueberry, lowbush (*Vaccinium* spp.); (4) and (5) Currant, black and red(*Ribes nigrum* L., *Ribes rubrum* L.); (6) Elderberry (*Sambucus* spp.); (7) Gooseberry, (*Ribes* spp.); (8) Huckleberry, (*Gaylussacia* spp.); (9) Loganberry (*Rubus loganobaccus* L.H. Bailey); and (10) and (11) Raspberry, black and red (*Rubus cccidentalis* L., *Rubus strigosus* Michx., *Rubusidaeus* L.).

EPA proposes to expand Crop group 13 by adding 36 commodities as follows: (1) Amur River grape (*Vitis amurensis* Rupr (*Vitaceae*)); (2) Aronia berry (*Aronia* spp. (*Rosaceae*)); (3) Bayberry (*Myrica* spp. (*Myricaceae*)) (4) Bearberry (*Arctostaphylos uva-ursi* (L.) Spreng (*Ericaceae*)); (5) Bilberry (*Vaccinium myrtillus* L. (*Ericaceae*)); (6) Buffalo Currant (*Ribes aureum* Pursh. (*Grossulariaceae*)); (7) Buffaloberry (*Shepherdia argentea* (Pursh) Nutt.(*Eleagnaceae*)); (8) Che (*Cudrania tricuspidata* Bur. ex Lavallee (*Moraceae*)); (9) Chilean guava (*Myrtus ugni* Mol. (*Myrtaceae*)); (10) Chokecherry (*Prunus virginiana* L. (*Rosaceae)*); (11) Cloudberry (*Rubus chamaemorus* L. (*Rosaceae*)); (12) Cranberry (*Vaccinium macrocarpon* Aiton (*Ericaceae*)); (13) European barberry (*Berberis vulgaris* L. (*Berberidaceae*)); (14) Grape (*Vitis* spp.

(*Vitaceae*)); (15) Highbush cranberry, (*Viburnum opulus* L. var. *Americanum* Aiton (*Caprifoliaceae)*); (16) Honeysuckle, edible (*Lonicera caerula L. var. emphyllocalyx* Nakai (*Caprifoliaceae*)); (17) Jostaberry (*Ribes x nidigrolaria* Rud. Bauer & A. Bauer. *Grossulariaceae* (*Saxifragaceae*)); (18) Juneberry (including Saskatoon Berry)(*Amelanchier* spp. (*Rosaceae*)); (19) Kiwifruit, fuzzy (*Actinidia deliciosa* (A. Chev.) C.F. Liang & A.R. Ferguson (*Actinidaceae*)); (20) Kiwifruit, hardy (*Actinidia arguta* (Siebold & Zucc.) Planch. Ex Miq (*Actinidaceae*)); (21) Lingonberry (*Vaccinium vitis-idaea* L. (*Ericaceae*)); (22) Maypop (*Passiflora incarnata* L. (*Passifloraceae*)); (23) Mountain Pepper Berries (*Tasmannia lanceolata* (Poir.) A.C. Sm.(*Winteraceae*)); (24) (Mulberry (*Morus* spp. (*Moraceae*)); (25) Muntries (*Kunzea pomifera* F. Muell. (*Myrtaceae*)); (26) (Native currant (*Acrotriche depressa* R. Br. (*Epacridaceae*)); (27) Partridgeberry (*Mitchella repens* L. (*Rubiaceae*)); (28) Phalsa (*Grewia subinaequalis* DC. (*Tiliaceae*)); (29) Pincherry (*Prunus pensylvanica* L. f. (*Rosaceae*)); (30) Riberry (*Syzygium luehmannii (Myrtaceae)*); (31) Salal (*Gaultheria shallon* Pursh (*Ericaceae*)); (32) Schisandra berry (*Schisandra chinensis* (Turcz.) Baill. (*Schisandraceae*)); (33) Sea buckthorn (*Hippophae rhamnoides* L. (*Eleagnaceae)*); (34) Serviceberry (*Sorbus* spp. (*Rosaceae*)); (35) Strawberry (*Fragaria x ananassa* Duchesne, (*Rosaceae*)) and (36) Wild raspberry (*Rubus muelleri* Lefevre ex P.J. Mull (*Rosaceae*)).

The proposed addition of crops to this crop group is based on reasons similar to those for expanding the bulb vegetable group. Additionally, newer varieties of specialty berries and small fruits have become available for grower and homeowner use that were not previously in this crop group. These commodities have similarities in cultural practices, edible food portions (mostly berries) and residue levels.

2. *Change the crop group name*. EPA proposes to change the name of ''Crop Group 13: Berries Group'' to ''Crop Group 13-07: Berry and small fruit group.'' This name change reflects the addition of the new commodities to the group.

3. *Revise the existing subgroups*. EPA is proposing that revised Crop Group 13-07 have two subgroups. Subgroup 13-07-A is similar to existing Subgroup 13-A except that wild raspberry has been added. Wild raspberry, like the other members of this subgroup, is a member of the genus ''*Rubus* spp.,''and the members of this genus have a similar fruit structure and are cultivated as shrubs.

EPA proposes to revise the Bushberry subgroup 13-B by adding 9 additional commodities for a total of 16 as follows in the revised Bushberry subgroup 13-07-B: (1) Aronia berry (2) Blueberry, highbush, and cultivars and/or hybrids of these (3) Blueberry, lowbush (4) Buffalo currant (5) Chilean guava (6) Currrant, black and currant red (7) Elderberry (8) European barberry (9) Gooseberry (10) Highbush cranberry (11) Honeysuckle, edible (12) Huckleberry (13) Jostaberry (14) Native currant (15) Salal (16) Sea Buckthorn.

The crops proposed to be added to this subgroup are all maintained as bushes and all have edible exposed berries. They are all similar in plant biology and cultural practices and are likely to have similar pest problems and the need for pest control products with similar use patterns.

4. *Create new subgroups*. EPA proposes to add six new subgroups to revised Crop Group 13-07 as follows:

i. *Large shrub/tree berry subgroup 13-07-C*. (*Representative commodities*. Elderberry or Mulberry) Bayberry; Buffaloberry; Che; Chokeberry; Elderberry; Juneberry; Mountain pepper berries; Mulberry; Phalsa; Pinchberry; Riberry; Serviceberry.

ii. *Small fruit vine climbing subgroup 13-07-D*. (*Representative commodities*. Grape and Fuzzy kiwifruit) Amur river grape; Gooseberry; Grape; Kiwifruit, fuzzy; Kiwifruit, hardy; Maypop; Schisandra berry.

iii. *Small fruit vine climbing subgroup, except grape 13-07-E*. (*Representative commodity*. Fuzzy kiwifruit) Amur river grape; Gooseberry; Kiwifruit, fuzzy; Kiwifruit, hardy; Maypop; Schisandra berry.

iv. *Small fruit vine climbing subgroup except fuzzy kiwifruit, Grape 13-07-F*. (*Representative commodity*. Grape) Amur river grape; Grape; Kiwifruit, hardy; Maypop; Schisandra berry.

v. *Low growing berry subgroup 13-07-G*. (*Reprensentative commodity*. Strawberry) Bearberry; Bilberry; Blueberry, lowbush; Cloudberry; Cranberry; Lingonberry; Muntries; Partridgeberry; Strawberry.

vi. *Low growing berry subgroup, except strawberry 13-07-H*. (*Representative commodity*. Cranberry) Bearberry; Bilberry; Blueberry, lowbush; Cloudberry; Cranberry; Ligonberry; Muntries; Partridgeberry.

Creation of subgroups provides flexibility in the establishment of crop group tolerances which can be important for international harmonization. EPA has determined that residue data on the designated representative crops will provide adequate information on residue levels in crops and subgroups. This determination is based on similarities in cultural practices, edible food portions, geographical location, the fact that none of these crops are used as animal feed items, as well as existing data on residue levels in these crops.

5. *Revise the representative commodities*. EPA proposes to revise the representative crops for Crop Group 13-07 as follows: ''Any one blackberry or any one raspberry; and blueberry'' will be changed to ''Any one blackberry or any one raspberry; highbush blueberry; elderberry or mulberry; grape; fuzzy kiwifruit; and strawberry.'' As explained above, these commodities are representative of their respective subgroups and thus, in combination with other commodities, are representative of the entire group.

D. New Crop Group 21: Edible Fungi Group

EPA proposes to add a new crop group, entitled Edible Fungi, as Crop Group 21 and to include in this crop group 20 commodities in 12 fungi families. (1) Blewitt (*Lepista nuda*(Bull.:Fr.) Cooke (*Tricholomataceae*)); (2) Bunashimeji (*Hypsizygus marmoreus (Agaricaceae)*); (3) Chinese mushroom (*Volvariella volvacea* (Bull.) Singer (*Pluteaceae*)); (4) Enoke (*Flammulina velutipes* (Curt.) Singer (*Tricholomataceae*)); (5) Hime-Matsutake (*Agaricus blazei* Murill (*Agaricaceae*)); (6) Hirmeola (*Auricularia auricula (Auriculariaceae)*); (7) Maitake (*Grifola frondosa (Polyporaceae)*); (8) Morel (*Morchella* spp. (*Morchellaceae*)); (9) Nameko (*Pholiota nameko, (Strophariaceae)*); (10) Net Bearing (Dictyophora *Dictyophora indusiata (Phallaceae)*); (11) Oyster Mushroom (*Pleurotus ostreatus (Jacq.)* Kummer (*Tricholomataceae*)); (12) Pom Pom (*Hericium erinaceus (Hydnaceae)*); (13) Reishi Mushroom (*Ganoderma lucidum (Leyss. Fr.)* Karst. (*Ganodermataceae*)); (14) Rodmans (Agaricus, *Agaricus bitorquis (Quel.) Saccardo (Agaricaceae)*); (15) Shiitake mushroom (*Lentinula edodes (Berk.) Pegl. (Polyporaceae)*); (16) Shimeji (*Tricholoma conglobatum*, (*Tricholomataceae*)); (17) Stropharia (*Stropharia* spp. (*Strophariaceae*)) (18) Truffle *Tuber* spp. (*Tuberaceae*); (19) White button mushroom (*Agaricus bisporus* (Lange) *Imbach (Agaricaceae*)) and (20) White Jelly fungi (*Tremella fuciformis (Tremellaceae*)).

Edible Fungi Group 21 is proposed based on similarities in cultural edible food portions, residue levels,

geographical locations, pest problems, the fact that none of these crops are used as animal feed items and for international harmonization purposes. All members of this crop group are either grown in indoor structures under very strict environmentally controlled conditions or cultivated outdoors as a crop. This new crop group will have no crop subgroup associated with it. The commodities grown in this proposed crop group are principally grown in other countries. This crop group will provide the opportunity for domestic growers to produce these high value minor crops that are in demand, particularly from immigrant populations in the United States.

EPA proposes to define the representative commodities for the Edible Fungi Group 21 as: ''White button mushrooms and any one oyster mushroom or any one Shiitake mushroom.''

These proposed representative commodities were chosen based on their production and economic importance. The cultural practices, pest problems, and commercial production of the different edible fungi are also similar. Specialty mushrooms, which are expanding in the United States, will be represented by the oyster or shiitake mushroom.

E. Technical Corrections

EPA proposes that the misspelled commodity ''Onion, Welch'' in Crop Group 3 be corrected to ''Onion, Welsh''. This correction will be made in pre-existing Crop Group 3. Additionally, EPA is proposing to list the commodities in pre-existing Crop Group 3 in tabular form. EPA proposes to revise the commodity definitions under 40 CFR 180.1(g) pertaining to onions and adding an entry for garlic to clarify these definitions. The proposed changes are:

- Onion = Bulb onion, green onion, and garlic.
- Onion, bulb = Bulb onion; garlic; great headed garlic; serpent garlic; Chinese onion; pearl onion; potato onion; and shallot, bulb.
- Onion, green = Green onion; chive, fresh leaves; Chinese chive, fresh leaves; Kurrat; lady's leek; leek; wild leek; Beltsville bunching onion; fresh onion; tree onion, tops; welsh; and shallot, fresh leaves.
- Garlic = Garlic, Great headed garlic, and serpent garlic.

EPA proposes to revise the commodity definition in 40 CFR 180.1(g) for caneberries as follows:

- Caneberry = *Rubus* spp. (including blackberry; *Rubus caesius* (youngberry); *Rubus loganbaccus* (loganberry); *Rubus idaeus* (red and black raspberries); and varieties and/or hybrids of these).

This proposed amendment will correct the scientific names to the caneberry commodity definition and update the commodity terminology to conform to the ''EPA Food and Feed Commodity Vocabulary'' rules for commodity terminology.

EPA proposes to establish a new commodity definition in 40 CFR 180.1(g) for raspberry as follows:

Raspberry = *Rubus* spp. (including bababerry, black raspberry, blackcap, caneberry, framboise, frambueso, himbeere, keriberry, mayberry, red raspberry, thimbleberry, tulameen, yellow raspberry, and cultivars and/or hybrids of these).

This proposed commodity definition for raspberry will further clarify the cultivars of raspberry covered in the Caneberry subgroup.

EPA proposes to delete from § 180.41(b) the terms: Mushroom; grape; strawberry, and kiwifruit.

These commodities were listed as not being in a crop group, but are now proposed to become crop group members.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866

Under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), the Office of Management and Budget (OMB) has designated this proposed rule as a not-significant regulatory action under section 3(f) of the Executive Order.

EPA prepared an analysis of the potential costs and benefits associated with this action. This analysis is contained in ''Economic Analysis Proposed Expansion of Crop Grouping Program.'' A copy of the analysis is available in the docket and is briefly summarized here.

This is a burden-reducing regulation. Crop grouping has saved money by permitting the results of pesticide exposure studies for one to be applied to other, similar crops. The regulation exploits the above opportunity for saving money by expanding certain crop groups to include more crops.

The primary beneficiaries of the regulation are minor crop producers and consumers. Specialty crop producers will benefit because lower registration costs will encourage more products to be registered on minor crops, providing additional tools pest control. Consumers will benefit by having a larger supply of imported and domestically produced specialty produce at potentially lower costs. Secondary beneficiaries are pesticide registrants, who benefit because expanded markets for pesticides products will lead to increased sales. The IR-4 Project and EPA, which are publicly funded Federal government entities, will also more efficiently use resources as a result of the rule. EPA will also benefit from broader operational efficiency gains, which result from fewer emergency pesticide use requests from specialty crop growers, the ability to conduct risk assessment based on crop grouping, greater ease of establishing import tolerances, greater capacity to assess risks of pesticides used on crops not grown in the United States, further harmonization of crop classification and nomenclature, harmonized commodity import and export standards and increased potential for resource sharing between EPA and other pesticide regulatory agencies. Revisions to the crop grouping program will result in no appreciable costs or negative impacts to consumers, specialty crop producers, pesticide registrants, the environment or human health.

Benefits of the proposed rule can be shown through an example of the impact of the proposed changes to Crop Group 3. The proposed rule expands Crop Group 3, Bulb Vegetables from 7 to 25 crops, an increase of 18 from the original crop group. The addition of these crops would greatly increase the efficiency of IR-4 and EPA in registering pesticides on specialty crops. Assuming that the crops added to the crop group require only one field trial to be granted a stand-alone registration (grown on a regional basis and few acres), to accomplish the same result without expanding Crop Group 3 would require 18 field trials, at a cost of $5.4 million ($300,000 per field trial) and the administrative costs of both the IR-4 testing process and the EPA review process. In addition, specialty crop producers will potentially gain access to important pest control tools on 18 bulb vegetable crops, consumers will benefit from the potential for a cheaper, more abundant and varied supply of bulb vegetables, and pesticide registrants will potentially enjoy greater sales.

B. Paperwork Reduction Act

This action does not contain any new information collection requirements that would need approval by OMB under the provisions of the Paper Reduction Act (PRA), 44 U.S.C. 3501 *et seq.* However, the proposed rule is expected to reduce mandatory paperwork due to a reduction in required studies. The proposed rule will have the effect of reducing the number of residue

chemistry studies because fewer representative crops would need to be tested under a crop grouping scheme, than it would otherwise be required.

EPA is interested in your comments on the estimated reductions as presented in the Economic Analysis prepared for this proposed rule. Direct your comments to EPA using the public docket that has been established for this proposed rule as described in **ADDRESSES**. The Agency will consider and address comments received as it develops the final rule.

C. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, the Agency hereby certifies that this rule will not have a significant adverse economic impact on a substantial number of small entities. This proposed rule does not have any direct adverse impacts on small businesses, small non-profit organizations, or small local governments.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business according to the small business size standards established by the Small Business Administration (SBA); (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.

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 on of the proposed rule on small entities'' (5 U.S.C. sections 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 effects on all of the small entities subject to the rule.

This proposed action provides regulatory relief and regulatory flexibility because the new or expanded crop groups ease the process for pesticide manufacturers to obtain pesticide tolerances on greater numbers of crops and make it likely that pesticides will be more widely available to growers for use on crops, particularly specialty crops.

D. Unfunded Mandates Reform Act

Under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4), EPA has determined that this action does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. Accordingly, this rule is not subject to the requirements of sections 202, 203, 204, and 205 of UMRA.

E. Executive Order 13132

Pursuant to Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999), EPA has determined that this proposed rule does not have federalism implications, because 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 the Order. Thus, Executive Order 13132 does not apply to this proposed rule.

F. Executive Order 13175

As required by Executive Order 13175, entitled Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 6, 2000), EPA has determined that this proposed rule does not have tribal implications because it will not have any affect on tribal governments, 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, as specified in the Order. Thus, Executive Order 13175 does not apply to this proposed rule.

G. Executive Order 13045

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997) does not apply to this proposed rule because this action is not designated as an economically significant regulatory action as defined by Executive Order 12866 (see Unit IV.A.), nor does it establish an environmental standard, or otherwise have a disproportionate effect on children.

H. Executive Order 13211

This proposed rule is not subject to Executive Order 13211, entitled Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 22, 2001) because it is not designated as an regulatory action as defined by Executive Order 12866 (see Unit IV.A.), nor is it likely to have any adverse effect on the supply, distribution, or use of energy.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), (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 impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, and sampling procedures) that are developed or adopted by voluntary consensus standards bodies. This proposed rule does not impose any technical standards that would require EPA to consider any voluntary consensus standards.

J. Executive Order 12898

Under Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), the Agency has not considered environmental justice-related issues because this proposed rule does not have an adverse impact on the environmental and health conditions in low-income and minority communities.

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedures, Pesticides and pests.

Dated: May 10, 2007.

James B. Gulliford,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR chapter I be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 would continue to read as follows:

Authority: 21 U.S.C. 321(q), 346a, and 371.

2. In the table to § 180.1(g) by revising the entries for ''Caneberries,'' ''Onions,'' ''Onions (dry bulb only),'' and ''Onions, green,'' and by adding entries for ''Garlic,'' and ''Raspberry'' to read as follows:

§ 180.1 Definitions and interpretations.

* * * * *

(g) * * *

A	B
	* * * * *
Caneberry	*Rubus* spp. (including blackberry; *Rubus caesius* (youngberry) *Rubus loganbaccus* (loganberry); *Rubus idaeus* (red and black raspberries); and varities and/or hybrids of these.
	* * * * *
Garlic	Garlic, great headed garlic, and serpent garlic.
	* * * * *
Onion	Bulb onion, green onion, and garlic.
Onion, bulb	Bulb onion: garlic; great headed garlic; serpent garlic; Chinese onion; pearl onion; potato onion; and shallot, bulb.
Onion, green	Green onion; lady's leek; leek; wild leek; Beltsville bunching onion; fresh onion; tree onion, tops; Welsh, onion; and shallot, fresh leaves.
	* * * * *
Raspberry	*Rubus* spp. (including bababerry, black raspberry, blackcap, caneberry, framboise, frambueso, himbeere, keriberry, mayberry, red raspberry, thimbleberry, tulameen, yellow raspberry, and cultivars and /or hybrids of these).
	* * * * *

3. In § 180.40 by redesignating paragraph (j) as paragraph (k) and by adding new paragraph (j) to read as follows:

§ 180.40 Tolerances for crop groups.

* * * * *

(j) When EPA amends a crop group in a manner that expands or contracts the commodities that are covered by the group, EPA will initially retain the pre-existing as well as the revised crop group in the CFR. The revised crop group will have the same number as the pre-existing crop group; however, the revised crop group number will be followed by a hyphen and the final two digits of the year in which it was established (e.g., if Crop Group 1 is amended in 2007, the revised group will be designated as Crop Group 1-07). If the pre-existing crop group had crop subgroups, these subgroups will be numbered in a similar fashion in the revised crop group. The name of the revised crop group will not be changed from the pre-existing crop group unless the revision so changes the composition of the crop group that the pre-existing name is no longer accurate. Once a revised crop group is established, EPA will no longer establish tolerances under the pre-existing crop group. At appropriate times, EPA will amend tolerances for crop groups that have been superseded by revised crop groups to conform the pre-existing crop group to the revised crop group. Once all of the tolerances for the pre-existing crop group have been updated, the pre-existing crop group will be removed from the CFR.

* * * * *

4. Section 180.41 is amended by removing the commodities: mushroom, grape, strawberry, and kiwifruit from paragraph (b); by revising paragraph (c)(3) and by redesignating paragraphs (c)(4) through (c)(19) as paragraphs (c)(5) through (c)(20), respectively, and by adding a new paragraph (c)(4) to read as follows:

§ 180.41 Crop group tables.

* * * * *

(c) * * *

(3) *Crop Group 3*. Bulb Vegetables (*Allium* spp.) Group.

(i) *Representative commodities*. Onion, green; and onion, dry bulb.

(ii) *Commodities*. The following is a list of all the commodities in Crop Group 3.

CROP GROUP 3: BULB VEGETABLE (ALLIUM SPP.) GROUP—COMMODITIES

Garlic, bulb (*Allium sativum*)
Garlic, great headed, (elephant) (*Allium ampeloprasum* var. *ampeloprasum*)
Leek (*Allium ampeloprasum*, *A. porrum, A. tricoccum*)
Onion, dry bulb and green (*Allium cepa, A. fistulosum*)
Onion, Welsh, (*Allium fistulosum*)
Shallot (*Allium cepa* var. *cepa*)

(4) *Crop Group 3-07*. Bulb Vegetables Group.

(i) *Representative commodities*. Onion, bulb and onion, green.

(ii) *Table*. The following Table 1 lists all the commodities listed in Crop Group 3-07 and identifies the related crop subgroups.

TABLE 1.—CROP GROUP 3-07: BULB VEGETABLE GROUP

Commodities	Related crop subgroups
Chive, fresh leaves *Allium schoenoprasum L.*	3-07-B
Chive, Chinese, fresh leaves *Allium tuberosum* Rottler ex Spreng	3-07-B
Daylily, bulb *Hemerocallis fulva* (L.) L. var. fulva	3-07-A
Elegans hosta *Hosta Sieboldiana (Hook.) Engl*	3-07-B
Fritillaria, bulb *Fritillaria L. fritillary*	3-07-A
Fritillaria, leaves *Fritillaria L. fritillary*	3-07-B
Garlic, bulb *Allium sativum* L. var. *sativum* (*A. sativum* Common Garlic Group)	3-07-A
Garlic, great headed, bulb *Allium ampeloprasum* L. var. *ampeloprasum* (*A. ampeloprasum* Great-headed Garlic Group)	3-07-A
Garlic, Serpent, bulb *Allium sativum* var. *ophioscorodon* (or *A. sativum* Ophioscorodon Group)	3-07-A
Kurrat *Allium kurrat Schweinf. Ex. K. Krause* (or *A. ampeloprasum* Kurrat Group)	3-07-B
Lady's leek *Allium cernuum* Roth	3-07-B
Leek *Allium porrum* L. (syn:*A. ampeloprasum L.* var. *porrum* (L.) J. Gay) (*A.ampeloprasum* Leek Group)	3-07-B

TABLE 1.—CROP GROUP 3-07: BULB VEGETABLE GROUP—Continued

Commodities	Related crop subgroups
Leek, wild *Allium tricoccum* Aiton	3-07-B
Lily, bulb *Lilium* spp. (*Lilium Leichtlinii* var *maximowiczii, Lilium lancifolium*)	3-07-A
Onion, Beltsville bunching *Allium x proliferum* (Moench) Schrad. (syn: *Allium fistulosum* L. x *A. cepa* L.)	3-07-B
Onion, bulb *Allium cepa* L. var. *cepa* (*A. cepa* Common Onion Group)	3-07-A
Onion, Chinese, bulb *Allium chinense* G. Don. (syn: *A. bakeri* Regel)	3-07-A
Onion, fresh *Allium fistulosum* L. var. *caespitosum* Makino	3-07-B
Onion, green *Allium cepa* L. var. *cepa* (*A. cepa* Common Onion Group)	3-07-B
Onion, macrostem *Allium macrostemom* Bunge	3-07-B
Onion, Pearl *Allium porrum* var. *sectivum* (or *A. ampeloprasum* Pearl Onion Group)	3-07-A
Onion, potato, bulb *Allium cepa L.* var. *aggregatum* G. Don. (*A. cepa* Aggregatum Group)	3-07-A
Onion, tree, tops *Allium x proliferum* (Moench) Schrad. ex Willd. (syn: *A. cepa* var. *proliferum* (Moench) Regel; *A. cepa* L. var. *bulbiferum* L.H. Bailey; *A. cepa* L. var. *viviparum* (Metz.) Alef.)	3-07-B
Onion, Welsh, tops *Allium fistulosum* L.	3-07-B
Shallot, bulb *Allium cepa* var. *aggregatum* G. Don	3-07-A
Shallot, fresh leaves *Allium cepa* var. *aggregatum* G. Don	3-07-B

(iii) *Table*. The following Table 2 identifies the crop subgroups for Crop Group 3-07, specifies the representative commodities for each subgroup and lists all the commodities included in each subgroup.

TABLE 2.—CROP GROUP 3-07: SUBGROUP LISTING

Representative commodities	Commodities
CROP SUBGROUP 3-07-A. Onion, bulb, subgroup	Daylily, bulb; Fritillaria, bulb; Garlic, bulb; Garlic, great-headed, bulb; Garlic, Serpent, bulb; Lily, bulb; Onion, bulb; Onion, Chinese, bulb; Onion, Pearl; Onion, potato, bulb; Shallot, bulb.
CROP SUBGROUP 3-07-B. Onion, green, subgroup	Chive, fresh leaves; Chive, Chinese, fresh leaves; Elegans hosta; Fritillaria, leaves; Kurrat; Lady's leek; Leek; Leek, wild; Onion, Beltsville bunching; Onion, fresh; Onion, green; Onion, macrostem; Onion, tree, tops; Welsh onion; Shallot, fresh leaves.

* * * * *

5. Section 180.41 is further amended by redesignating newly redesignated paragraphs (c)(15) through (c)(20) as paragraphs (c)(16) through (c)(21), respectively, and by adding a new paragraph (c)(15), and paragraph (c)(22) to read as follows:

§ 180.41 Crop group tables.

* * * * *

(c) * * *

(15) *Crop Group 13-07*. Berry and Small Fruit Crop Group.

(i) *Representative commodities*. Any one blackberry or any one raspberry; highbush blueberry; elderberry or mulberry; grape; kiwifruit, fuzzy; and strawberry.

(ii) *Table*. The following Table 1 lists all the commodities listed in Crop Group 13-07 and identifies the related crop subgroups.

TABLE 1.—CROP GROUP 13-07: BERRY AND SMALL FRUIT CROP GROUP

Commodities	Related crop subgroups
Amur river grape (*Vitis amurensis Rupr*)	13-07-D 13-07-E 13-07-F
Aronia berry (*Aronia* spp.)	13-07-B
Bayberry (*Myrica* spp.)	13-07-C
Bearberry (*Arctostaphylos uva-ursi*)	13-07-G 13-07-H
Bilberry (*Vaccinium myrtillus L.*)	13-07-G 13-07-H
Blackberry (*Rubus* spp.) (including Andean blackberry, arctic blackberry, bingleberry, black satin berry, boysenberry, brombeere, California blackberry, Chesterberry, Cherokee blackberry, Cheyenne blackberry, common blackberry, coryberry, darrowberry, dewberry, Dirksen thornless berry, evergreen blackberry, Himalayaberry, hullberry, lavacaberry, loganberry, lowberry, Lucretiaberry, mammoth blackberry, marionberry, mora, mures deronce, nectarberry, Northern dewberry, olallieberry, Oregon evergreen berry, phenomenalberry, rangeberry, ravenberry, rossberry, Shawnee blackberry, Southern dewberry, tayberry, youngberry, zarzamora, and cultivars and/or hybrids of these	13-07-A
Blueberry, highbush (*Vaccinium* spp.)	13-07-B
Blueberry, lowbush (*Vaccinium angustifolium* Aiton)	13-07-B
Buffalo currant (*Ribes aureum* Pursh)	13-07-B
Buffaloberry (*Shepherdia argentea* (Pursh) Nutt.)	13-07-C
Che (*Cudrania tricuspidata* Bur. Ex Lavallee	13-07-C
Chilean guava (*Myrtus ugni* Mol.)	13-07-B
Chokecherry (*Prunus virginiana* L.)	13-07-C

TABLE 1.—CROP GROUP 13-07: BERRY AND SMALL FRUIT CROP GROUP—Continued

Commodities	Related crop subgroups
Cloudberry (*Rubus chamaemorus* L.)	13-07-G
	13-07-H
Cranberry (*Vaccinium macrocarpon* Aiton)	13-07-G
	13-07-H
Currant, black (*Ribes nigrum* L.)	13-07-B
Currant, red (*Ribes rubrum* L.)	13-07-B
Elderberry (*Sambucus* spp.)	13-07-B
	13-07-C
European barberry (*Berberis vulgaris* L.)	13-07-B
Gooseberry (*Ribes* spp.)	13-07-B
	13-07-D
	13-07-E
Grape (*Vitis* spp.)	13-07-D
	13-07-F
Highbush cranberry (*Viburnum opulus* L. var. *Americanum* Aiton)	13-07-B
Honeysuckle, edible (*Lonicera caerula L. var. emphyllocalyx* Nakai, *Lonicera carrula L var. edulis Turcz. Ex herder*)	13-07-B
Huckleberry (*Gaylussacia* spp.)	13-07-B
Jostaberry (*Ribes x nidigrolaria* Rud. Bauer & A. Bauer)	13-07-B
Juneberry, Saskatoon berry (*Amelanchier* spp.)	13-07-B
	13-07-C
Kiwifruit, fuzzy (*Actinidia deliciosa* A. Chev.) C.F. Liang & A.R. Ferguson)	13-07-D
	13-07-E
Kiwifruit, hardy (*Actinidia arguta* (Siebold & Zucc.) Planch. Ex Miq)	13-07-D
	13-07-E
	13-07-F
Lingonberry (*Vaccinium vitis-idaea* L.)	13-07-B
	13-07-G
	13-07-H
Maypop (*Passiflora incarnata* L.)	13-07-E
	13-07-F
Mountain pepper berries (*Tasmannia lanceolata*)	13-07-C
Mulberry *Morus* spp.)	13-07-C
Muntries (*Kunzea pomifera*)	13-07-G
	13-07-H
Native currant (*Acrotriche depressa*)	13-07-B
Partridgeberry (*Mitchella repens* L.)	13-07-G
	13-07-H
Phalsa (*Grewia subinaequalis* DC.)	13-07-C
Pincherry (*Prunus pensylvanica* L.f.)	13-07-C
Raspberry, black and red (*Rubus* spp.)	13-07-A
Riberry (*Syzygium luehmannii*)	13-07-C
Salal (*Gaultheria shallon* Pursh)	13-07-B
	13-07-C
Schisandra berry (*Schisandra chinensis* (Turcz.) Baill	13-07-D
	13-07-E
Sea buckthorn (*Hippophae rhamnoides* L.)	13-07-B
Serviceberry (*Sorbus* spp.)	13-07-C
Strawberry (*Fragaria x ananassa* Duchesne)	13-07-G
Wild raspberry (*Rubus muelleri* Lefevre ex P.J. Mull)	13-07-A

(iii) *Table*. The following Table 2 identifies the crop subgroups for Crop Group 13-07, specifies the representative commodities for each subgroup and lists all the commodities included in each subgroup.

TABLE 2.—CROP GROUP 13-07: SUBGROUP LISTING

Representative commodities	Commodities
Crop Subgroup 13-07-A. Caneberry subgroup.	Blackberry; Raspberry, red and black; wild raspberry; loganberry; cultivars and/or hybrids of these.
Crop Subgroup 13-07-B. Bushberry subgroup.	Aronia, berry; blueberry, highbush, and cultivars and/or hybrids of these; blueberry, lowbush; currant, buffalo; Chilean,guava; currant, black; and currant, red; elderberry, European, barberry; gooseberry; cranberry, highbush; Honeysuckle, edible; Huckleberry; jostaberry; Juneberry: lingonberry; Native, currant; salal; Sea, buckthorn.
Crop Subgroup 13-07-C. Large shrub/tree berry subgroup.	Bayberry; Buffaloberry; che; chokecherry; elderberry; Juneberry; Mountain pepper, berries; mulberry; Phalsa; pincherry; riberry; salal; serviceberry.
Crop Subgroup 13-07-D. Small fruit vine climbing subgroup.	Amur river grape; gooseberry; grape; kiwifruit, fuzzy; kiwifruit, hardy; Maypop, Schisandra berry.
Crop Subgroup 13-07-E. Small fruit vine climbing subgroup, except grape.	Amur river grape; gooseberry; kiwifruit, fuzzy; kiwifruit, hardy; Maypop; schisandra berry.
Crop Subgroup 13-07-F. Small fruit vine climbing subgroup except fuzzy kiwifruit.	Amur river grape; grape, Kiwifruit, hardy; maypop; schisandra berry.
Crop Subgroup 13-07-G. Lowgrowing berry subgroup.	Bearberry; bilberry; blueberry,lowbush; cloudberry; cranberry; lingonberry; muntries; partridgeberry; strawberry
Crop Subgroup 13-07-H. Lowgrowing berry subgroup, except strawberry.	Bearberry; bilberry; blueberry, lowbush; cloudberry; cranberry; lingonberry; muntries; partridgeberry.

* * * * *

(22) *Crop Group 21*. Edible fungi Group.

(i) *Representative commodities*. White button mushroom and any one oyster mushroom or any Shiitake mushroom.

(ii) *Table*. The following is a list of all the commodities in Crop Group 21. There are no related subgroups.

CROP GROUP 21: EDIBLE FUNGI GROUP—COMMODITIES

Blewitt, Lepista nuda (*Tricholomataceae*)
Bunashimeji, Hypsizygus marrmoreus (*Agaricaceae*)
Chinese mushroom, Volvariella volvacea (Bull.) Singer (*Pluteaceae*)
Enoki, Flammulina velutipes (Curt.) Singer (*Tricholomataceae*)
Hime-Matsutake, Agaricus blazei Murill (*Agaricaeae*)
Hirmeola, Auricularia *auricular* (*Auricularicaceae*)
Maitake, Grifola frondosa (*Polyporaceae*)
Morel, Morchella spp. (*Morchellaceae*)
Nameko, Pholiota nameko, (*Strophariaceae*)
Net Bearing Dictyophora, Dictyophora indusiata (*Phallaceae*)
Oyster mushroom, Pleurotus spp. (*Tricholomataceae*)
Pom Pom, Hericium erinaceus (*Hydnaceae*)
Reishi mushroom, Ganoderma lucidum (Leyss. Fr.) Karst. (*Ganodermataceae*)
Rodman's agaricus, Agaricus bitorquis (Quel.) Saccardo (*Agaricaceae*)
Shiitake mushroom, Lentinula edodes (Berk.) Pegl. (*Polyporaceae*)
Shimeji, Tricholoma conglobatum, (*Tricholomataceae*)
Stropharia, Stropharia spp. (*Strophariaceae*)
Truffle, Tuber spp. (*Tuberaceae*)
White button mushroom, Agaricus bisporous (Lange) Imbach (*Agaricaceae*)
White Jelly Fungi, Tremella fuciformis (*Tremellaceae*)

[FR Doc. E7–9595 Filed 5–22–07; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 438 and 447

[CMS–2279–P]

RIN 0938–A095

Medicaid Program; Graduate Medical Education

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would clarify that costs and payments associated with Graduate Medical Education programs are not expenditures for medical assistance that are federally reimbursable under the Medicaid program.

DATES: *Comment date:* To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on June 22, 2007.

ADDRESSES: In commenting, please refer to file code CMS–2279–P. Because of staff and resource limitations, we cannot accept comments by facsimile (Fax) transmission.

You may submit comments in one of four ways (no duplicates, please):

1. *Electronically*. You may submit electronic comments on specific issues

in this regulation to *http://www.cms.hhs.gov/eRulemaking.* Click on the link ''Submit electronic comments on CMS regulations with an open comment period.'' (Attachments should be in Microsoft Word, WordPerfect, or Excel; however, we prefer Microsoft Word.)

2. *By regular mail.* You may mail written comments (one original and two copies) to the following address only:

Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–2279–P, P.O. Box 8016, Baltimore, MD 21244–8016.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments (one original and two copies) to the following address only:

Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–2279–P, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments (one original and two copies) before the close of the comment period to one of the following addresses. If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786–7195 in advance to schedule your arrival with one of our staff members.

Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201; or 7500 Security Boulevard, Baltimore, MD 21244–1850.

(Because access to the interior of the HHH Building is not readily available to persons without Federal Government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period. For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Dianne Heffron, (410) 786–3247.

SUPPLEMENTARY INFORMATION:

Submitting Comments: We welcome comments from the public on all issues set forth in this rule to assist us in fully considering issues and developing policies.

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: *http://www.cms.hhs.gov/eRulemaking.* Click on the link ''Electronic Comments on CMS Regulations'' on that Web site to view public comments.

Comments received timely will be also available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1–800–743–3951.

I. Background

Title XIX of the Social Security Act (the Act) authorizes Federal grants to States for Medicaid programs, operated by the State under an approved State plan, that provide medical assistance to needy individuals including low-income families, the elderly, and persons with disabilities. Under section 1903(a)(1) of the Act, federal grant funding, or federal financial participation (FFP), is available to States for a percentage of amounts ''expended * * * for medical assistance under the State plan.'' The care and services that may (or in some cases, must) be included within the scope of medical assistance under a Medicaid State plan are generally set forth in section 1905(a) of the Act. Included in this list, for example, in sections 1905(a)(1) and 1905(a)(2), are inpatient and outpatient hospital services. Graduate medical education (GME) is not included in this list of care and services within the scope of medical assistance.

Section 1902(a)(30) of the Act requires States to develop payment methodologies for services provided under the Medicaid State Plan that are consistent with economy, efficiency and quality of care. CMS has previously allowed States to include hospital GME activities as a component of the cost of Medicaid inpatient and outpatient hospital services.

For the reasons we explain in more detail below, we do not believe that it is consistent with the Medicaid statute to pay for GME activities either as a component of hospital services or separately. GME is not a health service that is included in the authorized coverage package. Nor is GME recognized under the Medicaid statute as a component of the cost of Medicaid inpatient and outpatient hospital services. GME is not a health service (in contrast to the activities of disproportionate share hospitals). Therefore, we are proposing in this issuance to preclude FFP in State payments for GME.

Inpatient Hospital Rates

States are responsible for setting inpatient hospital rates. Section 1902(a)(13) of the Act requires States to develop rates for inpatient hospital services in a public process. Section 1902(a)(30)(A) of the Act further requires Medicaid service rates to be consistent with economy, efficiency, and quality of care. These provisions afford States a great deal of flexibility in determining their inpatient hospital rates. States may use various reimbursement systems including diagnosis-related groups (DRGs), per diem, case rates, cost or other payment methodologies as long as the methodologies meet the regulations at 42 CFR part 447 subpart C. An important limitation States must adhere to is the upper payment limit (UPL) which describes a payment level above which FFP is not available. The UPL implements, in part, the statutory requirement for payment rates that are, ''consistent with efficiency, economy, and quality of care'' at section 1903(a)(30)(A) of the Act. The regulations at 42 CFR 447.272 and 447.321 define the UPL for hospital services. States must demonstrate that the rates they have developed to reimburse Medicaid hospital services do not, in the aggregate, and within three provider categories (government, non-State government, or private), exceed a reasonable estimate of what Medicare would have paid for the same services using Medicare payment principles.

Unlike Medicaid, the Medicare program has very specific and detailed statutory requirements regarding payments for hospital services. The current payment system for hospitals segregates payments made to hospitals into two basic payments; operating costs and capital costs of inpatient hospital services. Prospective Hospital Payments can be supplemented by direct medical education (DME) or indirect medical education (IME) payments. The requirements are set forth in section 1886 of the Act. This section defines costs, details the cost reporting process, delineates a few categories of hospitals that are paid directly on the basis of

reported costs and provides for the use of reported costs in the development of Medicare's prospective payment system for most hospitals. In particular, in section 1886(a)(4) of the Act, Medicare defines ''operating costs of inpatient hospital services'' as:

> * * * All routine operating costs, ancillary service operating costs, and special care unit operating costs with respect to inpatient hospital services as such costs are determined on an average per admission or per discharge basis (as determined by the Secretary), and includes the costs of all service for which payment may be made under this title that are provided by the hospital (or by an entity wholly owned or operated by the hospital) to the patient. * * * Such term does not include costs of approved educational activities. * * *

Thus, Medicare expressly excludes costs associated with educational activities from the operating costs that can be included in the cost base used to develop the basic payment amounts under Medicare's prospective payment system for inpatient hospital services.

Medicare and Graduate Medical Education

With the creation in 1965 of the Medicare program, in anticipation of a need for additional physicians to treat a newly insured, aged-patient population, the costs associated with GME were included as reimbursable Medicare costs. The Office of the Inspector General (OIG) issued a report in 1994 entitled *A Study of Graduate Medical Education Costs* describing the origins of Medicare policy regarding GME as based on a physician shortage in the U.S. that existed in the 1950s and 1960s. Physician training was viewed as a public good and,

> * * * Congress decided that Medicare should participate in educating physicians until communities shouldered the costs in some other fashion. Hence, it created Medicare GME funding for teaching hospitals.

By the 1980s, the U.S. had a surplus of physicians and the alternative community sources for GME funding never materialized. The same OIG report indicated that there were attempts by the Congress and this agency to substantially limit or eliminate Medicare GME subsidies. Instead, the Medicare payment system for inpatient hospital services was completely altered in 1983, moving from cost reimbursement to a prospective payment system (PPS). The PPS included payments to hospitals for the costs of GME. The new system created two types of payments unique to teaching hospitals. The direct graduate medical education payment (DGME) compensates teaching hospitals for the direct costs of their educational activities, as measured by the number of residents being trained and the historic cost of training residents. Additionally, qualifying teaching hospitals receive an indirect medical education (IME) adjustment to their per discharge payment under the Medicare IPPS (inpatient prospective payment system) to account for additional costs (other than the direct costs of the training program) that teaching hospitals incur in treating Medicare patients. This additional payment reflects the costs of providing care at teaching hospitals generally due to the added costs of ''learning by doing'' treatment methods, and is in addition to the basic prospective payment for inpatient services based on ''operating costs of inpatient hospital services''.

Medicare recognizes direct costs of approved educational programs in sections 1886(h) and (k) of the Act. Indirect medical education payments are provided for at section 1886(d)(5) of the Act. These sections address graduate medical education activities separate and apart from the other costs of providing inpatient hospital services. The statute provides specific instructions regarding which educational programs qualify a hospital for the additional GME payments and provides an explicit methodology to calculate the Medicare payment to an individual hospital for both its direct graduate medical education program and its indirect medical education payments.

Regulations at 42 CFR part 412 describe the prospective payment system. Again, direct medical education costs are identified as excluded from the other Medicare inpatient hospital operating costs used to develop Medicare's prospective inpatient rates. Direct graduate medical education is specifically prohibited as part of the inpatient PPS rate at § 412.2(2)(e). Indirect medical education is separately identified as a payment adjustment based on a formula at § 412.105. The costs that the IME adjustment reimburses a qualifying hospital for are included as inpatient hospital operating costs on the Medicare cost report. IME is an adjustment to the IPPS discharge rate. The IPPS rate is an ''average'' rate based on the efficient provision of inpatient care at all hospitals. The IME adjustment is intended to compensate teaching hospitals for the additional costs they incur when providing hospital services versus non-teaching hospitals.

Medicaid and Graduate Medical Education Generally

In a 2003 state survey conducted by the Association of American Medical Colleges, 47 States and the District of Columbia reported using Medicaid funds to make GME payments under the Medicaid State Plan. Of these, 35 indicated that the payments were included in their per diem inpatient hospital rates, and 15 stated using supplemental or a combination of supplemental and per diem payments to make GME payments. This same report, *Medicaid Direct and Indirect Graduate Medical Education Payment: A 50 State Survey,* indicates that while States view these Medicaid GME payments as critical to State GME policy implementation, they generally do not track these payments.

In large part, this inability to track Medicaid GME payments is due to the way in which these payments are made (which we discuss in more detail below). Basically, payments are made through increases in the rates paid for covered Medicaid services. This methodology assures Federal participation, but does not provide clear accountability. Funding intended by the States to support GME often becomes subsumed within MCO or hospital rates (including supplements to these rates) or inpatient disproportionate share hospital (DSH) payments. As a result, it is difficult to quantify Medicaid GME payments or monitor and measure the effect of Medicaid payments on GME programs.

Medicaid State Plan Payments

As previously stated, Medicaid law does not dictate detailed payment requirements for covered hospital services. Rather, States are permitted flexibility, subject to a reasonable estimate of what Medicare would have paid for the services, to develop their own methods and standards to determine the price they will pay for Medicaid covered services. States are required to include such payment methodologies in their State plans, and thus must submit their payment methodologies to CMS for review and approval. Once approved, States receive FFP for the Medicaid payments they make under the approved methodology.

Since there is no express authority in the Medicaid statute for payments to support GME programs, to receive FFP for such payments, the payments must be made under the guise of payments made for covered Medicaid services under the approved Medicaid State plan. Usually the payments are part of the inpatient hospital Medicaid rate

structure. This is because the Medicaid inpatient UPL references Medicare payment principles as an integral part of the inpatient UPL calculation, and Medicare makes GME payments as a supplement to inpatient hospital service payment rates.

States routinely make payments to hospitals up to the maximum level permitted under the UPL, using methodologies that have a base payment rate and provide for supplemental payments to selected types of hospitals. This is possible because the base reimbursement rates are, in the aggregate, below the UPL for the particular category of provider. This creates a ''gap'' beneath the UPL that allows States to make the supplemental payments for select providers. Some or all of these supplemental payments may be directed at hospitals which operate GME programs.

There are limitations on the State's flexibility in designing their Medicaid programs and reimbursement under current regulations to provide funding for GME programs stemming from the absence of any direct authority to reimburse GME under Title XIX. Because this funding must be part of payment for medical services (either directly or included in comprehensive capitation rates paid to MCOs), this funding is not necessarily limited to teaching hospitals, linked to educational costs or measures, or coordinated with other sources of GME funding. Therefore, it is difficult for States to design Medicaid payments to correspond with the operation of GME programs in the State. This is particularly true in the case of GME programs that include significant training in non-hospital settings. As a result, there is generally no assurance that supplemental Medicaid payments for GME are actually effective in supporting these programs, or in furnishing any benefit to Medicaid program beneficiaries.

Under the Medicaid program, beneficiaries receive a defined benefit package consisting of a variety of mandatory and optional services provided to qualifying recipients. The statute creates a Federal/State partnership to share in the cost of providing these health care services to low-income populations. The current program structure supports State definition of eligible populations, coverage options, and reimbursement for covered services for these eligible individuals. This structure does not accommodate the State medical training policy and goals. The Federal government is also limited by its statutory authority to only evaluate and monitor the efficiency and economy of Medicaid spending as it relates to rates paid for medical services and not for GME as no such authority to do so exists within current law.

This rule proposes to clarify that CMS will not consider funding for GME as expenditures for a covered Medicaid service. We distinguish direct GME payments from indirect medical education (IME) payments because IME payments (as defined under Medicare payment principles) represent an additional Medicare payment for health care services provided to Medicare beneficiaries in teaching hospitals. This rule would clarify that GME is outside the scope of medical assistance, and that GME funding is not an allowable component of payment methodologies included in a State's approved Medicaid State Plan or in any Medicaid managed care payment. This includes all payments under attachments 4.19–A and 4.19–B of a State's Medicaid State Plan. The rule would also provide that when calculating an inpatient UPL, States may not include additional payments Medicare makes to a hospital for direct educational costs as part of the reasonable estimate of Medicare payment. And the rule would provide that States may, as part of their UPL calculation, include Medicare payments for indirect medical education as these payments represent additional costs associated with providing services in teaching hospitals. CMS specifically seeks comments on the propriety of including Medicare IME adjustments as part of the UPL calculation.

States may not make any educational payments under the Medicaid State Plan but are able to recognize, as part of the inpatient hospital rate structure, the additional Medicaid covered service costs that teaching hospitals incur when delivering Medicaid covered services.

States that currently include GME payments as part of other services or administrative costs under the Medicaid State Plan must also cease claiming Federal funds for these educational program payments.

II. Provisions of the Proposed Rule

The provisions of this rule propose to clarify that, for purposes of Medicaid reimbursement eligible for FFP, GME is not an allowable cost or payment for medical assistance under the approved Medicaid State Plan. The provision would apply to all Medicaid providers and must be implemented in the first full State fiscal year following the effective date of the subsequent final rule.

We are proposing to modify the regulations at 42 CFR part 447. Currently the general instructions regarding Medicaid State Plan requirements for payment methods for all Medicaid services are provided at § 447.201. We propose to add a new § 447.201(c) to indicate that GME cannot be included as part of any payment methodology in the Medicaid State Plan. We have included this clarification to address States that have included GME as part of their rate system for non-institutional services, institutional services, or as an administrative cost eligible for FFP.

We propose also to modify §§ 447.257 and 447.304 to address that FFP is no longer available for any reimbursement that includes or specifically pays for GME. The current paragraph would be redesignated as paragraph (a) and a new paragraph (b) would be added providing that no FFP would be available for GME under the approved Medicaid State Plan.

We propose to modify § 447.272(b)(1) and 447.321(b)(1) to indicate that the term ''Medicare payment principles'' must exclude any Medicare payments associated with direct GME when calculating the Medicaid UPL.

We propose to modify § 438.6(c)(5) by removing paragraph (v) that addresses the coordination of GME payments under the State plan with capitated rates paid to a Medicaid MCO.

We propose to modify § 438.60 to provide that the limit on payment to other providers would not include an exception related to GME payments made to providers outside the capitation rate and under the Medicaid State Plan.

III. Collection of Information Requirements

This document does not impose any information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

IV. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

V. Regulatory Impact Statement

A. Overall Impact

We have examined the impact of this rule as required by Executive Order 12866 (September 1993, Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–534), section 1102(b) of the Social Security Act, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), and Executive Order 13132.

Executive Order 12866 (as amended by Executive Order 13258, which merely reassigns responsibility of duties, and Executive Order 13422) directs agencies to assess all costs and benefits of all available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant ($100 million or more in any 1 year). This rule would surpass the economic threshold and is considered a major rule. This rule is estimated to reduce Federal Medicaid outlays by $140 million in FY 2008, by $290 million in FY 2009, by $440 million in FY 2010, by $450 million in FY 2011, and by $460 million in FY 2012.

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $6.5 million to $31.5 million in any 1 year. Individuals and States are not included in the definition of a small entity. We are not preparing an analysis for the RFA because the regulation would not have a direct impact on small entities. In this case, the regulation would directly affect payments the States receive from the Federal government, and the impact on health care facilities is a secondary impact. States may choose to continue to fund direct medical education programs using State-only funding; this rule simply eliminates the availability of Federal Medicaid funding for such direct education programs. Additionally, most hospitals that would qualify as small entities would likely be unaffected by this rule as they are unlikely to offer medical education programs. Generally, medical education programs are sponsored by large hospitals offering a variety of medical specialties and services. As we are uncertain of the impact on small entities, we specifically request public comment on the impact of small health care facilities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds. We are not preparing an analysis for section 1102(b) of the Act because we have determined, and the Secretary certifies, that this rule would not have a direct impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. That threshold level is currently approximately $120 million. This rule would not result in expenditures in any 1 year by State, local, or tribal governments, in the aggregate, or by the private sector, of $120 million. This rule anticipates federal savings in excess of $120 million but does not require States to replace that federal funding with state funding. There is no federal mandate to fund GME programs with State funding. Funding GME is not a required activity or enforceable duty arising from participation in Medicaid, thus any reduction in federal funding will not decrease the funding available for required activities under the Medicaid program.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement or cost on State and local governments, preempts State law, or otherwise has Federalism implications. For purposes of Executive Order 13132, we find that this rule will not have a substantial effect on State or local government. While this regulation would eliminate the ability of States to claim Federal Medicaid funding for direct GME, it would not impose any requirement that States pay for such GME. The rule would simply recognize that GME is not authorized under the Medicaid statute as an element of medical assistance that is eligible for Federal Medicaid funding.

B. Anticipated Effects

ESTIMATED REDUCTION IN FEDERAL MEDICAID OUTLAYS RESULTING FROM THE GRADUATE MEDICAL EDUCATION PROPOSAL BEING IMPLEMENTED BY THIS PROPOSED RULE—ANNUAL EXPECTED SAVINGS

[Amounts in millions]

Reduction in Federal Medicaid outlays in million dollars by fiscal year					
	2008	2009	2010	2011	2012
Graduate Medical Education Exclusion	$140	$290	$440	$450	$460

Accounting Statement

As required by OMB Circular A–4 (available at *http://www.whitehouse.gov/omb/circulars/a004/a-4.pdf*), in the table below, we have prepared an accounting statement showing the classification of the expenditures associated with the provision of this proposed rule. This table provides our best estimate of the reduction in Federal Medicaid outlays for the years 2008 through 2012 as result of the changes presented in this proposed rule. This rule only affects transfer payments between the Federal government and State governments.

Direct Graduate Medical Education (DGME)

1. Effects on State Medicaid Programs

Since Graduate Medical Education is not a Medicaid service authorized in Title XIX of the Act, States are not required to report GME costs on the form CMS–64–9. Instead, States that claim Federal funding for GME

generally do so as a portion of their inpatient hospital rates, inpatient hospital supplemental payments, MCO payments or, in limited instances, as part of a supplemental, non-institutional provider payment.

Because of the absence of a reporting obligation, the amount actually expended for Medicaid GME is not readily determinable. The Federal Government has no way to directly determine the number of States making GME payments, amounts States are spending or claiming as GME or the total number of hospitals receiving such payments. Any GME funding claimed would simply be reflected within total outlays related to a particular service category, such as inpatient hospital, on the form CMS 64.9. In addition, the impact of eliminating the Medicare DGME payment as part of a State's UPL calculation is difficult to determine because most states do not include their UPL methodology as part of their approved Medicaid State plan. States have the option of including this payment in their UPL calculation but it is not a requirement.

Estimates of the impact of eliminating Direct Graduate Medical Education as an allowable program cost or payment were derived from data on State GME payments from a survey conducted by the National Conference of State Legislatures (NCSL) and published in the Journal of Health Affairs in 2000. The NCSL GME estimates were trended forward by the Consumer Price Index to establish a project baseline of GME payments for FY 2008 through 2012. CMS also estimates an offset applied to these payments to account for behavioral changes, including the likelihood that States may replace a portion of their GME payments with other payments to hospitals to achieve a similar Federal spending level. The resulting net savings were calculated using an average Federal matching rate of 57 percent. CMS specifically seeks comment on the amount States pay and methods States use to pay for DME and IME in their Medicaid programs.

States have several options to address medical education funding. One option is to replace funding provided as the Federal share of a Medicaid GME payment with State-only funding or private sector funding. States may increase other generally applicable taxes to provide funding for general medical education.

States could also work through a better coordination of funding to more effectively leverage and coordinate all GME funding in a State, including Federal funding available through Area Health Education Centers (AHECs), Medicare funding, grant funding, and State funding to more effectively manage health education policy and outcomes.

2. Effects on Other Providers

CMS currently cannot precisely estimate the total number of providers receiving Medicaid GME payments. States are not required to report this information nor are they required to make such payments to only teaching hospitals. The exclusion of the Medicare DGME payment when calculating a class of providers' applicable UPL could lower the ceiling for Medicaid payments available to a provider within that class but CMS cannot estimate the impact since States are not required to include the adjustment and CMS currently does not have information on how many currently do include it. However, States may pay providers up to the UPL, including the IME payment adjustment made by Medicare to compensate teaching hospitals for additional service delivery costs associated with providing care in teaching hospitals. Providers will continue to receive payments for covered Medicaid services, and hospitals that serve a disproportionate share of low-income patients will continue to be eligible for additional DSH payments. States may also provide State-only funding for direct educational costs thus alleviating any revenue loss associated with the Medicaid DGME exclusion.

C. Alternatives Considered

In developing this regulation, the following alternatives were considered. We considered the possibility of providing stronger review of State Plan reimbursement methodologies for graduate medical education. In addition, we considered developing standard parameters applicable to all Medicaid GME payments (for example, a requirement that payment should not exceed the unmet cost of the GME program, counting all GME revenue when determining unmet GME program cost). These alternatives would address our concern over the lack of oversight and accountability for Medicaid GME funding. They would also address concerns that federal payments for GME through three separate programs (Medicare, Medicaid, and AHECs) are not coordinated with overall program goals.

In evaluating these alternatives, however, we were limited by the absence of any statutory authority in the Medicaid program to make GME payments. Absent such authority, we believe we are limited in our ability to regulate such payments because the payments have been made under some other category. In other words, because there is no direct statutory authority for GME payments under a Medicaid State Plan, there is little authority to regulate or oversee such payments if allowed.

As discussed above, States make GME payments through provider rates paid to reimburse medical services delivered. The existing statute and regulations addressing these payments do not provide CMS with the regulatory authority to require payment methodologies identified as GME to detail specific program requirements or apply any minimum program parameters for their approval.

In short, CMS lacks any express statutory authority to match Medicaid GME payments as program costs and therefore lacks clear regulatory authority to manage Federal participation in GME programs under current law.

OMB—STATEMENT OF ACCOUNTS

	Annualized monetized transfers (in millions per year)
Non-discounted	$356
3%	351
7%	345

The savings reflect a reduction in payments from the federal government to the States.

D. Conclusion

For these reasons, we are not preparing an analysis for either the RFA or section 1102(b) of the Act because we have determined that this rule would not have a direct significant economic impact on a substantial number of small entities or a direct significant impact on the operations of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Subjects

42 CFR Part 438

Grant programs—health, Medicaid, Reporting and recordkeeping requirements.

42 CFR Part 447

Accounting, Administrative practice and procedure, Drugs, Grant programs-health, Health facilities, Health professions, Medicaid, Reporting and recordkeeping requirements, Rural areas.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services proposes to amend 42 CFR chapter IV as set forth below:

PART 438—MANAGED CARE

1. The authority citation for part 438 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

Subpart A—General Provisions

§ 438.6 [Amended]

2. Section 438.6 is amended by removing paragraph (c)(5)(v).

Subpart B—State Responsibilities

3. Section 438.60 is revised to read as follows:

§ 438.60 Limit on payment to other providers.

The State agency must ensure that no payment is made to a provider other than the MCO, PIHP, or PAHP for services available under the contract between the State and the MCO, PIHP, or PAHP, except when these payments are provided for in title XIX of the Act or in 42 CFR.

PART 447—PAYMENTS FOR SERVICES

4. The authority citation for part 447 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

Subpart B—Payment Methods: General Provisions

5. Section 447.201 is amended by adding a new paragraph (c) to read as set forth below.

§ 447.201 State plan requirements.

* * * * *

(c) The plan must not include payments for graduate medical education to any provider or institution or include costs of graduate medical education as an allowable cost under any cost-based payment system (including costs or payments claimed as administrative costs).

Subpart C—Payment for Inpatient Hospital and Long-Term Care Facility Services

6. Section 447.257 is amended by:

A. Designating the existing paragraph as paragraph (a).

B. Adding a new paragraph (b) to read as follows:

§ 447.257 FFP: Conditions relating to institutional reimbursement.

* * * * *

(b) FFP is not available in expenditures for graduate medical education in hospitals and long-term care facilities.

7. Section 447.272 is amended by republishing the heading to paragraph (b) and revising paragraph (b)(1) to read as follows:

§ 447.272 Inpatient services: Application of upper payment limits.

* * * * *

(b) *General rules.* (1) ''Upper payment limit'' refers to a reasonable estimate of the amount that would be paid for the services furnished by the groups of facilities under Medicare payment principles in subchapter B of this chapter. For purposes of the Medicaid upper payment limit calculation, direct graduate medical education payments are not an allowable component of a Medicare payment and must be excluded from the calculation.

* * * * *

Subpart F—Payment Methods for Other Institutional and Non-Institutional Services

8. Section 447.304 is amended by:

A. Revising paragraph (b) to read as follows:

§ 447.304 Adherence to upper limits; FFP.

* * * * *

(b) FFP is not available in expenditures for graduate medical education.

* * * * *

9. Section 447.321 is amended by republishing the heading to paragraph (b) and revising paragraph (b)(1) to read as follows:

§ 447.321 Outpatient hospital and clinical services: Application of upper payment limits.

* * * * *

(b) *General rules.* (1) ''Upper payment limit'' refers to a reasonable estimate of the amount that would be paid for the services furnished by the groups of facilities under Medicare payment principles in subchapter B of this chapter. For purposes of the Medicaid upper payment limit calculation, direct graduate medical education payments are not an allowable component of a Medicare payment and must be excluded from the calculation.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: May 11, 2007.

Leslie V. Norwalk,

Acting Administrator, Centers for Medicare & Medicaid Services.

Approved: May 17, 2007.

Michael O. Leavitt,

Secretary.

[FR Doc. 07–2576 Filed 5–18–07; 4:38 pm]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 05–337, CC Docket No. 96–45, FCC 07–88]

High-Cost Universal Service Support; Federal-State Joint Board on Universal Service

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the Commission seeks comment on the Federal-State Joint Board on Universal Service's recommendation that the Commission adopt an interim cap on support for competitive Eligible Telecommunications Carriers.

DATES: Comments are due on or before June 6, 2007. Reply Comments are due on or before June 13, 2007.

ADDRESSES: You may submit comments, identified by WC Docket No. 05–337 and CC Docket No. 96–45, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web Site: http://www.fcc.gov/cgb/ecfs/.* Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Ted Burmeister, Attorney, Wireline Competition Bureau, Telecommunications Access Policy Division, (202) 418–7400, TTY (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of*

Proposed Rulemaking, in WC Docket No. 05–337 and CC Docket No. 96–45, released May 14, 2007. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554.

I. Introduction

In this Notice of Proposed Rulemaking (NPRM), we seek comment on the recommendation of the Federal-State Joint Board on Universal Service (Joint Board) that the Commission takes immediate action to rein in the explosive growth in high-cost universal service support disbursements. Specifically, we seek comment on the Joint Board's recommendation that the Commission impose an interim, emergency cap on the amount of high-cost support that competitive eligible telecommunications carriers (ETCs) may receive. The Joint Board also recommended that both it and the Commission further explore comprehensive high-cost distribution reform, and sought comment on various reform proposals in a Public Notice released on the same day as the *Recommended Decision*, in WC Docket No. 05–337, CC Docket No. 96–45 released on May 1, 2007.

II. Procedural Matters

A. Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act (RFA), *see* 5 U.S.C. 603, the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the NPRM. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM provided in paragraph 9 of the item. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). *See* 5 U.S.C. 603(a). In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

a. Need for, and Objectives of, the Proposed Rules

2. Section 254(a)(2) of the Communications Act of 1934, as amended (the Act), requires that the Commission implement within one year recommendations from the Joint Board based on the universal service requirements provided in section 254 of the Act, which establishes a number of principles for the preservation and advancement of universal service in a competitive telecommunications environment. On May 1, 2007, the Joint Board recommended that the Commission adopt an interim cap on high-cost universal service support for competitive ETCs to rein in the explosive growth in universal service. In this NPRM, the Commission seeks comment on the Joint Board recommendation that the Commission cap competitive ETC support at the amount of support received by competitive ETCs in 2006. The objective of the NPRM is to explore whether the Commission should take action to cap the high-cost universal service support in the manner that the Joint Board recommends, and whether there are other issues related to the interim cap that should be considered.

b. Legal Basis

3. The legal basis for any action that may be taken pursuant to the NPRM is contained in sections 1, 2, 4(i), 4(j), 201, 202, 205, 214, 254, 403 and 410 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i)–(j), 201, 202, 205, 254, 410 and sections 1.1, 1.411, 1.412, 1.415, 1.419, and 1.1200–1.1216, of the Commission's rules, 47 C.F.R. 1.1, 1.411, 1.412, 1.415, 1.419, 1.1200–1.1216.

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

4. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the rules, if adopted. 5 U.S.C. 604(b)(3). The RFA generally defines the term ''small entity,'' 5 U.S.C. 601(6), as having the same meaning as the terms ''small business,'' 5 U.S.C. 601(3), ''small organization,'' 5 U.S.C 601(4), and ''small governmental jurisdiction.'' 5 U.S.C. 601(5). In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act, unless the Commission has developed one or more definitions that are U.S.C. 601(3). Under the Small Business Act, a ''small business concern'' is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA). 15 U.S.C. 632. Nationwide, there are a total of approximately 22.4 million small businesses, according to SBA data. A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 2002, there were approximately 1.6 million small organizations.

5. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the number of commercial wireless entities, is the data that the Commission publishes in its *Trends in Telephone Service* report. The SBA has developed small business size standards for wireline and wireless small businesses within the three commercial census categories of Wired Telecommunications Carriers, Paging, and Cellular and Other Wireless Telecommunications. Under these categories, a business is small if it has 1,500 or fewer employees. Below, using the above size standards and others, we discuss the total estimated numbers of small businesses that might be affected by our actions.

d. Wireline Carriers and Service Providers

6. We have included small incumbent local exchange carriers (LECs) in this present RFA analysis. As noted above, a ''small business'' under the RFA is one that, *inter alia*, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

7. *Incumbent LECs.* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to incumbent LECs. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,307 carriers reported that they were engaged in the provision of local exchange services. Of these 1,307 carriers, an estimated 1,019 have 1,500 or fewer employees, and 288 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by our action.

8. *Competitive LECs, Competitive Access Providers (CAPs), ''Shared-Tenant Service Providers,'' and ''Other Local Service Providers.''* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 859 carriers reported that they were engaged in the provision of either competitive LEC or CAP services. Of these 859 carriers, an estimated 741 have 1,500 or fewer employees, and 118 have more than 1,500 employees. In addition, 16 carriers have reported that they are ''Shared-Tenant Service Providers,'' and all 16 are estimated to have 1,500 or fewer employees. In addition, 44 carriers have reported that they are ''Other Local Service Providers.'' Of the 44, an estimated 43 have 1,500 or fewer employees, and one has more than 1,500 employees. Consequently, the Commission estimates that most competitive LECs, CAPs, ''Shared-Tenant Service Providers,'' and ''Other Local Service Providers'' are small entities that may be affected by our action.

e. Wireless Carriers and Service Providers

9. *Wireless Service Providers.* The SBA has developed a small business size standard for wireless firms within the two broad economic census categories of ''Paging'' and ''Cellular and Other Wireless Telecommunications.'' Under both categories, the SBA deems a wireless business to be small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 2002 show that there were 807 firms in this category that operated for the entire year. Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more. Thus, under this category and associated small business size standard, the majority of firms can be considered small. For the census category of Cellular and Other Wireless Telecommunications, Census Bureau data for 2002 show that there were 1,397 firms in this category that operated for the entire year. Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more. Thus, under this second category and size standard, the majority of firms can, again, be considered small.

10. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services (PCS), and specialized mobile radio (SMR) telephony carriers. As noted earlier, the SBA has developed a small business size standard for ''Cellular and Other Wireless Telecommunications'' services. Under that SBA small business size standard, a business is small if it has 1,500 or fewer employees. According to Commission data, 432 carriers reported that they were engaged in the provision of wireless telephony. We have estimated that 221 of these are small under the SBA small business size standard.

f. Satellite Service Providers

11. *Satellite Telecommunications and Other Telecommunications.* There is no small business size standard developed specifically for providers of international service. The appropriate size standards under SBA rules are for the two broad census categories of ''Satellite Telecommunications'' and ''Other Telecommunications.'' Under both categories, such a business is small if it has $13.5 million or less in average annual receipts.

12. The first category of Satellite Telecommunications ''comprises establishments primarily engaged in providing point-to-point telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.'' For this category, Census Bureau data for 2002 show that there were a total of 371 firms that operated for the entire year. Of this total, 307 firms had annual receipts of under $10 million, and 26 firms had receipts of $10 million to $24,999,999. Consequently, we estimate that the majority of Satellite Telecommunications firms are small entities that might be affected by our action.

13. The second category of Other Telecommunications ''comprises establishments primarily engaged in (1) Providing specialized telecommunications applications, such as satellite tracking, communications telemetry, and radar station operations; or (2) providing satellite terminal stations and associated facilities operationally connected with one or more terrestrial communications systems and capable of transmitting telecommunications to or receiving telecommunications from satellite systems.'' For this category, Census Bureau data for 2002 show that there were a total of 332 firms that operated for the entire year. Of this total, 259 firms had annual receipts of under $10 million and 15 firms had annual receipts of $10 million to $24,999,999. Consequently, we estimate that the majority of Other Telecommunications firms are small entities that might be affected by our action.

2. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

14. The specific proposals under consideration in the NPRM would not, if adopted, result in additional recordkeeping requirements for small businesses.

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

15. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance and reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or part thereof, for small entities. *See* 5 U.S.C. 603(c).

16. This IRFA seeks comment on how the Joint Board's recommendation could be implemented in a manner that reduces the potential burden and cost of compliance for small entities. We also seek comment on the potential impact of the proposed recommendations related to the interim cap proposal on high-cost universal support for competitive ETCs. In the NPRM, the Commission has offered several alternatives and that might avoid or mitigate reductions in the amount of high-cost support flowing to competitive ETCs, some of which might be small entities. For instance, the Commission inquires into other methods, besides a cap, to control the growth of high-cost support; asks about the length of time the interim cap should be in place; seeks comment on the level that the cap should be set at; and asks whether other operational, administrative, or implementation issues might have an impact on implementing an interim cap.

4. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

17. None.

B. Paperwork Reduction Act Analysis

18. This NPRM does not contain proposed information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified ''information collection burden for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198. See 44 U.S.C. 3506(c)(4).

C. Ex Parte Presentations

19. These matters shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Other requirements pertaining to oral and written presentations are set forth in section 1.1206(b) of the Commission's rules.

D. Comment Filing Procedures

20. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before June 6, 2007, and reply comments June 13, 2007. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

• *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs/* or the Federal eRulemaking Portal: *http://www.regulations.gov.* Filers should follow the instructions provided on the Web site for submitting comments.

• For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to *ecfs@fcc.gov*, and include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in response.

• *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

• The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

• Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

• U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington, DC 20554.

• *People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty). In addition, one copy of each pleading must be sent to each of the following:

(1) The Commission's duplicating contractor, Best Copy and Printing, Inc, 445 12th Street, SW., Room CY–B402, Washington, DC 20554; Web site: *http://www.bcpiweb.com*; phone: 1–800–378–3160;

(2) Antoinette Stevens, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, SW., Room 5–B540, Washington, DC 20554; e-mail: *Antoinette.Stevens@fcc.gov.*

21. For further information regarding this proceeding, contact Ted Burmeister, Attorney Advisor, Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418–7389, or *theodore.burmeister@fcc.gov*, or Katie King, Telecommunications Access Policy Division, Wireline Competition Bureau, (202) 418–7491, or *katie.king@fcc.gov.*

III. Ordering Clauses

22. Pursuant to the authority contained in sections 1, 4(i), 201–205, 214, 254, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 201–205, 214, 254, and 403, this *Notice of Proposed Rulemaking* is adopted.

23. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *Notice of Proposed Rulemaking*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–9837 Filed 5–22–07; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2003–15227]

Federal Motor Vehicle Safety Standards; Hydraulic and Electric Brake Systems, Air Brake Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Denial of petition for reconsideration.

SUMMARY: This document responds to a petition for reconsideration of our 2003 final rule establishing a braking-in-a-curve performance requirement for single unit trucks and buses. The braking-in-a-curve requirement has applied to air-braked truck tractors since 1997 and we determined that the requirement should also apply to single-unit trucks and buses. The requirement ensures that a vehicle's antilock brake system (ABS) maintains adequate stability and control during a hard stop on a curved, slippery road surface. A petition for reconsideration was received from the National Truck Equipment Association (NTEA), which seeks to exclude vehicles built in two or

more stages and altered vehicles from the braking-in-a-curve requirement if such vehicles are manufactured or altered by a final stage manufacturer or alterer that builds no more than 250 affected vehicles per year. The agency is denying the petitioner's request for the reasons discussed in this document.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may contact Jeff Woods, Office of Crash Avoidance Safety Standards at (202) 366–2720. For legal issues, you may contact Rebecca Schade, Office of Chief Counsel, at (202) 366–2992. You may send mail to these officials at the National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

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1. Auxiliary Axles
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B. Testing Costs and Alternatives to Testing
C. New Temporary Exemption Procedure in Part 555
III. Conclusion

I. Background

A braking-in-a-curve performance requirement was added for single-unit trucks and buses in a final rule published on August 11, 2003 (68 FR 47485; Docket No. NHTSA–2003–15277). The agency determined that such a requirement is necessary to ensure the safe performance of an antilock braking system (ABS), which is required equipment on these vehicles. Testing by the agency and information provided by industry indicated that the braking-in-a-curve test specified previously for truck-tractors could be applied to single-unit trucks and buses. The requirement ensures that an ABS installed on a vehicle helps the driver maintain vehicle control and stability during a hard stop on a curved, slippery road surface.

In the final rule, the agency specified that the braking-in-a-curve is only conducted with these vehicles at lightly loaded vehicle weight (LLVW). The LLVW condition was determined to be the worst-case loading condition for ABS performance testing on single unit trucks. Test data indicated that testing a vehicle fully loaded to its gross vehicle weight rating (GVWR) did not provide for additional benefits in vehicle safety when compared to the testing in the LLVW condition. Therefore, a requirement for single-unit trucks and buses to comply when tested at GVWR was not included in the final rule. Limiting the requirement to the LLVW condition also had the additional benefit of reducing the certification cost.

As we stated in the final rule, the braking-in-a-curve performance test is necessary to ensure that the benefits of ABS are realized. Merely requiring ABS does not ensure that an ABS system will provide an acceptable level of performance. The added performance test provides such an assurance.

As established in the final rule, vehicles built in two or more stages must meet the braking-in-a-curve performance requirements on and after July 1, 2006.

II. Petition for Reconsideration and Agency Response

The National Truck Equipment Association (NTEA) submitted a petition for reconsideration asking NHTSA to exclude vehicles built in two or more stages and altered vehicles from the braking-in-a-curve requirement if such vehicles are manufactured or altered by a final stage manufacturer or alterer that builds no more than 250 affected vehicles per year. NTEA did not assert that such vehicles are unable to comply, but instead stated that it is not practicable for small final stage manufacturers and alterers to certify compliance with the requirement. NTEA argued that contrary to the agency's determination in the final rule, final stage manufacturers and alterers are unable to rely on guidance from incomplete vehicle manufacturers in order to certify to the braking-in-a-curve performance requirement. Specifically, the petitioner stated that the agency failed to appropriately consider the impact of aftermarket axles and modifications to a vehicle's wheelbase on the ability of final stage manufacturers and alterers to rely on guidance from incomplete vehicle manufacturers. Further, NTEA stated that the agency's cost estimates were too low and that the agency failed to provide sufficient guidance on alternatives to testing that would constitute due care for purposes of certification of compliance with the requirement.

A. Pass-Through Certification and Compliance Envelopes

Final stage manufacturers complete the manufacture of incomplete vehicles and alterers perform modifications to completed and certified vehicles. Manufacturers of incomplete vehicles and original vehicle manufacturers often provide guidance on how a vehicle may be completed or altered to comply with all applicable FMVSSs. Guidance from incomplete manufacturers may permit an incomplete vehicle to be completed in a manner that permits a final-stage manufacturer or alterer to rely on pass-through certification. Incomplete vehicle manufacturers provide this information in incomplete vehicle documents (IVD). 49 CFR 568.5 requires incomplete vehicle manufacturers to provide IVDs to final stage manufacturers. Manufacturers of completed vehicles may provide alterers with a ''compliance envelope,'' i.e., guidance as to the modifications that can be made to a vehicle that will not remove the vehicle from compliance under the original certification. NHTSA stated in its final rule that the occurrences where final stage manufacturers may not rely on pass-through certification, or on data provided by incomplete vehicle manufacturers, will be rare and would represent a significantly smaller percentage of the affected vehicles than the 20 percent claimed by NTEA in its comments to the NPRM.

In its petition for reconsideration, NTEA provided additional clarification that the 20 percent value it cited represents vehicles for which no pass-through certification exists.[1] NTEA stated that when considering the number of vehicles that are completed or altered outside the guidelines for pass-through certification or the compliance envelope, the number of incomplete and altered vehicles for which certification guidance is not available may perhaps be as high as 60 percent. NTEA stated that incomplete vehicle manufacturers and original vehicle manufacturers have an incentive to keep pass-through certification guidance narrow in order to limit potential liability from non-compliant final stage manufacture and alteration. The petitioner provided several IVDs that it argued demonstrated that final stage manufacturers and alterers effectively cannot rely on these documents for certification of compliance with the braking-in-a-curve requirement.

NHTSA has reviewed the IVDs provided by NTEA in its petition for reconsideration, and also obtained additional IVDs for other types of chassis. We found no instance of an incomplete chassis-cab for which pass-through certification for FMVSS Nos. 105 or 121 was unavailable to final stage manufacturers and alterers. The typical incomplete vehicle configuration, a

[1] It was not clear to NHTSA from the petition whether NTEA was referring to pass-through certification for all FMVSSs, or was limiting its comments to pass-through certification to the braking standards, FMVSS Nos. 105 and 121.

single-unit truck equipped with a completed cab, had pass-through certification for the braking standards so long as a final stage manufacturer completed the vehicle without modifying the brake system and followed other routine measures.

Aside from the IVDs provided by the petitioner, NHTSA reviewed the IVD for a Ford F 53 basic stripped chassis [2] without a cab or any exterior bodywork. Page 9 of the Ford IVD specifies that if the chassis is completed within the guidelines identified for system or component modification, minimum body weight, vertical and longitudinal center-of-gravity specifications, and axle and gross vehicle weight ratings, it will conform to FMVSS No. 105. The IVD also provides a table of all U.S. and Canadian motor vehicle safety standards which show that this chassis can be completed as a bus (other than a school bus) or a multipurpose vehicle and still utilize pass-through certification for the hydraulic brake system requirements.

In sum, NHTSA was unable to identify an IVD for which no pass-through certification was provided for the brake standards. Moreover, the petitioner did not provide examples of incomplete vehicles for which no pass-through certification was provided in general.

NTEA did cite two vehicle modifications for which it stated that pass-through certification was not sufficient, installation of auxiliary axles and modifications to a vehicle's wheelbase.[3] The issues raised by these types of modifications are addressed below.

1. Auxiliary Axles

A common modification to air-braked trucks is the installation of one or more auxiliary axles to increase the GVWR to provide for increased cargo-carrying capacity. NTEA estimated that 25,000 auxiliary axles are installed annually by final stage manufacturers and alterers. The petitioner stated that incomplete vehicle manufacturers typically do not provide compliance information to final stage manufacturers with regard to the installation of such axles, and noted that the agency did not test vehicles configured with auxiliary axles for the August 2003 final rule.

We note that auxiliary axles can be configured as either liftable or non-liftable axles. A liftable axle can be raised and lowered by means of an air suspension system operated by a control switch provided for the driver. Whether an auxiliary axle is liftable or non-liftable relates to how the vehicle is tested in the braking-in-a-curve test. The braking-in-a-curve test procedure specified in the final rule states that single-unit trucks and buses are tested only in a LLVW condition. S6.1.12 of FMVSS No. 121 states that when a vehicle with a liftable axle is tested at lightly loaded vehicle weight, the liftable axle is to be raised. Thus, the wheels on a liftable axle would not be in contact with the pavement during the test, and would have no appreciable impact on the ability of a straight truck or bus to comply with the braking-in-a-curve test procedure. As noted in the final rule, lighter vehicle weights typically perform worse than heavier vehicle weights during the braking-in-a-curve test. The axle would add weight to a vehicle, but so long as the installation of the axle did not place the vehicle outside the envelope for weight distribution or center of gravity requirements in the IVD, a liftable axle (when raised) may even improve a vehicle's performance in the braking-in-a-curve test.

Installations of non-liftable axles could affect the braking-in-a-curve test performance for a modified vehicle, because the wheels of these axles would be in contact with the pavement during the braking-in-a-curve test. Therefore, if a non-liftable axle is installed on a vehicle outside the scope of the pass-through certification, the party performing the installation must certify that the altered vehicle does comply with FMVSS No. 121. The costs to perform a certification test and alternatives to conducting the braking-in-a-curve test are discussed below.

The agency estimates that a majority of auxiliary axles are liftable axles. Information provided by a major supplier of truck suspensions indicated that 99 percent of the auxiliary axle suspensions it sells are the liftable type.[4] Based on NTEA's estimates of the number of auxiliary axles installed annually and on the distribution of axles between liftable and non-liftable, if each non-liftable axle were installed on a separate vehicle, the number of affected vehicles would be approximately 250 a year. However, vehicles can be equipped with more than one auxiliary axle. Therefore, the number of vehicles with non-liftable axles is likely lower, which suggests to the agency that this is a less serious problem than NTEA implies.

2. Wheelbase Modifications

NTEA also asserted that with regard to the braking-in-a-curve test, ''no certification pass-through is available for any vehicle with a wheelbase modification.'' NTEA stated that under the previous regulations, if a final stage manufacturer or alterer stayed within the chassis manufacturers' wheelbase range for a given model, it could be reasonably assured that the brake system was designed to perform within this range for stopping distance requirements. Additionally, NTEA stated that if a final stage manufacturer or alterer completes or alters a vehicle such that the wheelbase is modified outside the scope of an IVD, compliance with the brake standards should be assured if:

- The GVWR and gross axle weight rating are not re-rated;
- Tire or other suspension components are not changed or modified;
- Added brake lines meet the requirements of FMVSS 106, brake hoses; and
- Modifications are consistent with design guidelines from the chassis manufacturer.

However, because of the new braking-in-a-curve test, NTEA argued that ''wheelbase changes will nullify both the hydraulic and air brake system conformity statements of the chassis manufacturer, and place the full burden of compliance with the [final stage manufacturer].''

We disagree with the petitioner that wheelbase changes will necessarily ''nullify'' chassis manufacturers'' conformity statements. Data reviewed by the agency indicates that final stage manufacturers and alterers can modify wheelbases such that the vehicle continues to comply with the braking-in-a-curve test. For example, data provided by the Truck Manufacturers Association (TMA) in response to the NPRM indicated that for 31 trucks tested by TMA's member companies with a wheelbase range of 152 to 300 inches, each vehicle successfully passed the braking-in-a-curve test (Docket No. NHTSA–1999–6550–13). The agency has also observed that typical hydraulic-braked and air-braked ABS electronic control units (ECU) will perform satisfactorily on several types of hydraulic-braked or air-braked vehicles,

[2] The IVD for the 2003 F-Super Duty Class A Motorhome Chassis is available from the Ford Web site at *http://www.fleet.ford.com/truckbbas/topics/incomp.html.*

[3] NTEA did not specify whether auxiliary axle and wheelbase modifications account for the 60 percent of vehicles that are unable to rely on a pass-through certification, or if other modifications, including those not related to braking, also contribute to this value.

[4] See memo regarding conversation with Hendrickson Int'l., Docket No. NHTSA–2003–15277–4.

respectively, including trucks, tractors, and buses.[5]

Thus, no alterations are needed to the ECU: it functions properly regardless of the wheelbase that is used. There are data available for a variety of vehicle configurations that a final stage manufacturer or alterer may be able to rely on for purposes of certification (*e.g.*, the range of available wheelbases that are offered by the chassis manufacturer). We further note that final stage manufacturers and alterers may obtain technical support from the ABS suppliers or from the body builder advisory service that is available from many chassis manufacturers.

However, if a final stage manufacturer or alterer were to modify a vehicle outside the scope of the IVD and for which no compliance data were available, such as a very short wheelbase beyond the range of what is offered by a chassis manufacturer, such a modification could degrade the vehicle's handling characteristics beyond the performance capabilities of the vehicle's ABS. A very short wheelbase could result in extreme weight transfer during the stopping distance tests on dry pavement and failure to stay within the 12-foot wide lane if, for example, the rear wheels lifted off the ground during the stop. In such a case, there would be problems complying with the both the braking-in-a-curve test and the stopping distance test. In such cases, the final stage manufacturer or alterer would be responsible for ensuring that the vehicle's ABS performed as necessary to comply with the braking-in-a-curve test.

B. Testing Costs and Alternatives to Testing

In the NPRM, NHTSA estimated the cost of conducting a braking-in-a-curve test at $1,500, if performed as a stand-alone test, or $1,000, if performed as part of a complete FMVSS No. 105 or 121 certification test.[6] In its petition, NTEA commented that because currently other braking requirements can be certified without testing, as discussed above, the braking-in-a-curve test would likely be a stand-alone test. In addition to the cost of the test itself, NTEA argued that final stage manufacturers and alterers would be faced with the cost of transporting the vehicle to the testing site, as well as the loss in value of the tested vehicle as it could not be sold as new.

NTEA also stated its concern of the cost on the industry as a whole. NTEA again argued that based on the number of auxiliary axle installations and wheelbase modifications, 35,000 vehicles will be produced for which there is no pass-through certification available. The petitioner further stated that because of the competitive nature of the industry and the number of vehicle configurations in the market place, consortium testing as a means to reduce certification costs for individual businesses is not a practical option.

In response, as discussed above, some vehicle configurations will indeed require a final stage manufacturer or alterer to certify a vehicle's compliance with the braking-in-a-curve test. However, the agency does not believe that this test will be prohibitive relative to the total vehicle cost. We estimate that the cost of a specialized heavy duty truck with auxiliary axles, an altered wheelbase, and custom body and work equipment may be in the range of $100,000 to $500,000, so the additional cost of a braking-in-a-curve test, in the range of $1,000 to $6,000, should not be hugely consequential. Also, we note that FMVSS No. 105 or 121 certification testing (e.g., the braking-in-a-curve test) is non-destructive to the vehicle. A vehicle can still be sold even if testing is required.

The agency recognizes that there may be a small loss in the value of a new vehicle that requires certification testing for the braking-in-a-curve requirements, but reiterates that some highly-specialized vehicles may require actual testing, even though the majority of vehicles may not. We are aware that custom heavy vehicles sometimes need brake system certification testing prior to delivery to the customer, and that manufacturers and alterers are able to accommodate such situations. The brake burnish specifications in FMVSS Nos. 105 and 121 both specify 500 brake snubs from 40 mph to 20 mph at 1 mile intervals, which would add 500 miles to the odometer of a test vehicle, with the remaining portions of the brake system certification test under each standard adding several more miles. Thus, if a vehicle intended for a customer were tested for certification, it would accumulate slightly over 500 miles prior to delivery. Heavy vehicles often travel several hundreds of thousands of miles over their lifetime, and NHTSA believes that adding 500 miles of use to a vehicle for a brake system certification test only occasionally necessary would not appreciably devalue it.

However, the agency believes that the vast majority of vehicles completed by final stage manufacturers and alterers will continue to use pass-through certification and will not need to be individually tested. As stated above, auxiliary lift installations and wheelbase modifications can be made such that a final stage manufacturer or alterer can rely on the IVD or engineering analysis to certify compliance with FMVSS No. 121. Additionally, we note that many chassis manufacturers offer chassis with many non-standard configurations of axles. Promotional information from Kenworth, Peterbilt, Oshkosh, and Western Star truck manufacturers indicates that these chassis manufacturers can provide a wide range of axle configurations, including lift axles, dual-steering front axles, all-wheel drive, tridem drive axles, and bridge-formula tag axles. NTEA did not provide data indicating how many of the vehicle configurations offered by their member final stage manufacturers are so specialized that these configurations are not available from a chassis manufacturer with full brake system certification.

Additionally, while NTEA stated that consortium testing would not be a practical solution for the industry, such testing is currently being performed by the industry in Canada. Consortium testing is an approach in which a parent organization or group of member companies develops and conducts certification testing and provides the results to each member company. This lowers testing costs per unit produced, sold, or manufactured, as compared to each company performing its own certification tests. Consortium testing is being used by the Canadian Transportation Equipment Association (CTEA) to compile certification data for Canadian Motor Vehicle Safety

[5] For example, the Body Builder's Book Bulletin BB–2, Rev. A, states that ''When lengthening the wheelbase on vehicles with Anti-lock Brake Systems (ABS), the wiring for the wheel speed sensors and ABS components cannot and should not be altered, cut, spliced, or repaired. The use of approved ABS extension cables is recommended whenever a wheelbase is lengthened. Whenever the wheelbase is shortened, ensure that excess ABS cables are securely tied to the inside of the frame rail to prevent interference. Refer to UD Parts Bulletin UD99–116 for ABS extension cable information.'' Based on the thoroughness of this explanation of necessary steps for preserving ABS when changing a wheelbase, we believe it is reasonable to assume that no changes to the ECU are necessary. Body Builder's Book Bulletin BB–2, Rev. A, Nissan Diesel America Inc. (September 20, 2004), available at *http://www.udtrucks.com/Q_Tech_Notes/BBB2%20Rev.pdf.*

[6] In response to the NPRM, the TMA provided an upper range estimate for the stand-alone test of $6,000. However, the TMA provided no data in support of the estimate. TMA stated that this cost included the cost of transporting a vehicle and conducting the brake burnish specified in the standard. However, TMA did not itemize these costs. See 68 FR at 47491.

Standard No. 121, *Air brake systems*,[7] on axles that are installed by manufacturers in Canada. CTEA also sponsors testing on altered vehicles, as described in the report *Stability and Handling Characteristics of a Straight Truck with a Self-steering Pusher Axle* (Centre for Surface Transport Technology, National Research Council Canada, Technical Report CSTT–HVC–TR–057, August 9, 2002).[8] Thus the Canadian industry is able to provide consortium testing that results in reduced certification testing costs and offers valuable information on the alteration of heavy vehicles to consortium member companies.

The agency notes that a consortium of individual final stage manufacturers and alterers might also develop engineering modeling or installation guidelines that could permit, for certain vehicles, certification without the need for performance testing of each individual vehicle. We suggest that a vehicle dynamics simulation program could be enhanced to include elements such as auxiliary axles. However, we recognize that an auxiliary axle component of the model would need to be developed and likely validated through road testing. A braking-in-a-curve testing program could explore several parameters to determine if there are limits at which the braking-in-a-curve test performance becomes unacceptable with a particular auxiliary axle configuration (e.g., minimum curb weight), and describe conditions under which appropriate countermeasures such as installing an ABS system on the auxiliary axle(s) are appropriate.

C. New Temporary Exemption Procedure in Part 555

On February 14, 2005, the agency published in the **Federal Register** (70 FR 7414) a final rule which, among other things, created new procedures under which manufacturers of vehicles built in two or more stages and alterers could obtain temporary exemptions from certain dynamic performance requirements. These procedures were established as Subpart B of Part 555.

The new procedures streamline the temporary exemption process by allowing an association or another party representing the interests of multiple manufacturers to bundle exemption petitions for a specific vehicle design, thus permitting a single explanation of the potential safety impact and good faith attempts to comply with the standards. The procedures specify that each manufacturer seeking an exemption is required to demonstrate financial hardship and good faith efforts to comply with applicable requirements. Exemptions based on financial hardship are available to companies manufacturing *fewer* than 10,000 vehicles per year, and any single exemption cannot apply to more than 2,500 vehicles per year.

On May 15, 2006, NHTSA published in the **Federal Register** (71 FR 28168) a final rule in response to a petition submitted by NTEA requesting reconsideration of the February 2005 final rule. See Docket No. NHTSA–2006–24664. While the agency had limited the new procedures to FMVSS requirements that incorporate dynamic crash tests, NTEA argued that they should apply to all standards that are based on dynamic testing and not just dynamic crash testing.

In response to NTEA's petition, the agency reconsidered its previous position with respect to scope of relief available under Subpart B. On reconsideration, in the May 2006 final rule, it amended Part 555 to permit the manufacturers of multistage vehicles to petition for temporary exemption from requirements that incorporate various dynamic tests and not exclusively dynamic crash tests. This would include the braking-in-a-curve test.

In the May 2006 final rule, the agency observed that small volume manufacturers were already able to petition the agency for temporary exemptions from all Federal standards under Subpart A. Therefore its reconsideration as to the scope of Subpart B related to the availability of the more streamlined procedures rather than to the possibility of a manufacturer obtaining an exemption in appropriate circumstances.

Second, NHTSA noted that under § 555.13(a) and (b) of Subpart B, in order to petition for an exemption, the petitioner must show why the test requirements of a particular standard would cause substantial economic hardship. This showing must include detailed financial information, and a complete description of each manufacturer's good faith efforts to comply with the standards. Specifically, the petitioner must explain the inadequacy of the IVD document furnished by an incomplete vehicle manufacturer or by a prior intermediate-stage manufacturer pursuant to Part 568. The petitioner must also show why generic or cooperative testing is impracticable. Finally, the petitioner must explain the difficulty in procuring goods and services necessary to conduct dynamic tests. We also noted that, in addition to showing of hardship, each petitioner is required to explain under § 555.13(c) why the requested temporary exemption would not unreasonably degrade safety.

In the May 2006 final rule, we also stated that for both dynamic crash tests and other dynamic tests, we believe that given the other relief provided in the February 2005 final rule, including greater ability to use pass-through certification, we expect that the number of cases for which exemptions are needed will be relatively small.

For purposes of this response to NTEA's petition concerning the braking-in-a-curve test, we note that the new streamlined temporary exemption procedures will be available for this test requirement. Thus, this relief will be available should it be necessary and appropriate.

Moreover, the agency provided a considerable amount of information and analysis in its May 2006 document in connection with arguments raised by NTEA concerning multistage manufacturers and alterers. In addition to issues related to the new Part 555 temporary exemption procedures, the agency included extensive discussion as to why the current multistage vehicle certification scheme is workable. Because many of the issues we discussed in that document are relevant to the issues raised by NTEA in connection with the braking in a curve test, we refer the reader to that document and its supporting record. *See* 71 FR 28196 (May 15, 2006) and Docket No. NHTSA–2006–24664.

III. Conclusion

For the reasons discussed above, the agency is denying the petition for reconsideration from the NTEA to exclude certain small volume final stage manufacturers and alterers from certifying to the braking-in-a-curve performance requirements. Other than auxiliary axle and wheelbase modifications, NTEA did not provide any data showing specifically what modifications or deviations to IVD guidelines are occurring to incomplete or complete vehicles such that they cannot use pass-through certification for the brake system requirements. With regard to wheelbase modifications, the agency has determined that IVDs typically provide guidance on how such modifications can be performed while maintaining pass-through certification. Moreover, final stage manufacturers and alterers have considerable choice in purchasing chassis with different wheelbases and configuration of axles

[7] We note that Canadian Motor Vehicle Safety Standard No. 121 is virtually identical to FMVSS No. 121.

[8] Available for public inspection in NHTSA's Office of Rulemaking, 400 Seventh Street, SW., Washington, DC 20590.

certified as complying by the original vehicle manufacturer.

We recognize that pass-through certification is not available for all modifications, including the addition of some types of auxiliary axles. However, these types of modifications would not necessarily result in the need for certification testing. For example, with the addition of a lift axle, a manufacturer or final stage manufacturer may be able to rely on engineering analysis to certify compliance with the requirements of FMVSS Nos. 105 and 121.

In the rare cases in which certification testing may be required, the testing is non-destructive and the industry has options available to minimize the cost of any testing that is required. While the agency recognizes that some modifications might be beyond the envelope of pass-through certification, final stage manufacturers and alterers must certify that vehicles with such modifications continue to comply with FMVSS Nos. 105 and 121, to ensure that purchasers and other motorists have the full benefit of the required ABS.

Finally, as discussed earlier, the new streamlined exemption procedures are available for this test requirement, providing relief if it is necessary and appropriate.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166: delegation of authority at 49 CFR 1.50.

Issued on: May 18, 2007.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E7–9944 Filed 5–22–07; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register

Vol. 72, No. 99

Wednesday, May 23, 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

Office of the Secretary

Solicitation for Members To Fill Vacancies to the National Agricultural Research, Extension, Education, and Economics Advisory Board

AGENCY: Research, Education, and Economics, USDA.

ACTION: Solicitation for membership.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App., the United States Department of Agriculture announces solicitation for nominations to fill 10 vacancies on the National Agricultural Research, Extension, Education, and Economics Advisory Board.

DATES: Deadline for Advisory Board member nominations is July 20, 2007.

ADDRESSES: The nominee's name, resume, and completed Form AD–755 must be sent to the U.S. Department of Agriculture, National Agricultural Research, Extension, Education, and Economics Advisory Board Office, 1400 Independence Avenue, SW.; Room 344–A, Whitten Building; Washington, DC 20250–2255.

FOR FURTHER INFORMATION CONTACT: Shirley Morgan-Jordan, Program Support Coordinator; National Agricultural Research, Extension, Education, and Economics Advisory Board; *telephone:* 202–720–3684; *fax:* 202–720–6199; e-mail: *smorgan@csrees.usda.gov.*

SUPPLEMENTARY INFORMATION: Section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123) was amended by the Farm Security and Rural Investment Act of 2002 by adding one additional member to the National Agricultural Research, Extension, Education, and Economics Advisory Board, which totals 31 members. Since the Advisory Board's inception by congressional legislation in 1996, each member has represented a specific category related to farming or ranching, food production and processing, forestry research, crop and animal science, land-grant institutions, non-land-grant colleges or universities with a historic commitment to research in the food and agricultural sciences, food retailing and marketing, rural economic development, and natural resource and consumer interest groups, among many others. The Board was first appointed by the Secretary of Agriculture in September 1996 and one-third of its members were appointed for a one-, two-, and three-year term, respectively. The terms for 10 of the 31 members who represent the specific categories to be filled will expire September 30, 2010. Nominations for a 3-year appointment for these 10 vacant categories are sought. All nominees will be carefully reviewed for their expertise, leadership, and relevance to each category.

The 10 categories to be filled are:

Category H. National Food Animal Science Society.

Category I. National Crop, Soil, Agronomy, Horticulture or Weed Science Societies.

Category N. 1890 Land-Grant Colleges and Universities.

Category O. 1994 Equity in Education Land-Grant Institutions.

Category Q. American Colleges of Veterinary Medicine.

Category U. Food Retailing and Marketing Interests.

Category W. Rural Economic Development.

Category X. National Consumer Interest Group.

Category Y. National Forestry Group.

Category Z. National Conservation or Natural Resource Group.

Nominations are being solicited from organizations, associations, societies, councils, federations, groups, and companies that represent a wide variety of food and agricultural interests throughout the country. Nominations for one individual who fits several of the categories listed above, or for more than one person who fits one category, will be accepted. In your nomination letter, please indicate the specific membership category for each nominee. Each nominee must fill out a form AD–755, ''Advisory Committee Membership Background Information'' (which can be obtained from the contact person above or from the following Web site: *http://www.ree.usda.gov/nareeeab/downloads/forms/AD–755.pdf.* All nominees will be vetted before selection.

Nominations are open to all individuals without regard to race, color, religion, sex, national origin, age, mental or physical handicap, marital status, or sexual orientation. To ensure that recommendations of the Advisory Board take into account the needs of the diverse groups served by the Department, membership shall include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

Appointments to the National Agricultural Research, Extension, Education, and Economics Advisory Board will be made by the Secretary of Agriculture.

Done at Washington, DC this 10th day of May 2007.

Gale Buchanan,

Under Secretary, Research, Education, and Economics.

[FR Doc. E7–9891 Filed 5–22–07; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

Rural Development; Notice of Privatization of the National Sheep Industry Improvement Center

AGENCY: Rural Development, USDA.

ACTION: Notice.

SUMMARY: The Secretary of Agriculture approved the Transition Plan to privatize the National Sheep Industry Improvement Center. The American Sheep and Goat Center, a Utah non-profit corporation, became the successor to the National Sheep Industry Improvement Center on October 1, 2006.

DATES: Privatization was effective Midnight, September 30, 2006.

FOR FURTHER INFORMATION CONTACT: Thomas C. Dorr, Under Secretary, USDA Rural Development, Room 205-W, Mail Stop 0107, 1400 Independence Avenue SW., Washington, DC 20250–0107, *telephone:* 202–720–4581, *TTY:* 800–877–8339 (Federal Information Relay Service).

SUPPLEMENTARY INFORMATION:

Background

Section 375 of the Consolidated Farm and Rural Development Act, 7 U.S.C. 2008j, created the National Sheep Industry Improvement Center (NSIIC) to strengthen the infrastructure of the sheep and goat industry. The NSIIC provided loans and grants for business ventures where normal commercial credit or funding was not available. Section 375(j) of the Farm Bill legislation required the privatization of the NSIIC to occur on the earlier of its receiving a certain level of Federal funding or September 30, 2006. The legislation required a transition plan, to be approved by the Secretary of Agriculture, that provides for a private successor entity that would have the same purposes and be able to continue the activities of the NSIIC. The Secretary of Agriculture has approved a privatization plan that was triggered by the September 30, 2006 deadline. The NSIIC ceased operations on September 30, 2006. The American Sheep and Goat Center became the successor private organization on October 1, 2006. All assets and liabilities of the NSIIC have now been transferred to the private American Sheep and Goat Center. The transition plan is completed as of May 23, 2007.

Dated: May 16, 2007.

Douglas Faulkner,

Acting Under Secretary, Rural Development.

[FR Doc. E7–9932 Filed 5–22–07; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2007–0047]

Notice of Request for Extension of Approval of an Information Collection; Bees and Related Articles

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with regulations for the importation of bees and related articles.

DATES: We will consider all comments that we receive on or before July 23, 2007.

ADDRESSES: You may submit comments by either of the following methods:

Federal eRulemaking Portal: Go to *http://www.regulations.gov*, select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click ''Submit.'' In the Docket ID column, select APHIS–2007–0047 to submit or view public comments and to view supporting and related materials available electronically. Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.

Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2007–0047, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2007–0047.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov*.

FOR FURTHER INFORMATION CONTACT: For information on an information collection associated with regulations for the importation of bees and related articles, contact Dr. Wayne Wehling, Entomologist, Pest Permit Evaluations, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737; (301) 734–8757. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Bees and Related Articles.

OMB Number: 0579–0207.

Type of Request: Extension of approval of an information collection.

Abstract: Under the Honeybee Act (7 U.S.C. 281–286), the Secretary is authorized to prohibit or restrict the importation of honeybees and honeybee semen to prevent the introduction into the United States of diseases and parasites harmful to honeybees and of undesirable species such as the African honeybee. This authority has been delegated to the Animal and Plant Health Inspection Service (APHIS).

Further, the Plant Protection Act (PPA) (7 U.S.C. 7701 *et seq.*) authorizes the Secretary of Agriculture to prohibit or restrict the importation, entry, or interstate movement of plants, plant products, and other articles to prevent the introduction of plant pests into the United States or their dissemination within the United States. As with the Honeybee Act, APHIS has delegated authority for the PPA.

The establishment of certain bee diseases, parasites, or undesirable species and subspecies of honeybees in the United States could cause substantial reductions in pollination by bees. These reductions could cause serious damage to crops and other plants and result in substantial financial losses to American agriculture.

Regulations for the importation of honeybees and honeybee semen and regulations to prevent the introduction of exotic bee diseases and parasites through the importation of bees other than honeybees, certain beekeeping products, and used beekeeping equipment are contained in 7 CFR part 322, ''Bees, Beekeeping Byproducts, and Beekeeping Equipment.'' These regulations require the use of certain information collection activities, including: An application for permit, appeals for denial of permit application and cancellation of permit, request for risk assessment, inspection report of containment facilities, request for release of containment, transit documentation, export certificate, notice of arrival, packaging and labeling, and recordkeeping by containment facilities.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

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

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

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

(4) Minimize the burden of the information collection on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 2.4338 hours per response.

Respondents: Importers and shippers of bees and related articles, foreign governments, and containment facilities.

Estimated annual number of respondents : 869.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 869.

Estimated total annual burden on respondents: 2,115 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 17th day of May 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–9897 Filed 5–22–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2007–0060]

Emerald Ash Borer; Availability of an Environmental Assessment

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: We are advising the public that an environmental assessment has been prepared by the Animal and Plant Health Inspection Service relative to the release of three insect parasitoid species for the biological control of the emerald ash borer *Agrilus planipennis.* The environmental assessment documents our review and analysis of environmental impacts associated with the release of these biological control agents. We are making this environmental assessment available to the public for review and comment.

DATES: We will consider all comments that we receive on or before June 22, 2007.

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov*, select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click ''Submit.'' In the Docket ID column, select APHIS–2007–0060 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.
- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2007–0060, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2007–0060.

Reading Room: You may read any comments that we receive on the environmental assessment in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov*.

FOR FURTHER INFORMATION CONTACT: Dr. Juli Gould, Entomologist, Otis Pest Survey, Detection, and Exclusion Laboratory, PPQ, APHIS, Building 1398, Otis ANGB, MA 02542–5008; (508) 563–9303 ext. 220.

SUPPLEMENTARY INFORMATION:

Background

The emerald ash borer (EAB) (*Agrilus planipennis*) is a destructive woodboring insect that attacks ash trees (*Fraxinus* spp., including green ash, white ash, black ash, and several horticultural varieties of ash). The insect, which is indigenous to Asia and known to occur in China, Korea, Japan, Mongolia, the Russian Far East, Taiwan, and Canada, eventually kills healthy ash trees after it bores beneath their bark and disrupts their vascular tissues.

The EAB regulations in 7 CFR 301.53–1 through 301.53–9 restrict the interstate movement of regulated articles from quarantined areas to prevent the artificial spread of EAB into noninfested areas of the United States. The States of Illinois, Indiana, and Ohio and portions of the State of Michigan are currently designated as quarantined areas. We are also in the process of establishing a quarantine in Prince George's County, MD.

Despite State and Federal quarantines designed to contain EAB, the lack of effective methods to detect EAB-infested trees and the large area of EAB infestation has resulted in a shift in strategy by regulatory agencies from area-wide eradication to eradication in outlying areas and containment in the core infestation area. In the United States, EAB eradication efforts involve the removal of all ash trees within a specified radius around known infestations. However, by the time an infestation is discovered and treated, EAB has usually already dispersed outside the eradication zone. Besides natural dispersal, the spread of EAB has been accelerated through human-assisted movement of infested ash firewood, timber, solid wood packing materials, and nursery stock. As EAB spreads throughout North America, regulatory agencies, land managers, and the public are seeking sustainable management tools such as biological control to reduce EAB population densities and to slow its spread.

APHIS has completed an environmental assessment that examines the potential effects on the quality of the human environment that may be associated with the release of three specific biological control agents to control infestations of EAB within the continental United States. APHIS and the Forest Service propose to release the three parasitoids into the environment of the continental United States for the purpose of reducing EAB populations. These parasitoids are known to attack EAB consistently in its native habitat in China. Initial releases of each parasitoid are planned for summer 2007. Post-release monitoring of the spread and establishment of each parasitoid species and impacts on EAB and non-target wood-boring beetles will also be conducted.

APHIS' review and analysis of the potential environmental impacts associated with this biological control action are documented in detail in an environmental assessment entitled ''Proposed Release of Three Parasitoids for the Biological Control of the Emerald

Ash Borer (*Agrilus planipennis*) in the Continental United States'' (April 2, 2007). We are making this environmental assessment available to the public for review and comment. We will consider all comments that we receive on or before the date listed under the heading DATES at the beginning of this notice.

The environmental assessment may be viewed on the Regulations.gov Web site or in our reading room (see **ADDRESSES** above for instructions for accessing Regulations.gov and information on the location and hours of the reading room). You may request paper copies of the environmental assessment by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the title of the environmental assessment when requesting copies.

The environmental assessment has been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 17th day of May 2007 .

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–9895 Filed 5–22–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2007–0049]

National Wildlife Services Advisory Committee; Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of meeting.

SUMMARY: We are giving notice of a meeting of the National Wildlife Services Advisory Committee.

DATES: The meeting will be held on June 19 and 20, 2007, from 8 a.m. to 5 p.m. each day.

ADDRESSES: The meeting will be held at the Utah State University Inn, Room 507, 4300 Old Main Hill, Logan, UT.

FOR FURTHER INFORMATION CONTACT: Mrs. Joanne Garrett, Director, Operational Support Staff, WS, APHIS, 4700 River Road Unit 87, Riverdale, MD 20737; (301) 734–7921.

SUPPLEMENTARY INFORMATION: The National Wildlife Services Advisory Committee (the Committee) advises the Secretary of Agriculture concerning policies, program issues, and research needed to conduct the Wildlife Services (WS) program. The Committee also serves as a public forum enabling those affected by the WS program to have a voice in the program's policies.

The meeting will focus on operational and research activities. The Committee will discuss WS efforts to increase operational capacity through prioritizing research objectives. Additionally, the Committee will discuss pertinent national programs and how to increase their effectiveness, as well as ensuring WS remains an active participant in the goal of agricultural protection.

The meeting will be open to the public. However, due to time constraints, the public will not be allowed to participate in the discussions during the meeting. Written statements on meeting topics may be filed with the Committee before or after the meeting by sending them to the person listed under **FOR FURTHER INFORMATION CONTACT**. Written statements may also be filed at the meeting. Please refer to Docket No. APHIS–2007–0049 when submitting your statements.

This notice of meeting is given pursuant to section 10 of the Federal Advisory Committee Act (5 U.S.C. App. 2).

Done in Washington, DC, this 17th day of May 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–9896 Filed 5–22–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[Docket No. APHIS–2007–0065]

Declaration of Extraordinary Emergency Because of Plum Pox Virus

An exotic plant virus, plum pox virus, has been confirmed in New York and Michigan. Plum pox virus is the most devastating viral disease of stone fruit worldwide, causing yield losses to growers and reducing the marketability of fruit. Previously, the disease was known to be present in the United States only in portions of several counties in south-central Pennsylvania.

Plum pox virus is the cause of an extremely serious plant disease, affecting a number of *Prunus* species, including peach, nectarine, apricot, plum, and almond. Infection eventually results in severely reduced fruit production, and the fruit that is produced is often misshapen and blemished. There is no cure or treatment for the disease once a tree becomes infected. In Europe, where plum pox has been present for a number of years, the disease is considered to be the most serious disease affecting susceptible *Prunus* species. The disease is spread over short distances by a number of different aphid species, and over longer distances through the movement of infected budwood and nursery stock.

Since the detection of plum pox virus in Pennsylvania in 1999, an aggressive eradication program has been conducted in that State, involving a cooperative effort between APHIS and the Pennsylvania Department of Agriculture. The program in Pennsylvania has resulted in significant success, with no spread of the disease outside of the general area in which it was first found in 1999, and with only trace amounts of plum pox virus being detected in 2005 and 2006. Following the detection of plum pox virus in Pennsylvania, APHIS has worked with States in which there was commercial production of peaches and other stone fruit to conduct a series of national surveys. Prior to 2006, the result of these surveys has always been negative.

As a result of a cooperative survey conducted by APHIS and the New York State Department of Agriculture and Markets, plum pox virus was confirmed in Niagara County, NY, on July 7, 2006. A total of three infected trees were discovered in two commercial orchard locations. Cooperative surveys were also conducted in Michigan, in this case involving APHIS and the Michigan Department of Agriculture. As a result of these surveys, plum pox virus was detected in a single plum tree at the Michigan State University's Southwest Michigan Research and Education Center, a State-operated facility, on August 11, 2006.

In order to prevent the spread of plum pox virus from these new detection sites, an aggressive eradication program will be necessary. The eradication program will involve removal of all infected trees and of all host trees within 500 meters, conducting delimiting and detection surveys over a period of several years to ensure that there are no additional infestations, and establishing appropriate safeguards to ensure that additional spread of plum pox virus does not occur while the eradication program is being completed. Following consultation with State

officials from both New York and Michigan, the Department has determined that the States do not have sufficient resources to effectively carry out an eradication program.

The infestation of plum pox virus represents a threat to U.S. stone fruit crops. It constitutes a real danger to the national economy and a potential serious burden on interstate and foreign commerce. Therefore, the Department has determined that an extraordinary emergency exists because of the existence of plum pox virus in Michigan and New York.

In accordance with 7 U.S.C. 7715, this declaration of extraordinary emergency authorizes the Secretary to: (1) Hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of, any plant, biological control organism, plant product, article, or means of conveyance that the Secretary has reason to believe is infected by or contains the plum pox virus; (2) quarantine, treat, or apply other remedial measures to any premises, including any plants, biological control organisms, plant products, articles, or means of conveyance on the premises, that the Secretary has reason to believe is infected by or contaminated with the plum pox virus; (3) quarantine any State or portion of a State in which the Secretary finds the plum pox virus or any plant, biological control organism, plant product, article, or means of conveyance that the Secretary has reason to believe is infected by or contaminated with the plum pox virus; and (4) prohibit or restrict the movement within a State of any plant, biological control organism, plant product, article, or means of conveyance when the Secretary determines that the prohibition or restriction is necessary to prevent the dissemination of the plum pox virus or to eradicate the plum pox virus. The Governors of New York and Michigan have been informed of these facts.

EFFECTIVE DATE: This declaration of extraordinary emergency shall become effective May 18, 2007.

Mike Johanns,

Secretary of Agriculture.

[FR Doc. E7–10044 Filed 5–22–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Services

West Fork Duck Creek Watershed, Noble County, OH

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR part 1500); and the Natural Resources Conservation Service Rules (7 CFR part 650); the Natural Resources Conservation Service, U. S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the rehabilitation of Floodwater Retarding Structure No. 7 (Caldwell Lake Dam) in the West Fork Duck Creek Watershed.

FOR FURTHER INFORMATION CONTACT: Terry J. Cosby; State Conservationist; Natural Resources Conservation Service; 200 North High Street, Room 522, Columbus, Ohio 43215; telephone 614–255–2500.

SUPPLEMENTARY INFORMATION: The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national effects on the human environment. As a result of these findings, Terry J. Cosby, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project purpose is flood prevention. The action includes the rehabilitation of one floodwater-retarding dam. The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency; various Federal, state and local agencies; and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment is on file and may be reviewed by contacting Terry J. Cosby.

No administrative action on implementation of the preferred alternative will be taken until 30 days after the date of this publication in the **Federal Register**.

Terry J. Crosby,

State Conservationist

[FR Doc. 07–2555 Filed 5–22–07; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Atlantic Sea Scallop Collections.

Form Number(s): None.

OMB Approval Number: 0648–0491.

Type of Request: Regular submission.

Burden Hours: 7,949.

Number of Respondents: 981.

Average Hours Per Response: Vessel Monitoring System (VMS) trip termination form, compensation trip ID VMS form, trip declaration, powerdown provision and installation verification, 2 minutes; broken trip adjustment sheet, 10 minutes; and access area trip exchange application, 15 minutes.

Needs and Uses: The National Marine Fisheries Service Northeast Region manages the Atlantic sea scallop (scallop) fishery of the Exclusive Economic Zone (EEZ) off the East Coast under the Atlantic Sea Scallop Fishery Management Plan (FMP). The regulations implementing the FMP are at 50 CFR part 648. To successfully implement and administer parts of the FMP, OMB Control No. 0648–0491 includes the following information collections:

1. VMS requirements for occasional scallop vessels that wish to participate in the access area program;
2. VMS requirements for general Category 1B scallop vessels. Category 1B vessels are authorized to land up to 400 lb of scallops;
3. Access area broken trip notification requirements;
4. Access area trip exchange application procedures; and
5. Increased VMS polling frequency to one-half hour from one hour.

Affected Public: Business or other for-profit organizations.

Frequency: Annually and on occasion.

Respondent's Obligation: Mandatory.

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 (or via the Internet at *dHynek@doc.gov*).

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, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov*.

Dated: May 17, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–9863 Filed 5–22–07; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Census Bureau

2007 Survey of Business Owners (SBO)

ACTION: Proposed information collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 23, 2007.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *DHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Valerie Strang, U.S. Census Bureau, CSD, Room 6K072E, Washington, DC 20233–6400, (301) 763–3317.

SUPPLEMENTARY INFORMATION

I. Abstract

The Census Bureau plans to conduct the 2007 Survey of Business Owners (SBO). In the SBO, businesses are asked several questions about their business as well as several questions about the gender, Hispanic or Latino origin, and race of the principal owner(s). This survey provides the only comprehensive, regularly collected source of information on the characteristics of U.S. businesses by ownership category, i.e., by gender, Hispanic or Latino origin, and race. The survey is conducted as part of the economic census program which is required by law to be taken every 5 years under Title 13 of the United States Code, Sections 131, 193, and 224.

Businesses which reported any business activity on any one of the following Internal Revenue Service tax forms will be eligible for selection: 1040 (Schedule C), ''Profit or Loss From Business (Sole Proprietorship); 1065, U.S. Return of Partnership Income; 941, ''Employer's Quarterly Federal Tax Return''; or any one of the 1120 corporate tax forms.

The following changes have been made to the 2007 SBO:

- The survey form was expanded to collect a variety of characteristics for up to four individual owners. There was space for up to three owners in 2002, but this was found not to be sufficient in determining equal male-/female-ownership.
- The race question has been modified to meet OMB guidelines to allow respondents to select the ''Some Other Race'' category.
- Examples are provided for the ''Other Hispanic, Latino, or Spanish origin,'' ''Other Asian'', and ''Other Pacific Islander'' write-in categories.
- Twenty-two new questions have been added to our questionnaire.

There are four new questions that are asked of each owner:

1. How did the owner acquire ownership of the business?
2. When did the owner acquire ownership of the business?
3. Prior to establishing, purchasing, or acquiring the business, had the owner ever owned a business or been self-employed?
4. Was the owner born in the United States?

There are eighteen new business questions:

1. Was the business jointly owned by a husband and wife?
2. How many owners were there in the business?
3. Did a franchiser own more than 50% of the business?
4. What was the total amount of capital used to start or acquire the business?
5. Did the business forego expansion or capital improvement due to a lack of access to capital?
6. What percent of the business's total sales of goods and/or services consisted of exports outside the United States?
7. What geographic area(s) best describes the market where the business's goods and/or services were sold?
8. In which language(s) did the business conduct transactions?
9. Did the business establish operations outside the United States?
10. Did the business outsource or transfer any business function or service to a company outside the United States?
11. Which of the following techniques were used to attract, develop and/or retain workers?
12. Did the business have a Web site?
13. Did the business make purchases online?
14. Did the business have e-commerce sales?
15. What percent of the business's goods and/or services were e-commerce sales?
16. What characteristic(s) describe the self-employment or business activity?
17. Is the business currently operating?
18. If no, did the business cease operating for any of the following reasons?

These items will address important concerns of many data users, including the U.S. House of Representatives Committee on Veterans' Affairs, the Small Business Administration, and the Center for Women's Business Research.

We received clearance from the Office of Management and Budget (OMB) to test our newly proposed 2007 SBO questionnaire. Cognitive interviews with fourteen businesses were conducted between December 5–15, 2006. These interviews continued on January 29, 2007 through February 1, 2007. Upon completion of the first round of interviews, the interview team met and decided on the recommended changes to the form. The form was revised and a second round of interviews began on April 9, 2007, through April 27, 2007. The team met again after the second round and the form was revised again. On May 29, 2007 a third and final round of testing began. This testing continues as this presubmission notice is processed. There are plans to make final changes to the form by June 15.

II. Method of Collection

The Census Bureau will use a mailout/mailback survey form to collect the data. The questionnaires will be mailed from our National Processing Center in Jeffersonville, Indiana. Three mail follow-ups to non-respondents will be conducted at approximately one-month intervals. Upon closeout of the survey, the response data will be edited and reviewed.

III. Data

OMB Number: None.

Form Number: SBO–1, 2007 Survey of Business Owners and Self-Employed Persons.

Type of Review: Regular submission.

Affected Public: Business and other for-profit organizations, and non-profit organizations, and publicly held corporations.

Estimated Number of Respondents: 2.3 million.

Estimated Time Per Response: 12 minutes.

Estimated Total Annual Burden Hours: 460,000.

Estimated Total Annual Cost: $11,546,000.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13, United States Code, Sections 131, 193, and 224.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 17, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–9868 Filed 5–22–07; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

2008 Coverage Followup Telephone Operation

ACTION: Proposed information collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 23, 2007.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *DHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Frank Vitrano, U.S. Census Bureau, Room 3H174, Washington, DC 20233–9200, 301–763–3961 (or via e-mail at *frank.a.vitrano@census.gov*).

SUPPLEMENTARY INFORMATION

I. Abstract

The 2008 Census Dress Rehearsal is the final step in the decennial cycle of research and testing leading up to the implementation of the 2010 Census. The 2008 Census Dress Rehearsal will provide an opportunity to see how well the Census Bureau integrates the various operations and procedures planned for the 2010 Census under as close to census-like conditions as possible.

In order to meet our constitutional and legislative mandates, we must implement a re-engineered 2010 Census that is cost-effective, improves coverage, and reduces operational risk. Achieving these strategic goals requires an iterative series of tests to provide an opportunity to evaluate new or improved question wording, methodology, technology, and questionnaire design.

The Census Bureau previously completed three related studies designed to evaluate the efficacy of modified procedures for improving coverage (how well the Census Bureau counts people and housing units in the census) of the population and housing: (1) The 2004 Census Test Coverage Research Followup (OMB Approval Number 0607–0910; (2) the 2005 National Census Test Coverage Followup (OMB Approval Number 0607–0916 and (3) the 2006 Census Test Coverage Followup (OMB Approval Number 0607–0923.)

In support of the Census Bureau's goals, the 2008 Coverage Followup (CFU) telephone operation will serve to clarify initial enumeration responses in an effort to improve within household coverage by identifying erroneous enumerations and omissions. Historically, the decennial census has been affected by undercounts that affect certain demographic groups (*e.g.* babies and minorities), and people in certain living situations, such as renters who move often and people whose residence is complicated or ambiguous.

Coverage interviews in the decennial censuses traditionally involve a second interview with the respondent to determine if changes should be made to their household roster as reported on their initial census return. The questions in the CFU interview attempt to determine if people were missed, and/or counted incorrectly. The corrections to the roster are made, if necessary, based on the 2008 Dress Rehearsal Residence Rules.

The 2008 CFU telephone operation will be conducted May 1, 2008 through July 25, 2008.

II. Method of Collection

The CFU telephone operation will be administered using computer-assisted telephone interviews (CATI). Approximately 66,000 households will be included in the 2008 CFU telephone universe. This universe is selected based on the following criteria:

- Initial census housing unit returns that responded ''yes'' to either coverage question;
- Initial census returns that have a count discrepancy between the reported household population count and the actual number of persons recorded on the census form;
- Initial census returns containing more than six persons;
- Initial returns that are matched against an administrative records database to identify potential undercount; and
- Initial census returns that are computer matched to determine possible duplicate person links.

The 2008 CFU telephone operation will be conducted in the two 2008 Census Dress Rehearsal sites: San Joaquin County, California and South Central North Carolina, including Fayetteville and nine surrounding counties (Chatham, Cumberland, Harnett, Hoke, Lee, Montgomery, Moore, Richmond and Scotland).

The CFU interview includes probes about:

- Types of missing people,
- Where college students live,
- Where children in custody arrangements spend most of their time,
- Where those who vacation spend most of their time,
- If anyone else in the household stays anywhere else any part of the time, and
- If anyone stayed in a facility where groups of people stay.

When anyone is identified as potentially counted or omitted in error, we then ask questions to establish the appropriate census residence of that

person according to the residence rules in effect for the 2008 Census Dress Rehearsal.

We will contact respondents using telephone numbers provided by respondents on the initial census questionnaire. These interviews will be conducted at a commercial call center using CATI. The CATI instrument will be in English only. We will not conduct field interviews during this test, so when telephone interviews are unsuccessful, the case will be classified as a non-interview.

III. Data

OMB Number: None.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Individuals or households.

Estimated Number of Respondents: 66,000 housing units.

Estimated Time Per Response: 10 minutes.

Estimated Total Annual Burden Hours: 11,000.

Estimated Total Annual Cost: $0.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 of the United States Code, Sections 141 and 193.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 17, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–9870 Filed 5–22–07; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket Number: 070404074–7075–01]

American Indian and Alaska Native Policy Statement

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice and request for comments.

SUMMARY: In preparation for the 2010 Census, the Bureau of the Census (Census Bureau) has drafted an American Indian and Alaska Native (AIAN) policy statement and is requesting public comment on it. This proposed policy outlines the principles to be followed in all Census Bureau interactions with federally-recognized American Indian and Alaska Native tribal governments. The policy reaffirms the unique government-to-government relationship that exists between American Indian and Alaska Native tribal governments and the Census Bureau and is consistent with the AIAN policy statement adopted by the Department of Commerce (DOC) on March 30, 1995. The Census Bureau believes that the adoption of the proposed AIAN policy would satisfy a long-standing request from AIAN populations and would encourage and facilitate greater cooperation from these populations during decennial censuses and help us to better communicate with and enumerate these difficult-to-count populations.

DATES: Written comments must be submitted on or before July 23, 2007.

ADDRESSES: Direct all written comments to Dee Alexander, Program Analyst, Decennial Management Division, Outreach and Promotions Branch, U.S. Census Bureau, Room 3H166, 4600 Silver Hill Road, Stop 7100, Washington, DC 20233–7100. Written comments may also be submitted via fax at (301) 763–8327, or e-mail to: *dee.a.alexander@census.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed policy should be directed to Dee Alexander, Program Analyst, Decennial Management Division, Outreach and Promotions Branch, U.S. Census Bureau, Room 3H166, 4600 Silver Hill Road, Stop 7100, Washington, DC 20233–7100, telephone (301) 763–9335.

SUPPLEMENTARY INFORMATION:

Background

The government-to-government relations with Native American tribal governments policy (adopted by previous administrations) was reaffirmed by President George W. Bush in a White House Memorandum dated September 23, 2004. Among other things, this memorandum directs the heads of executive agencies to continue to ensure that, to the greatest extent practicable and permitted by U.S. law, the agency's working relationship with federally-recognized tribal governments fully respect the rights of self-government and self-determination due tribal governments. Pursuant to an earlier White House Memorandum of April 29, 1994, DOC adopted an AIAN policy statement on March 30, 1995. The Census Bureau proposes to adopt an AIAN policy statement that is consistent with the previously cited Presidential Memoranda and the DOC policy statement.

The proposed policy statement is intended only for internal management purposes and does not create any right, benefit, or trust responsibility enforceable against the United States, its agencies, entities, or instrumentalities, its officers or employees, or any other person. The Census Bureau believes that the proposed policy statement will contribute to the accuracy of the 2010 decennial census by improving communications and encouraging greater cooperation with difficult-to-count populations.

Request for Comments

Comments are invited on: (a) The policy's nine principles that provide guidance to the agency and its employees when communicating with federally recognized tribes on a government-to-government basis in recognition of their sovereignty; (b) the policy as it relates to protected tribal resources, tribal rights, and Indian lands.

Executive Order 12866

This notice has been determined to be not significant under Executive Order 12866.

May 17, 2007.

Charles Louis Kincannon,

Director, Bureau of the Census.

Proposed American Indian and Alaska Native Policy Statement for the U.S. Census Bureau

I. Introduction

The Census Bureau hereby proclaims its American Indian and Alaska Native policy. This policy outlines the principles to be followed in all Census Bureau interactions with federally recognized AIAN tribal governments. It reaffirms the unique government-to-

government relationship that exists between AIAN tribal governments and the Census Bureau.

This relationship is based on the U.S. Constitution, federal treaties, policy, law, court decisions, and the ongoing political relationship among tribes and the federal government. The relationship results in a federal trust responsibility to federally-recognized tribal governments.

The foundation for this policy statement is the White House Memorandum of September 23, 2004, ''Government-to-Government Relations with Native American Tribal Governments'' and the AIAN policy of the DOC of March 30, 1995. This policy is for internal management only and does not grant or vest any right to any party in respect to any federal action, not otherwise granted or vested by existing law or regulations.

II. Definitions

Federally recognized Indian Tribe: Any AIAN, Band, Nation, Pueblo, or other organized group or community, including any Alaska Native village, as defined or established pursuant to the Alaska Native Claims Settlement Act (Title 43, United States Code (U.S.C.), Chapter 33, Section 1601 *et seq.*), acknowledged by the federal government to constitute a tribe with a government-to-government relationship with the United States and eligible for the programs, services, and other relationships established by the United States for indigenous people because of their status as American Indian and Alaska Native tribes, Bands, Nations, Pueblos, or communities.

American Indian or Alaska Native Tribal Government: The recognized government of an Indian tribe and any affiliated or component band government of such tribe that has been determined eligible for specific services by Congress or officially recognized by the U.S. Department of the Interior in a Notice (''Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs'') published in the **Federal Register** on November 25, 2005 (70 FR 71194).

Trust Responsibility: Includes, but is not limited to: promotion and protection of tribal treaty rights, federally-recognized reserved rights, and other federally recognized interests of the beneficiary American Indian and Alaska Native governments; determining, documenting, notifying, and interacting with tribal governments with regard to the impact of Census Bureau programs, policies and regulations to protect American Indian and Alaska Native traditional and cultural life ways, treaty, and other federally recognized and reserved rights.

III. Policy Principles

The following policy statements provide general guidelines to Census Bureau employees for actions dealing with AIAN governments.

1. The Census Bureau recognizes the unique government-to-government relationship between the United States and federally recognized AIAN tribal governments, as affirmed by the September 23, 2004, White House Memorandum for the Heads of Executive Departments and Agencies, and the American Indian and Alaska Native Policy of the DOC.

2. The Census Bureau recognizes each tribal government as a functioning governing body that the Census Bureau will work with to count and collect data as accurately as possible, of all residents living in AIAN areas.

3. The Census Bureau recognizes and invites tribal governments' involvement in the Census Bureau planning process for censuses and surveys toward ensuring the most accurate counts and data for the AIAN populations.

4. The Census Bureau's procedures for outreach, notice, and consultation will ensure involvement of AIAN tribal governments, to the extent practicable and permitted by law, before making decisions or implementing policies, rules, or programs that affect federally recognized tribal governments.

5. The Census Bureau will continue its partnerships with tribal governments to enhance awareness of all censuses, surveys, and geography programs—particularly those including residents living in AIAN areas.

6. The Census Bureau recognizes that there are distinct cultural practices, religious beliefs, traditions, climate conditions, as well as a tribe's authority over its land areas that must be considered and abided by when conducting any censuses or survey in AIAN areas.

7. The Census Bureau recognizes the importance of effective and efficient coordination with other federal agencies in the planning process of any censuses or surveys that will include AIAN tribal governments.

8. The Census Bureau acknowledges its responsibility to provide accurate demographic and economic data on AIAN populations and their businesses. The Census Bureau will work with tribal governments and other partners to encourage the participation of every resident.

9. The Census Bureau will consult with AIAN tribal governments before making decisions or implementing programs that may affect tribes to ensure that tribal rights and concerns are addressed. Consultation will provide, but is not limited to, mutually agreed upon protocols for timely communication, coordination, cooperation, and collaboration.

Therefore, the Director of the Census Bureau hereby directs all directorates and their components (divisions, branches, and offices) to implement this policy by incorporating all of the above principles in their interactions with federally recognized AIAN tribal governments.

[FR Doc. E7–9893 Filed 5–22–07; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

(A–357–818/Argentina) (A–201–835/Mexico)

Lemon Juice from Argentina and Mexico: Postponement of Final Antidumping Duty Determinations and Extension of Provisional Measures

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 23, 2007.

FOR FURTHER INFORMATION CONTACT: Joshua Reitze (Argentina) or Edythe Artman (Mexico), AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0666, or (202) 482–3931, respectively.

SUPPLEMENTARY INFORMATION:

Postponement of Final Determinations

The Department of Commerce (Department) is postponing the final determinations in the antidumping duty investigations of lemon juice from Argentina and Mexico. These investigations were initiated on October 11, 2006. *See Initiation of Antidumping Duty Investigations: Lemon Juice from Argentina and Mexico*, 71 FR 61710 (October 19, 2006). On April 26, 2007, the Department published its preliminary determinations in these investigations. *See Lemon Juice from Argentina: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances*, 72 FR 20820 (April 26, 2007), and *Notice of Preliminary Determinations of Sales at Less Than Fair Value and of Critical Circumstances in Part: Lemon Juice from Mexico*, 72 FR 20830 (April 26, 2007). These notices stated that the

Department would issue its final determinations no later than 75 days after the date on which the Department issued its preliminary determinations.

Section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(b)(2)(ii) provide that a final determination may be postponed until no later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise. Additionally, 19 CFR 351.210(e)(2) requires that requests by a respondent for postponement of a final determination be accompanied by a request for an extension of the provisional measures from a four–month period to not more than six months.

On April 25, 2007, in accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(2), Citrusvil, S.A. and S.A. San Miguel A.G.I.C.y F. (the two respondents in the investigation of lemon juice from Argentina) requested that the Department: (1) postpone the final determination in the Argentina investigation, and (2) extend the provisional measures period in the Argentina investigation from four months to a period not longer than six months. These two companies account for a significant proportion of exports of subject merchandise from Argentina. In addition, on April 26, 2007, The Coca–Cola Company and a subsidiary, The Coca–Cola Export Corporation, Mexico Branch (respondent in the investigation of lemon juice from Mexico), also requested that the Department: (1) postpone the final determination in the Mexico investigation, and (2) extend the provisional measures period in the Mexico investigation from four months to a period not longer than six months. This company accounts for a significant proportion of exports of subject merchandise from Mexico.

Accordingly, pursuant to section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), the Department is postponing the final determinations until no later than 135 days after the publication of the preliminary determinations in the **Federal Register** for the following reasons: (1) the preliminary determinations in these investigations were affirmative; (2) the requesting producers/exporters account for a significant proportion of exports of the subject merchandise in these investigations and they requested the extension of provisional measures; and (3) no compelling reasons for denial exist. The new statutory deadline for the final determinations is September 8, 2007. Because September 8, 2007, is a Saturday, the Department will issue the final determinations no later than September 10, 2007. Provisional measures will be extended in accordance with 19 CFR 351.210(e)(2) and section 733(d) of the Act.

This notice is issued and published pursuant to sections 777(i) of the Act and 19 CFR 351.210(g).

Dated: May 17, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7–9926 Filed 5–22–07; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Department of Commerce, National Institute of Standards and Technology, et al.

Notice of Consolidated Decision on Applications for Duty–Free Entry of Electron Microscopes

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 2104, U.S. Department of Commerce, 14th and Constitution Avenue., NW, Washington, D.C.

Docket Number: 07–014. Applicant: U.S. Department of Commerce, National Institute of Standards and Technology, Gaithersburg, MD 20899. Instrument: Electron Microscope, Model Quanta Series. Manufacturer: FEI Company, The Netherlands. Intended Use: See notice at 72 FR 20504, April 25, 2007. Order date: September 16, 2006.

Docket Number: 07–015. Applicant: VA Puget Sound Health Care System, Seattle, WA 98108. Instrument: Electron Microscope, Model JEM -1011. Manufacturer: JEOL, Ltd., Japan. Intended Use: See notice at 72 FR 20504, April 25, 2007. Order Date: September 13, 2006.

Docket Number: 07–018. Applicant: Virginia Polytechnic Institute and State University, Institute for Critical Technology and Applied Science, Blacksburg, VA 24061. Instrument: Electron Microscope, Model Quanta 600 FEG. Manufacturer: FEI Company, Brno, Czech Republic. Intended Use: See notice at 72 FR 20504, April 25, 2007. Order Date: December 13, 2006.

Docket Number: 07–019. Applicant: University of Utah, Department of Ophthalmology & Visual Sciences, John A. Moran Eye Center, Salt Lake City, UT 84132. Instrument: Electron Microscope, Model JEM -1400. Manufacturer: JEOL Ltd., Japan. Intended Use: See notice at 72 FR 20504, April 25, 2007. Order Date: November 15, 2006.

Docket Number: 07–020. Applicant: University of Rhode Island, Department of Chemical Engineering, Kingston, RI 02881. Instrument: Electron Microscope, Model JEM - 2100. Manufacturer: JEOL, Ltd., Japan. Intended Use: See notice at 72 FR 20504, April 25, 2007. Order Date: September 21, 2006.

Docket Number: 07–021. Applicant: The University of Texas at Austin, Purchasing Office, Austin, TX 78722. Instrument: Electron Microscope, Model JEM -1400. Manufacturer: JEOL Ltd., Japan. Intended Use: See notice at 72 FR 20504, April 25, 2007. Order Date: December 4, 2006.

Docket Number: 07–022. Applicant: Duke University, Durham, NC 27708–0271. Instrument: Electron Microscope. Manufacturer: FEI Company, The Netherlands. Intended Use: See notice at 72 FR 20504, April 25, 2007. Order Date: December 21, 2006.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered. Reasons: Each foreign instrument is an electron microscope and is intended for research or scientific educational uses requiring an electron microscope. We know of no electron microscope, or any other instrument suited to these purposes, which was being manufactured in the United States at the time of order of each instrument.

Faye Robinson,

Director, Statutory Import Programs Staff.

[FR Doc. E7–9927 Filed 5–22–07; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Purdue University, et al., Notice of Consolidated Decision on Applications, for Duty–Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub.

L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Room 2104, U.S. Department of Commerce, 14th and Penn. Ave., NW, Washington, DC.

Comments: None received. Decision: Approved. We know of no instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, which was being manufactured in the United States at the time of its order.

Docket Number: 06–054. Applicant: Purdue University, West Lafayette, IN. Instrument: DBF Fiber Laser System. Manufacturer: Koheras A/S, Denmark. Intended Use: See notice at 72 FR 20505, April 25, 2007. Reasons: The foreign instrument provides a means to describe and formulate the physical description of the fundamental noise properties of optical frequency combs and their application to Optical Arbitrary Waveform Generation. An ultra–narrow (1.0 kHz optical linewidth) CW laser is used to sweep the carrier frequency and beat it with a conventional mode–locked laser based optical frequency comb. The CW laser also provides a 60 pm fast piezo tuning range and 700 pm thermal tuning with 100 mW output power.

Docket Number: 06–059. Applicant: Rutgers University, New Brunswick, NJ. Instrument: Micro–dissecting Microscope. Manufacturer: Singer Instruments, UK. Intended Use: See notice at 72 FR 20505, April 25, 2007. Reasons: The foreign instrument provides capability to identify and categorize genes that control DNA replication and repair using a simple model organism known as baker's yeast. It is a unique motorized micromanipulator specifically designed to separate single aspo–spores of yeast. It provides automatic micro–dissection and can ''memorize'' the locations of each ascus so that it can shuttle between positions automatically.

Docket Number: 06–067. Applicant: The University of Illinois, Champaign, IL. Instrument: Ti: Sapphire Lasers (2), Model TIS SF–077s. Manufacturer: Tekhnoscan, Russia. Intended Use: See notice at 72 FR 20505, April 25, 2007. Reasons: The foreign instrument provides a means of studying the application of ultra–cold atom gases to quantum simulation. The lasers will be used to create an optical lattice, and part of a system for driving stimulated Raman transitions. One laser provides a linewidth less than 100 kHz and a drift rate < 50 MHz/hour, locked to an external reference cavity. The other provides < 5 MHz linewidth (without an external reference cavity) but passive stability equal to the other. Both are completely reconfigurable to the point of removing all optical elements from the cavity, running the cavity in a linear configuration, and inserting an electro–optic modulator. They employ phase–locking optics and electronics with low drift rates, since they will not be locked to a spectroscopic reference.

Docket Number: 07–005. Applicant: Millersville University Physics Department, Millersville PA. Instrument: HeNe Laser Cavity Educational Kit, Model CA–1200. Manufacturer: MICOS GmbH, Germany. Intended Use: See notice at 72 FR 20505, April 25, 2007. Reasons: The foreign instrument provides a test bench in the lab portion of a course on optics for instruction in the physical principles and the components of a laser. Students will use the kit to build and reconfigure a He–NE Laser themselves and study the role of different optical elements in the lasing effect. Lab studies will include intensity distribution, Gaussian beam, polarization, divergence, coherence monochromatism and other properties of light.

Docket Number: 07–007. Applicant: Illinois Institute of Technology, Chicago, IL. Instrument: High Temperature Nano Test System. Manufacturer: Micro Materials, Ltd., UK. Intended Use: See notice at 72 FR 20505, April 25, 2007. Reasons: The foreign instrument provides examination of the mechanical properties of Ni–base alloys at elevated temperature. Nano–indentation tests can be conducted on specimens at a range of temperatures from room temperature to 750 C to assess the hardness and modulus of Ni–base alloys an also the constituent phases present in experimental Ni–base alloys and new high temperature materials. The instrument employs a unique horizontally designed pendulum indenter which enables insertion of a high temperature heating stage and tip heater as well as a protective heat shield to allow testing of specimens at temperatures in excess of 750 C. Other systems which use a vertical pendulum are currently limited to 400 C.

Docket Number: 07–011. Applicant: State University of New York, Stony Brook University, Stony Brook, NY 11794. Instrument: Low–level Beta Multicounter System. Manufacturer: Riso National Laboratory, Denmark. Intended Use: See notice at 72 FR 20505, April 25, 2007. Reasons: The foreign instrument provides measurement of emissions from very small quantities of naturally occurring, dissolved radioactive isotopes of thorium and lead in seawater which are attached to particulate matter in very small quantities. Samples of the isotopes are taken at various depths and serve as tracers of the movement of carbon to the deep, an important process for understanding climate change. The instrument is the only beta detector that meets the requirements of five simultaneous measurements with extremely low background count rates of 0.2 cpm. It is also portable and capable of field use in harsh environments. It also able to hold 22 mm diameter filter holders and is in standard use by many low level radiation laboratories around the world.

Docket Number: 07–012. Applicant: University of Wisconsin, Madison, WI. Instrument: Real–time 3D Motion Capture System. Manufacturer: Phoenix Technologies, Inc., Canada. Intended Use: See notice at 72 FR 20505, April 25, 2007. Reasons: The foreign instrument provides accurate measurement of limb movements of monkey subjects performing reach–to-grasp tasks. Electrical signals derived from individual brain cells are correlated with parameters of movement in order to determine how information is encoded in the signals that the brain uses to communicate with the muscles which is relevant to neuro–prosthetics, spinal chord injury, stroke and motor rehabilitation. The dimensions of the testing chamber require that the infrared position markers can operate at a minimum distance of 0.6 m. Other comparable systems require more than twice that distance. The Phoenix system also uses markers of much less diameter, which minimally interfere with natural limb movement.

The capabilities of each of the foreign instruments described above are pertinent to each applicants intended purpose and we know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Faye Robinson,

Director, Statutory Import Program Staff, Import Administration.

[FR Doc. E7–9921 Filed 5–22–07; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Notice of Record of Decision for Louisiana Regional Restoration Planning Program

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA),

an agency of the U.S. Department of Commerce, has prepared a Record of Decision (ROD) regarding the January 5, 2007, final Programmatic Environmental Impact Statement (PEIS) for the Louisiana Regional Restoration Planning Program (RRP Program). The ROD has been written pursuant to § 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), regulations promulgated by the Council on Environmental Quality (40 CFR part 1505.2), and the NOAA Administrative Order on implementing environmental review procedures (NAO 216–6). The ROD is a concise statement of the management planning and environmental impact analysis process completed, the alternatives considered, and the basis for the selection of preferred alternative. The notice of availability for the final PEIS was published in the **Federal Register** on January 5, 2007, with the close of the mandatory waiting period on February 20, 2007. No comments were received on the final PEIS.

It is the decision of the NOAA, along with the Department of the Interior and the State of Louisiana, to implement the Louisiana RRP Program using the methods evaluated in the PEIS. Because the analysis is programmatic in nature, site and injury-specific features will dictate which restoration alternatives are most appropriate for individual injuries. All practicable means to avoid or minimize environmental harm from the RRP Program alternative selected have been adopted.

FOR FURTHER INFORMATION: Questions regarding the PEIS and ROD and requests for copies of these documents should be addressed to either: Karolien Debusschere, Deputy Coordinator, Louisiana Oil Spill Coordinator's Office, Office of the Governor, 150 Third Street, Suite 405, Baton Rouge, Louisiana, 70801; 225/219–5800; *e-mail address: Karolien.Debusschere@la.gov*, or Tony Penn, Southeast Branch Chief, NOAA, Assessment and Restoration Division, 1305 East-West Highway, SSMC #4, 10th floor, Silver Spring, MD 20910; fax number 301/713–4387; *e-mail address: Tony.Penn@noaa.gov.*

The PEIS and Record of Decision are available via the Internet at *http://www.darrp.noaa.gov/southeast/rrpp-la/* and *http://www.losco.state.la.us/admin/RRP/RRPprogram_view.asp*.

Dated: May 15, 2007.

Ken Barton,

Director, Office of Response and Restoration, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. E7–9940 Filed 5–22–07; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[XRIN: 0648–XA49]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Whiting Advisory Panel, in June, 2007, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will be held on Thursday, June 7, 2007, at 10 a.m.

ADDRESSES: The meeting will be held at the Hilton Hotel, 21 Atwells Avenue, Providence, RI 02903; telephone: (401) 831–3900; fax: (401) 751–0007.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Committee will review Advisory Panel role and responsibilities, elect Advisory Panel Chairman and Vice Chairman. The committee will also review management measures and alternatives under consideration in an amendment to the Multispecies (Groundfish) FMP to address small mesh multispecies (whiting, red hake, offshore hake). The committee will develop Advisory Panel comments and recommendations regarding small mesh multispecies management measures and alternatives under consideration, including: optimum yield (OY) specifications, total allowable catches (TACs); a limited access program for the small mesh multispecies fishery; measures to address historical fisheries; and possession limits for small mesh multispecies and other management measures that may be considered.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: May 18, 2007.

Tracey L. Thompson,

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

[FR Doc. E7–9906 Filed 5–22–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[XRIN: 0648–XA51]

New England Fishery Management Council; Public Informational Meeting.

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

ACTION: Notice of a public informational meeting.

SUMMARY: Trans-Boundary Resource Assessment Committee (TRAC) Industry/Science Data Exchange Meeting.

DATES: The meeting will be held on Thursday, June 7, 2007, from 9 a.m. to 1 p.m.

ADDRESSES: The meeting will be held at the New Bedford Free Public Library, 613 Pleasant Street, New Bedford, MA 02740; telephone: (508) 991–6279.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: Amendment 13 to the Northeast Multispecies Fishery Management Plan adopted a system to coordinate the management of trans-boundary stocks of cod, haddock, and yellowtail flounder with Canada. As part of that system, each year, the Trans-Boundary Resource Assessment Committee (TRAC)

conducts assessments of Eastern Georges Bank cod and haddock, and Georges Bank yellowtail flounder. These assessments provide the scientific advice used to determine management measures (including Total Allowable Catches, or TACs) for the U.S./Canada fishing area (see 50 CFR 648.85(a)). The TRAC is scheduled for June 12–15, 2007 in St. Andrews, New Brunswick, Canada.

Items for discussion at this meeting:

1. Northeast Fisheries Science Center assessment biologists will brief the public on the catches (landings and discards) and survey data that will be used in the 2007 assessments of Eastern Georges Bank cod and haddock, and Georges Bank yellowtail flounder.

2. Fishermen are encouraged to attend and provide their observations on fishing for cod, haddock, and yellowtail flounder on Georges Bank in calendar year 2006.

Assessment results will not be presented because the assessment will not be completed until the following week.

Discussion will be restricted to those issues specifically identified in this notice.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

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

Dated: May 18, 2007.

Tracey L. Thompson,

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

[FR Doc. E7–9907 Filed 5–22–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[XRIN: 0648–XA50]

South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of its Standard Operations, Policy, and Procedures (SOPPs) Committee, Economics Committee, Personnel Committee (Closed Session), Snapper Grouper Committee, Shrimp Committee, Mackerel Committee, Joint Spiny Lobster Advisory Panel and Committee, Limited Access Privilege (LAP) Program Committee, Joint Habitat and Ecosystem-based Management Committees, Southeast Data, Assessment, and Review (SEDAR) Committee, Joint Executive and Finance Committees, and a meeting of the full Council. The Council will also hold a meeting of its Scientific and Statistical Committee (SSC), including subcommittee meetings of the SSC's Biological Subcommittee and Socio-Economics Subcommittee. Public comment will be taken concerning agenda items for the SSC meetings. In addition, the Council will hold a meeting of the LAP Program Exploratory Workgroup, a public comment session regarding a request by the Bluewater Fishermen's Association for an Exempted Fishery Permit for longline vessels, and a public comment session regarding approval of Amendment 14 to the Snapper Grouper Fishery Management Plan to establish a series of marine protected areas in the South Atlantic Region.

DATES: The meeting will be held in June 2007. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meeting will be held at the Doubletree Grand Key Resort, 3990 S. Roosevelt Boulevard, Key West, FL, 33040; telephone: (1–800) 222–8733 or (305) 293–1818.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer; telephone: (843) 571–4366 or toll free at (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net*.

SUPPLEMENTARY INFORMATION:

Meeting Dates

1. Scientific and Statistical Committee Meeting: June 10, 2007, 1 p.m. until 5 p.m.; June 11, 2007 from 10:15 a.m. until 3 p.m.; and June 12, 2007, 8 a.m. until 12 noon. The SSC Biological Subcommittee and SSC Socio-Economics Committee will meet in concurrent sessions on Sunday, June 10, 2007, 5:15 p.m. until 6:30 p.m.; June 11, 2007, 8 a.m. until 10 a.m. and 3:15 p.m. until 6 p.m.

The SSC will receive overviews and updates, discuss, and provide recommendations to the Council regarding, but not limited to, the following agenda items: the role of the SSC under the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (MSRA), the SEDAR stock assessment for gag grouper, the SEDAR stock assessment update for vermilion snapper, Amendment 15 to the Snapper Grouper Fishery Management Plan (FMP), Amendment 18 to the FMP for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic, a scoping document for Amendment 19 to the FMP for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic, a research plan required by the MSRA, and a NMFS comparison of electronic and paper logbooks versus state trip ticket data.

With the exception of the role of the SSC under the MSRA, the SSC Biological Subcommittee and the SSC Socio-Economics Subcommittee will review the same agenda items and provide recommendations to the full SSC for consideration.

Amendment 15 to the Snapper Grouper FMP addresses rebuilding plans for black sea bass, snowy grouper and red porgy as well as reductions in bycatch for deepwater snapper grouper species, recreational sale, black sea bass tags and pots, permit renewals, and other actions. Amendment 18 to the FMP for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic addresses reductions in the Total Allowable Catch (TAC) for Atlantic migratory group king and Spanish mackerel, and changes in trip limits for Spanish mackerel. Amendment 19, currently approved by the South Atlantic Council as a scoping document, would separate the FMP for Coastal Migratory Pelagics between the Gulf of Mexico Fishery Management Council and the South Atlantic Fishery Management Council, and address boundary and permit issues associated

with creating separate FMPs between the two councils.

2. SOPPs Committee Meeting: June 11, 2007, 1:30 p.m. until 3 p.m.

The SOPPs Committee will receive an update on the status of the Secretarial review of the Council's SOPPs and develop changes to the SOPPs as necessary.

3. Economics Committee Meeting: June 11, 2007, 3 p.m. until 4:30 p.m.

The Economics Committee will receive a presentation on economic analysis of allocation methodologies for Gulf of Mexico grouper species and discuss the timeline for development of the South Atlantic Council's Socioeconomics Guidance Document.

4. Personnel Committee Meeting: June 11, 2007, 4:30 p.m.. until 5:30 p.m. (Closed Session)

The Personnel Committee will receive a briefing from the Executive Director regarding staffing and personnel issues.

5. LAP Program Exploratory Workgroup Meeting: June 12, 2007, 1:30 p.m. until 6 p.m. and June 13, 2007, 8 a.m. until 3 p.m. (Concurrent Sessions)

The LAP Workgroup will receive a presentation and panel discussion of the development of the Individual Transferable Quota (IFQ) program for the Gulf of Mexico grouper, an update on the Workgroup's information requests, review and approval of the LAP Program Exploratory Workgroup draft working document, and prioritize the Workgroup's objectives. The Workgroup will also develop LAP Program duration options, options for species to be included in a LAP Program, and discuss gear sectors to be included in a LAP Program.

6. Snapper Grouper Committee Meeting: June 12, 2007, 8 a.m. until 4 p.m.

The Snapper Grouper Committee will meet to discuss the gag grouper SEDAR assessment and SEDAR stock assessment update for vermillion snapper, review recommendations from the SSC, and develop recommendations for the Council. The Committee will also review the Final Amendment 14 to the Snapper Grouper FMP establishing marine protected areas in the South Atlantic Region, and approve sending for formal review by the Secretary of Commerce, and review Amendment 15 to the Snapper Grouper FMP, including SSC recommendations, and provide direction to Council staff.

7. Shrimp Committee Meeting: June 12, 2007, 4 p.m. until 5:30 p.m.

The Shrimp Committee will review input and recommendations from the Rock Shrimp Advisory Panel (AP), address law enforcement concerns, review a draft options paper containing recommendations from the AP, and provide direction to staff.

8. Mackerel Committee Meeting, June 13, 2007, 8 a.m. until 12 noon

The Mackerel Committee will review public comments received on Amendment 18 and approve final actions. The Committee will also review and approve the Amendment 19 scoping document, and develop input for SEDAR terms of reference and appointments.

9. Joint Spiny Lobster Committee and Advisory Panel Meeting, June 13, 2007, 1:30 p.m. until 4 p.m.

The Spiny Lobster Committee will meet jointly with the Spiny Lobster Advisory Panel and receive an update from the State of Florida, a briefing on NMFS Law Enforcement issues, a briefing on NOAA General Counsel issues, an update from the Florida State Lobster Advisory Board, and develop items to include in a plan amendment.

10. LAP Program Committee Meeting, June 13, 2007, 4 p.m. until 6 p.m.

The Limited Access Privilege Program Committee will receive a report from the LAP Program Exploratory Workgroup, discuss non-LAP alternatives for the snapper grouper fishery, reconsider the use of proxies for Workgroup members, and consider replacement/appointments of new members.

Public Comment Session, June 13, 2007, 6:30 p.m.: The Council will hold a public comment session regarding the Bluewater Fishermen's Association's request for an Exempted Fishery Permit (EFP) involving the commercial longline fishery.

11. Joint Habitat and Ecosystem-based Management Committees Meeting, June 14, 2007, 8 a.m. until 10:30 a.m.

The Habitat and Ecosystem-based Management Committees will review Energy and Offshore Aquaculture Policy statements, receive an update on the Council's Fishery Ecosystem Plan (FEP), and the FEP Comprehensive Amendment.

12. SEDAR Committee Meeting, June 14, 2007, 10:30 a.m. until 12 noon

The SEDAR Committee will review actions from the SEDAR Steering Committee and develop Scientific Research Priorities as required by the MSRA. The Committee will also review and finalize Council appointees for SEDAR 15 (greater amberjack and red snapper), SEDAR 15A (mutton snapper), SEDAR 16 (South Atlantic and Gulf of Mexico king mackerel), and appointment of ''outside'' individuals to SEDAR 16. In addition, the Committee will review the status of the vermilion snapper assessment update, the gag grouper SEDAR assessment, the king mackerel SEDAR assessment, and review an outline for the Trends Report and the Stock Assessment and Fishery Evaluation (SAFE) Report.

13. Joint Executive/Finance Committees Meeting, June 14, 2007, 1:30 p.m. until 3 p.m.

The Executive and Finance Committees will finalize the Calendar Year (CY) 2007 FMP/Amendment/Framework timelines, and develop and approve CY 2007 activities schedule and budget. The Committees will also discuss and provide recommendations for appointments for an Ad Hoc Marine Recreational Fisheries Statistical Survey (MRFSS) Advisory Panel.

14. Council Session: June 14, 2007, 3:30 p.m. until 6 p.m. and June 15, 2007, 8 a.m. until 12 noon

Council Session: June 14, 2007, 3:30 p.m. until 6 p.m.

From 3:30 p.m. - 3:45 p.m., the Council will call the meeting to order, adopt the agenda, and approve the March 2007 meeting minutes.

From 3:45 p.m. - 4:15 p.m., the Council will review Experimental Fishing Permit applications from: Bluewater Fishermen's Association, S.C. Aquarium, and any others received prior to the meeting.

From 4:15 p.m. - 4:30 p.m., the Council will hear a report from the SSC and take action as appropriate.

From 4:30 p.m. - 4:45 p.m., the Council will hear a report from the Economics Committee and take action as appropriate.

From 4:45 p.m. - 5:30 p.m., the Council will hear a report from the Snapper Grouper Committee, receive public comment on Amendment 14, approve Amendment 14 for submission to the Secretary of Commerce, and consider other recommendations and take action as appropriate.

4:45 p.m. - Public Comment Session: Public comment regarding Amendment 14 to the Snapper Grouper FMP - establishment of 8 marine protected areas in the South Atlantic Region.

From 5:30 p.m. - 5:45 p.m., the Council will hear a report from the Shrimp Committee and take action as appropriate.

From 5:45 p.m. - 6 p.m., the Council will hear a report from the Mackerel Committee and take action as appropriate.

Council Session: June 15, 2007, 8 a.m. until 12 noon.

From 8 a.m. - 8:30 a.m., the Council will receive a NOAA General Counsel briefing on litigation issues (CLOSED SESSION).

From 8:30 a.m. - 8:45 a.m., the Council will receive a report from the Spiny Lobster Committee and take action as appropriate.

From 8:45 a.m. - 9 a.m., the Council will receive a report from the LAP Program Committee and take action as appropriate.

From 9 a.m. - 9:15 a.m., the Council will receive a report from the Joint Habitat and Ecosystem-based Management Committees and take action as appropriate.

From 9:15 a.m. - 9:30 a.m., the Council will receive a report from the SEDAR Committee and take action as appropriate.

From 9:30 a.m. - 9:45 p.m., the Council will receive a report from the Joint Executive/Finance Committees and take action as appropriate.

From 9:45 a.m. - 10:15 a.m., the Council will receive a briefing on the use of Green Sticks and the status of the petition to list white martin.

From 10:15 a.m. - 12 noon, the Council will receive a report regarding the Council Coordinating Committee Meeting, discuss Annual Catch Limits, receive status reports from NOAA Fisheries' Southeast Regional Office, NOAA Fisheries' Southeast Fisheries Science Center, agency and liaison reports, and discuss other business including upcoming meetings.

Copies of documents regarding these issues are available from the Council office (see **ADDRESSES**).

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305 (c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Except for advertised (scheduled) public hearings and public comment, the times and sequence specified on this agenda are subject to change.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by June 6, 2007.

Dated: May 18, 2007.

Tracey L. Thompson,

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

[FR Doc. E7–9908 Filed 5–22–07; 8:45 am]

BILLING CODE 3510–22–S

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent to Renew Collection 3038–0049, Procedural Requirements for Requests for Interpretative, No-Action, and Exemptive Letters

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (CFTC) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.,* Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on requirements relating to procedures for submitting requests for exemptive, no-action, and interpretative letters.

DATES: Comments must be submitted on or before July 23, 2007.

ADDRESSES: Comments may be mailed to Christopher W. Cummings, Division of Clearing and Intermediary Oversight, U.S. Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: Christopher W. Cummings (202) 418–5445; Fax: (202) 418–5536; e-mail: *ccummings@cftc.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of 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.

Procedural Requirements for Requests for Interpretative, No-Action, and Exemptive Letters, OMB Control Number 3038–0049—Extension

Commission Regulation 140.99 requires persons submitting requests for exemptive, no-action, and interpretative letters to provide specific written information, certified as to completeness and accuracy, and to update that information to reflect material changes. The regulation was promulgated pursuant to the Commission's rulemaking authority contained in section 8a(5) of the Commodity Exchange Act, 7 U.S.C. 12a(5) (2000). Regulation 41.3 requires securities brokers and dealers submitting requests for exemptive orders to provide specified written information in support of such requests. Regulation 41.3 was promulgated in response to the requirement in the Commodity Futures Modernization Act of 2000 that the Commission establish procedures for requesting such orders.

The Commission estimates the burden of this collection of information as follows:

ESTIMATED ANNUAL REPORTING BURDEN

17 CFR Section	Annual number of respondents	Frequency of response	Total annual responses	Hours per response	Total hours
17 CFR 140.99	350	On occasion	455	7.0	3,185
17 CFR 41.3	60	On occasion	24	0.5	12

There are no capital costs or operating and maintenance costs associated with this collection.

This estimate is based on the number of requests for such letters in the last three years. Although the burden varies with the type, size, and complexity of the request submitted, such request may involve analytical work and analysis, as well as the work of drafting the request itself.

Dated: May 18, 2007.

Eileen A. Donovan,

Acting Secretary of the Commission

[FR Doc. 07–2566 Filed 5–22–07; 8:45 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Renew Collection 3038–0023, Registration Under the Commodity Exchange Act

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice

SUMMARY: The Commodity Futures Trading Commission (''the Commission'') is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (PRA), *44 U.S.C. 3501 et seq.* Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, and to allow 60 days for comment in response to the notice. This notice solicits comments on requirements relating to information collected to assist the Commission in the prevention of market manipulation.

DATES: Comments must be submitted on or before July 23, 2007.

ADDRESSES: Comments may be mailed to Christopher W. Cummings, Division of Clearing and Intermediary Oversight, U.S. Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: Christopher W. Cummings, (202) 418–5445; Fax (202) 418–5526; e-mail: *ccummings@cftc.gov*.

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, *44 U.S.C. 3506(c)(2)(A)*, requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the Commission is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, the Commission invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality of, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

Registration Under the Commodity Exchange Act, OMB Control No. 3038–0023—Extension

This collection covers the paperwork requirements associated with the process of registration by futures industry intermediaries, including futures commission merchants, introducing brokers, commodity pool operators, commodity trading advisors, associated persons of each of the foregoing, and floor brokers, as well as floor traders. The Commission has authorized the National Futures Association, an industry self-regulatory organization and the only registered futures association, to perform the registration processing functions.

The Commission estimates the burden of this collection of information as follows:

ESTIMATED ANNUAL REPORTING BURDEN

Annual number of respondents	Frequency of response	Total annual responses	Hours per response	Total hours
70,708	Periodically	73,646	.09	6,628

Dated: May 18, 2007

Eileen A. Donovan,

Acting Secretary of the Commission.

[FR Doc. 07–2567 Filed 5–22–07; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Renewal of Federal Advisory Committee

AGENCY: DoD.

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972, (5 U.S.C. Appendix, as amended), the Sunshine in the Government Act of

1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.65, the Department of Defense gives notice that it is renewing the charter for the Transformation Advisory Group.

The Transformation Advisory Group, pursuant to 41 CFR 102–3.50(d), is a discretionary Federal advisory committee established to provide the Secretary of Defense, through the Chairman of the Joint Chiefs of Staff and the Commander, U.S. Joint Forces Command independent advice and recommendations on strategic, scientific, technical, intelligence and policy-related issues to the Nation's joint enterprise, and the U.S. Joint Forces Command. In accordance with DoD policy and procedures, the Commander U.S. Joint Forces Command is authorized to act upon the advice emanating from this advisory committee.

The Transformation Advisory Group will be composed of more than 24 members drawn from a cross-section of experts in their fields. The areas of expertise include, but are not limited to, innovation, development, strategic communications, logistics, technologies, business practices, military, government, education, training, intelligence and appropriations.

Committee members appointed by the Secretary of Defense, who are not full-time Federal officers or employees, shall serve as Special Government Employees under the authority of 5 U.S.C. 3109. Committee members shall be appointed on an annual basis by the Secretary of Defense, and with the exception of travel and per diem for official travel, shall serve without compensation. The Commander, U.S. Joint Forces Command shall select the committee's chairperson from the committee's membership at large.

The Transformation Advisory Group shall meet at the call of the committee's Designated Federal Officer, in consultation with the Chairperson and the Commander U.S. Joint Forces Command. The Designated Federal Officer shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies and procedures. The Designated Federal Officer or duly appointed Alternate Designated Federal Officer shall attend all committee meetings and subcommittee meetings.

The Transformation Advisory Group shall be authorized to establish subcommittees, as necessary and consistent with its mission, and these subcommittees or working groups shall operate under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Sunshine in the Government Act of 1976 (5 U.S.C. 552b, as amended), and other appropriate Federal regulations.

Such subcommittees or workgroups shall not work independently of the chartered committee, and shall report all their recommendations and advice to the Transformation Advisory Group for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered committee nor can they report directly to the Department of Defense or any Federal officers or employees who are not members of the Transformation Advisory Group.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the Transformation Advisory Group membership about the committee's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Transformation Advisory Group.

All written statements shall be submitted to the Designated Federal Officer for the Transformation Advisory Group, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Designated Federal Officer can be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp.*

The Designated Federal Officer, pursuant to 41 CFR 102–3.150, will announce planned meetings of the Transformation Advisory Group. The Designated Federal Officer, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

FOR FURTHER INFORMATION: Contact Frank Wilson, DoD Committee Management Officer, 703–601–2554.

Dated: May 16, 2007.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 07–2560 Filed 5–22–07; 8:45 am]

BILLING CODE 5001–06–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 June 22, 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 e-mail 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: May 17, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Vocational and Adult Education

Type of Review: New.

Title: Ready for College: Adult Education Transitions Program.

Frequency: On Occasion.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 150.

Burden Hours: 9,300.

Abstract: Section 243 of the Adult Education and Family Literacy Act authorizes the Department to establish and carry out a program of national leadership activities to enhance the quality of adult education and literacy programs nationwide. Many State and local agencies have developed a variety of interventions designed to re-engage out-of-school youth and assist them with the completion of both a high-school equivalency credential and a postsecondary certificate or degree. While the Department is generally aware of these efforts, there is little documentation of either their specific composition or effectiveness. This discretionary grant competition is intended to identify existing instructional practices of State and local agencies for improving the quality of adult education services so that more adults become ''college ready'' and able to transition to postsecondary education.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1890–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

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 3356. 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. E7–9886 Filed 5–22–07; 8:45 am]

BILLING CODE 4000–01–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 June 22, 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 e-mail 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: May 17, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Postsecondary Education

Type of Review: New.

Title: FIPSE Performance Reports.

Frequency: Annually.

Affected Public:

Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 725. Burden Hours: 12,000.

Abstract: This collection includes an annual and a final performance report for use with all of the following FIPSE programs: Comprehensive (84.116B), EU–U.S. (84.116J), U.S.–Brazil (84.116M), North America (84.116N), and U.S.–Russia (84.116S) Programs. Also included are an annual and a final performance report for Congressionally-Directed grants (earmarks) (84.116Z). A total of four (4) forms comprise this collection.

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 3287. 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. E7–9887 Filed 5–22–07; 8:45 am]

BILLING CODE 4000–01–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 June 22, 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 e-mail 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: May 18, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Special Education and Rehabilitative Services

Type of Review: New Collection.

Title: Post Vocational Rehabilitation Experiences Study.

Frequency: Annually.

Affected Public: Individuals or household; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 4,955.

Burden Hours: 5,958.

Abstract: This data collection is to implement a longitudinal study of former consumers of the State Vocational Rehabilitation Services Program, on long-term post-program experiences. It uses a stratified random sample and will be conducted using computer-assisted telephone interviewing. The findings will fill a gap in the knowledge about successful employment strategies and the use and need for other services after exit from VR.

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 3285. 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* 202–245–6536. 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. E7–9902 Filed 5–22–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Southwestern Power Administration

Sam Rayburn Dam Power Rate

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of public review and comment.

SUMMARY: The Administrator, Southwestern Power Administration (Southwestern), has prepared Current and Revised 2007 Power Repayment Studies that show the need for an increase in annual revenues to meet cost recovery criteria. Such increased revenues are required due to significant increases in expected U.S. Army Corps of Engineers' generation investment expenses at the project. The Administrator has developed a proposed Sam Rayburn Dam rate schedule, which is supported by a power repayment study, to recover the required revenues. Beginning October 1, 2007, the proposed rate would increase annual revenues 22.8 percent from $2,816,064 to $3,458,124.

DATES: The consultation and comment period will begin on the date of publication of this **Federal Register** notice and will end August 21, 2007. A combined Public Information and Comment Forum will be held in Tulsa, Oklahoma at 1 p.m. central time on June 27, 2007.

ADDRESSES: If forums are requested, they will be held in Southwestern's offices, Williams Center Tower I, One West Third Street, Tulsa, Oklahoma 74103.

FOR FURTHER INFORMATION CONTACT: Mr. James K. McDonald, Assistant Administrator, Office of Corporate Operations, Southwestern Power Administration, U.S. Department of Energy, One West Third Street, Tulsa, Oklahoma 74103, (918) 595–6690, *jim.mcdonald@swpa.gov*.

SUPPLEMENTARY INFORMATION: The U.S. Department of Energy was created by an Act of the U.S. Congress, in the Department of Energy Organization Act, Pub. L. No. 95–91, dated August 4, 1977. Southwestern's power marketing activities were transferred from the Department of Interior to the Department of Energy, effective October 1, 1977. Guidelines for preparation of power repayment studies are included in DOE Order No. RA 6120.2 entitled Power Marketing Administration Financial Reporting. Procedures for Public Participation in Power and Transmission Rate Adjustments of the Power Marketing Administrations are found at Title 10, part 903, Subpart A of the Code of Federal Regulations (10 CFR part 903). Procedures for the confirmation and approval of rates for the Federal Power Marketing Administrations are found at title 18, part 300, Subpart L of the Code of Federal Regulations (18 CFR part 300).

Southwestern markets power from 24 multi-purpose reservoir projects, with hydroelectric power facilities constructed and operated by the U.S. Army Corps of Engineers. These projects are located in the states of Arkansas, Missouri, Oklahoma, and Texas. Southwestern's marketing area includes these States as well as Kansas and Louisiana. The costs associated with the hydropower facilities of 22 of the 24 projects are repaid via revenues

received under the Integrated System rates, as are Southwestern's transmission facilities that consist of 1,380 miles of high-voltage transmission lines, 24 substations, and 46 microwave and VHF radio sites. Costs associated with the Robert D. Willis and Sam Rayburn Dams, two projects that are isolated hydraulically, electrically, and financially from the Integrated System are repaid by separate rate schedules. The Sam Rayburn Dam project is addressed in this notice.

Following Department of Energy guidelines, the Administrator, Southwestern, prepared a Current Power Repayment study using the existing Sam Rayburn Dam rate. The Study indicates that Southwestern's legal requirement to repay the investment in the power generating facility for power and energy marketed by Southwestern will not be met without an increase in revenues. The need for increased revenues is due to an increase in expected power-related generation investment expenses. The Revised Power Repayment Study shows that an increase in annual revenue of $642,060 (22.8 percent increase), beginning October 1, 2007, is needed to satisfy repayment criteria.

Opportunity is presented for Southwestern customers and other interested parties to receive copies of the Sam Rayburn Dam Power Repayment Studies and the proposed rate schedule. Persons desiring a copy of the Power Repayment Data Package with the proposed Rate Schedule should submit a request to the Director, Resources and Rates, Office of Corporate Operations, Southwestern Power Administration, One West Third Street, Tulsa, OK 74103, (918) 595–6680 or via e-mail to *swparates@swpa.gov*.

A Public Information and Comment Forum (Forum) is scheduled to be held on June 27, 2007, to explain to customers and interested parties the proposed rate and supporting studies. The proceeding will be transcribed, if held. A chairman, who will be responsible for orderly procedure, will conduct the Forum. Questions concerning the rate, studies, and information presented at the Forum will be answered, to the extent possible, at the Forum. Questions not answered at the Forum will be answered in writing. However, questions involving voluminous data contained in Southwestern's records may best be answered by consultation and review of pertinent records at Southwestern's offices.

Persons interested in attending the Forum should indicate in writing by letter, email, or facsimile transmission (918–595–6656) by June 19, 2007, their intent to appear at such Forum. Should no one indicate intent to attend by the above-cited deadline, no such Forum will be held.

Persons interested in speaking at the Forum should indicate in writing by letter, email, or facsimile transmission (918–595–6656) at least seven (7) calendar days prior to the Forum so that a list of speakers can be developed. The chairman may allow others to speak if time permits.

A transcript of the Forum will be made. Copies of the transcripts may be obtained directly from the transcribing service for a fee. Copies of all documents introduced will also be available from the transcribing service for a fee.

Written comments on the proposed Sam Rayburn Dam Rate are due on or before August 21, 2007. Five copies of the written comments, together with a diskette in MS Word, should be submitted to James K. McDonald, Assistant Administrator, Southwestern Power Administration, U.S. Department of Energy, One West Third Street, Tulsa, Oklahoma 74103.

Following review of the oral and written comments and the information gathered during the course of the proceedings, the Administrator will submit the final Sam Rayburn Dam Proposal, and Power Repayment Studies in support of the proposed rate, to the Deputy Secretary of Energy for confirmation and approval on an interim basis, and subsequently to the Federal Energy Regulatory Commission (FERC) for confirmation and approval on a final basis. The FERC will allow the public an opportunity to provide written comments on the proposed rate increase before making a final decision.

Dated: May 14, 2007

Michael A. Deihl,

Administrator.

[FR Doc. E7–9903 Filed 5–22–07; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2007–0353; FRL–8127–8]

National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: A meeting of the National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances (NAC/AEGL Committee) will be held on June 20-22, 2007, in Rotterdam, The Netherlands. At this meeting, the NAC/AEGL Committee will address, as time permits, the various aspects of the acute toxicity and the development of Acute Exposure Guideline Levels (AEGLs) for the following chemicals: allyltrichlorosilane, amyltrichlorosilane, butyltrichlorosilane, BZ, chloromethyltrichlorosilane, chlorosulfonic acid, dichlorosilane, diphenyldichlorosilane, dodecyltrichlorosilane, fluorosulfonic acid, hexyltrichlorosilane, magnesium diamide, methanesulfonyl chloride, nonyltrichlorosilane, octadecyltrichlorosilane, octyltrichlorosilane, osmium tetroxide, pentaborane, propyltrichlorosilane, silicon tetrachloride, silicon tetrafluoride, trichloro(dichlorophenyl)silane, trichlorophenysilane, trichlorosilane, and vinyltrichlorosilane.

DATES: A meeting of the NAC/AEGL Committee will be held from 10 a.m. to 5:30 p.m. on June 20, 2007; from 8 a.m. to 5:30 p.m. on June 21, 2007; and from 8 a.m. to 12 p.m. on June 22, 2007.

ADDRESSES: The meeting will be held at the Swedish Seamen's Church, Parklaan 5, 3016 BA, Rotterdam , The Netherlands.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For technical information contact: Paul S. Tobin, Designated Federal Officer (DFO), Risk Assessment Division (7406M), Office of Pollution Prevention and Toxics, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8557; e-mail address: *tobin.paul@epa.gov*.

To request accommodation of a disability, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may be of

particular interest to anyone who may be affected if the AEGL values are adopted by government agencies for emergency planning, prevention, or response programs, such as EPA's Risk Management Program under the Clean Air Act and Amendments Section 112r. It is possible that other Federal agencies besides EPA, as well as State agencies and private organizations, may adopt the AEGL values for their programs. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established a docket for this action under docket ID number EPA–HQ–OPPT–2007–0353. All documents in the docket are listed in the docket's index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. Meeting Procedures

For additional information on the scheduled meeting, the agenda of the NAC/AEGL Committee, or the submission of information on chemicals to be discussed at the meeting, contact the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

The meeting of the NAC/AEGL Committee will be open to the public. Oral presentations or statements by interested parties will be limited to 10 minutes. Interested parties are encouraged to contact the DFO to schedule presentations before the NAC/AEGL Committee. Since seating for outside observers may be limited, those wishing to attend the meeting as observers are also encouraged to contact the DFO at the earliest possible date to ensure adequate seating arrangements. Inquiries regarding oral presentations and the submission of written statements or chemical-specific information should be directed to the DFO.

III. Future Meetings

Another meeting of the NAC/AEGL Committee is scheduled for Septemeber 5-7, 2007. The NAC/AEGL Committee is planning to address at the meeting AEGL values for the following chemicals: 1,1,1-trichloroethane, allyl alcohol, allyl chloride, boron tribromide, carbonyl fluoride, chloropivaloyl chloride, ethyl benzene, ethyl isocyanate, ethylene fluorohydrin, isobutyl isocyanate, isopropyl isocyanate, methoxymethyl isocyanate, methyl iodide, n,n-dimethylformamide, n-butyl isocyanate, nitrogen tetroxide, nitrogen trioxide, n-propyl isocyanate, phenyl isocyanate, stibine, sulfuryl fluoride, t-butyl isocyanate, tetrachloroethylene, thiophosgene, toluene, trifluoroacetyl chloride, and trimethylacetyl chloride.

List of Subjects

Environmental protection, Chemicals, Hazardous substances, Health.

Dated: May 10, 2007.

Charles M. Auer,

Director, Office of Pollution Prevention and Toxics

[FR Doc. E7–9710 Filed 5–22–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0409; FRL–8131–9]

The Association of American Pesticide Control Officials /State FIFRA Issues Research and Evaluation Group; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Association of American Pesticide Control Officials (AAPCO)/State FIFRA Issues Research and Evaluation Group (SFIREG) will hold a 2–day meeting, beginning on June 25, 2007 and ending June 26, 2007. This notice announces the location and times for the meeting and sets forth the tentative agenda topics.

DATES: The meeting will be held on June 25, 2007 from 8.30 a.m. to 5 p.m. and 8:30 a.m. to 12 noon on June 26, 2007.

To request accommodation of a disability, please contact the person listed under **FOR FURTHER INFORMATON CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

ADDRESSES: The meeting will be held at USEPA 2777 South Crystal Dr., One Potomac Yards (South Bldg.) 4th Floor Conference Center/South

FOR FURTHER INFORMATION CONTACT: Georgia McDuffie, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 605–0195; fax number: (703) 308–1850; e-mail address: *mcduffie.georgia@epa.gov* or Grier Stayton, SFIREG Executive Secretary, P.O. Box 466, Milford, DE 19963; telephone number: (302) 422–8152; fax (302) 422–2435; e-mail address: ''*grier stayton''* <*aapco-sfireg@comcast.net*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are interested in SFIREG information exchange relationship with EPA regarding important issues related to human health, environmental exposure to pesticides, and insight into EPA's decision-making process are invited and encouraged to attend the meetings and participate as appropriate. '' Potentially affected entities may include, but are not limited to: Those persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

B. How Can I Get Copies of this Document and Other Related Information?

Docket. EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2006–0409 Publicly available

docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

II. Tentative Agenda

1. Soil Fumigant Cluster Review.
2. Rodenticide Reregistration Decisions.
3. New Mosquitocide Labeling on Droplet Sizes.
4. Cause Marketing.
5. Process for State Lead Agencies to Obtain Data Reviews and Registration Related Data .
6. Mold Issues and Policy.
7. HVAC Product Labeling.
8. Endangered Species Enforcement Issues.
9. Worker Protection Standards and Certification Rule Revision.
10. Update on 25(b) Petition.
11. Chemigation Issue Paper.
12. Working Committee Reports.
13. Regional Reports.
14. Tribal Pesticide Program Council Update.
15. Association of American Pesticide Safety Educators Update.
16. EPA Updates:
a. Office of Pesticide Programs Update.
b. Office of Enforcement Compliance Assurance Update.

List of Subjects

Environmental protection, Pesticide and pest.

Dated: May 15, 2007.

W. R. Diamond,

Director, Field and External Affairs Division, Office of Pesticide Programs.

[FR Doc. E7–9913 Filed 5–22–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0235; FRL–8122–4]

Aliphatic Esters Reregistration Eligibility Decision; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's Reregistration Eligibility Decision (RED) for the pesticide aliphatic esters, and opens a public comment period on this document. The Agency's risk assessments and other related documents also are available in the aliphatic esters Docket. The aliphatic esters case contains six active ingredients, but only one active ingredient, the methyl esters of fatty acids, is registered and in only one product. The methyl esters of fatty acids are used as a pinching agent and applied as a foliar spray on ornamentals kept inside and outside of greenhouses. EPA has reviewed the aliphatic esters through a modified public participation process that the Agency uses to involve the public in developing pesticide reregistration decisions. Through this process, EPA is ensuring that all pesticides meet current health and safety standards.

DATES: Comments must be received on or before June 22, 2007.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2007–0235, by one of the following methods:

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

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket telephone number is (703) 305-5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2007–0235. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website 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 regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. 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, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT: Cathryn O'Connell, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-0136; fax number: (703) 308-7070; e-mail address: *oconnell.cathryn@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a

wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

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

1. *Submitting CBI.* Do not submit this information to EPA through 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:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. 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.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What Action is the Agency Taking?

Under section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is reevaluating existing pesticides to ensure that they meet current scientific and regulatory standards. EPA has completed a Reregistration Eligibility Decision (RED) for the pesticide, aliphatic ester under section 4(g)(2)(A) of FIFRA. The aliphatic esters case contains six active ingredients, but only one active ingredient, the methyl esters of fatty acids, is registered and in only one product. The methyl esters of fatty acids are used as a pinching agent and applied as a foliar spray on ornamentals, mostly azaleas, kept inside and outside of greenhouses. In the risk assessment a potential concern of chemical pneumonia for handlers was identified. As a result, EPA is requiring the use of an organic-vapor respirator during mixing, loading, and application of the product and increasing the restricted entry interval (REI) from 4 hours to 12 hours.

EPA has determined that the data base to support reregistration is substantially complete and that products containing the aliphatic esters are eligible for reregistration, provided the risks are mitigated in the manner described in the RED. Upon submission of any required product specific data under section 4(g)(2)(B) and any necessary changes to the registration and labeling (either to address concerns identified in the RED or as a result of product specific data), EPA will make a final reregistration decision under section 4(g)(2)(C) for products containing aliphatic esters.

EPA is applying the principles of public participation to all pesticides undergoing reregistration. The Agency's Pesticide Tolerance Reassessment and Reregistration; Public Participation Process, published in the **Federal Register** on May 14, 2004, (69 FR 26819)(FRL–7357–9) explains that in conducting these programs, EPA is tailoring its public participation process to be commensurate with the level of risk, extent of use, complexity of issues, and degree of public concern associated with each pesticide. Due to its uses, risks, and other factors, the aliphatic esters was reviewed through the modified 4-Phase process. Through this process, EPA worked extensively with stakeholders to reach the regulatory decisions for the aliphatic esters.

The reregistration program is being conducted under Congressionally mandated time frames, and EPA recognizes the need both to make timely decisions and to involve the public. The Agency is issuing the aliphatic esters RED for public comment. This comment period is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the RED. All comments should be submitted using the methods in **ADDRESSES**, and must be received by EPA on or before the closing date. These comments will become part of the Agency Docket for the aliphatic esters. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

The Agency will carefully consider all comments received by the closing date and will provide a Response to Comments Memorandum in the Docket and regulations.gov. If any comment significantly affects the document, EPA also will publish an amendment to the RED in the **Federal Register**. In the absence of substantive comments requiring changes, the aliphatic esters RED will be implemented as it is now presented.

B. What is the Agency's Authority for Taking this Action?

Section 4(g)(2) of FIFRA as amended directs that, after submission of all data concerning a pesticide active ingredient, the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration, before calling in product specific data on individual end-use products and either reregistering products or taking other ''appropriate regulatory action.''

List of Subjects

Environmental protection, Pesticides and pests.

Dated: May 10, 2007.

Peter Caulkins,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E7–9834 Filed 5–22–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0335; FRL–8119–3]

Inorganic Sulfites; Reregistration Eligibility Decision for Low Risk Pesticide; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's Reregistration

Eligibility Decision (RED) for the pesticide inorganic sulfites, and opens a public comment period on this document, related risk assessments, and other support documents. EPA has reviewed the low risk pesticide inorganic sulfites through a modified, streamlined version of the public participation process that the Agency uses to involve the public in developing pesticide reregistration and tolerance reassessment decisions. Through these programs, EPA is ensuring that all pesticides meet current health and safety standards.

DATES: Comments must be received on or before July 23, 2007.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2006–0335, by one of the following methods:

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

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2006–0335. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website 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 regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. 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, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Mark Perry, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8024; fax number: (703) 308–8005; e-mail address: *perry.mark@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Submitting CBI*. Do not submit this information to EPA through 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:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. 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.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What Action is the Agency Taking?

Under section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is reevaluating existing pesticides to ensure that they meet current scientific and regulatory

standards. Using a modified, streamlined version of its public participation process, EPA has completed a RED for the low risk pesticide, inorganic sulfites under section 4(g)(2)(A) of FIFRA. The inorganic sulfites case includes sulfur dioxide and sodium metabisulfite. Sulfur dioxide is applied as a compressed gas and is typically used to treat for *Botrytis cinerea*, the fungus which causes bunch rot or gray mold disease on grapes. In addition, sulfur dioxide is used in combination with carbon dioxide to treat for black widow spider on grapes in warehouse settings. The sodium metabisulfite products are composed of the anhydrous, solid active ingredient contained in semisealed pads which are added to containers holding grapes prior to shipping. The pads absorb moisture generated by grapes, and release low levels of sulfur dioxide in the range of 1-5 ppm. EPA has determined that the data base to support reregistration is substantially complete and that products containing inorganic sulfites will be eligible for reregistration , provided the risks are mitigated either in the manner described in the RED or by another means that achieves equivalent risk reduction. Upon submission of any required product specific data under section 4(g)(2)(B) and any necessary changes to the registration and labeling (either to address any concerns identified in the RED or as a result of product specific data), EPA will make final reregistration decisions under section 4(g)(2)(C) for products containing inorganic sulfites.

Although the inorganic sulfites RED was signed on July 11, 2006, certain components of the document, which did not affect the final regulatory decision, were undergoing final editing at that time. On September 21, 2006, the Agency received additional data regarding the rate of absorption of sulfur dioxide into the fruit and packaging material during treatment of grapes for black widow spider. As a result of this information, the Agency has published this amendment to the inorganic sulfites RED. This amendment also includes a table summarizing the label changes required by the RED. Initially, the Agency expected sulfur dioxide concentrations following black widow spider treatment to be too high for buffer zones to be a feasible option to address bystander exposure concerns. However, considering the additional absorption data, the Agency is currently able to establish practical buffer zones as an option to using scrubbers to reduce sulfur dioxide release concentrations. None of these additions or changes alter the conclusions documented in the July 11, 2006 inorganic sulfites RED.

EPA is applying the principles of public participation to all pesticides undergoing reregistration and tolerance reassessment. The Agency's Pesticide Tolerance Reassessment and Reregistration; Public Participation Process, published in the **Federal Register** on May 14, 2004, (69 FR 26819)(FRL–7357–9) explains that in conducting these programs, the Agency is tailoring its public participation process to be commensurate with the level of risk, extent of use, complexity of issues, and degree of public concern associated with each pesticide. EPA can expeditiously reach decisions for pesticides like inorganic sulfites, which have low use, and stakeholders. Once EPA assesses uses and risks for such low risk pesticides, the Agency may go directly to a decision and prepare a document summarizing its findings, such as the inorganic sulfites RED.

The reregistration program is being conducted under Congressionally mandated time frames, and EPA recognizes the need both to make timely decisions and to involve the public in finding ways to effectively mitigate pesticide risks. Inorganic sulfites, however, pose few risks that require mitigation. The Agency therefore is issuing the inorganic sulfites RED, its risk assessments, and related support materials simultaneously for public comment. The comment period is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the RED. All comments should be submitted using the methods in **ADDRESSES**, and must be received by EPA on or before the closing date. These comments will become part of the Agency Docket for inorganic sulfites. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

EPA will carefully consider all comments received by the closing date and will provide a Response to Comments Memorandum in the Docket and regulations.gov. If any comment significantly affects the document, EPA also will publish an amendment to the RED in the **Federal Register**. In the absence of substantive comments requiring changes, the inorganic sulfites RED will be implemented as it is now presented.

B. What is the Agency's Authority for Taking this Action?

Section 4(g)(2) of FIFRA as amended directs that, after submission of all data concerning a pesticide active ingredient, ''the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration,'' before calling in product specific data on individual end-use products and either reregistering products or taking other ''appropriate regulatory action.''

List of Subjects

Environmental protection, Pesticides and pests.

Dated: May 1, 2007.

Peter Caulkins,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E7–9835 Filed 5–22–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2005–0494; FRL–8128–3]

Rotenone; Reregistration Eligibility Decision; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's Reregistration Eligibility Decision (RED) for the pesticide rotenone, and opens a public comment period on this document. The Agency's risk assessments and other related documents also are available in the rotenone docket. Rotenone is a restricted use pesticide applied directly to water – primarily by Federal and state agencies – to eliminate invasive or unwanted fish species. EPA has reviewed rotenone through the public participation process that the Agency uses to involve the public in developing pesticide reregistration and tolerance reassessment decisions. Through these programs, EPA is ensuring that all pesticides meet current health and safety standards.

DATES: Comments must be received on or before July 23, 2007.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2005–0494, by one of the following methods:

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

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental

Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2005–0494. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website 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 regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. 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, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT:

Lance Wormell, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 603–0523; fax number: (703) 308–7070; e-mail address: *wormell.lance@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

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

1. *Submitting CBI.* Do not submit this information to EPA through 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:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. 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.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What Action is the Agency Taking?

Under section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is reevaluating existing pesticides to ensure that they meet current scientific and regulatory standards. EPA has completed a Reregistration Eligibility Decision (RED) for the pesticide, rotenone under section 4(g)(2)(A) of FIFRA. Rotenone is a restricted use pesticide applied directly to water – primarily by Federal and state agencies – to eliminate invasive or unwanted fish species. EPA has determined that the data base to support reregistration is adequate and that products containing rotenone are eligible for reregistration, provided the risks are mitigated either in the manner described in the RED. Upon submission of any required product specific data under section 4(g)(2)(B) and any necessary changes to the registration and labeling (either to address concerns identified in the RED or as a result of product specific data), EPA will make a final reregistration decision under section 4(g)(2)(C) for products containing rotenone.

EPA is applying the principles of public participation to all pesticides undergoing reregistration and tolerance reassessment. The Agency's Pesticide Tolerance Reassessment and Reregistration; Public Participation Process, published in the **Federal Register** on May 14, 2004, (69 FR 26819) (FRL–7357–9) explains that in

conducting these programs, EPA is tailoring its public participation process to be commensurate with the level of risk, extent of use, complexity of issues, and degree of public concern associated with each pesticide. Due to its uses, risks, and other factors, rotenone was reviewed through the modified 4-Phase process. Through this process, EPA worked extensively with stakeholders and the public to reach the regulatory decisions for rotenone.

The reregistration program is being conducted under Congressionally mandated time frames, and EPA recognizes the need both to make timely decisions and to involve the public. The Agency is issuing the rotenone RED for public comment. This comment period is intended to provide an additional opportunity for public input and a mechanism for initiating any necessary amendments to the RED. All comments should be submitted using the methods in **ADDRESSES**, and must be received by EPA on or before the closing date. These comments will become part of the Agency Docket for rotenone. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

The Agency will carefully consider all comments received by the closing date and will provide a Response to Comments Memorandum in the Docket and regulations.gov. If any comment significantly affects the document, EPA also will publish an amendment to the RED in the **Federal Register**. In the absence of substantive comments requiring changes, the rotenone RED will be implemented as it is now presented.

B. What is the Agency's Authority for Taking this Action?

Section 4(g)(2) of FIFRA as amended directs that, after submission of all data concerning a pesticide active ingredient, the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration, before calling in product specific data on individual end-use products and either reregistering products or taking other ''appropriate regulatory action.''

List of Subjects

Environmental protection, Pesticides and pests.

Dated: May 10, 2007.

Peter Caulkins,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E7–9724 Filed 5–22–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0119; FRL–8128–8]

Issuance of an Experimental Use Permit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted an experimental use permit (EUP) to the following pesticide applicant. An EUP permits use of a pesticide for experimental or research purposes only in accordance with the limitations in the permit.

FOR FURTHER INFORMATION CONTACT: Shanaz Bacchus, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8097; e-mail address: *bacchus.shanaz@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to those persons who conduct or sponsor research on pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this action, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2007–0119. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Building), 2777 S. Crystal Drive Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr.*

II. EUP

EPA has issued the following EUP:

71693–EUP–1. Issuance. Arizona Cotton Research and Protection Council, 3721 East Wier Avenue, Phoenix, AZ 85040–2933. This EUP allows the use of a total of 90,000 pounds of the antifungal agent containing approximately 0.72 pound of the active ingredient, *Aspergillus flavus* AF36 on 9,000 acres (3,000 acres/yr.) of pistachio over three years. The goal of the program is to evaluate the reduction of aflatoxin-producing colonies of *Aspergillus flavus.* The program is authorized only in the State of California. The EUP is effective from May 15, 2007 to May 14, 2010.

Authority: 7 U.S.C. 136c.

List of Subjects

Environmental protection, Experimental use permits.

Dated: May 14, 2007.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. E7–9728 Filed 5–22–07; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Being Submitted for Review to the Office of Management and Budget

May 17, 2007

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collections, as required by the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a current valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid

control number. Comments are requested concerning: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written PRA comments should be submitted on or before June 22, 2007. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Jasmeet Seehra, Office of Management and Budget (OMB), Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503, or via fax at (202) 395–5167 or via Internet at *Jasmeet_K._Seehra@omb.eop.gov*, and to Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *PRA@fcc.gov.* If you would like to obtain or view a copy of this information collection, you may do so by visiting the FCC's PRA webpage at: *http://www.fcc.gov/omd/pra.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Cathy Williams at (202) 418–2918 or via the Internet at *PRA@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–XXXX.

Title: Section 76.41, Franchise Application Process.

Form Number: Not applicable.

Type of Review: New collection.

Respondents: State, local or tribal government.

Number of Respondents: 6,006.

Estimated Time per Response: 0.5 hours–4 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 54,000 hours.

Total Annual Cost: None.

Privacy Impact Assessment: No impact(s).

Nature of Response: Required to obtain or retain benefits

Confidentiality: No need for confidentiality required.

Needs and Uses: The Commission has assessed the effects of the application filing requirements used to calculate the time frame in which a local franchising authority shall make a decision, and find that those requirements will benefit companies with fewer than 25 employees by providing such companies with specific application requirements of a reasonable length. The new requirements serve to streamline the existing practice of franchise negotiation and review. Therefore, we believe that the new requirements will reduce burdens on companies with fewer than 25 employees. We anticipate this specificity will streamline this process for companies with fewer than 25 employees, and that these requirements will not burden these companies.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–9916 Filed 5–22–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget

May 15, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before July 23, 2007. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Jasmeet K. Seehra, Office of Management and Budget, Room 10236 NEOB, Washington, DC 20503, (202) 395–3123, or via fax at 202–395–5167 or via internet at *Jasmeet_K._Seehra@omb.eop.gov* and to *Judith-B.Herman@fcc.gov*, Federal Communications Commission, Room 1–B441, 445 12th Street, SW., DC 20554 or an e-mail to *PRA@fcc.gov.* If you would like to obtain or view a copy of this information collection after the 60 day comment period, you may do so by visiting the FCC PRA web page at: *http://www.fcc.gov/omd/pra.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith B. Herman at 202–418–0214 or via the Internet at *Judith-B.Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0192.

Title: Section 87.103, Posting Station License.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, and state, local and tribal government.

Number of Respondents: 67,800 respondents; 67,800 responses.

Estimated Time Per Response: .25 hours.

Frequency of Response: Recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 16,950 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The Commission will submit this extension (no change in the recordkeeping requirement) to the OMB after this 60 day comment period to obtain the full three-year clearance from them.

The recordkeeping requirements contained in Section 87.103 requires: (A) Stations *at fixed locations:* The license or a photocopy must be posted or retained in the station's permanent records. (B) *Aircraft radio stations:* The license must be either posted in the aircraft or kept with the aircraft registration certificate. If a single authorization covers a fleet of aircraft, a copy of the license must be either

posted in each aircraft or kept with each aircraft registration certificate. (C) *Aeronautical mobile stations:* The license must be retained as a permanent part of the station's records.

These recordkeeping requirements are in accordance with Section 301 of the Communications Act of 1934, as amended, 47 U.S.C. 301, No. 2020 of the International Radio Regulations, and Article 30 of the Convention on International Civil Aviation.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–9917 Filed 5–22–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget

May 14, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before July 23, 2007. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Jasmeet K. Seehra, Office of Management and Budget, Room 10236 NEOB, Washington, DC 20503, (202) 395–3123, or via fax at 202–395–5167 or via internet at *Jasmeet_K._Seehra@omb.eop.gov* and to *Judith-B.Herman@fcc.gov*, Federal Communications Commission, Room 1–B441, 445 12th Street, SW, DC 20554 or an e-mail to *PRA@fcc.gov.* If you would like to obtain or view a copy of this information collection after the 60 day comment period, you may do so by visiting the FCC PRA Web page at: *http://www.fcc.gov/omd/pra.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith B. Herman at 202–418–0214 or via the Internet at *Judith-B.Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0950.

Title: Bidding Credits for Tribal Lands.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 3 respondents; 3 responses.

Estimated Time Per Response: 10–180 hours.

Frequency of Response: On occasion reporting and recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 600 hours.

Total Annual Cost: $114,600.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: No need for confidentiality.

Needs and Uses: The Commission will submit this collection as an extension (no change in reporting or recordkeeping requirements) to the OMB after this 60 day comment period to obtain the full three-year clearance from them.

The Commission adopted bidding credits for use by winning bidders who pledge facilities and provide service to federally-recognized tribal areas that have a telephone service penetration rate at or below 70 percent. In setting out the bidding credit, the Commission noted that communities on tribal lands have had less access to telecommunications services than any other segment of the U.S. population. For information collection purposes, a winning bidder credit to serve a qualifying tribal and within a particular market must indicate on the long-form application (FCC Form 601) that it intends to serve a qualifying tribal land within that market; within 180 days after the filing deadline for the long-form application, amend its long-form application to identify the tribal lands it intends to serve and attach a certification from the tribal government stating that: (1) The tribal government authorizes the winning bidder to site facilities and provide service on its tribal land; (2) the tribal area to be served by the winning bidder constitutes qualifying tribal land; (3) the tribal government has not and will not enter into an exclusive contract with the applicant precluding entry by other carriers, and will not unreasonably discriminate among wireless carriers seeking to provide on the qualifying tribal land; and (4) provide certification of the telephone penetration rates demonstrating that the tribal land has a penetration level at or below 70 percent.

Also, each winning bidder must within 180 after the filing deadline for the FCC Form 601, certify by endorsing the Schedule B of the FCC Form 601, that it will comply with the build-out requirements and consult with the tribal government regarding the location of the facilities and deployment of service on the tribal land; within 15 days of the third anniversary of the initial grant of its license, file a notification (Schedule K of the FCC Form 601) that it has constructed and is operating a system capable of serving 75 percent of the population of the qualifying tribal land for which the credit was awarded; and repay within 30 days of the third anniversary of the initial grant of its license, the bidding credit amount in its entirety, plus interest, if it fails to provide the post-construction notification (Schedule K of the FCC Form 601) required by 47 CFR 1.2110(f)(3)(vi).

In addition, a winning bidder seeking a credit in excess of the amount calculated under the Commission's bidding credit formula must: (1) Submit a waiver request demonstrating that the infrastructure costs exceed the amount of the standard bidding credit; and (2) include a certification by an independent auditor that the estimated costs are reasonable. A winning bidder receiving a higher credit must within 15 days of the third anniversary of the initial license grant, file a certification that the credit amount was spent on infrastructure to provide wireless coverage to qualifying tribal lands, which also includes a final report prepared by an independent auditor verifying that the infrastructure costs are

reasonable to comply with the Commission's build-out requirements.

The Commission believes that the lack of telecommunications services puts affected tribal communities at a social and economic disadvantage. This information will be used to ensure that tribal communities within federally-recognized tribal areas have access to wireless telecommunications services equivalent to that of the nation.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–9918 Filed 5–22–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Radio Broadcasting Services; AM or FM Proposals To Change the Community of License

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The following applicants filed AM or FM proposals to change the community of license: AIREN BROADCASTING COMPANY, BMPH–20070406ADL, Station NEW, Facility ID 166019, From WELLS, NV, To SPRING CREEK, NV; AMERICAN EDUCATIONAL BROADCASTING, INC., BPED–20070328AEY, Station KVLW, Facility ID 86324, From WACO, TX, To GATESVILLE, TX; AMERICAN FAMILY ASSOCIATION, BMPED–20070405AAN, Station KCAI, Facility ID 90917, From KINGMAN, AZ, To CONGRESS, AZ; BUSTOS MEDIA OF COLORADO LICENSE CORP., BPH–20070305ACZ, Station KGDQ, Facility ID 70822, From COLORADO SPRINGS, CO, To CENTENNIAL, CO; CALVARY CHAPEL OF TWIN FALLS, INC., BMPED–20070328AFA, Station KAWS, Facility ID 8417, From BOISE, ID, To MARSING, ID; CHAPIN ENTERPRISES, LLC, BPH–20070412AAV, Station KRKR, Facility ID 54707, From LINCOLN, NE, To VALLEY, NE; CLEAR CHANNEL BROADCASTING LICENSES, INC., BMPH–20070119AEB, Station KRVK, Facility ID 88406, From MIDWEST, WY, To VISTA WEST, WY; CLEAR CHANNEL BROADCASTING LICENSES, INC., BPH–20070312ABO, Station WLDI, Facility ID 2680, From FORT PIERCE, FL, To JUNO BEACH, FL; COMMONWEALTH BROADCASTING, LLC, BPH–20070328AEJ, Station KSXY, Facility ID 72925, From MIDDLETOWN, CA, To GEYSERVILLE, CA; DAYTON PUBLIC RADIO, INC., BPED–20070330BGF, Station WDPR, Facility ID 61582, From WEST CARROLLTON, OH, To DAYTON, OH; EDUCATIONAL MEDIA FOUNDATION, BPED–20070328ACO, Station WVRI, Facility ID 122298, From PAVO, GA, To NASHVILLE, GA; EDUCATIONAL MEDIA FOUNDATION, BPED–20070328ACQ, Station KLZV, Facility ID 89509, From STERLING, CO, To BRUSH, CO; EDUCATIONAL MEDIA FOUNDATION, BPH–20070328AEP, Station KYAR, Facility ID 36844, From GATESVILLE, TX, To LORENA, TX; EDUCATIONAL MEDIA FOUNDATION, BMPED–20070328AFN, Station WZRL, Facility ID 85072, From WADE, NC, To NEWTON GROVE, NC; EDUCATIONAL MEDIA FOUNDATION, BPED–20070328AGR, Station KLVR, Facility ID 18801, From SANTA ROSA, CA, To MIDDLETOWN, CA; EDUCATIONAL MEDIA FOUNDATION, BMPED–20070403ACJ, Station KPKL, Facility ID 90732, From BUNKIE, LA, To IOTA, LA; EDUCATIONAL MEDIA FOUNDATION, BPED–20070417AAO, Station KARQ, Facility ID 90988, From EAST SONORA, CA, To SAN ANDREAS, CA; FIRST BROADCASTING CAPITAL PARTNERS, LLC, BPH–20070313ABW, Station WAOL, Facility ID 56226, From RIPLEY, OH, To AMELIA, OH; GENESIS LICENSE SUBSIDIARY LLC, BPED–20070213AAP, Station WGES–FM, Facility ID 76516, From KEY LARGO, FL, To CUTLER BAY, FL; GEORGIA–CAROLINA RADIOCASTING COMPANY, LLC, BPH–20070413AGU, Station WLVX, Facility ID 84470, From ELBERTON, GA, To SPARTA, GA; GLADES MEDIA COMPANY LLP, BMPH–20070119AES, Station WAFC–FM, Facility ID 24230, From CLEWISTON, FL, To PALM BEACH GARDENS, FL; GROSS COMMUNICATIONS CORPORATION, BPH–20070416AAU, Station WLOQ, Facility ID 25403, From WINTER PARK, FL, To WINDERMERE, FL; HAWKEYE COMMUNICATIONS, INC., BPH–20070411ACX, Station KCSI, Facility ID 26456, From RED OAK, IA, To TREYNOR, IA; JACKSON COUNTY BROADCASTING, INC., BPH–20070405ABF, Station WKOV–FM, Facility ID 29691, From WELLSTON, OH, To FRAZEYSBURG, OH; MATINEE RADIO, LLC, BMPH–20070328ABY, Station KKUL–FM, Facility ID 164216, From GROVETON, TX, To CAMDEN, TX; MIRIAM MEDIA, INC., BNPH–20070410ADM, Station NEW, Facility ID 170983, From BALLINGER, TX, To MILES, TX; NORTH ALABAMA EDUCATIONAL FOUNDATION, BMPED–20070402JTH, Station KCKR, Facility ID 83852, From KAPLAN, LA, To CHURCH POINT, LA; PRINCIPLE BOSTON HOLDCO, BP–20070307AAX, Station WESX, Facility ID 49301, From SALEM, MA, To SAUGUS, MA; RADIOACTIVE, LLC, BMPH–20070122AAK, Station NEW, Facility ID 164249, From DANNEMORA, NY, To AU SABLE, NY; REUNION BROADCATING LLC, BMP–20070330AYT, Station KMUR, Facility ID 59978, From PRYOR, OK, To CATOOSA, OK; ROYAL COMUNICATIONS OF WASHINGTON, BMPH–20070327ADA, Station KFFR, Facility ID 83397, From PULLMAN, WA, To LAPWAI, ID; RUNNYMEDE, INC., BPH–20070323ADB, Station WNKO, Facility ID 57936, From NEWARK, OH, To NEW ALBANY, OH; SIERRA H BROADCASTING, INC., BPH–20070330BLN, Station KNRJ, Facility ID 55425, From PAYSON, AZ, To CORDES LAKES, AZ; SMOKE AND MIRRORS, LLC, BPH–20070330BLP, Station KRRK, Facility ID 38314, From LAKE HAVASU CITY, AZ, To DESERT HILLS, AZ; STEVEN R. BARTHOLOMEW, BMPH–20070320AAC, Station KJQY, Facility ID 164269, From LA VETA, CO, To COLORADO CITY, CO; URBAN RADIO LICENSES, LLC, BPH–20070328AGD, Station WACR–FM, Facility ID 65200, From ABERDEEN, MS, To COLUMBUS AFB, MS; WAY–FM MEDIA GROUP, INC., BPED–20070411AAM, Station WAYM, Facility ID 58421, From COLUMBIA, TN, To SPRING HILL, TN.

DATES: Comments may be filed through July 23, 2007.

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

FOR FURTHER INFORMATION CONTACT: Tung Bui, 202–418–2700.

SUPPLEMENTARY INFORMATION: The full text of these applications is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW., Washington, DC 20554 or electronically via the Media Bureau's Consolidated Data Base System, *http://svartifoss2.fcc.gov/prod/cdbs/pubacc/prod/cdbs_pa.htm*. A copy of this application may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *www.BCPIWEB.com*.

Federal Communications Commission.

James D. Bradshaw,

Deputy Chief, Audio Division Media Bureau.

[FR Doc. E7–9864 Filed 5–22–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel—Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. Chapter 409 and 46 CFR part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel—Operating Common Carrier Ocean Transportation Intermediary Applicants

Henry's Leads Inc. dba Henry's Ocean Freight, 7102 Drew Hill Lane, Chapel Hill, NC 27514; *Officers:* Qiang Fu, President, (Qualifying Individual); Lixin Bai, Vice President.

Transworld Logistics, LLC, 1720 S. Norfolk Lane, Anaheim, CA 92802; *Officers:* Tahnee Kang, President, (Qualifying Individual), Myung Hui Huh, Operating Manager.

H Shipping, Inc. dba Pumyang Worldwide Shipping, 15934 S. Figueroa Street, Gardena, CA 90248; *Officer:* Hyun Chul Lee, President, (Qualifying Individual).

Newport Container Line, Inc., 5250 W. Century Blvd., Suite 602, Los Angeles, CA 90045; *Officers:* Mohammed Baki, Vice President, (Qualifying Individual); Patrick Kwok, President/CEO.

Non-Vessel—Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

Aegis International, Inc., 23 Serenity Court, Southampton, NJ 08088; *Officers:* Charles E. Godfrey, President, (Qualifying Individual); Sandra C. Shaw, Secretary.

Tramex Corporation, 7270 NW. 35 Terrace, Suite #202, Miami, FL 33122; *Officers:* Cesar Lizarzaburu, President, (Qualifying Individual); Ana Maria Lizarzaburu, Secretary.

Gold Coast Shipping, LLC, 2964 Main Street, Hartford, CT 06120; *Officer:* Micheal A. Wiafe, President, (Qualifying Individual).

Integrated Freight Solutions, Inc., 851 Hinckley Road, Burlingame, CA 94010; *Officers:* Mark Taro Yamasaki, Secretary, (Qualifying Individual); Henry Lung, President.

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants:

Seastar International, LLC, 46 Country Club Blvd., Scotch Plains, NJ 07076; *Officer:* Ying Zhao, Owner, (Qualifying Individual).

First Class Exporters, 1147 Willing Ham Drive, East Point, GA 30344; *Officers:* Frank Obeng, Partner, (Qualifying Individual); Elizabeth Lowe, Partner.

Dated: May 18, 2007.

Bryant L. VanBrakle,

Secretary.

[FR Doc. E7–9937 Filed 5–22–07; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 7, 2007.

A Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Susi Covolik, Omaha, Nebraska; to retain voting shares of Clearwater Development Co., Inc., and thereby indirectly retain shares of Citizens State Bank, both in Clearwater, Nebraska.

Board of Governors of the Federal Reserve System, May 18, 2007.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E7–9935 Filed 05–22–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center Web site at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 18, 2007.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. United Bankshares, Inc., Charleston, West Virginia, and George Mason Bankshares, Inc., Fairfax, Virginia; to merge with Premier Community Bankshares, Inc., Winchester, Virginia, and thereby indirectly acquire voting shares of The Marathon Bank, Winchester, Virginia; Rockingham Heritage Bank, Harrisonburg, Virginia; and Premier Bank, Inc., Martinsburg, West Virginia.

B. Federal Reserve Bank of Atlanta (David Tatum, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. Pinnacle Financial Corporation, Elberton, Georgia; to merge with Georgia Central Bancshares, Inc., and thereby

acquire voting shares of Georgia Central Bank, both of Social Circle, Georgia.

C. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. MRV Financial Corp, Genevieve, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of MRV Banks,. Genevieve, Missouri (in organization).

D. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001

1. First Centralia Bancshares, Inc., Centralia, Kansas; to acquire 100 percent of the voting shares of Vermillion Bankshares, Inc., and thereby indirectly acquire Vermillion State Bank, both in Vermillion, Kansas.

E. Federal Reserve Bank of San Francisco (Tracy Basinger, Director, Regional and Community Bank Group) 101 Market Street, San Francisco, California 94105-1579:

1. Franklin Resources, Inc., San Mateo, California; to retain 16 percent of the voting shares of The BANKshares, Inc., Melbourne, Florida, and thereby indirectly retain shares of The Bank Brevard, Melbourne, Florida, and BankFIRST, Winter Park, Florida.

Board of Governors of the Federal Reserve System, May 18, 2007.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E7–9936 Filed 05–22–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center Web site at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 18, 2007.

A. Federal Reserve Bank of Chicago (Burl Thorton, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. Capitol Bancorp LTD. Lansing, Michigan and Capitol Development Bancorp Limited VI, Lansing, Michigan ; to acquire 51 percent of High Desert Bank, (in organization), Bend, Oregon, and thereby operate a savings association, pursuant to section 225.28 (b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, May 18, 2007.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc.E7–9934 Filed 05–22–07; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Food and Drug Administration

[Docket No. 2007N–0179]

Implementation of Risk Minimization Action Plans (RiskMAPs) to Support Quality Use of Pharmaceuticals: Opportunities and Challenges; Public Workshop

AGENCIES: Agency for Healthcare Research and Quality; Food and Drug Administration, HHS.

ACTION: Notice of public workshop; request for comments.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) and the Food and Drug Administration (FDA) are announcing a 2-day joint public workshop entitled ''Implementation of Risk Minimization Action Plans (RiskMAPs) to Support Quality Use of Pharmaceuticals: Opportunities and Challenges.'' This public workshop is intended to seek constructive input from a wide range of stakeholders, including clinicians, pharmacists, patients, third party payers of care, the pharmaceutical and biotechnology industries, researchers, and innovators in health information technology (HIT), to help in the development and implementation of mechanisms to minimize the risks of pharmaceuticals with unusual safety and patient monitoring concerns. This meeting is an initial step that is part of FDA's commitment to monitor the performance of RiskMAPs consistent with the goal articulated in the proposed PDUFA IV agreement to undertake regular follow up of these plans.

DATES: The public workshop will be held on June 25 and 26, 2007, from 8:30 a.m. to 5 p.m. See section III of this document for information on deadline and on how to register to attend or present at the meeting.

We are opening a docket to receive your written or electronic comments. Written or electronic comments must be submitted to the docket by July 31, 2007.

ADDRESSES: The public workshop will be held at the Agency for Healthcare Research and Quality (AHRQ), 540 Gaither Rd., John M. Eisenberg Bldg., Rockville, MD 20850. Submit electronic comments to *http://www.accessdata.fda.gov/scripts/oc/dockets/comments/commentdocket.cfm*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Lee Lemley, Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5392, FAX: 301–827–4312, e-mail: *Coralee.Lemley@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Risk minimization action plans (RiskMAPs) are safety programs designed to minimize significant risks of a product by using one or more risk minimization tools. A variety of risk minimization tools have been used; these tools are broadly categorized as follows: (1) Education and outreach tools intended to inform patients and healthcare practitioners (HCPs) about a product's risks and measures that should be taken to prevent or mitigate the risks; (2) Reminder systems intended to prompt or guide HCPs and/or patients in prescribing, dispensing, or

using a product in ways that minimize risk; and (3) performance-linked access (PLA) systems that link product access to required laboratory testing or other documentation. The latter two categories have exhibited some success in minimizing risk, but may lead to disruptions in medical and pharmacy practice and unintended consequences, such as obstructing patient access to a product's benefits. It is the latter two tool categories (Reminder and PLA systems) that are the primary focus of this workshop. The following are a few of the products with Reminder or PLA systems: Isotretinoin (iPLEDGE), Thalidomide (STEPS), and Tysabri (TOUCH).

The workshop objectives are as follows: (1) Initiate constructive dialogue and information-sharing among regulators, researchers, and organizations and individuals affected by RiskMAP programs, particularly those using Reminder and PLA systems; (2) share key lessons learned about how to design and implement effective risk management systems to accommodate and promote quality healthcare and pharmacy practices; and (3) explore how tools being actively developed (such as electronic prescribing and integrated electronic health and medical records) and used to support high-quality, evidence-based practice may improve the development of RiskMAPs where Reminder and PLA systems are used or being considered for use.

Panel discussions as well as stakeholder presentations and testimony will focus on implementation strategies using Reminder and PLA systems to promote appropriate behavior changes to optimize patient outcomes, autonomy, access, cost, and logistics while reducing drug risks. We invite presentations that suggest ways to mitigate drug safety risks by improving healthcare system processes or emerging health information technologies. Examples might include linkages of electronic prescribing to laboratory or to patient electronic health records designed to improve the effectiveness of risk minimization efforts.

AHRQ and FDA are working together to refine the conference agenda and invite speakers. The agenda will be made available at *http://www.fda.gov/cder/meeting/riskMAPs.htm* not later than June 15, 2007. We are seeking broad participation by physicians, pharmacists, patients, health care quality and safety researchers, health systems officials, and payers of care. We anticipate issuing a summary of the conference findings, including a discussion of implications and next steps for further research or regulatory guidance development.

II. Comments

The agency is interested in hearing comments at the public workshop or receiving written comments (see **ADDRESSES**) on the following issues:

(1) Based on the diversity of experiences of different groups in implementing existing Reminder and PLA system RiskMAPs, what lessons have been learned that can be applied to future programs in the following areas:

- Minimizing risks;
- Maintaining provider and patient access to therapeutic choices;
- Minimizing burdens on the healthcare system;
- Being compatible with diverse technologies and settings of care;
- Avoiding adverse unintended consequences.

(2) How can healthcare information technology be used to assist quality prescribing, dispensing, and patient use to improve the effectiveness of RiskMAPs for drugs with risks where Reminder and PLA systems are used or likely to be used? How might HIT solutions be pursued and applied in light of the underdeveloped use of this technology in healthcare?

(3) How might professional organizations, third party payers of care, and others support the appropriate use of medications with processes or requirements such as those used with Reminder and PLA system RiskMAPs?

(4) Who are the relevant stakeholders in healthcare to involve in the design and choice of risk minimization tools? How can these stakeholders be best engaged in meaningful and productive partnerships and collaborations?

(5) Which activities and research should be pursued to develop a strong evidence base of healthcare system approaches, processes, and tools that support appropriate use of medications with safety problems where Reminder and PLA RiskMAPs are being used or considered for use?

(6) What partnerships will support evaluations of effectiveness of RiskMAPs or pilot interventions to minimize risk and promote appropriate medication prescribing, dispensing, and use?

(7) What future actions should AHRQ and FDA take to promote continued collaborations and contributions to the high-quality, appropriate use of medications with RiskMAPs?

III. Registration

The AHRQ Conference Center is a Federal facility with limited seating and security procedures for entrance. For these reasons, pre-registration is necessary for all attendees. Registration is available on a first-come basis. Individuals who wish to speak during the open public hearing must register on or before June 8, 2007; all other attendees must register on or before June 15, 2007. To register, contact *register@consolidatedsafety.com* or call 703–877–3345.

Ample time will be allowed during the scheduled agenda for attendees to ask questions of panelists. In addition, we strongly encourage written comments to the docket.

If you need special accommodations because of disability, please contact Lee Lemley (see **CONTACT FOR FURTHER INFORMATION**) at least 7 days before the workshop.

IV. Workshop Transcripts

The workshop will be transcribed. The transcript will be available for review at the Division of Dockets Management (see **ADDRESSES**) and on the Internet at *http://www.fda.gov/ohrms/dockets* approximately 30 days after the workshop.

Dated: May 10, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

Dated: May 16, 2007.

Carolyn Clancy,

Director, Agency for Healthcare Research and Quality, Department of Health and Human Services.

[FR Doc. 07–2574 Filed 5–22–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Statement of Organization, Functions and Delegation of Authority

Notice is hereby given that I have redelegated to the Director, Program Operations Division, Office of Head Start, the following authorities vested in me by the Assistant Secretary of Administration for Children and Families in the memoranda dated February 16, 2007.

(a) Authorities Delegated

1. Approve and disapprove refunding and supplemental funding applications for existing grantees, not including designated interim grantees.

2. Approve and disapprove collaboration grant applications authorized under 42 U.S.C. 9835.

3. Approve and disapprove contract proposals for award, not including proposals for national interim grantee contracts.

4. Approve and disapprove quality improvement plans (QIP) as required under 42 U.S.C. 9836A(d)(2)(B).

5. Conduct, as the responsible HHS official, informal meetings with current grantees or current or prospective delegate agencies as authorized by 45 CFR part 1303.11 and 1303.12.

6. Conduct, as the responsible HHS official, informal meetings authorized by 45 CFR part 1303.21 related to appeals by current or prospective delegate agencies.

7. Serve as the Approving Official to sign audit determination letters only where resolution does not involve a cost disallowance.

8. Approve and issue termination and suspension actions resulting from monitoring review reports approved and issued by the Regional Office.

(b) Limitations

1. The approval of grant applications requires concurrence of the appropriate Grants Officer.

2. The approval of contract proposals and awards are subject to the requirements of the Federal Acquisition Regulations and require consultation with the Director, Office of Head Start and the concurrence of the Contracting Officer.

3. The approval and issuance of terminations and suspensions resulting from monitoring review reports approved and issued by the Regional Office require the concurrence of the Director, Office of Head Start.

4. This redelegation shall be exercised under financial and administrative requirements applicable to all Administration for Children and Families authorities.

5. Any redelegation shall be in writing and prompt notification must be provided to all affected managers, supervisors, and other personnel, and requires the concurrence of the Deputy Assistant Secretary for Administration.

(c) Effective Date

This redelegation was effective on April 26, 2007.

(d) Effect on Existing Delegations

This redelegation of authority supersedes all previous delegations from the Director, Office of Head Start, on these subjects.

I hereby affirm and ratify any actions taken by the Director, Program Operations Division which, in effect, involved the exercise of these authorities prior to the effective date of this redelegation.

Dated: May 15, 2007.

Channell Wilkins,

Director, Office of Head Start.

[FR Doc. E7–9925 Filed 5–22–07; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Statement of Organization, Functions and Delegation of Authority

Notice is hereby given that I have redelegated to the Regional Program Managers, American Indian Alaska Native Program Branch Chief, and Migrant and Seasonal Program Branch Chief, Office of Head Start, the following authorities vested in me by the Director, Office of Head Start, in the memoranda dated April 26, 2007.

(a) Authorities Delegated

1. Approve and disapprove refunding and supplemental funding applications for existing grantees, not including designated interim grantees.

2. Approve and disapprove collaboration grant applications authorized under 42 U.S.C. 9835.

3. Approve and disapprove contract proposals for award, not including proposals for national interim grantee contracts.

4. Approve and disapprove quality improvement plans (QIP) as required under 42 U.S.C. 9836A(d)(2)(B).

5. Conduct, as the responsible HHS official, informal meetings with current grantees or current or prospective delegate agencies as authorized by 45 CFR 1303.11 and 1303.12.

6. Conduct, as the responsible HHS official, informal meetings authorized by 45 CFR part 1303.21 related to appeals by current or prospective delegate agencies.

7. Serve as the Approving Official to sign audit determination letters only where resolution does not involve a cost disallowance.

8. Approve and issue termination and suspension actions resulting from monitoring review reports approved and issued by the Regional Office.

(b) Limitations

1. The approval of grant applications requires concurrence of the appropriate Grants Officer.

2. The approval of contract proposals and awards are subject to the requirements of the Federal Acquisition Regulations and require consultation with the Director, Office of Head Start and the concurrence of the Contracting Officer.

3. The approval and issuance of terminations and suspensions resulting from monitoring review reports approved and issued by the Regional Office require the concurrence of the Director, Office of Head Start.

4. This redelegation shall be exercised under financial and administrative requirements applicable to all Administration for Children and Families authorities.

5. Any redelegation shall be in writing and prompt notification must be provided to all affected managers, supervisors, and other personnel, and requires the concurrence of the Deputy Assistant Secretary for Administration.

(c) Effective Date

This redelegation was effective on April 26, 2007.

(d) Effect on Existing Delegations

This redelegation of authority supersedes all previous delegations from the Director, Office of Head Start, on these subjects.

I hereby affirm and ratify any actions taken by any Regional Program Manager, the American Indian Alaska Native Program Branch Chief or the Migrant and Seasonal Program Branch Chief which, in effect, involved the exercise of these authorities prior to the effective date of this redelegation.

Dated: May 14, 2007.

Renee Perthuis,

Director, Program Operations Division.

[FR Doc. E7–9928 Filed 5–22–07; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006E–0260]

Determination of Regulatory Review Period for Purposes of Patent Extension; ORENCIA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for ORENCIA and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent

which claims that human biological product.

ADDRESSES: Submit written comments and petitions to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy (HFD–007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION:

The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human biological products, the testing phase begins when the exemption to permit the clinical investigations of the biological product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human biological product and continues until FDA grants permission to market the biological product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human biological product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human biological product ORENCIA (abatacept). ORENCIA is indicated for reducing signs and symptoms, inducing major clinical response, slowing the progression of structural damage, and improving physical function in adult patients with moderately to severely active rheumatoid arthritis who have had an inadequate response to one or more disease modifying anti-rheumatic drugs, such as methotrexate or TNF antagonists. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for ORENCIA (U.S. Patent No. 5,851,795) from Bristol-Myers Squibb Company, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated September 5, 2006, FDA advised the Patent and Trademark Office that this human biological product had undergone a regulatory review period and that the approval of ORENCIA represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for ORENCIA is 3,803 days. Of this time, 3,536 days occurred during the testing phase of the regulatory review period, while 267 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective*: July 28, 1995. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on July 28, 1995.

2. *The date the application was initially submitted with respect to the human biological product under section 351 of the Public Health Service Act (42 U.S.C. 262)*: April 1, 2005. The applicant claims March 31, 2005, as the date the biologics license application (BLA) for ORENCIA (BLA 125118) was submitted. However, FDA records indicate that BLA 125118 was received on April 1, 2005.

3. *The date the application was approved*: December 23, 2005. FDA has verified the applicant's claim that BLA 125118 was approved on December 23, 2005.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,414 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments and ask for a redetermination by July 23, 2007. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by November 19, 2007. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Division of Dockets Management. Three copies of any mailed information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 2, 2007

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. E7–9945 Filed 5–22–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006E–0501]

Determination of Regulatory Review Period for Purposes of Patent Extension; GARDASIL

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for GARDASIL and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human biological product.

ADDRESSES: Submit written or electronic comments and petitions to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy (HFD–007), Food and Drug

Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human biological products, the testing phase begins when the exemption to permit the clinical investigations of the biological product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human biological product and continues until FDA grants permission to market the biological product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human biological product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human biological product GARDASIL (Quadrivalent Human Papillomavirus Recombinant Vaccine). GARDASIL is indicated for vaccination in females 9 to 26 years of age for prevention of the following diseases caused by Human Papillomavirus (HPV) Types 6, 11, 16, and 18: Cervical cancer, genital warts (condyloma acuminata), and the following precancerous or dysplastic lesions: Cervical adenocarcinoma in situ (AIS); cervical intraepithelial neoplasia (CIN) grade 1, grade 2, and grade 3; vulvar intraepithelial neoplasia (VIN) grade 2 and grade 3; and vaginal intraepithelial neoplasia (VaIN) grade 2 and grade 3. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for GARDASIL (U.S. Patent No. 5,820,870) from Merck & Co., Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated February 6, 2007, FDA advised the Patent and Trademark Office that this human biological product had undergone a regulatory review period and that the approval of GARDASIL represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for GARDASIL is 2,215 days. Of this time, 2,031 days occurred during the testing phase of the regulatory review period, while 184 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective*: May 17, 2000. The applicant claims May 14, 2000, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was May 17, 2000, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human biological product under section 351 of the Public Health Service Act (42 U.S.C. 262)*: December 7, 2005. FDA has verified the applicant's claim that the product license application (BLA) for GARDASIL (BLA 125126/0) was initially submitted on December 7, 2005.

3. *The date the application was approved*: June 8, 2006. FDA has verified the applicant's claim that BLA 125126/0 was approved on June 8, 2006.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,200 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments and ask for a redetermination by July 23, 2007. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by November 19, 2007. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Division of Dockets Management. Three copies of any mailed information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 7, 2007.

Jane A. Axelrad

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. E7–9950 Filed 5–22–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2007E–0002]

Determination of Regulatory Review Period for Purposes of Patent Extension; ELAPRASE

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for ELAPRASE and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human biological product.

ADDRESSES: Submit written or electronic comments and petitions to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy (HFD–007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and

Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human biological products, the testing phase begins when the exemption to permit the clinical investigations of the human biological product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human biological product and continues until FDA grants permission to market the biological product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human biological product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human biological product ELAPRASE (idursulfase). ELAPRASE is indicated for patients with Hunter Syndrome (Mucopolysaccharidosis II). Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for ELAPRASE (U.S. Patent No. 5,932,211) from Women's and Children's Hospital, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated February 6, 2007, FDA advised the Patent and Trademark Office that this human biological product had undergone a regulatory review period and that the approval of ELAPRASE represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for ELAPRASE is 2,008 days. Of this time, 1,764 days occurred during the testing phase of the regulatory review period, while 244 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(i)) became effective*: January 25, 2001. The applicant claims March 12, 2001, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was January 25, 2001, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human biological product under section 351 of the Public Health Service Act (42 U.S.C. 262)*: November 23, 2005. FDA has verified the applicant's claim that the biologics license application (BLA) for ELAPRASE (BLA 125151) was initially submitted on November 23, 2005.

3. *The date the application was approved*: July 24, 2006. FDA has verified the applicant's claim that BLA 125151 was approved on July 24, 2006.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,103 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments and ask for a redetermination by July 23, 2007. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by November 19, 2007. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Division of Dockets Management. Three copies of any mailed information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 7, 2007.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. E7–9951 Filed 5–22–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2002P–0399]

Determination That ESTROSTEP 21 (Ethinyl Estradiol and Norethindrone Acetate) Tablets Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined that ESTROSTEP 21 (ethinyl estradiol and norethindrone acetate) tablets were not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for the combination drug ethinyl estradiol and norethindrone acetate tablets, 0.02 milligram (mg)/1 mg, 0.03 mg/1 mg, and 0.035 mg/1 mg.

FOR FURTHER INFORMATION CONTACT: Mary Catchings, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products approved under an ANDA procedure. ANDA sponsors must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is typically a version of the drug that was previously approved. Sponsors of ANDAs do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA). The only clinical data required in an ANDA are data to show that the drug that is the subject of the ANDA is bioequivalent to the listed drug.

The 1984 amendments include what is now section 505(j)(7) of the Federal

Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is generally known as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness, or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (§ 314.162)(21 CFR 314.162)).

Under § 314.161(a)(1)(21 CFR 314.161(a)(1)), the agency must determine whether a listed drug was withdrawn from sale for reasons of safety or effectiveness before an ANDA that refers to that listed drug may be approved. FDA may not approve an ANDA that does not refer to a listed drug.

ESTROSTEP 21 (ethinyl estradiol and norethindrone acetate) tablets, 0.02 mg/1 mg, 0.03 mg/1 mg, and 0.035 mg/1 mg, are the subject of approved NDA 20–130 held by Warner Chilcott. ESTROSTEP 21 tablets, 0.02 mg/1 mg, 0.03 mg/1 mg, and 0.035 mg/1 mg, were approved on October 9, 1996, as oral contraceptives indicated for the prevention of pregnancy in women who elect to use these products as a method of contraception. FDA also approved ESTROSTEP FE under NDA 20–130 on October 9, 1996, for the same indication. On July 1, 2001, FDA approved ESTROSTEP 21 and ESTROSTEP FE for the treatment of moderate acne vulgaris under NDA 21–276. Both ESTROSTEP 21 and ESTROSTEP FE provide a gradually increasing estrogen dose with a constant dose of progestin. Both drugs provide the same dosage regimen of oral contraceptive tablets for the first 21 days of a 28–day cycle. ESTROSTEP FE provides an additional seven ferrous fumarate tablets. The ferrous fumarate tablets, which are nonhormonal and serve no therapeutic purpose, are added to facilitate patient compliance by the use of a 28-day regimen where the patient takes a pill every day. Except for the nontherapeutic ferrous fumarate tablets, ESTROSTEP 21 and ESTROSTEP FE have the same therapeutic regimen.

ESTROSTEP 21 is listed in the Orange Book as a discontinued product. ESTROSTEP FE, currently named ESTROSTEP, remains on the list of currently marketed drug products.

Barr Laboratories, Inc., submitted a citizen petition dated September 4, 2002 (Docket No. 2002P–0399/CP1), under 21 CFR 10.30 and § 314.161, requesting that FDA determine whether ESTROSTEP 21 tablets had been discontinued from sale for reasons of safety or effectiveness. In a letter dated December 1, 2004, Warner Chilcott confirmed to the agency that the firm never commercially marketed ESTROSTEP 21 in the United States. In previous instances (see the **Federal Register** of December 30, 2002 (67 FR 79640 at 79641) (addressing a relisting request for Diazepam Autoinjector)), FDA has concluded that, for purposes of §§ 314.161 and 314.162, never marketing an approved drug product is equivalent to withdrawing the drug from sale.

The agency has determined that ESTROSTEP 21 tablets, 0.02 mg/1 mg, 0.03 mg/1 mg, and 0.035 mg/1 mg, were not withdrawn from sale for reasons of safety or effectiveness. In support of this finding, we note that Warner Chilcott continues to market ESTROSTEP FE, which contains the same therapeutic dosage regimen as ESTROSTEP 21. The petitioner identified no data or other information suggesting that ESTROSTEP 21 was withdrawn from sale as a result of safety or effectiveness concerns. FDA has independently evaluated relevant literature and data for possible postmarketing adverse event reports associated with this combination drug product and has found no information that would indicate this product was withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing agency records, FDA determines that for the reasons outlined in this document, ESTROSTEP 21 tablets, 0.02 mg/1 mg, 0.03 mg/1 mg, and 0.035 mg/1 mg, were not withdrawn from sale for reasons of safety or effectiveness. Accordingly, the agency will continue to list ESTROSTEP 21 in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to ESTROSTEP 21 may be approved by the agency as long as they meet all relevant legal and regulatory requirements for approval of ANDAs. If FDA determines that labeling for these drugs products should be revised to meet current standards, the agency will advise ANDA applicants to submit such labeling.

Dated: May 15, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–9949 Filed 5–22–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2007N–0191]

Determination That Protamine Sulfate Injection and 26 Other Drug Products Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined that the 27 drug products listed in this document were not withdrawn from sale for reasons of safety or effectiveness.This determination means that FDA will not begin procedures to withdraw approval of abbreviated new drug applications (ANDAs) for the drug products, and it will allow FDA to continue to approve ANDAs for the products.

FOR FURTHER INFORMATION CONTACT: Mary Catchings, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20855, 301–594–2041.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products approved under an ANDA procedure. ANDA sponsors must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. Sponsors of ANDAs do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA). The only clinical data required in an ANDA are data to show that the drug that is the subject of the ANDA is bioequivalent to the listed drug.

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is generally known as the ''Orange Book.'' Under FDA regulations, drugs are withdrawn from the list if the agency withdraws or suspends approval

of the drug's NDA or ANDA for reasons of safety or effectiveness, or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

Under § 314.161(a) (21 CFR 314.161(a)), the agency must determine whether a listed drug was withdrawn from sale for reasons of safety or effectiveness: (1) Before an ANDA that refers to that listed drug may be approved or (2) whenever a listed drug is voluntarily withdrawn from sale, and ANDAs that refer to the listed drug have been approved. Section 314.161(d) provides that if FDA determines that a listed drug was removed from sale for safety or effectiveness reasons, the agency will initiate proceedings that could result in the withdrawal of approval of the ANDAs that refer to the listed drug.

FDA has become aware that the drug products listed in the table in this document are no longer being marketed. (As requested by the applicants, FDA withdrew approval of NDA 6–460 for Protamine Sulfate Injection, NDA 18–675 for TAVIST Syrup, NDA 19–243 for PROVENTIL Inhalation Solution, NDA 19–471 for CARDIZEM SR Capsules, and NDA 19–817 for PERSANTINE Injection in the **Federal Register** of March 4, 2005 (70 FR 10651), NDA 8–857 for PHENERGAN Injection in the **Federal Register** of May 5, 2004 (69 FR 25124), and NDA 13–400 for ALDOMET Tablets and NDA 13–401 for ALDOMET Injection in the **Federal Register** of June 16, 2006 (71 FR 34940)).

Application No.	Drug	Applicant
NDA 6–460	Protamine Sulfate Injection, 10 milligrams (mg)/milliliter (mL) in a 25-mL vial	Eli Lilly and Co., Lilly Corporate Center, Indianapolis, IN 46285
NDA 6–773	ARTANE (trihexyphenidyl hydrochloride (HCl)) Tablets, 2 mg and 5 mg	Lederle, c/o Wyeth Pharmaceuticals, P.O. Box 8299, Philadelphia, PA 19101–8299
NDA 8–857	PHENERGAN (promethazine HCl) Injection, 25 mg/mL and 50 mg/mL in 1-mL vials	Wyeth Pharmaceuticals, P.O. Box 8299, Philadelphia, PA 19101–8299
NDA 9–149	THORAZINE (chlorpromazine HCl) Tablets, 10, 25, 50, 100, and 200 mg	GlaxoSmithKline, 2301 Renaissance Blvd., King of Prussia, PA 19406
NDA 11–145	DIURIL (chlorothiazide) Tablets, 250 mg and 500 mg	Merck & Co., Inc., Sumneytown Pike, BLA–20, P.O. Box 4, West Point, PA 19486
NDA 11–664	DECADRON (dexamethasone) Tablets, 0.25, 4, and 6 mg	Do.
NDA 11–808	MELLARIL (thioridazine HCl) Tablets, 10, 15, 25, 50, 100, 150, and 200 mg	Novartis Pharmaceuticals Corp., One Health Plaza, East Hanover, NJ 07936
NDA 11–870	DIURIL (chlorothiazide) Suspension, 250 mg/5 mL	Merck & Co., Inc.
NDA 13–400	ALDOMET (methyldopa) Tablets, 125, 250, and 500 mg	Do.
NDA 13–401	ALDOMET (methyldopate HCl) Injection, 50 mg/mL	Do.
NDA 16–363	LASIX (furosemide) Injection, 10 mg/mL	Aventis Pharmaceuticals, Inc., 200 Crossing Blvd., Bridgewater, NJ 08807–0890
NDA 17–391	IMURAN (azathioprine) Injection, 100 mg base/vial	Prometheus Laboratories, 5739 Pacific Center Blvd., San Diego, CA 92121–4203
NDA 17–939	TAGAMET (cimetidine HCl) Injection, 300 mg/2 mL	GlaxoSmithKline
NDA 18–513	CHENIX (chenodiol) Tablets, 250 mg	Axcan Scandipharm, Inc., 22 Inverness Center Parkway, Birmingham, AL 35242–4814
NDA 18–675	TAVIST (clemastine fumarate) Oral Syrup, 0.5 mg/5 mL	Novartis Consumer Health, Inc., 200 Kimball Dr., Parsippany, NJ 07054–0622
NDA 18–922	LODINE (etodolac) Capsules, 200 mg; LODINE Tablets, 400 mg and 500 mg	Wyeth Pharmaceuticals, Inc.
NDA 19–201	VOLTAREN (diclofenac sodium) Delayed-Release Tablets, 25 mg and 50 mg	Novartis Pharmaceuticals, Inc.
NDA 19–243	PROVENTIL (albuterol sulfate) Inhalation Solution, 0.5% and 0.083%	Schering-Plough Corporation, 2000 Galloping Hill Rd., Kenilworth, NJ 07033
NDA 19–434	TAGAMET HCl (cimetidine HCl) in Sodium Chloride 0.9% in Plastic Container, EQ 6 mg/mL	GlaxoSmithKline
NDA 19–471	CARDIZEM SR (diltiazem HCl) Capsules, 60, 90, 120, and 180 mg	Biovail Laboratories, Inc., c/o Bioavail Technologies Ltd., 700 Route 202/206 North, Bridgewater, NJ 08807–0980
NDA 19–817	PERSANTINE (dipyridamole) Injection, 5 mg/mL	Boehringer Ingelheim Pharmaceuticals, Inc., 900 Ridgebury Rd., P.O. Box 368, Ridgefield, CT 06877–0368

Application No.	Drug	Applicant
NDA 20–144	TRANSDERM–NITRO (nitroglycerin), 0.1 mg/hour (hr), 0.2 mg/hr, 0.4 mg/hr, 0.6 mg/hr, 0.8 mg/hr	Novartis Pharmaceuticals Corp.
NDA 20–584	LODINE (etodolac) XL Tablets, 600 mg	Wyeth Pharmaceuticals, Inc.
NDA 21–110	RAPAMUNE (sirolimus) Tablets, 5 mg	Wyeth Pharmaceuticals, Inc.
NDA 50–477	NEBCIN (tobramycin sulfate) Injection, 10 mg/mL	Eli Lilly and Co.
NDA 50–519	NEBCIN (tobramycin sulfate) Injection, 1.2 grams/vial	Do.
ANDA 62–008	NEBCIN (tobramycin sulfate) Injection, 40 mg/mL	Do.

FDA has reviewed its records and, under § 314.161, has determined that the drug products listed in this document were not withdrawn from sale for reasons of safety or effectiveness. Accordingly, the agency will continue to list the drug products listed in this document in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' identifies, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. Approved ANDAs that refer to the NDAs and ANDA listed in this document are unaffected by the discontinued marketing of the products subject to those NDAs and ANDA. Additional ANDAs for the products may also be approved by the agency if they comply with relevant legal and regulatory requirements. If FDA determines that labeling for these drug products should be revised to meet current standards, the agency will advise ANDA applicants to submit such labeling.

Dated: May 15, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–9962 Filed 5–22–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2004E–0319]

Determination of Regulatory Review Period for Purposes of Patent Extension; BEXTRA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for BEXTRA and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Submit written comments and petitions to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy (HFD–007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the human drug product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted, as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product BEXTRA (valdecoxib). BEXTRA is indicated for relief of the signs and symptoms of osteoarthritis and adult rheumatoid arthritis and for the treatment of primary dysmenorrhea. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for BEXTRA (U.S. Patent No. 5,633,272) from G.D. Searle, LLC, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated August 31, 2004, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of BEXTRA represented the first permitted commercial marketing or use of the product. Thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for BEXTRA is 1,767 days. Of this time, 1,462 days occurred during the testing phase of the regulatory review period, while 305 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(i)) became effective*: January 16, 1997. The applicant claims January 15, 1997, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the

IND effective date was January 16, 1997, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the act*: January 16, 2001. FDA has verified the applicant's claim that the new drug application (NDA) for Bextra (NDA 21–341) was initially submitted on January 16, 2001.

3. *The date the application was approved*: November 16, 2001. FDA has verified the applicant's claim that NDA 21–341 was approved on November 16, 2001.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 276 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments and ask for a redetermination by July 23, 2007. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by November 19, 2007. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Division of Dockets Management. Three copies of any mailed information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 2, 2007.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. E7–9957 Filed 5–22–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Pretesting of Substance Abuse Prevention and Treatment and Mental Health Services Communication Messages—(OMB No. 0930–0196)—Extension

As the Federal agency responsible for developing and disseminating authoritative knowledge about substance abuse prevention, addiction treatment, and mental health services and for mobilizing consumer support and increasing public understanding to overcome the stigma attached to addiction and mental illness, the Substance Abuse and Mental Health Services Administration (SAMHSA) is responsible for development and dissemination of a wide range of education and information materials for both the general public and the professional communities. This submission is for generic approval and will provide for formative and qualitative evaluation activities to (1) assess audience knowledge, attitudes, behavior and other characteristics for the planning and development of messages, communication strategies and public information programs; and (2) test these messages, strategies and program components in developmental form to assess audience comprehension, reactions and perceptions. Information obtained from testing can then be used to improve materials and strategies while revisions are still affordable and possible. The annual burden associated with these activities is summarized below.

Activity	No. of respondents	Responses respondent	Hours per response	Total hours
Individual In-depth Interviews:				
General Public	400	1	.75	300
Service Providers	200	1	.75	150
Focus Group Interviews:				
General Public	3,000	1	1.5	4,500
Service Providers	1,500	1	1.5	2,250
Telephone Interviews:				
General Public	335	1	.08	27
Service Providers	165	1	.08	13
Self-Administered Questionnaires:				
General Public	2,680	1	.25	670
Service Providers	1,320	1	.25	330
Gatekeeper Reviews:				
General Public	1,200	1	.50	600
Service Providers	900	1	.50	450
Total	11,700			9,290

Written comments and recommendations concerning the proposed information collection should be sent by June 22, 2007 to: SAMHSA Desk Officer, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; due to potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, respondents are encouraged to submit comments by fax to: 202–395–6974.

Dated: May 7, 2007.

Elaine Parry,

Acting Director, Office of Program Services.

[FR Doc. E7–9900 Filed 5–22–07; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5117–N–44]

Notice of Submission of Proposed Information Collection to OMB; Early Doctoral Student Research Grant Program

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

Doctoral students will receive grants to complete their dissertations related to HUD subjects.

DATES: *Comments Due Date:* June 22, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2528–0216) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Lillian_L._Deitzer@HUD.gov* or telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer or from HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm*.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Early Doctoral Student Research Grant Program.

OMB Approval Number: 2528–0216.

Form Numbers: SF–424, SF–424 Supplement, HUD–424CB, SFLLL, HUD–27300, HUD–2880, HUD–2944A, HUD–96010, HUD–96011.

Description of the Need for the Information and Its Proposed Use: Doctoral students will receive grants to complete their dissertations related to HUD subjects.

Frequency of Submission: On occasion, Semi-annually, Other Final Report.

	Number of respondents	Annual responses	x	Hours per response	=	Burden hours
Reporting Burden	80	1.56		21.68		2710

Total Estimated Burden Hours: 2,710.

Status: Extension of a current collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: May 18, 2007.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E7–9953 Filed 5–22–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5117–N–43]

Notice of Submission of Proposed Information Collection to OMB; Mortgage Insurance Termination; Application for Premium Refund or Distributive Share Payment

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

The Mortgage Insurance Termination Information is used by FHA-approved lenders to terminate FHA insurance to comply with HUD requirements. The Application for Premium Refund or Distributive Share Payment is used by homeowners to apply for the unearned portion of the mortgage insurance premium or a distributive share payment.

DATES: *Comments Due Date:* June 22, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502–0414) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Lillian_L._Deitzer@HUD.gov* or telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer or from HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm*.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of

information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Mortgage Insurance Termination; Application for Premium Refund or Distributive Share Payment.

OMB Approval Number: 2502–0414.

Form Numbers: HUD–27050–A and HUD–27050–B.

Description of the Need for the Information and Its Proposed Use: The Mortgage Insurance Termination Information is used by FHA-approved lenders to terminate FHA insurance to comply with HUD requirements. The Application for Premium Refund or Distributive Share Payment is used by homeowners to apply for the unearned portion of the mortgage insurance premium or a distributive share payment.

Frequency of Submission: On occasion.

	Number of respondents	Annual responses	x	Hours per response	=	Burden hours
Reporting Burden	462,349	2.17		0.157		157,932

Total Estimated Burden Hours: 157,932.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: May 18, 2007.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E7–9955 Filed 5–22–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5117–N–42]

Notice of Submission of Proposed Information Collection to OMB; Multifamily Mortgagee's Application for Insurance Benefits

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

Mortgagees provide information to apply for insurance benefits. HUD uses the information provided to cancel multifamily mortgage insurance contracts and payments of mortgage insurance.

DATES: *Comments Due Date:* June 22, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502–0419) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Lillian_L._Deitzer@HUD.gov* or telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer or from HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm.*

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Multifamily Mortgagee's Application for Insurance Benefits.

OMB Approval Number: 2502–0419.

Form Numbers: HUD–2747.

Description of the Need for the Information and its Proposed Use: Mortgagees provide information to apply for insurance benefits. HUD uses the information provided to cancel multifamily mortgage insurance contracts and payments of mortgage insurance.

Frequency of Submission: On occasion.

	Number of respondents	Annual responses	x	Hours per response	=	Burden hours
Reporting Burden	110	1		0.08		9

Total Estimated Burden Hours: 9.

Status: Extension of current collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: May 18, 2007.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E7–9958 Filed 5–22–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5117–N–41]

Notice of Submission of Proposed Information Collection to OMB; Disclosure of Adjustable Rate Mortgages (ARMs) Rates

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

Lenders must provide mortgagors with adjustable rate mortgages an annual ARM Disclosure Notice at least 25 days before any adjustment to a mortgagor's monthly payment may occur, and the mortgagee must inform the borrower of the changed interest rate, monthly mortgage amount, the current index interest rate value, and how the payment adjustment was calculated. HUD reviews lenders loan files to ensure lenders are in compliance.

DATES: *Comments Due Date:* June 22, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502–0322) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Lillian_L._Deitzer@HUD.gov* or telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer or from HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm*.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Disclosure of Adjustable Rate Mortgages (ARMs) Rates.

OMB Approval Number: 2502–0322.

Form Numbers: None.

Description of the Need for the Information and Its Proposed Use: Lenders must provide mortgagors with adjustable rate mortgages an annual ARM Disclosure Notice at least 25 days before any adjustment to a mortgagor's monthly payment may occur, and the mortgagee must inform the borrower of the changed interest rate, monthly mortgage amount, the current index interest rate value, and how the payment adjustment was calculated. HUD reviews lenders loan files to ensure lenders are in compliance.

Frequency of Submission: Annually.

	Number of respondents	Annual responses	x	Hours per response	=	Burden hours
Reporting Burden	20,000	11		0.05		11,000

Total Estimated Burden Hours: 11,000.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: May 18, 2007.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E7–9959 Filed 5–22–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5117–N–40]

Notice of Submission of Proposed Information Collection to OMB; Certificate of Need for Health Facilitiy and Assurance of Enforcement of State Standards

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

FHA appraisers, mortgagors, and nonprofit entities use form HUD–2576–HF to evaluate the property as security for a long-term insured mortgage. The Certificate of Need is used to obtain approval from HUD for insured loans for nursing homes and intermediate care facilities.

DATES: *Comments Due Date:* June 22, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502–0210) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Departmental Reports

Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Lillian_L._Deitzer@HUD.gov* or telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer or from HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm.*

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Certificate of Need for Health Facilitiy and Assurance of Enforcement of State Standards.

OMB Approval Number: 2502–0210.

Form Numbers: HUD–2576–HF.

Description of the Need for the Information and Its Proposed Use: FHA appraisers, mortgagors, and nonprofit entities use form HUD–2576–HF to evaluate the property as security for a long-term insured mortgage. The Certificate of Need is used to obtain approval from HUD for insured loans for nursing homes and intermediate care facilities.

Frequency of Submission: On occasion.

	Number of respondents	Annual responses	x	Hours per response	=	Burden hours
Reporting Burden	50	1		0.5		25

Total Estimated Burden Hours: 25.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: May 18, 2007.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E7–9960 Filed 5–22–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–330–1430–ELL; DSG070001; IDI–35511]

Notice of Realty Action; Modified Competitive Sale of Public Land, Custer County, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) has examined and determined that one parcel of public land approximately 103.88 acres, located in Custer County, Idaho is suitable for disposal by modified competitive sale to all qualified members of the public, pursuant to Sections 203 and 209 of the Federal Land Policy and Management Act (FLPMA) of 1976, as amended.

DATES: Interested parties may submit comments to the BLM Challis Field Office Manager, at the below address. Comments must be received no later than July 9, 2007. Only written comments will be accepted.

ADDRESSES: Detailed information including but not limited to documentation relating to compliance with all applicable environmental and cultural resource laws is available for review at the BLM Challis Field Office. Address all written comments concerning this Notice to David Rosenkrance, BLM Challis Field Office Manager, 801 Blue Mountain Rd, Challis, Idaho 83226–9304. 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.

SUPPLEMENTARY INFORMATION: The BLM has identified the Lezamiz Family Limited Partnership (FLP) (John T. Lezamiz, General Partner/Representative) as the proponent in this modified competitive sale. As the proponent, Mr. Lezamiz is reserved the right to match the highest bid. The purchase price will be determined through an open bidding process. The minimum opening bid will be no less than the appraised fair market value as determined by a Department of the Interior appraisal.

The following described public land in Custer County, Idaho has been determined to be suitable for sale at a price to be determined in an open bidding process under Sections 203 and 209 of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1713 and 1719). The BLM has determined this land is difficult to economically manage [as part of the public lands] and that resource values will not be affected by the disposal of this parcel of public land. The parcel is identified for disposal in the Challis Resource Management Plan (1999), and its disposal would be in the public interest. In accordance with 43 CFR 2711.3–2(a)(2), this parcel is being offered by modified competitive sale to the Lezamiz FLP and all qualified members of the public. John T. Lezamiz/Lezamiz FLP has been named the proponent based on two circumstances. The first is the fact that John T. Lezamiz is the adjacent landowner immediately to the south of the subject parcel. Second, Mr. Lezamiz is the current grazing permit holder, and has historically used the parcel in that capacity. Additionally, the Lezamiz FLP arranged for and paid for the environmental impact analysis and resource clearances completed for this proposed action. The parcel is fenced, bordered to the west and south by private property, and has no improvements. If selected as the highest bidder, failure or refusal of Lezamiz FLP to submit payment within 180 days of the sale of the parcel will constitute a waiver of this preference consideration. This parcel may then be offered for sale

on a competitive basis. If another member of the public is selected as the highest bidder and fails to submit payment within 180 days of the sale, the parcel may again be offered on a competitive basis.

The parcel is described as follows:

Boise Meridian, Idaho

T. 7 N., R. 25 E., section 30, lots 13, 14 and 15.

The area described contains 103.88 acres, more or less. The market value, not less than the current fair market value, utilizing modified competitive bid sale procedures, is yet to be determined by Department of the Interior appraisal.

The patent, when issued, will contain a reservation to the United States for ditches and canals under the authority of the United States pursuant to the Act of August 30, 1890, 26 Stat. 391 (43 U.S.C. 945). No warranty of any kind, express or implied, is given by the United States as to title, whether or to what extent the land may be developed, its physical condition, future uses, or any other circumstance or condition. The conveyance of the parcel will not be on a contingency basis. However, to the extent required by law, the parcel is subject to the requirements of section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act, (42 U.S.C. 9620(h)) (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (SARA) of 1988, (100 Stat. 1670). Notice is hereby given that the above-described lands have been examined and no evidence was found to indicate any hazardous substances had been stored for one year or more, nor had any hazardous substances been disposed of or released on the subject property.

A mineral potential report will be completed by the BLM prior to the execution of the sale. If the report concludes the subject parcel contains minerals of value they shall be reserved to the United States. If the report determines the subject parcel contains no known mineral values, mineral interests will be conveyed simultaneously with the surface. A separate non-refundable filing fee of $50.00 is required from the purchaser for the conveyance of the mineral interest.

Upon publication of this notice in the **Federal Register**, the land described above will be segregated from appropriation under the public land laws, including the general mining laws. The segregation will end upon issuance of patent or other documents of conveyance for such lands, upon publication in the **Federal Register** of a termination of the segregation, or May 26, 2009, whichever occurs first, unless extended by the BLM State Director in accordance with 43 CFR 2611.2(a), prior to the termination date.

Comments must be received by the BLM Challis Field Manager, Idaho Falls District Office, at the address stated above, on or before the date noted in the **DATES** section above. Any adverse comments will be reviewed by the Idaho Falls District Manager, who may sustain, vacate or modify this realty action. In the absence of any objections, or adverse comments, this proposed realty action will become the final determination of the Department of the Interior. The land will not be offered for sale until at least 60 days after the date of publication of this notice in the **Federal Register**. The BLM may accept or reject any or all offers, or withdraw any land or interest in the land from sale, if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with FLPMA, or other applicable laws.

FOR FURTHER INFORMATION CONTACT: Tim Vanek, Realty Specialist, at the above address or call: (208) 879–6218.

Authority: 43 CFR 2711.1–2(c).

Joe Kraayenbrink,

District Manager, Idaho Falls District.

[FR Doc. E7–9939 Filed 5–22–07; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–966–1420–BJ–TRST] Group No. 177, Wisconsin

Eastern States: Filing of Plat of Survey

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plat of survey; Wisconsin.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM-Eastern States, Springfield, Virginia, 30 calendar days from the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153. Attn: Cadastral Survey.

SUPPLEMENTARY INFORMATION: This survey was requested by the Bureau of Indian Affairs.

The lands we surveyed are:

Township 46 North, Range 3 West, of the Fourth Principal Meridian, Wisconsin

The plat of survey represents the dependent resurvey of a portion of the west boundary, a portion of the subdivisional lines, and the north and south center line of section 18; and the survey of the subdivision of section 18 and was approved May 11, 2007. We will place a copy of the plat we described in the open files. It will be available to the public as a matter of information.

If BLM receives a protest against this survey, as shown on the plat, prior to the date of the official filing, we will stay the filing pending our consideration of the protest.

We will not officially file the plat until the day after we have accepted or dismissed all protests and they have become final, including decisions on appeals.

Dated: May 14, 2007.

Joseph W. Beaudin,

Chief Cadastral Surveyor (acting).

[FR Doc. E7–9938 Filed 5–22–07; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–923–1430–ET; COC–70988]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Secretary of the Interior proposes to withdraw on behalf of the Bureau of Land Management (BLM) 4,138 acres of public lands for a period of 20 years to protect scenic, recreation, water quality, and wildlife habitat values in Routt County, Colorado. This notice temporarily segregates the lands for up to 2 years from settlement, sale, location, or entry under the general land laws, including the mining laws, and the mineral and geothermal leasing laws while the 20-year withdrawal application is being processed.

DATES: Comments and requests for a public meeting must be received by August 21, 2007.

ADDRESSES: Comments and meeting requests should be sent to the BLM Colorado State Director, 2850 Youngfield Street, Lakewood, Colorado 80215–7093.

FOR FURTHER INFORMATION CONTACT: John Beck, BLM Colorado State Office, 303–239–3882 or at the above address.

SUPPLEMENTARY INFORMATION: The applicant for the above withdrawal is the BLM at the address stated above. The petition/application requests the Secretary of the Interior to withdraw, for a period of 20 years, the following described public lands from settlement, sale, location, or entry under the general land laws, including the mining laws, and the mineral and geothermal leasing laws, subject to valid existing rights:

Sixth Principal Meridian

T. 6 N., R. 85 W.,
Sec. 13, SE¼SE¼, excepting and excluding the west 100 feet thereof and the north 100 feet thereof;
Sec. 15, S½NE¼, S½SW¼, and SE¼;
Sec. 21, That portion of the S½N½SE¼NE¼, S½SE¼NE¼, and E½SE¼ lying North and East of the centerline of the Cow Creek Road (County Road No. 45) excepting the traverse and right-of-way, whether an easement or in fee, for County Road No. 45;
Sec. 22;
Sec. 23, W½NW¼, W½SE¼NW¼, SE¼SE¼NW¼, SW¼, S½N½SE¼, and S½SE¼;
Sec. 24, E½E½NW¼, E½SW¼, S½NW¼SW¼, SW¼SW¼, NW¼SE¼, S½SE¼, W½NE¼, and NE¼NE¼;
Secs. 25 and 26;
Secs. 27, 34, and 35, those portions lying north and east of the centerline of the Cow Creek Road (County Road No. 45);

Excepting therefrom a parcel of land containing 123.78 acres located in secs. 23 and 24 of T. 6 N., R. 85 W. of the 6th P.M., Routt County, Colorado, described as follows:

Beginning at a point on the North side of an existing road (top of ridge) and on the North line of the said NW¼NW¼ of sec. 23 from which the Northwest corner of said sec. 23 bears N89°13′32″W 164.58 feet;

Thence East along the North line of the said NW¼NW¼ of sec. 23 to the Northwest corner of the NE¼NW¼ of sec. 23 and the Northwest corner of a parcel of land which is described at Reception Number 610794 (State of Colorado Patent No. 8350) of the Routt County Clerk and Recorders Records;

Thence South along the West line of the said NE¼NW¼ of sec. 23 and along the West line said Reception Number 610794;

Thence East along the South line of the said NE¼NW¼ of sec. 23 and along a South line said Reception Number 610794;

Thence South along the West line of the said NE¼SE¼NW¼ of sec. 23 and along a West line said Reception Number 610794;

Thence East along the South line of the said NE¼SE¼NW¼ of sec. 23 and along a South line said Reception Number 610794;

Thence South along the West line of the said NE¼ of sec. 23 and along a West line said Reception Number 610794;

Thence South along the West line of the said N½N½SE¼ of sec. 23 and along a West line said Reception Number 610794;

Thence East along the South line of the said N½N½SE¼ of sec. 23 and along the South line said Reception Number 610794;

Thence East along the South line of the said N½NW¼SW¼ of sec. 24 and along the South line said Reception Number 610794;

Thence North along the East line of the said N½NW¼SW¼ of sec. 24 and along an East line said Reception Number 610794;

Thence East along the South line of the said W½SE¼NW¼ of sec. 24 and along a South line said Reception Number 610794;

Thence North along the East line of the said W½SE¼NW¼ of sec. 24 and along an East line said Reception Number 610794 to the VOR Boundary Line (State Lease No. S–40743);

Thence along the VOR Boundary Line S12°50′38″ E 299.28 feet;

Thence S33°42′38″ E 22.93 feet to the said the North side of an existing road (top of ridge);

Thence along the North side of an existing road (top of ridge) the following 110 calls:
Thence S50°53′35″ W 74.77 feet;
Thence S30°01′45″ W 154.66 feet;
Thence S28°31′35″ W 87.10 feet;
Thence S69°35′54″ W 81.43 feet;
Thence S85°40′20″ W 60.86 feet;
Thence S49°17′24″ W 58.86 feet;
Thence S41°56′59″ W 134.03 feet;
Thence S37°38′18″ W 87.73 feet;
Thence S15°35′30″ W 79.00 feet;
Thence S49°46′21″ W 108.55 feet;
Thence S12°48′13″ W 74.61 feet;
Thence S38°47′34″ W 88.97 feet;
Thence N85°43′33″ W 115.46 feet;
Thence N31°26′52″ W 73.54 feet;
Thence N14°56′20″ W 104.21 feet;
Thence N56°36′48″ W 84.47 feet;
Thence N86°58′32″ W 25.88 feet;
Thence N54°51′32″ W 72.09 feet;
Thence S85°51′12″ W 105.33 feet;
Thence S61°17′43″ W 268.38 feet;
Thence S40°58′52″ W 112.92 feet;
Thence S52°06′13″ W 122.46 feet;
Thence S60°18′48″ W 136.16 feet;
Thence S76°44′29″ W 99.18 feet;
Thence S86°42′26″ W 66.02 feet;
Thence S68°09′27″ W 71.14 feet;
Thence S72°42′33″ W 86.80 feet;
Thence S76°38′34″ W 74.19 feet;
Thence S58°25′05″ W 104.46 feet;
Thence S83°56′22″ W 58.42 feet;
Thence N64°17′55″ W 154.26 feet;
Thence S84°05′15″ W 114.25 feet;
Thence S88°58′19″ W 132.72 feet;
Thence S68°36′20″ W 53.92 feet;
Thence S76°57′09″ W 103.67 feet;
Thence N82°43′50″ W 152.63 feet;
Thence S65°04′59″ W 131.51 feet;
Thence S81°58′30″ W 50.01 feet;
Thence N66°22′44″ W 103.89 feet;
Thence N67°36′04″ W 142.14 feet;
Thence N81°15′18″ W 101.71 feet;
Thence N88°03′08″ W 91.61 feet;
Thence N85°51′10″ W 83.84 feet;
Thence S63°07′53″ W 96.98 feet;
Thence S87°19′55″ W 52.62 feet;
Thence N81°02′21″ W 52.60 feet;
Thence S72°58′28″ W 102.27 feet;
Thence N85°45′58″ W 46.89 feet;
Thence N76°50′26″ W 121.49 feet;
Thence N66°37′46″ W 82.62 feet;
Thence N70°03′27″ W 102.49 feet;
Thence N86°09′48″ W 144.29 feet;
Thence N61°19′11″ W 54.13 feet;
Thence N77°29′21″ W 236.46 feet;
Thence N65°54′30″ W 63.61 feet;
Thence N51°07′21″ W 64.32 feet;
Thence N39°08′23″ W 177.57 feet;
Thence N63°13′32″ W 88.53 feet;
Thence N35°43′27″ W 75.59 feet;
Thence N66°17′06″ W 108.99 feet;
Thence N57°14′02″ W 58.33 feet;
Thence N82°43′22″ W 85.03 feet;
Thence N37°25′09″ W 44.39 feet;
Thence N24°09′53″ W 38.91 feet;
Thence N47°56′52″ W 94.25 feet;
Thence N41°56′57″ W 110.76 feet;
Thence N25°13′06″ W 129.66 feet;
Thence N41°27′24″ W 64.04 feet;
Thence N11°22′34″ W 70.79 feet;
Thence N41°16′24″ W 120.61 feet;
Thence N59°17′37″ W 98.64 feet;
Thence N62°59′30″ W 23.50 feet;
Thence N32°41′09″ W 75.57 feet;
Thence N41°54′29″ W 85.05 feet;
Thence N29°45′20″ W 96.36 feet;
Thence N04°54′34″ W 105.47 feet;
Thence N17°02′34″ W 104.53 feet;
Thence N42°24′33″ W 42.32 feet;
Thence N73°51′48″ W 148.88 feet;
Thence N66°36′39″ W 31.71 feet;
Thence N45°56′30″ W 110.06 feet;
Thence N37°30′18″ W 78.07 feet;
Thence N29°31′07″ W 97.61 feet;
Thence N39°24′56″ W 140.33 feet;
Thence N31°39′34″ W 136.12 feet;
Thence N41°49′43″ W 89.75 feet;
Thence N68°54′22″ W 109.23 feet;
Thence N51°31′11″ W 70.02 feet;
Thence N15°08′01″ W 15.17 feet;
Thence N15°27′12″ E 108.56 feet;
Thence N21°37′52″ E 105.46 feet;
Thence N06°44′53″ E 107.26 feet;
Thence N03°03′35″ E 68.31 feet;
Thence N21°05′16″ E 93.84 feet;
Thence N00°26′24″ E 65.96 feet;
Thence N09°16′03″ E 57.58 feet;
Thence N18°37′13″ W 72.17 feet;
Thence N37°53′14″ W 124.39 feet;
Thence N61°43′36″ W 89.58 feet;
Thence N50°42′33″ W 86.54 feet;
Thence N53°38′51″ W 83.66 feet;
Thence N37°16′48″ W 46.09 feet;
Thence N17°28′58″ W 56.27 feet;
Thence N06°24′06″ W 44.49 feet;
Thence N16°53′31″ W 106.95 feet;
Thence N05°02′10″ W 224.13 feet;
Thence N14°40′37″ W 82.61 feet;
Thence N28°19′20″ W 76.69 feet;
Thence N11°15′24″ W 69.14 feet;
Thence N00°55′11″ W 21.10 feet to the Point of Beginning.

All bearings shown hereon are based upon the North line of the NE¼ of said sec. 24 as being N89°24′02″ W.

The areas described aggregate 4,138.52 acres, more or less, in Routt County according to U.S. Government Survey and James B. Ackerman, R.L.S. #16394, of Emerald Mountain Surveys, Inc., Steamboat Springs, CO 80477.

The BLM petition/application has been approved by the Assistant Secretary of the Interior. Therefore it constitutes a withdrawal proposal of the Secretary of the Interior (43 CFR 2310.1–3(e)).

The purpose of the withdrawal would be to protect the scenic, recreation, water quality, and wildlife habitat values on the

lands newly acquired in the Emerald Mountain Land Exchange and achieve the management objectives of the BLM Little Snake Field Office Resource Management Plan Amendment.

The use of a right-of-way, an interagency or cooperative agreement would not adequately constrain non-discretionary uses that could irrevocably affect the resource values of the described lands.

There are no suitable alternative sites, as the described lands contain the resource values that need protection.

No water rights would be needed to fulfill the purpose of the requested withdrawal.

The potential for mineral development on the described lands is low.

Records relating to the proposed withdrawal can be examined by contacting John Beck at the above address or phone number.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the BLM Colorado State Director at the address listed above.

Comments, including names and street addresses of respondents, will be available for public review at the BLM Colorado State Office at the address listed during regular business hours, 7:45 a.m. to 4:15 p.m., Monday through Friday, except holidays. Individual respondents may request confidentiality. 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.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the BLM Colorado State Director at the address listed above within 90 days from the date of publication of this notice. If the authorized officer determines a public meeting will be held, a notice of the time and place will be published in the **Federal Register** and a local newspaper at least 30 days before the scheduled date of the meeting.

Licenses, permits, cooperative agreements, and other discretionary land use authorizations may be allowed with the approval of an authorized officer of the BLM during the segregative period.

This withdrawal proposal will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or cancelled or the withdrawal is approved prior to that date.

(Authority: 43 CFR 2310.3–1)

Dated: May 16, 2007.

John D. Beck,

Chief, Branch of Lands and Realty.

[FR Doc. E7–9933 Filed 5–22–07; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Gulf of Mexico Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the availability of environmental documents, prepared for OCS Mineral Proposals on the Gulf of Mexico OCS.

SUMMARY: Minerals Management Service (MMS), in accordance with Federal Regulations that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related Site-Specific Environmental Assessments (SEA) and Findings of No Significant Impact (FONSI), prepared by MMS for the following oil and gas activities proposed on the Gulf of Mexico OCS.

FOR FURTHER INFORMATION CONTACT: Public Information Unit, Information Services Section at the number below. Minerals Management Service, Gulf of Mexico OCS Region, *Attention:* Public Information Office (MS 5034), 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana 70123–2394, or by calling 1–800–200–GULF.

SUPPLEMENTARY INFORMATION: MMS prepares SEAs and FONSIs for proposals that relate to exploration for and the development/production of oil and gas resources on the Gulf of Mexico OCS. These SEAs examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. Environmental Assessments are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA Section 102(2)(C). A FONSI is prepared in those instances where MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the SEA.

This notice constitutes the public notice of availability of environmental documents required under the NEPA Regulations.

This listing includes all proposals for which the Gulf of Mexico OCS Region prepared a FONSI in the period subsequent to publication of the preceding notice.

Activity/Operator	Location	Date
Newfield Exploration Company, Initial Development Operations Coordination Document & Right-of-Way Pipeline, SEA N–8758 & P–15812.	High Island, Blocks A–353, A–366 & A–352, Leases OCS–G 24425, 24429 & 24424 respectively, located approximately 113 miles from the nearest Louisiana shoreline.	11/9/2006
BP Exploration & Production, Inc., Geological & Geophysical Prospecting for Mineral Resources, SEA L07–02.	Located in the central Gulf of Mexico south of Fourchon, Louisiana.	1/16/2007
Anadarko Petroleum Corporation, Right-of-Way Pipeline Modification, SEA P–15101.	DeSoto Canyon, Blocks 621, 620, 664, 663, 707, 706, 705 & 749; Mississippi Canyon, Blocks 789, 833, 832, 876 & 920; Leases OCS–G 23529, 23528, 23532, 25859, 25861 & 25860; located approximately 98 miles south of Gulf Shores, Alabama.	1/23/2007
PGS Geophysical, Geological & Geophysical Prospecting for Mineral Resources for Multi-Klient Invest AS, Oslo, Norway, SEA L07–01.	Located in the central Gulf of Mexico southeast of Cameron, Louisiana.	1/24/2007
BP Exploration & Production, Inc., Geological & Geophysical Exploration of Mineral Resources, SEA L07–03.	Located in the eastern Gulf of Mexico south of Fourchon, Louisiana.	1/24/2007
SPN Resources, LLC, Structure Removal, SEA ES/SR 07–010, 07–012, 07–013.	High Island, Blocks 134, 134 & 133 and Leases OCS–G 06158 & 18938 respectively, located 28 miles from the nearest Louisiana shoreline.	1/31/2007

Activity/Operator	Location	Date
Dominion Exploration & Production, Inc., Structure Removal, SEA ES/SR 07–007.	Ship Shoal, Block 225, Lease OCS–G 21657, located 54 miles from the nearest Louisiana shoreline.	1/31/2007
Maritech Resources, Inc., Structure Removal, SEA ES/SR 07–011.	Vermilion, Block 57, Lease OCS–G 03977, located 10 miles from the nearest Louisiana shoreline.	1/31/2007
Maritech Resources, Inc., Structure Removal, SEA ES/SR 07–006.	West Cameron, Block 206, OCS–G 03496, located 33 miles from the nearest Louisiana shoreline.	2/1/2007
Chevron U.S.A., Inc., Structure Removal, SEA ES/SR 07–017	Viosca Knoll, Block 161, Lease OCS–G 06876, located 43 miles from the nearest Louisiana shoreline.	2/6/2007
Energy Resource Technology, Inc., Structure Removal, SEA ES/SR 07–002.	Brazos, Block 436, Lease OCS–G 04258, located 12 miles from the nearest Texas shoreline.	2/7/2007
Remington Oil & Gas Corporation, Structure Removal, SEA ES/SR 07–016.	East Cameron, Block 140, Lease OCS–G 25950, located 40 miles from the nearest Louisiana shoreline.	2/7/2007
Energy Resource Technology, Inc., Structure Removal, SEA ES/SR 07–003.	East Cameron, Block 222, Lease OCS–G 02037, located 67 miles from the nearest Louisiana shoreline.	2/7/2007
Energy Resource Technology, Inc., Structure Removal, SEA ES/SR 06–008.	East Cameron, Block 231, Lease OCS–G 02038, located 69 miles from the nearest Louisiana shoreline.	2/7/2007
Chevron U.S.A., Inc., Structure Removal, SEA ES/SR 06–011	South Timbalier, Block 51, Lease OCS–G 01240, located 10 miles from the nearest Louisiana shoreline.	3/31/2006
Newfield Exploration Company, Structure Removal, SEA ES/SR 06–017.	West Cameron, Block 146, Lease OCS–G 01996, located 21 miles from the nearest Louisiana shoreline.	3/31/2006
SPN Resources, Structure Removal, SEA ES/SR 07–014	High Island, Block A–153, Lease OCS–G 18946, located 84 miles from the nearest Texas shoreline.	2/8/2007
Stone Energy Corporation, Structure Removal, SEA ES/SR 07–024.	South Marsh Island, Block 235, Lease OCS–G 15231, located 16 miles from the nearest Louisiana shoreline.	2/8/2007
Apache Corporation, Structure Removal, SEA ES/SR 07–005	Eugene Island, Block 196, Lease OCS–G 00802, located 48 miles from the nearest Louisiana shoreline.	2/12/2007
Chevron U.S.A., Inc., Structure Removal, SEA ES/SR 07–018	Ship Shoal, Block 100, Lease OCS–G 07750, located 22 miles from the nearest Louisiana shoreline.	2/13/2007
Tana Exploration Company, LLC, Structure Removal, SEA ES/SR 07–023.	Ship Shoal, Block 133, Lease OCS–G 23897, located 22 miles from the nearest Louisiana shoreline.	2/13/2007
Maritech Resources, Inc., Structure Removal, SEA ES/SR 06–029.	Grand Isle, Block 68, Lease OCS–G 15353, located 28 miles from the nearest Louisiana shoreline.	2/16/2007
Energy Partners, LTD, Structure Removal, SEA ES/SR 07–025.	South Timbalier, Block 41, Lease OCS–G 24954, located 13 miles from the nearest Louisiana shoreline.	2/21/2007
CGGVERITAS, Geological & Geophysical Prospecting for Mineral Resources, SEA T07–02.	Located in the central and western Gulf of Mexico south of Morgan City, Louisiana.	2/22/2007
TGS–NOPEC Geophysical Company for Fugro-Geoteam AS, Geological & Geophysical Prospecting for Mineral Resources, SEA L07–04.	Located in the central and western Gulf of Mexico south of Morgan City, Louisiana.	2/22/2007
Energy Resources Technology, Inc., Structure Removal, SEA ES/SR 07–004.	East Cameron, Block 231, Lease OCS–G 02038, located 69 miles from the nearest Louisiana shoreline.	2/23/2007
Apache Corporation, Structure Removal, SEA ES/SR 06–076A.	Grand Isle, Block 82, Lease OCS–G 05659, located 29 miles from the nearest Louisiana shoreline.	2/28/2007
Chevron U.S.A., Inc., Structure Removal, SEA ES/SR 07–027	Eugene Island, Block 113A, Lease OCS–G 04442, located 26 miles from the nearest Louisiana shoreline.	3/7/2007
Maritech Resources, Inc., Structure Removal, SEA ES/SR 07–021 & 07–022.	Eugene Island, Block 128, Lease OCS–00053, located 32 miles from the nearest Louisiana shoreline.	3/7/2007
Chevron U.S.A., Inc., Structure Removal, SEA ES/SR 07–031	Mobile, Block 947, Lease OCS–G 07849, located 19 miles from the nearest Louisiana shoreline.	3/7/2007
Walter Oil & Gas Corporation, Structure Removal, SEA ES/SR 07–026.	Sabine Pass, Block 6, Lease OCS–G 18121, located 13 miles from the nearest Texas shoreline.	3/7/2007
Chevron Environmental Management Company, Structure Removal, SEA ES/SR 07–028.	Ship Shoal, Block 108, Lease OCS–00814, located 23 miles from the nearest Louisiana shoreline.	3/7/2007
Newfield Exploration Company, Structure Removal, SEA ES/SR 07–032.	West Delta, Block 102, Lease OCS–G 21130, located 23 miles from the nearest Louisiana Shoreline.	3/7/2007
Newfield Exploration Company, Structure Removal, SEA ES/SR 07–030.	Brazos, Block A7, Lease OCS–G 04558, located 25 miles from the nearest Texas.	3/8/2007
Apache Corporation, Structure Removal, SEA ES/SR 06–119	High Island, Block A571, Lease OCS–G 02391, located 99 miles from the nearest Louisiana shoreline.	3/8/2007
BP Exploration & Production Inc., Geological & Geophysical Prospecting for Mineral Resources for Schlumberger, SEA L07–07.	Located in the central Gulf of Mexico south of Fourchon, Louisiana.	3/8/2007
CGG Veritas, Geological & Geophysical Prospecting for Mineral Resources, SEA ES/SR L07–06.	Located in the central Gulf of Mexico south of Fourchon, Louisiana.	3/8/2007
Newfield Exploration Company, Structure Removal, SEA ES/SR 07–034.	Ship Shoal, Block 57, Lease OCS–G 22696, located 15 miles from the nearest Louisiana shoreline.	3/9/2007
Newfield Exploration Company, Structure Removal, SEA ES/SR 07–033.	West Cameron, Block 146, Lease OCS–G 01996, located 22 miles from the nearest Louisiana shoreline.	3/9/2007
Apache Corporation, Structure Removal, SEA ES/SR 06–120A.	Ship Shoal, Block 292, Lease OCS–G 12000, located 55 miles from the nearest Louisiana Shoreline.	3/20/2007
Noble Energy, Inc., Structure Removal, SEA ES/SR 05–111, 05–112 & 05–113.	Main Pass, Blocks 293, 305 & 306 and Leases OCS–G 21712, 01676 & 01677 respectively, located approximately 30 miles from the nearest Louisiana shoreline.	3/26/2007

Activity/Operator	Location	Date
Noble Energy, Inc., Structure Removal, SEA ES/SR 05–164 ..	Main Pass, Block 306, Lease OCS–G 01677, located 29 miles from the nearest Louisiana shoreline.	3/26/2007
Walter Oil & Gas Corporation, Structure Removal, SEA ES/SR 07–020.	Eugene Island, Block 72, Lease OCS–G 10720, located 18 miles from the nearest Louisiana shoreline.	3/27/2007
Energy Resource Technology, Inc., Structure Removal, SEA ES/SR 06–008A.	East Cameron, Block 231, Lease OCS–G 02038, located 69 miles from the nearest Louisiana shoreline.	3/27/2007
Maritech Resources, Inc., Structure Removal, SEA ES/SR 06–027A.	South Marsh, Block 125, Lease OCS–G 02882, located 73 miles from the nearest Louisiana shoreline.	3/27/2007
Energy Resource Technology, Inc., Structure Removal, SEA ES/SR 07–003A.	East Cameron, Block 222, Lease OCS–G 02037, located 67 miles from the nearest Louisiana shoreline.	3/28/2007
Energy Resource Technology, Inc., Structure Removal, SEA ES/SR 06–007A.	East Cameron, Block 231, Lease OCS–G 02038, located 65 miles from the nearest Louisiana shoreline.	3/28/2007

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about SEAs and FONSIs prepared for activities on the Gulf of Mexico OCS are encouraged to contact MMS at the address or telephone listed in the **FOR FURTHER INFORMATION** section.

Dated: April 12, 2007.

Lars Herbst,

Acting Regional Director, Gulf of Mexico OCS Region.

[FR Doc. E7–9888 Filed 5–22–07; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Thomas Burke Memorial Washington State Museum, University of Washington, Seattle, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and funerary objects in the possession of the Thomas Burke Memorial Washington State Museum (Burke Museum), University of Washington, Seattle, WA. The human remains were removed from Benton, Franklin, Kittitas, Klickitat, and Yakima Counties, WA, and Wasco County, OR.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by Burke Museum professional staff in consultation with representatives of the Confederated Tribes and Bands of the Yakama Nation, Washington; Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; Nez Perce Tribe of Idaho; and Wanapum Band, a non–federally recognized Indian group.

Prior to 1956, human remains representing a minimum of one individual were removed from the Columbia River above the Snake River (possibly Benton or Franklin County, WA) by R.C. Bunn, before the construction of the Priest Rapids Dam. The human remains were accessioned by the Burke Museum in 1971 (Burke Accn. #1971–17). No known individual was identified. The 97 associated funerary objects are 3 lots of beads (glass, shell, and bone), 6 stone pendants, 1 shell pendant, 1 fish vertebra, 2 pieces of red ochre, 1 metal ring, 1 copper button, 1 rolled copper tube bead, 9 fragments of copper ore, 5 seeds, 66 shell or shell fragments, and 1 unmodified stone.

The context of the burial is unknown. The cultural items are consistent with cultural items typically found in context with burials in eastern Washington. The objects were found stored together with human remains and are consistent with other associated funerary objects. Therefore, the objects have been determined to be associated funerary objects.

In 1964, human remains representing a minimum of one individual were removed from 45–BN–59 in Benton County, WA. The human remains were uncovered during a Washington State Highway Project and removed by a University of Washington Field Party led by Robert S. Kidd. The human remains were donated to the Burke Museum in 1966 (Burke Accn. #1966–76). No known individual was identified. No associated funerary objects are present.

Early and late ethnographic documentation indicates that the present–day location of the Columbia River above the Snake River in Benton and Franklin Counties, WA is located within an overlapping aboriginal territory of the Cayuse, Palouse, Yakama, and Walla Walla (Daugherty 1973, Hale 1841, Mooney 1896, Ray 1936, Spier 1936, Sprague 1998, Stern 1998,) whose descendants are members of the Confederated Tribes and Bands of the Yakama Nation, Washington; Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; Nez Perce Tribe of Idaho; and Wanapum Band, a non–federally recognized Indian group. Information provided during consultation by the tribes listed above indicates that the aboriginal ancestors occupying this area were highly mobile and traveled the landscape for gathering resources as well as trade, and are all part of the more broadly defined Plateau cultural community.

In 1953–1954, human remains representing a minimum of one individual were removed from 45–KT–21 in Kittitas County, WA, by the University of Washington during a field expedition led by Dr. Earl H. Swanson, Jr. The human remains were transferred from the University of Washington Department of Anthropology and accessioned by the Burke Museum in 1966 (Burke Accn. #1966–95). No known individual was identified. The 193 associated funerary objects are 38 cordage fragments, 1 mammal skin fragment, approximately 35 fish net fragments, 3 flakes, 4 mat fragments, 2 unmodified stones, 74 rush fragments, 6 fish bones, 2 rodent bones, 6 rabbit bones, 8 non-human mammal bones, 5 dentalium shells, and 9 pieces of cedar.

Museum documentation indicates that the cultural items were found in connection with the human remains. The cultural items are consistent with cultural items typically found in context

with burials in eastern Washington. Early and late published ethnographic documentation indicates that this was the aboriginal territory of the Moses–Columbia or Sinkiuse and Yakima (Daugherty 1973, Miller 1998, Mooney 1896, Ray 1936, Spier 1936) whose descendants are members of the Confederated Tribes and Bands of the Yakama Nation, Washington and Confederated Tribes of the Colville Reservation, Washington. Information provided during consultation by the Confederated Tribes and Bands of the Yakama Nation, Washington; Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; Nez Perce Tribe of Idaho; and Wanapum Band, a non–federally recognized Indian group indicates that the aboriginal ancestors occupying this area were highly mobile and traveled the landscape for gathering resources as well as trade, and are all part of the more broadly defined Plateau cultural community.

Before 1916, human remains representing a minimum of one individual were removed from Memaloose Island in Klickitat County, WA. The human remains were donated by Lester L. Spessard to the Burke Museum in 1916 (Burke Accn. #1139). No known individual was identified. No associated funerary objects are present.

Between 1960 and 1963, human remains representing a minimum of one individual were removed from the Bead Patch Site #2, Klickitat County, WA, by Dr. Harold Bergen. Dr. Bergen designated the site as Site #5 and referred to it as a possible cremation site. The human remains were donated by Dr. Bergen to the Burke Museum in 1989 (Burke Accn. #1989–57). No known individual was identified. No associated funerary objects are present.

Between 1963 and 1967, human remains representing a minimum of three individuals were removed from the Juniper Site, also designated as Site #8, in Klickitat County, WA, by Dr. Bergen. Dr. Bergen donated the human remains to the Burke Museum in 1989 (Burke Accn. #1989–57). No known individuals were identified. The 507 funerary objects are 1 abrader; 2 adzes; 10 agate; 2 animal hide fragments; 2 antler wedges; 1 ground antler; 3 modified antler fragments; 1 bone awl; 2 metal axe blades; 3 bags of shell, shell beads, glass beads, red ochre, bone, plant material and rock; 4 lots of basketry fragments; 28 lots of beads; 14 bone fragments; 1 brass ornament; 1 brass handle; 1 brass knob; 6 brass bells; 22 buttons; 4 chains; 2 lots of charcoal; 12 chipped stone tools; 2 clay fragments; 2 copper ore clubs; 7 cones/tinklers; 1 coin; 2 stone cores; 2 digging sticks; 8 stone drills or drill fragments; 1 fish hook; 3 stone flakes; 2 glass fragments; 2 grooved abraders; 16 groundstone tools; 1 gun flint; 1 iron lid; 1 iron point; 5 stone knives; 3 leather fragments; 2 lead shots; 4 mauls; 20 metal fragments; 21 modified bone fragments; 1 mortar; 2 nail and fragments; 3 net weights; 1 obsidian tool; 1 pebble; 78 pendants; 6 pestles; 1 pipe bowl; 5 stone pipes; 74 points; 2 porcelain doll limbs; 8 lots of red ochre; 7 lots of metal rings; 1 salmon packing pestle; 5 seeds; 11 scrapers; 1 stone sculpture; 12 lots of shells including pendant, beads and fragments; 1 stone sinker; 2 unmodified stones; 13 modified stones including stone weight and tools; 1 lot of soil/dirt; 1 lot of spring fragments; 14 thimbles or thimble fragments; 1 tinkler/cone; 5 teeth fragments; 5 lots of tube beads; 9 utilized flakes; 6 lots of petrified wood; 1 copper cuff; and 1 gorget fragment.

At an unknown date, human remains representing a minimum of one individual were removed from Rock Creek, Roosevelt, Klickitat County, WA. The human remains were found in the Burke collections in 1995 (Burke Accn. #1995–64). No known individual was identified. No associated funerary objects are present.

In 1961, human remains representing a minimum of one individual were removed from Beek's Pasture near Sundale, designated as Site #39, Klickitat County, WA, by Dr. Bergen. The human remains were donated by Dr. Bergen to the Burke Museum in 1989 (Burke Accn. #1989–57). No known individual was identified. The 281 funerary objects are 4 abraders; 2 adze blades; 9 antler tool fragments; 1 bone awl; 13 lots of beads (bone, glass, shell, copper, some are strung); 3 bone tools; 16 bracelets or bracelet fragments; 10 copper buttons; 1 lot of charcoal; 4 chipped stone tools; 19 whale bone fragments; 2 iron club fragments; 5 copper fragments; 1 core; 2 fragments of an antler digging stick handle; 12 drills; 4 flakes; 8 grooved abraders; 7 stone knives; 1 maul; 4 fragments of modified bone; 2 modified shell fragments; 1 net gauge; 4 paint pots; 1 lot of pigment; 19 pendants or pendant fragments; 1 pestle; 8 pipes or pipe fragments; 1 bone point; 64 stone points; 1 iron point; 2 lots of red ochre; 4 scrapers; 7 lots of shell or shell fragments; 1 groundstone tool; 4 elk teeth; 3 utilized flakes; 4 burned wood fragments; 3 seeds; 5 metal fragments; 3 bone fragments; 1 antler fragments; 1 shell bead; 4 shell fragments; 2 fish vertebra; 3 unmodified stones; 3 charcoal fragments; and 1 copper gorget.

Between 1957 and 1960, human remains representing a minimum of five individuals were removed from the Congdon Site (45–KL–41), designated as Site #3, Klickitat County, WA, by Dr. Bergen. The human remains were donated by Dr. Bergen to the Burke Museum in 1989 (Burke Accn. #1989–57). No known individuals were identified. The 174 funerary objects are 4 abraders, 1 adze blade, 1 antler tool, 2 apricot pit fragments, 7 atlatl weights, 14 lot of beads, 2 chert pieces, 1 bone awl, 2 unmodified mammal bones, 11 chipped stone tools, 4 clay fragments, 7 discoids, 3 drills, 1 flake, 1 graver, 7 groundstone tools, 1 maul, 3 modified bones, 1 mortar, 4 pendants, 77 stone points, 4 lots of red ochre, 2 unmodified stones, 5 stone scrapers, 5 shell fragments, 1 unmodified stone, 1 decorated stone, 1 utilized flake, and 1 antler wedge.

Between 1950 and 1960, human remains representing a minimum of one individual were removed from Bead Patch #1, designated as Site #6, near the Dalles Dam in Klickitat County, WA, by Dr. Bergen. The human remains were donated to the Burke Museum in 1989 (Burke Accn. #1989–57). In 1996, the human remains were identified within a bag of ochre. No known individual was identified. The seven associated funerary objects are five fragments of unmodified quartz, one chipped stone tool, and one bag of ochre.

In 1965, human remains representing a minimum of one individual were removed from 45–KL–6 in Klickitat County, WA, by a University of Washington Field Party led by Robert S. Kidd during a Washington State Highway Project. The human remains were accessioned by the Burke Museum in 1966 (Burke Accn. #1966–76). No known individual was identified. No associated funerary objects are present.

In 1964, human remains representing a minimum of one individual were removed from 45–KL–2 in Klickitat County, WA, by a University of Washington Field Party led by Robert S. Kidd during a Washington State Highway Project. The human remains were donated to the Burke Museum in 1966 (Burke Accn. #1966–76). No known individual was identified. No associated funerary objects are present.

Between 1956 and 1957, human remains representing a minimum of one individual were removed from the Sundale Site, designated as Site #17, near Rock Creek in Klickitat County, WA by Dr. Bergen. The human remains were donated by Dr. Bergen to the Burke

Museum in 1989 (Burke Accn. #1989–57). The 7,349 funerary objects are 6,791 beads; 2 glass balls; 2 metal balls; 1 metal bell; 1 chert biface; 7 unmodified bird or mammal bones; 1 copper bracelet; 5 brass objects (unidentified); 3 bullet casings; 152 buttons;1 copper chain fragment; 7 chalk fragments; 1 wool cloth fragments; 1 copper ore fragment; 3 stone drills; 9 stone flakes; 30 metal fragments; 3 bone gaming pieces; 34 glass fragments; 2 metal hinges; 3 lots of leather fragments (1 with copper attached); 1 metal trunk lock or gorget; 5 marbles; 44 nails; 4 red ochre fragments; 2 copper ornaments; 17 pendants; 5 pestles; 2 pipes; 12 points; 5 copper or brass rings; 2 scrapers; 3 seed casings; 4 shell fragments; 1 snail shell; 8 modified stones; 91 unmodified stones; 1 string fragment; 1 clay tablet; 1 talon; 3 thimbles; 18 tinkling cones; 6 chipped stone tools; 38 animal teeth; 15 wood fragments; and 1 painted wood object.

Between 1953 and 1954, human remains representing a minimum of one individual were removed from 45–KL–27 in Klickitat County, WA, as part of a University of Washington Field Project led by Warren Caldwell. The human remains were formally accessioned by the Burke Museum in 1966 (Burke Accn. #1966–86). No known individual was identified. The 17 associated funerary objects are 1 mammal bone fragment, 2 chipped stone tools, 1 chopper, 2 copper ore fragments, 1 net weight, 7 utilized flakes, 2 charcoal fragments, and 1 lot of red ochre.

In 1953, human remains representing a minimum of 19 individuals were removed from Wakemap Mound (45–KL–26) in Klickitat County, WA, by a University of Washington Field Party led by Mr. Caldwell. The human remains were transferred by Mr. Caldwell to the Burke Museum and formally accessioned in 1966 (Burke Accn. #1966–86). No known individuals were identified. The 203 funerary objects are 1 abrader; 1 antler; 7 lots of beads; 9 lots of mammal, fish, whale and rodent bone; 2 bracelets; 1 buckle; 11 buttons; 40 ceramic/porcelain pieces; 1 ceramic cup; 3 lots of charcoal; 14 chipped stone tools; 7 choppers; 3 cloth fragments; 1 copper coin (Chinese); 1 copper bell; 2 lots of cordage; 1 core; 1 discoid; 1 glass doll; 1 drill; 1 lot of fiber matting; 1 metal file; 2 flakes; 24 glass fragments; 1 copper gorget; 5 lots of leather; 7 metal fragments; 1 nail; 1 needle; 1 net weight; 6 pendants; 1 porcelain pipe; 2 chert points; 12 projectile points; 4 scrapers; 2 screws; 1 lot of juniper seeds; 3 lots of shells; 1 leather shoe (in pieces); 1 lot of lead shot; 1 metal spring; 1 thimble; 1 unidentified twig; 5 utilized flakes; 2 lots of unmodified rock; and 8 lots of wood.

Between 1940 and 1950, human remains representing a minimum of one individual were removed from an unknown area either in Klickitat County or Yakima County, WA, by Albert Mohr and Letitia Sample during expeditions throughout the Plateau Region of Washington. The collection was donated to the Burke Museum in 2001 by their son, Karl Mohr, and accessioned that same year (Burke Accn. #2001–136). In October 2003, the human remains were identified within the collection. No known individual was identified. The four associated funerary objects are stone fragments.

The above mentioned sites border the Columbia River in Washington. Museum documentation indicates that the cultural items were found in connection with burials. The cultural items are consistent with cultural items typically found in context with burials in Washington. Early and late published ethnographic documentation indicates that this was the aboriginal territory of the Western Columbia River Sahaptins, Wasco, Wishram, Yakima, Walla Walla, Umatilla, Tenino, and Skin (Daugherty 1973, Hale 1841, Hunn and French 1998, Stern 1998, French and French 1998, Mooney 1896, Murdock 1938, Ray 1936 and 1974, Spier 1936) whose descendants are members of the Confederated Tribes and Bands of the Yakama Nation, Washington, Confederated Tribes of the Umatilla Reservation, Oregon; and Confederated Tribes of the Warm Springs Reservation of Oregon. Information provided by the representatives of the Confederated Tribes and Bands of the Yakama Nation, Washington; Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; Nez Perce Tribe of Idaho; and Wanapum Band, a non–federally recognized Indian group, during consultation indicates that the aboriginal ancestors occupying this area were highly mobile and traveled the landscape for gathering resources as well as trade, and are all part of the more broadly defined Plateau cultural community. The descendants of these Plateau communities of Eastern Washington and Eastern Oregon are now widely dispersed and are members of the Confederated Tribes and Bands of the Yakama Nation, Washington; Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; Nez Perce Tribe of Idaho; and Wanapum Band, a non–federally recognized Indian group.

Officials of the Burke Museum have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of 40 individuals of Native American ancestry. Officials of the Burke Museum also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 8,832 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Burke Museum have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and funerary objects and the Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; Nez Perce Tribe of Idaho; and Confederated Tribes and Bands of the Yakama Nation, Washington, for themselves and on behalf of the Wanapum Band, a non–federally recognized Indian group. The Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; Nez Perce Tribe of Idaho; Confederated Tribes and Bands of the Yakama Nation, Washington; and Wanapum Band, a non–federally recognized Indian group are claiming all the above mentioned human remains and funerary objects jointly.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and funerary objects should contact Dr. Peter Lape, Burke Museum, University of Washington, Box 353010, Seattle, WA 98195–3010, telephone (206) 685–2282, before June 22, 2007. Repatriation of the human remains and funerary objects to the Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; Nez Perce Tribe of Idaho; and Confederated Tribes and Bands of the Yakama Nation, Washington, on behalf of themselves and the Wanapum Band, a non–federally recognized Indian group, may proceed after that date if no additional claimants come forward.

The Burke Museum is responsible for notifying the Confederated Tribes and

Bands of the Yakama Nation, Washington; Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; Nez Perce Tribe of Idaho; and Wanapum Band, a non–federally recognized Indian group that this notice has been published.

Dated: May 14, 2007

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E7–10012 Filed 5–22–07; 8:45 am]

BILLING CODE 4312–50–S

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA–2104–24]

U.S.-Korea Free Trade Agreement: Potential Economy-Wde and Selected Sectoral Effects

AGENCY: United States International Trade Commission.

ACTION: Rescheduling of public hearing.

SUMMARY: The Commission has rescheduled the public hearing in this investigation from June 7, 2007, to June 20, 2007. As announced in the notice of institution of the investigation published in the **Federal Register** on May 7, 2007 (72 FR 25779), the hearing will be held at the U.S. International Trade Commission building, 500 E Street, SW., Washington, DC; it will begin at 9:30 a.m. Certain dates relating to the filing of written statements and other documents have been changed; the revised schedule of dates is set out immediately below. All other requirements and procedures set out in the May 7, 2007, notice continue to apply. In the event that, as of the close of business on June 7, 2007, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or nonparticipant may call the Secretary to the Commission (202–205–2000) after June 7, 2007 for information concerning whether the hearing will be held.

DATES: April 1, 2007: Receipt of request.

June 6, 2007: Deadline for receipt of requests to appear at hearing.

June 6, 2007: Deadline for filing pre-hearing briefs and statements.

June 20, 2007, 9:30 a.m.: Public hearing.

June 27, 2007: Deadline for filing post-hearing briefs and statements and all other written submissions.

September 20, 2007: Anticipated date for transmitting report to USTR and the Congress.

FOR FURTHER INFORMATION CONTACT: Project Leader Nannette Christ (202–205–3263; *nannette.christ@usitc.gov*) or Deputy Project Leader Queena Fan (202–205–3055; *queena.fan@usitc.gov*). For information on legal aspects, contact William Gearhart of the Office of the General Counsel (202–205–3091; *william.gearhart@usitc.gov*). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819; *margaret.olaughlin@usitc.gov*). General information concerning the Commission may also be obtained by accessing its Internet address (*http://www.usitc.gov*). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Secretary at 202–205–2000.

By order of the Commission.

Issued: May 17, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–9871 Filed 5–22–07; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

Appointments to the Advisory Committee on Apprenticeship (ACA)

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of ACA appointments.

SUMMARY: The Employment and Training Administration hereby announces the appointment of 32 members to fill vacancies on the Advisory Committee on Apprenticeship (ACA), an advisory board to the Secretary. The ACA, which is authorized by Section 2 of the National Apprenticeship Act (29 U.S.C. 50), complies with the requirements of the Federal Advisory Committee Act (5 U.S.C., App.). The Committee will be an effective instrument for providing assistance, advice, and counsel to the Secretary of Labor and the Assistant Secretary for the Employment and Training Administration in the development and implementation of Administration policies and programs regarding apprenticeship.

Members are appointed for one-year or two-year terms. The membership of the Committee shall include equal representation of employers, labor organizations, and the public. The National Association of State and Territorial Apprenticeship Directors (NASTAD) and the National Association of Government Labor Officials (NAGLO) will both be represented by their current President on the public group of the Committee. The Secretary shall appoint one of the public members as Chairperson of the Advisory Committee.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Swoope, Administrator, Office of Apprenticeship, Employment and Training Administration, U.S. Department of Labor, Room N–5311, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: (202) 693–2796, (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The following is a list of the Committee members by group:

Represents: Employers

Mr. Robert W. Baird, Vice President, Apprenticeship and Training, Standards and Safety, Independent Electrical Contractors, Inc., Alexandria, Virginia.

Ms. Linda Bien, President and CEO, North East Medical Services, San Francisco, California.

Ms. Phyllis Eisen, Vice President, Manufacturing Institute, Washington, DC.

Ms. Julie A. Flik, Executive Vice President, Compass Group, North American Division, Bion Island, Mamaroneck, New York.

Mr. Fred Haag, Senior Vice President—Electrical, Infrasource Inc., Madison, Mississippi.

Mr. Kelvin D. Harrison, Technical Training Manager, Caterpillar, Inc., Peoria, Illinois.

Mr. Neill J. Hopkins, Vice President of Skills Development, Computing Technology Industry Association, Oakbrook Terrace, Illinois.

Mr. Frederick N. Humphreys, President & CEO, Home Builders Institute, Washington, DC.

Mr. Stephen C. Mandes, Executive Director, National Institute for Metalworking Skills, Fairfax, Virginia.

Ms. Karen T. Soehner, Corporate Compliance Officer, Family Senior Care, Saint Augustine, Florida.

Mr. Robert Piper, Vice President of Workforce Development, Associated Builders and Contractors, Inc., Arlington, Virginia.

Represents: Labor

Mr. John T. Ahern, Business Manager, International Union of Operating Engineers Local 30, Richmond Hill, New York.

Mr. George H. Bliss, III, Retired Director of Training Administration, United Association of Journeymen & Apprentices of the Plumbing & Pipe Fitting Industry of the U.S. & Canada, Washington, DC.

Mr. Stephen A. Brown, Director, Construction Training Administration Department, International Union of Operating Engineers, Washington, DC.

Mr. William P. Doyle, Attorney, Marine Engineers' Beneficial Association, Washington, DC.

Dr. John S. Gaal, Director of Training Administration & Workforce Development, Carpenters' District Council of Greater St. Louis and Vicinity, St. Louis, Missouri.

Mr. William K. Irwin, Jr., Executive Director, Carpenters International Training Fund, Las Vegas, Nevada.

Mr. John Mason, Director, Seafarers International Union, Paul Hall Institute, Piney Point, Maryland.

Mr. Joseph A. Miccio, Recording Secretary, Uniformed Firefighters Association of Greater New York, Local 94 I.A.F.F AFL–CIO, New York, New York.

Mr. Edward Mullins, President, Sergeants Benevolent Association, New York, New York.

Mr. Michael L. White, Executive Director of Apprenticeship and Training, International Union of Bridge, Structural, Ornamental and Reinforcing Iron Workers, Washington, DC.

Represents: Public

Dr. Philip J. Anderson, President, The National Association of Government Labor Officials, Frankfurt, Kentucky.

Ms. Sharon C. Chu, Attorney, Law Offices of Sharon C. Chu, Rockville, Maryland.

Mr. Guarione Diaz, President and Executive Director, Cuban American National Council, Inc., Miami, Florida.

Ms. Rita DiMartino, New York, New York.

Ms. Diana Enzi, Washington, DC.

The Honorable Mufi Hannemann, Mayor of Honolulu, Honolulu, Hawaii.

Mr. Thomas F. Hartnett—Chairperson, Attorney, Meyer, Suozzi, English and Klein, PC, Albany, New York.

Ms. Jean Sickles, President, National Association of State and Territorial Apprenticeship Directors, Columbus, Ohio.

Dr. Irving Pressley McPhail, President and CEO, The McPhail Group, Ltd, Ownings Mill, Maryland.

Ms. Audrey Silverstein, Attorney, Merion, Pennsylvania.

Mr. Charles Wilson, Department Head of Machine Tool Technology, Greenville Technical College, Greenwood, South Carolina.

Nominees were selected from employer or national employer associations, religious, social welfare, academic, charitable organizations, community based organizations, national women's organizations, and state or local government.

Signed at Washington, DC, this 17th day of May, 2007.

Emily Stover DeRocco,

Assistant Secretary for Employment and Training.

[FR Doc. E7–9919 Filed 5–22–07; 8:45 am]

BILLING CODE 4510–FR–P

DEPARTMENT OF LABOR

Employment and Training Administration

Public Meeting of the Advisory Committee on Apprenticeship (ACA)

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of an open ACA meeting.

SUMMARY: Pursuant to section 10 of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. APP. 1), notice is hereby given of an open meeting of the Advisory Committee on Apprenticeship (ACA).

Time and Date: The meeting will begin at approximately 8:30 a.m. on Tuesday, June 12, 2007, and continue until approximately 5 p.m. The meeting will reconvene at approximately 8:30 a.m. on Wednesday, June 13, 2007, and adjourn at approximately 5 p.m.

Place: Holiday Inn on The Hill, 415 New Jersey Avenue, NW., Washington, DC 20001, (202) 638–1616.

The agenda is subject to change due to time constraints and priority items which may come before the Committee between the time of this publication and the scheduled date of the ACA meeting.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Swoope, Administrator, Office of Apprenticeship, U.S. Department of Labor, Room N–5311, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: (202) 693–2796, (this is not a toll-free number).

Matters To Be Considered

The agenda will focus on the following topics:

- Status of the ACA's Recommendations to the Secretary
- The 70th Anniversary of the National Apprenticeship Act
- Workforce Innovations 2007
- Apprenticeship Integration with Workforce Investment Act (WIA) System

Status

Members of the public are invited to attend the proceedings. Individuals with disabilities should contact Ms. Kenya Huckaby at (202) 693–3795 no later than Tuesday, June 5, 2007, if special accommodations are needed.

Any member of the public who wishes to file written data or comments pertaining to the agenda may do so by sending the data or comments to Mr. Anthony Swoope, Administrator, Office of Apprenticeship, U.S. Department of Labor, Room N–5311, 200 Constitution Avenue, NW., Washington, DC 20210. Such submissions should be sent by Tuesday, June 5, 2007, to be included in the record for the meeting.

Any member of the public who wishes to speak at the meeting should indicate the nature of the intended presentation and the amount of time needed by furnishing a written statement to the Designated Federal Official, Mr. Anthony Swoope, by Tuesday, June 5, 2007. The Chairperson will announce at the beginning of the meeting the extent to which time will permit the granting of such requests.

Signed at Washington, DC, this 17th day of May, 2007.

Emily Stover DeRocco,

Assistant Secretary for Employment and Training.

[FR Doc. E7–9920 Filed 5–22–07; 8:45 am]

BILLING CODE 4510–FR–P

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 2007–1]

Section 109 Report to Congress

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of Public Hearings.

SUMMARY: The Copyright Office is holding public hearings on issues related to the operation of, and continued necessity for, the cable and satellite statutory licenses under the Copyright Act.

DATES: Public hearings will be held from **July 23, 2007, through July 26, 2007**, in the Copyright Office Hearing Room, 4th Floor, James Madison Memorial Building, 101 Independence Avenue, S.E., Washington, D.C. 20540. Each daily session will begin at 10 a.m. Persons wishing to testify should notify the Copyright Office in writing no later than close of business on **June 15, 2007**. See SUPPLEMENTARY INFORMATION for additional filing requirements.

ADDRESSES: Notices of intent to testify should be addressed to Ben Golant, Senior Attorney, and may be sent by mail or by e–mail to section109@loc.gov. The Copyright Office will notify each person expressing an intention to testify of the expected date and time of his/her testimony. See SUPPLEMENTARY INFORMATION for alternative means of submission and filing requirements.

FOR FURTHER INFORMATION CONTACT: Ben Golant, Senior Attorney, and Tanya M. Sandros, Acting General Counsel, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION: On December 8, 2004, the President signed the Satellite Home Viewer Extension and Reauthorization Act of 2004, a part of the Consolidated Appropriations Act of 2004. *See* Pub. L. No. 108–447, 118 Stat. 3394 (2004) (hereinafter ''SHVERA''). Section 109 of the SHVERA requires the Copyright Office to examine and compare the statutory licensing systems for the cable and satellite television industries under Sections 111, 119, and 122 of the Copyright Act and recommend any necessary legislative changes no later that June 30, 2008.

Under Section 109, Congress indicated that the report shall include, but not be limited to, the following: (1) A comparison of the royalties paid by licensees under such sections, including historical rates of increases in these royalties, a comparison between the royalties under each such section and the prices paid in the marketplace for comparable programming; (2) An analysis of the differences in the terms and conditions of the licenses under such sections, an analysis of whether these differences are required or justified by historical, technological, or regulatory differences that affect the satellite and cable industries, and an analysis of whether the cable or satellite industry is placed in a competitive disadvantage due to these terms and conditions; (3) An analysis of whether the licenses under such sections are still justified by the bases upon which they were originally created; (4) An analysis of the correlation, if any, between the royalties, or lack thereof, under such sections and the fees charged to cable and satellite subscribers, addressing whether cable and satellite companies have passed to subscribers any savings realized as a result of the royalty structure and amounts under such sections; and (5) An analysis of issues that may arise with respect to the application of the licenses under such sections to the secondary transmissions of the primary transmissions of network stations and superstations that originate as digital signals, including issues that relate to the application of the unserved household limitations under Section 119 and to the determination of royalties of cable systems and satellite carriers.

According to Section 109's legislative history, the Copyright Office shall conduct a study of the Section 119 and Section 122 licenses for satellite, and the Section 111 license for cable, and to make recommendations for improvements to Congress no later than June 30, 2008. The legislative history further instructs that the Copyright Office must analyze the differences among the three licenses and consider whether they should be eliminated, changed, or maintained with the goal of harmonizing their operation. *See* H.R. Rep. No. 108–660, 108th Cong., 2d Sess., at 19 (2004).

Earlier this year, we released a Notice of Inquiry seeking comment on several issues associated with the matters identified in Section 109 of the SHVERA. *See* 72 FR 19039 (April 16, 2007). To further supplement the record, the Office is announcing public hearings for the purpose of taking testimony from interested persons. This Notice describes the schedule and structure for the public hearings.

Public Hearings. Because both the cable and satellite carrier statutory licenses have an impact on the operations and revenues of a number of industries, the Office believes that input from all affected industries is critical to a balanced and comprehensive report to Congress. Consequently, the Office has determined that a process involving both written comments and open hearings is essential to gathering the necessary information. We are, therefore, announcing the following schedule.

The Office will conduct public hearings with interested parties in the Copyright Office Hearing Room at the Madison Building of the Library of Congress beginning on **July 23, 2007**, and running through **July 26, 2007**, if necessary. The format for these hearings will resemble the traditional Congressional hearing model in that there will be panels of witnesses that will present testimony to a panel of Copyright Office staff, headed by the Register of Copyrights. The Register and Office staff will ask questions of the various persons who testify, and interested parties may submit written questions to the Office by **July 2, 2007**, which may be addressed to specific witnesses, or the witnesses as a whole, at the discretion of the Office.

The public hearings are open to the general public. However, in order to testify, interested persons must inform the Office of their intention to testify no later than the close of business on **June 15, 2007**. Notification of intention to testify must be in written form, either by letter or e–mail, and must be in the possession of the Copyright Office by the close of business on June 15th. Because of time constraints, and the need for the Copyright Office to schedule the panels of witnesses as soon as possible, it is recommended that persons wishing to testify deliver their notification by hand or by e–mail by the deadline. Notifications received after the **June 15th** deadline will not be accepted, and such person or persons will not be allowed to testify.

The public hearings will begin at 10 a.m. each morning, and will continue until 5 p.m., unless otherwise directed by the Register of Copyrights. The Office will notify each witness who has filed a timely notice of intention to testify several days in advance of the date he/she is expected to appear and offer testimony. The Office will also notify each witness of the other witnesses who will appear on his/her panel. Because of space limitations in the Copyright Office Hearing Room, witnesses are encouraged to appear only on the date they are scheduled to offer testimony.

Witnesses may bring with them on the day of their testimony a written summary of their oral testimony. Witnesses who bring such written summaries are asked to provide ten copies of the written summaries for use by the Office and others in attendance at the hearing.

Transcription services of the public hearings will be provided by the Office. Those parties interested in obtaining transcripts of the hearings will need to purchase them from the transcription service.

Written Statements. All persons who notify the Office of their intention to testify must submit a written statement of their testimony by the **July 2, 2007**, deadline. We are cognizant that formal written comments in response to the Office's Section 109 NOI are also due on that date. Parties may submit these comments as their testimony, but an executive summary of such comments also must be submitted by the deadline. Because of time limitations, the Office encourages parties submitting written statements to deliver them to the Office by hand or by e–mail on or before the deadline. Facsimile transmissions of written statements will not be accepted.

Parties submitting written statements are encouraged to include any and all information that they consider relevant to the statutory licensing of broadcast retransmissions. Parties may also include any exhibits that they deem relevant. Ten copies of each written statement must be submitted by the deadline.

There is no prescribed format for the written statements. Parties are encouraged to organize their testimony in as clear and readable form as possible, and to provide a glossary of technical terms used in the written statement. Parties who do not wish to appear at the public hearings are nonetheless permitted, and encouraged, to submit written statements or summaries by the **July 2, 2007** deadline.

Reply Comments. After the close of the public hearings, interested parties may submit comments in reply to the written statements and oral testimony. The reply phase is open to all parties, and is not limited to those who testified at the hearings and/or submitted written statements. Reply comments must be in the possession of the Copyright Office by **September 13, 2007**. We note that this is the date formal reply comments to the Section 109 NOI are due. Reply comments, then, should respond to the formal written comments submitted by parties, to the oral and written testimony submitted for the hearing, and to any other filings parties may wish to submit upon completion of the hearing. No facsimile transmissions of reply comments will be accepted.

Participation and Filing Requirements. Each person wishing to testify must submit a formal written statement of his/her testimony no later than the close of business on **July 2, 2007**. Written statements will also be accepted from parties who do not wish to testify. Summaries of the formal written testimony, for purposes of oral testimony, may be submitted on the date of testimony. In addition, interested parties may submit written questions, for possible use by panel members of the Copyright Office during the course of hearings, no later than close of business on **July 2, 2007**.

After the close of the hearings, interested parties may submit written reply comments to the testimony offered at the hearings, including any proposed legislative amendments, no later than close of business on **September 13, 2007**.

If hand delivered by a private party, an original and five copies of any statements or comments should be brought to Library of Congress, U.S. Copyright Office, Office of General Counsel, 101 Independence Ave, 4th floor, Washington, D.C. 20559, between 8:30 a.m. and 5 p.m. The envelope should be addressed as follows: Ben Golant, Office of the General Counsel, U.S. Copyright Office.

If delivered by a commercial courier, an original and five copies of a comment or reply comment must be delivered to the Congressional Courier Acceptance Site (''CCAS'') located at 2nd and D Streets, NE, Washington, D.C. between 8:30 a.m. and 4 p.m. The envelope should be addressed as follows: Office of the General Counsel, U.S. Copyright Office, LM 430, James Madison Building, 101 Independence Avenue, SE, Washington, DC. Please note that CCAS will not accept delivery by means of overnight delivery services such as Federal Express, United Parcel Service or DHL.

If sent by mail (including overnight delivery using U.S. Postal Service Express Mail), an original and five copies of a comment or reply comment should be addressed to U.S. Copyright Office, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024. If sent by e–mail, please send to section109@loc.gov.

Scope of the Proceeding. In accordance with the text of Section 109 of the SHVERA, the Copyright Office will be conducting a global review of the cable and satellite carrier statutory licenses. The hearing will focus on issues related to the retransmission of over–the–air broadcast signals. Any matters raised in the Section 109 NOI are subject to discussion and debate.

Conclusion

We hereby provide notice to the public on the scheduling of hearings associated with Section 109 of the SHVERA and the retention, reform, or elimination of Sections 111, 119, and 122 of the Copyright Act.

Dated: May 14, 2007

Marybeth Peters,

Register of Copyrights,

U.S. Copyright Office.

[FR Doc. E7–9836 Filed 5–22–06; 8:45 am]

BILLING CODE 1410–30–S

NATIONAL INSTITUTE FOR LITERACY

National Institute for Literacy Advisory Board; Meeting

AGENCY: National Institute for Literacy.

ACTION: Notice of an open meeting with a closed session.

SUMMARY: This notice sets forth the schedule and proposed agenda of an upcoming open meeting of the National Institute for Literacy Advisory Board. The notice also describes the functions of the Committee. Notice of this meeting is required by section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of its opportunity to attend.

DATES: June 13–14, 2007.

TIME: June 13 from 8:30 a.m.–4:30 p.m.; June 14 from 8:30 a.m.–2 p.m.; closed session June 13 from 4:30 p.m.–5:30 p.m.

ADDRESSES: 1775 I St., NW., Suite 730, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Steve Langley, Staff Assistant, the National Institute for Literacy; 1775 I St., NW., Suite 730; phone: (202) 233–2043; fax: (202) 233–2050; e-mail: *slangley@nifl.gov*.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The National Institute for Literacy Advisory Board is authorized by section 242 of the Workforce Investment Act of 1998, Pub. L. 105–220 (20 U.S.C. 9252). The Board consists of 10 individuals appointed by the President with the advice and consent of the Senate. The Board advises and makes recommendations to the Interagency Group that administers the Institute. The Interagency Group is composed of the Secretaries of Education, Labor, and Health and Human Services. The Interagency Group considers the Board's recommendations in planning the goals of the Institute and in implementing any programs to achieve those goals. Specifically, the Board performs the following functions: (a) Makes recommendations concerning the appointment of the Director and the staff of the Institute; (b) provides independent advice on operation of the Institute; and (c) receives reports from the Interagency Group and the Institute's Director.

The purpose of this meeting is to discuss the Institute's future and current program priorities; status of on-going Institute work; other relevant literacy activities and issues; and other Board business as necessary.

On June 13, 2007 from 4:30 p.m. to 5:30 p.m., the Board will meet in closed session in order to discuss personnel issues. This discussion relates to the internal personnel rules and practices of the Institute, including consideration of the Director's performance and salary. The discussion is likely to disclose information of a personal nature where disclosure would constitute a clearly

unwarranted invasion of personnel privacy. The discussion must therefore be held in closed session under exemptions 2 and 6 of the Government in the Sunshine Act, 5 U.S.C. 552b (c)(2) and (6). A summary of the activities at the closed session and related matters that are informative to the public and consistent with the policy of 5 U.S.C. 552b will be available to the public within 14 days of the meeting.

Individuals who will need accommodations for a disability in order to attend the meeting (*e.g.*, interpreting services, assistance listening devices, or materials in alternative format) should notify Steve Langley at 202–233–2043 no later than June 4, 2007. We will attempt to meet requests for accommodations after this date but cannot guarantee their availability. The meeting site is accessible to individuals with disabilities.

Request for Public Written Comments. The public may send written comments to the Advisory Board no later than 5 p.m. on June 4, 2007, to Steve Langley at the National Institute for Literacy, 1775 I St., NW., Suite 730, Washington, DC 20006, e-mail: *slangley@nifl.gov*.

Records are kept of all Committee proceedings and are available for public inspection at the National Institute for Literacy, 1775 I St., NW., Suite 730, Washington, DC 20006, from the hours of 9 a.m. to 5 p.m., Eastern Standard Time Monday through Friday.

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *www.ed.gov/news/fedregister/index.html*.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *www.gpoaccess.gov/nara/index.html.*

Sandra Baxter,

Director, The National Institute for Literacy.

[FR Doc. E7–9859 Filed 5–22–07; 8:45 am]

BILLING CODE 6055–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Intent to Seek Approval to Renew an Information Collection

AGENCY: National Science Foundation.

ACTION: Notice and request for comments.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request clearance of this collection. In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that OMB approve clearance of this collection for no longer than 3 years.

DATES: Written comments on this notice must be received by July 23, 2007 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

FOR ADDITIONAL INFORMATION OR COMMENTS: Contact Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230; telephone (703) 292–7556; or send e-mail to *splimpto@nsf.gov.* You also may obtain a copy of the data collection instrument and instructions from Ms. Plimpton.

SUPPLEMENTARY INFORMATION:

Title of Collection: Medical Clearance Process for Deployment to Antarctica.

OMB Number: 3145–0177.

Expiration Date of Approval: September 30, 2007.

Type of Request: Intent to seek approval to renew an information collection for three years.

Abstract

A. Proposed Project

All individuals who anticipate deploying to Antarctica and to certain regions of the Arctic under the auspices of the United States Antarctic Program are required to take and pass a rigorous physical examination prior to deploying. The physical examination includes a medical history, medical examination, a dental examination and for those persons planning to winter over in Antarctica a psychological examination is also required. The requirement for this determination of physical status is found in 42 U.S.C. 1870 (Authority) and 62 FR 31522, June 10, 1997 (Source), unless otherwise noted. This part sets forth the procedures for medical screening to determine whether candidates for participation in the United States Antarctic [[Page 216]] Program (USAP) are physically qualified and psychologically adapted for assignment or travel to Antarctica. Medical screening examinations are necessary to determine the presence of any physical or psychological conditions that would threaten the health or safety of the candidate or other USAP participants or that could not be effectively treated by the limited medical care capabilities in Antarctica.

(b) Presidential Memorandum No. 6646 (February 5, 1982) (available from the National Science Foundation, Office of Polar Programs, Room 755, 4201 Wilson Blvd., Arlington, VA 22230) sets forth the National Science Foundation's overall management responsibilities for the entire United States national program in Antarctica.

B. Use of the Information

1. *Form NSF–1422/1462/1452*, National Science Foundation—Polar Physical Examination (Antarctica/Arctic/Official Visitors) Medical History, will be used by the individual to record the individual's family and personal medical histories. It is a five-page form that includes the individual's and the individual's emergency point-of-contact's name, address, and telephone numbers. It contains the individual's email address, employment affiliation and dates and locations of current and previous polar deployments. It also includes a signed certification of the accuracy of the information and understandings of refusal to provide the information or providing false information. The agency's contractors' reviewing physicians and medical staff complete the sections of the form that indicate when the documents were received and whether or not the person qualified for polar deployment, in which season the person is qualified to deploy and where disqualified the reasons.

2. *Form NSF–1423/1463/1453*, Polar Physical Examination—Antarctica/Arctic/Official Visitors, will be used by the individual's physician to document specific medical examination results and the overall status of the individual's health. It is a two-page form which also provides for the signatures of both the patient and the examining physician, as well as contact information about the examining physician. Finally, it contains the name, address and telephone number of the agency's contractor that collects and retains the information.

3. *Form NSF–1426/1466/1456*, National Science Foundation—Polar Physical Examination (Antarctica/Arctic/Official Visitors) Medical History

Interval Screening, will only be used by individuals who are under the age of 40 and who successfully took and passed a polar examination the previous season or not more than 24 months prior to current deployment date. It allows the otherwise healthy individual to update his or her medical data without having to take a physical examination every year as opposed to those over 40 years of age who must be examined annually.

4. *Form NSF–1465/14525/1455*, Polar Dental Examination- Antarctica/Arctic/Official Visitors, will be used by the examining dentist to document the status of the individual's teeth and to document when the individual was examined. It will also be used by the contractor's reviewing dentist to document whether or not the individual is dentally cleared to deploy to the polar regions.

5. *Form NSF 1428/1468 Medical Waivers—Antarctic/Arctic:* Any individual who is determined to be not physically qualified for polar deployment may request an administrative waiver of the medical screening criteria. This information includes signing a Request for Waiver that is notarized or otherwise legally acceptable in accordance with penalty of perjury statutes, and obtaining an Employer Statement of Support. Individuals on a case-by-case basis may also be required to submit additional medical documentation and a letter from the individual's physician(s) regarding the individual's medical suitability for Antarctic deployment.

6. *Other information requested:* In addition to the numbered forms and other information mentioned above, the USAP medical screening package includes the following:

—The Medical Risks for NSF-Sponsored Personnel Traveling to Antarctica
—The NSF Privacy Notice
—The NSF Medical Screening for Blood-borne Pathogens/Consent for HIV Testing
—The NSF Authorization for Treatment of Field-Team Member/Participant Under the Age of 18 Years. This should only be sent to the individuals who are under 18 years of age.
—The Dear Doctor and Dear Dentist letters, which provide specific laboratory and x-ray requirements, as well as other instructions.

7. *There are two other, non-medical forms included in the mailing:*

—The Personal Information Form—NSF Form Number 1458 includes a Privacy Act notice. This form is used to collect information on current address and contact numbers, date and place of birth, nationality, citizenship, emergency point of contact information, travel dates, clothing sizes so that we may properly outfit those individuals who deploy, work-site information and prior deployment history.
—The Participant Notification—Important Notice for Participants—NSF Form 1457 in the United States Antarctic Program. This form provides information on the laws of the nations through which program participants must transit in route to Antarctica, regarding the transport, possession and use of illegal substances and the possibility of criminal prosecution of caught, tried and convicted.

Estimate of Burden: Public reporting burden for this collection of information varies according to the overall health of the individual, the amount of time it takes to access the forms online and print them, the amount of research required to complete the forms, the time it takes to make an appointment, take the examination and schedule and complete any follow-up medical, dental or psychological requirements and the completeness of the forms submitted. The estimated time is up to six weeks from the time the individual receives the forms until he or she is notified by the contractor of their final clearance status. An additional period of up to eight weeks may be required for the individual who was disqualified to be notified of the disqualification, to request and receive the waiver packet, to obtain employer support and complete the waiver request, to do any follow-up testing, to return the waiver request to the contractor plus any follow-up information, for the contractor to get the completed packet to the National Science Foundation, and for the NSF to make and promulgate a decision.

Respondents: All individuals deploying to the Antarctic under the auspices of the United States Antarctic Program and certain Arctic areas must complete these forms. There are approximately 3,000 submissions per year, with a small percentage (c. 3%) under the age of 40 who provide annual submissions but with less information.

Estimated Number of Responses per Form: Responses range from 2 to approximately 238 responses.

Estimated Total Annual Burden on Respondents: 28,728 hours.

Frequency of Responses: Individuals must complete the forms annually to be current within 12 months of their anticipated deployment dates. Depending on individual medical status some persons may require additional laboratory results to be current within two to six-weeks of anticipated deployment.

Comments: Comments are invited on (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: May 16, 2007.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 07–2549 Filed 5–22–07; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request reinstatement and approval of this data collection. In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this information collection.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be received by July 23, 2007 to be assured of consideration. Comments received

after that date will be considered to the extent practicable.

ADDRESSES: Written comments regarding the information collection and requests for copies of the proposed information collection request should be addressed to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Blvd., Rm. 295, Arlington, VA 22230, or by e-mail to *splimpto@nsf.gov.*

FOR FURTHER INFORMATION CONTACT: Suzanne Plimpton on (703) 292–7556 or send e-mail to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Title of Collection: FY 2007 and FY 2009 Survey for Science and Engineering Research Facilities.

Expiration Date of Approval: April 31, 2006.

Type of Request: Intent to seek approval to reinstate an information collection for three years.

Proposed Project: The National Science Foundation Survey of Science and Engineering Research Facilities is a Congressionally mandated (Public Law 99–159), biennial survey that has been conducted since 1986. The survey collects data on cyberinfrastructure and on the amount, condition, and costs of the physical facilities used to conduct science and engineering research. It was expected by Congress that this survey would provide the data necessary to describe the status and needs of science and engineering research facilities and to formulate appropriate solutions to documented needs. During the FY 2003 and FY 2005 survey cycles, data were collected from a population of approximately 475 research-performing colleges and universities. This survey population was supplemented with approximately 190 nonprofit biomedical research institutions receiving research support from the National Institutes of Health. Beginning with the FY 2003 cycle, a new section was added to the survey requesting information on the computing and networking capacity at the surveyed institutions, an increasingly important part of the infrastructure for science and engineering research. Other important changes include updating the networking and computing section, based on technological changes that may occur.

Use of the Information: Analysis of the Facilities Survey data will provide updated information on the status of scientific and engineering research faculties and capabilities. The information can be used by Federal policy makers, planners, and budget analysts in making policy decisions, as well as by institutional academic officials, the scientific/engineering establishment, and state agencies and legislatures that fund universities.

Burden on the Public: The Facilities Survey will be sent by mail to approximately 475 academic institutions and 190 nonprofit research organizations and hospitals. The completion time per academic institution is expected to average 41 hours and the completion time per research organization/hospitals is expected to average 5 hours. Assuming a 94% response rate, this would result in an estimated burden of 18,307 hours for academic institutions and 895 hours for nonprofit research organizations/hospitals.

Dated: May 16, 2007.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 07–2550 Filed 5–22–07; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

U.S. Chief Financial Officer Council; Grants Policy Committee

ACTION: Notice of open stakeholder Webcast meeting.

SUMMARY: This notice announces the third of a series of open stakeholder webcast meetings sponsored by the Grants Policy Committee (GPC) of the U.S. Chief Financial Officers Council.

DATES: The GPC will hold a webcast meeting on Tuesday, June 19, 2007 from 2–3:30 p.m., Eastern Daylight Time. The Webcast will be broadcasted live.

ADDRESSES: The GPC June 19 Webcast meeting will be broadcasted from and held in Room B–180 of the U.S. Department of Housing and Urban Development (HUD), 451 7th Street, SW., Washington, DC 20410. Seating is limited—the first 50 people to respond and receive confirmation of the response can be part of the live audience. Both federal and non-federal employees must R.S.V.P. to reserve your seat by contacting Charisse Carney-Nunes at *GPCWebcast@nsf.gov.* All who have reserved seating must arrive at the HUD building fifteen minutes prior to broadcast (arrive on the North side of the building). You must have a photo ID to gain access and will have to go through the security screening. The GPC encourages non-federal organizations staffs and members to attend the meeting in person or via Webcast.

Overview: The subject of this webcast meeting will be grant life cycle changes: data and reporting requirements and impacts on awardee and federal communities, policies, and planning. Specifically, the Webcast goals are to: (1) To raise awareness in the stakeholder community about new legislation concerning transparency and accountability *and the effects it will have on stakeholder federal assistance funding cycle, data and reporting requirements, policies and planning*; and (2) to share information about the GPC's long-term planning and prioritization efforts and to receive input from stakeholders to inform a draft plan.

Further Information About the GPC Webcast: Questions on the Webcast should be directed to Charisse Carney-Nunes, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230; e-mail, *GPCWebcast@nsf.gov.* Information and materials that pertain to this webcast meeting, including the call-in telephone number and the agenda will be posted on the Federal Grants Streamlining Initiative (FGSI) Web site at *http://www.grants.gov/aboutgrants/grants_news.jsp* under ''June 19 Meeting Materials.'' The link to view the Webcast will be posted on this site, along with Webcast instructions. After the meeting, a link to its recording will be posted on the FGSI Web site for at least 90 days.

Comments Submission Information: You may submit comments during the Webcast meeting via telephone or e-mail. The call-in telephone number, which may be used only *during* the live Webcast, is 202–708–0995. The e-mail address for comments, which should be used only during the Webcast is *HUDTV@HUD.GOV.* The e-mail address for comments after the Webcast is *GPCWebcast@nsf.gov.* You may submit after Webcast comments via e-mail through close of business Tuesday, July 3, 2007.

SUPPLEMENTARY INFORMATION: This Webcast meeting has been made possible by the cooperation of the National Science Foundation, HUD, and the GPC.

Purpose of the Webcast meeting: The purpose of the meeting is to raise awareness in the stakeholder community about new legislation. The Federal Funding Accountability and Transparency Act (FFATA) was signed into law in September 2006, and requires the full disclosure of entities or organizations receiving federal funds beginning in fiscal year 2007.

Specifically, the law requires that the Federal government create and maintain a single searchable Web site, accessible by the public at no cost to access, that includes specific data elements about most federal awards. Understanding this new legislation is extremely important to all GPC stakeholders because ultimately this law will apply to most awardees and sub-awardees, and federal agencies will require awardees to provide much of the needed data as a condition of receiving federal financial assistance.

Secondarily, the purpose of the webcast meeting is to inform stakeholders about the GPC's long-term planning and prioritization efforts and to receive input from stakeholders to inform a draft plan that will include both GPC's mission and vision, as well as a listing of GPC priorities as they relate to ongoing activities connected to the FGSI.

Meeting structure and agenda: The June 19 Webcast meeting will have the following structure and agenda:

(1) Welcome by the host agency;

(2) Overview of the FFATA by the Chair of the GPC;

(3) Overview of the GPC's long-term planning and proposed priorities by the Chair of the GPC; and

(4) Participants' discussion, questions and comments.

Background: Background about the FGSI is set forth in the **Federal Register** published on September 13, 2006 (71 FR 54098).

Dated: May 17, 2007.

Thomas Cooley,

Chair, Grants Policy Committee of the U.S. Chief Financial Officer Council.

[FR Doc. E7–9839 Filed 5–22–07; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Public Meeting for Fuel Cycle Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Public Meeting Notice.

FOR FURTHER INFORMATION CONTACT: James Smith, Project Manager, Technical Support Section, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20005–0001. *Telephone:* (301) 415–6459; *fax number:* (301) 415–5370; *e-mail: jas4@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The Nuclear Regulatory Commission (NRC) is hosting a workshop to discuss issues of interest pertaining to the regulation of NRC-regulated fuel cycle facilities. The purpose of the workshop is to discuss various issues of the regulatory program related to the update of 10 CFR part 70. The specific issues to be discussed are 10 CFR part 70, Appendix A reportability of incidents, digital control systems, enforcement policy revisions, uranium solubility issues.

The workshop will be held in Rockville, Maryland, at the NRC's Executive Boulevard Building, located at 6003 Executive Boulevard and will be open to the public. We are expecting that NRC staff, licensees and certificate holders, and other interested parties and stakeholders will be making presentations on these issues of interest, with opportunity for followup discussion on each subject.

II. Dates and Location

Date: June 14, 2007. 9 a.m.–5:30 p.m. U.S. Nuclear Regulatory Commission, Executive Boulevard Building, 6003 Executive Boulevard, Rockville, MD 20852.

III. Contact

James Smith, Project Manager, Office of Nuclear Material Safety and Safeguards, Division of Fuel Cycle Safety and Safeguards, Special Projects Branch, *Mail Stop:* T8F42, 301–415–6459, *Fax:* 301–415–5370, *e-mail: jas4@nrc.gov.*

IV. Further Information

The document related to this action is available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site, you can access the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession number for the document related to this notice is provided in the following table. If you do not have access to ADAMS or if there are problems in accessing the document located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 16th day of May 2007.

For the Nuclear Regulatory Commission.

Margie Kotzolas,

Acting Chief, Technical Support Branch, Special Projects and Technical Support Directorate, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Materials Safety and Safeguards.

[FR Doc. E7–9923 Filed 5–22–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Availability of Model Safety Evaluation and Model License Amendment Request on Technical Specification Improvement Regarding Use of the Improved Banked Position Withdrawal Sequence for General Electric Boiling Water Reactors Using the Consolidated Line Item Improvement Process

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for comment.

SUMMARY: Notice is hereby given that the staff of the U. S. Nuclear Regulatory Commission (NRC) has prepared a model license amendment request (LAR), model safety evaluation (SE), and model proposed no significant hazards consideration (NSHC) determination related to changes to Standard Technical Specification (STS) 3.1.6, ''Rod Pattern Control,'' and STS 3.3.2.1, ''Control Rod Block Instrumentation'' for NUREG–1433 and NUREG–1434. The proposed changes would revise the Technical Specifications (TS) and Bases for STS 3.1.6, ''Rod Pattern Control,'' and STS 3.3.2.1, ''Control Rod Block Instrumentation'' to allow licensees to use an improved control rod banked position withdrawal sequence (BPWS) when performing a reactor shutdown. In addition, the proposed changes would add a footnote to Table 3.3.2.1–1, ''Control Rod Block Instrumentation'' for NUREG–1433 and NUREG–1434. The requirements for implementing the improved BPWS are described in General Electric Licensing Topical Report (LTR) NEDO–33091–A, Revision 2, ''Improved BPWS Control Rod Insertion Process,'' dated July 2004. The General Electric Boiling Water Reactor Owner's Group (BWROG) participants in the Technical Specifications Task Force (TSTF) initially proposed these changes to the STS in TSTF–476, Revision 0, ''Improved BPWS Control Rod Insertion Process (NEDO–33091).'' TSTF–476, Revision 1 was submitted on January 9, 2007 and was later accepted by NRC. Hereafter, all references to TSTF–476 refer to TSTF–476, Revision 1, unless otherwise noted. Technical

Specifications and Bases changes provided in TSTF–476 completely supersede the proposed Technical Specification changes included in NEDO–3309 1–A.

The purpose of these models is to permit the NRC to efficiently process amendments to incorporate these changes into plant-specific (TS) for General Electric Boiling Water Reactors (BWRs). Licensees of nuclear power reactors to which the models apply can request amendments conforming to the models. In such a request, a licensee should confirm the applicability of the model LAR, model SE and NSHC determination to its plant.

DATES: The NRC staff issued a **Federal Register** Notice (71 FR 26118, May 3, 2006) which provided for public comment a model SE, model LAR, and NSHC determination related to changes to STS 3.1.6, ''Rod Pattern Control,'' and STS 3.3.2.1, ''Control Rod Block Instrumentation'' for NUREG–1433 and NUREG–1434. Similarly, the NRC staff herein provides a revised model SE, revised model LAR, and NSHC determination. The NRC staff can most efficiently consider applications based upon the model LAR, which references the Model SE, if the application is submitted within one year of this **Federal Register** Notice.

FOR FURTHER INFORMATION CONTACT: Timothy Kobetz, Mail Stop: O–12H2, Division Inspection and Regional Support, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–415–1932.

SUPPLEMENTARY INFORMATION:

Background

Regulatory Issue Summary 2000–06, ''Consolidated Line Item Improvement Process (CLIIP) for Adopting Standard Technical Specifications Changes for Power Reactors,'' was issued on March 20, 2000. The CLIIP is intended to improve the efficiency and transparency of NRC licensing processes. This is accomplished by processing proposed changes to the STS in a manner that supports subsequent license amendment applications. The CLIIP includes an opportunity for the public to comment on proposed changes to the STS following a preliminary assessment by the NRC staff and finding that the change will likely be offered for adoption by licensees.

The CLIIP directs the NRC staff to evaluate any comments received for a proposed change to the STS and to either reconsider the change or proceed with announcing the availability of the change for proposed adoption by licensees. In several instances, the staff's evaluation did result in changes to the model LAR. Those licensees opting to apply for the subject change to TS are responsible for reviewing the staff's evaluation, referencing the applicable technical justifications, and providing any necessary plant-specific information. The model LAR shows licensees the expected level of detail that needs to be included in order to adopt TSTF–476, as well as guidelines for staff review. The NRC has established an internal review plan that designates the appropriate staff and approximate time lines to review plant-specific LARs that reference TSTF–476. Each amendment application made in response to the notice of availability will be processed and noticed in accordance with applicable NRC rules and procedures.

This notice involves implementation of an improved BPWS, which allows licensees of General Electric BWRs to follow the improved BPWS when inserting control rods into the core during a reactor shutdown. By letter dated January 9, 2007, the BWROG proposed these changes for incorporation into the STS as TSTF–476. These changes are based on the NRC staff-approved LTR NEDO–33091–A, ''Improved BPWS Control Rod Insertion Process,'' dated July 2004, as approved by NRC in a SE dated June 16, 2004, accessible electronically from the Agency-wide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet (ADAMS Accession No. ML041700479) at the NRC Web site *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC Public Document Room Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*.

Applicability

These changes revise the Section 3.1.6 and Section 3.3.2.1 TS and Bases for NUREG–1433 and NUREG–1434 (General Electric BWR/4 and BWR/6 plants, respectively), and TS Table 3.3.2.1–1 for NUREG–1433 and NUREG–1434.

To efficiently process the incoming license amendment applications, the NRC staff requests each licensee applying for the changes addressed by TSTF–476 use the CLIIP to submit a LAR that adheres to the following model. Any deviations from the model LAR should be explained in the licensee's submittal. The CLIIP does not prevent licensees from requesting an alternative approach, proposing the changes without providing the information described in the eight model LAR conditions, or making the requested commitment. Variations from the approach recommended in this notice may, however, require additional review by the NRC staff and may increase the time and resources needed for the review. Significant variations from the approach, or inclusion of additional changes to the license, may result in staff rejection of the submittal. Instead, licensees desiring significant variations and/or additional changes should either submit a LAR that does not claim to adopt TSTF–476, or specifically state in their LAR that they are adopting TSTF–476 without using the CLIIP.

Public Notices

In a notice in the **Federal Register** dated May 3, 2006 (71 FR 26118), the staff requested comment on the use of the CLIIP to process requests to revise Section 3.1.6 and Section 3.3.2.1 TS and Bases and TS Table 3.3.2.1–1 for NUREG–1433 and NUREG–1434, as discussed in TSTF–476. In response to this notice, the staff received one set of comments (developed by the Technical Specifications Task Force and submitted in a letter dated May 31, 2006 (ADAMS Accession No. ML061520129)). Specific comments on the model LAR were offered. These comments, along with the NRC staff's responses, are summarized and discussed below:

1. *Comment:* In the Applicability Section of the Notice and the model application, the terms ''BWR/4'' and ''BWR/6'' are used incorrectly. These terms should be revised to NUREG–1433 and NUREG–1434, respectively. The changes proposed are applicable to BWR/2–6 plants, if they have adopted the standard banked position withdrawal sequence (BPWS). TSTF–476 proposes changes to the Improved Standard Technical Specifications (ISTS) included in NUREG–1433 and NUREG–1434, which may be applied to any BWR type.

Response: The staff agrees with this comment. References to BWR/4 and BWR/6 have been replaced with NUREG–1433 and NUREG–1434, respectively.

2. *Comment:* The notice, the model application, and the model Safety Evaluation imply that a license amendment is needed for plants with Technical Specifications based on NUREG–1433 to adopt TSTF–476. This is not correct. No license amendment request is required to adopt the proposed Bases changes included in TSTF–476 and no Technical

Specification change is needed to adopt TSTF–476 for plants with Technical Specifications based on NUREG–1433. Bases changes are made using the licensee Technical Specification Bases Control Program.

Response: The changes proposed by TSTF–476, Revision 0, for NUREG–1433 (BWR/4) were only changes to the Bases sections. However, a revised TSTF–476 was submitted to the NRC on January 9, 2007. The revised version of TSTF–476 includes changes to the Technical Specifications and Bases sections for both NUREG–1433 (BWR/4) and NUREG–1434 (BWR/6). Therefore, licensees proposing to adopt TSTF–476 are required to submit a license amendment request.

3. *Comment:* In some BWR designs, the rod worth minimizers (RWMs) (*e.g.*, NUMAC) cannot be reprogrammed to accept a new shutdown sequence. The notice should state that bypassing the RWM and entering the plant-specific action equivalent to NUREG–1433 Specification 3.3.2.1, Required Action D. 1, for an inoperable RWM during shutdown (which requires the use of a second qualified person to verify rod movement in accordance with BPWS) is acceptable and would not be considered entering a Required Action for ''operational convenience'' as discussed in the LCO 3.0.2 Bases.

Response: During the comment disposition process it became apparent that revisions to TSTF–476 would be necessary. The changes proposed in TSTF–476, Revision 0, included bases changes to both NUREG–1433 (BWR/4) and NUREG–1434 (BWR/6). In addition, a note was proposed to be added to TS Table 3.3.2.1–1 of NUREG–1434 to allow the rod pattern controller to be bypassed in Modes 1 and 2 so that the BPWS can be used. A similar note was not included in NUREG–1433 since some BWR/4 plants rod worth minimizer (RWM) can be reprogrammed to accommodate the BPWS. However, the RWM of some BWR/4 plants cannot be reprogrammed to accommodate the BPWS, and need a similar note to that proposed for the BWR/6 NUREG–1434. Therefore, to be acceptable, a [bracketed] note similar to that proposed to be added to TS Table 3.3.2.1–1 of the BWR/6 NUREG–1434, was incorporated into TSTF–476, revision 1. A revised TSTF–476 was submitted to the NRC on January 9, 2007. The changes incorporated in the revised version of TSTF–476 include changes to the Technical Specifications and Bases sections that require the adopting licensee to submit a license amendment request.

4. *Comment:* The notice should state that the Technical Specifications and Bases changes provided in TSTF–476 completely supersede the proposed Technical Specification changes included in NEDO–3309 1–A.

Response: An appropriate statement has been added in this notice.

5. *Comment:* Throughout the notice, the acronym BPWS is defined incorrectly. The term BPWS stands for ''Banked Position Withdrawal Sequence,'' not ''Bank Position Withdrawal Sequence.''

Response: Appropriate corrections have been made throughout the notice and its attachments.

6. *Comment:* Cover letter, 1st paragraph—The license amendment request will revise Table 3.3.2.1–1 only. The associated Bases changes will be made by the licensee upon implementation using the Technical Specifications Bases Control Program. This also affects Sections I and 2 of Enclosure I.

Response: The changes incorporated in TSTF–476 include changes to the Technical Specifications and Bases sections that are needed by the adopting licensee to submit a license amendment request. While the Bases remain subject to licensee control, a more timely review will be possible if the licensee requesting to adopt the changes includes Technical Specification Bases changes in its application.

7. *Comment:* Cover letter, 3rd paragraph—Many licensees do not provide final Technical Specifications pages with the application. The final pages are provided only after NRC review has determined that no changes from the draft are required. Revised Bases pages are not required to be provided with an application. The Technical Specification Bases Control Program requires revised Bases pages to be provided to the NRC on a frequency consistent with 10 CFR 50.71(e).

Response: While the Bases remain subject to licensee control, for this application the NRC staff plans to review marked-up Technical Specification and Technical Specification Bases pages, as well as pages that represent how the final Technical Specification and Technical Specification Bases pages will appear, in order to review a licensee's license amendment application in the most timely manner.

8. *Comment:* Enclosure 1, Section 2.0, Proposed Changes, the first bullet should reference the Bases for Specification 3.1.6, not 3.6.1, if the discussion of specific Bases changes is retained in this section.

Response: Appropriate corrections of the errors have been made to the model.

9. *Comment:* Enclosure 1, Section 2.0, Proposed Changes, the second bullet should discuss the rod pattern controller, not the rod worth minimizer, if the discussion of specific Bases changes is retained in this section. In addition, both bypassing and reprogramming should be discussed.

Response: TSTF–476, revision 0 called for changes to Technical Specification Section 3.3.2.1 Bases for NUREG–1434. TSTF–476, revision 1 calls for changes to Technical Specification Section 3.3.2.1 Bases for both NUREG–1433 and NUREG–1434. The specific equipment nomenclature differs between the two standards. The model has been updated using the bracketing convention to allow the selection of the appropriate equipment nomenclature by the licensee prior to amendment application.

10. *Comment:* Enclosure 1, Section 5.1, the last sentence should be deleted. The NRC staff has already determined in the Safety Evaluation for NEDO–33091 for all BWRs that no single failure of the boiling water reactor mechanical or hydraulic system can cause a control rod to drop completely out of the reactor core during the shutdown process. It is unnecessary and a burden with no safety benefit to require individual licensees to verify the statement when it has been generically approved by the NRC for all BWRs.

Response: The staff's approval and safety evaluation are predicated upon this determination, and the licensee's verification is deemed essential.

11. *Comment:* In Enclosure 1, Section 5.1 and in the model Safety Evaluation, Section 3.0, commitment 1 should be deleted. For those plants with Technical Specifications based on NUREG–1434 which will be submitting a license amendment request to adopt TSTF–476, the proposed change to Table 3.3.2. 1–1 requires confirming control rod coupling integrity; therefore a separate commitment to do the same is not necessary.

Response: This is a commitment to establish appropriate detailed operational procedures prior to implementation, and is deemed essential.

12. *Comment:* Enclosure 1, Section 5. 1, and in the model Safety Evaluation, Section 3.0 commitment 2 should be deleted. This ''commitment'' is a summary of the improved BPWS. The model amendment, the model Safety Evaluation, and the proposed Bases reference the NRC approved Topical Report as the basis for the improved BPWS sequence. It is unclear what is

required by this commitment that is not already required by adoption of the Technical Specifications and Bases. It is unnecessary to develop and track a separate regulatory commitment to do what is already required by the amendment and Topical Report.

Response: This is a commitment to establish appropriate detailed operational procedures prior to implementation, and is deemed essential.

13. *Comment:* Description—Amendment requests will only be submitted by licensees with Technical Specifications based on NUREG–1434. Therefore, delete references to NUREG–1433.

Response: BWR/4 plants with a RWM that cannot be reprogrammed to accommodate the BPWS will need to amend their TS in order to adopt TSTF–476. Therefore, references to NUREG–1433 are not deleted.

14. *Comment:* Description and Criterion I—The improved BPWS insertion process applies during reactor shutdowns. Delete the word ''normal'' before shutdown. The term ''normal shutdown'' is not used in the model Safety Evaluation or Topical Report. The improved BPWS insertion process applies to all shutdowns as long as the conditions for use are met.

Response: The word ''normal'' has been removed as a modifier for the term ''shutdown'' in applicable sections of the model.

15. *Comment:* Criterion 2—Delete the phrase ''in the absence of other unrelated failures'' from the first sentence. Criterion 2 only evaluates the possibility of a new or different kind of accident related to the proposed change, not other unrelated events.

Response: The extraneous phrase has been removed from the model SE.

For Inclusion on the Technical Specification Web Page the following example of an application was prepared by the NRC staff to facilitate the adoption of Technical Specifications Task Force (TSTF) Traveler TSTF–476, Revision 1 ''Improved BPWS Control Rod Insertion Process (NEDO–33091).'' The model provides the expected level of detail and content for an application to adopt TSTF–476, Revision 1. Licensees remain responsible for ensuring that their actual application fulfills their administrative requirements as well as NRC regulations.

U.S. Nuclear Regulatory Commission, Document Control Desk, Washington, DC 20555.

Subject: Plant Name, Docket No. 50–[xxx,] Re: Application for Technical Specification Improvement To Adopt TSTF–476, Revision 1, ''Improved BPWS Control Rod Insertion Process (NEDO–33091)

Dear Sir or Madam: In accordance with the provisions of Section 50.90 of Title 10 of the Code of Federal Regulations (10 CFR), [LICENSEE] is submitting a request for an amendment to the technical specifications (TS) for [PLANT NAME, UNIT NOS.].

The proposed changes would revise Sections 3.1.6, ''Rod Pattern Control,'' and 3.3.2.1, ''Control Rod Block Instrumentation,'' to allow [PLANT NAME] to reference a new Banked Position Withdrawal Sequence (BPWS) shutdown sequence in the TS Bases. In addition, a footnote is added to Table 3.3.2.1–1, ''Control Rod Block Instrumentation.''

The changes are consistent with NRC approved Industry Technical Specification Task Force (TSTF) Standard Technical Specification Change Traveler, TSTF–476, Revision 1, Improved BPWS Control Rod Insertion Process (NEDO–33091).'' The availability of this TS improvement was announced in the **Federal Register** on [DATE] ([FR]) as part of the consolidated line item improvement process (CLIIP).

Enclosure 1 provides a description and assessment of the proposed changes, as well as confirmation of applicability. Enclosure 2 provides the existing TS pages and TS Bases marked-up to show the proposed changes. Enclosure 3 provides final TS pages and TS Bases pages.

[LICENSEE] requests approval of the proposed license amendment by [DATE], with the amendment being implemented [BY DATE OR WITHIN X DAYS]. In accordance with 10 CFR 50.91, a copy of this application, with enclosures, is being provided to the designated [STATE] Official.

I declare under penalty of perjury under the laws of the United States of America that I am authorized by [LICENSEE] to make this request and that the foregoing is true and correct. [Note that request may be notarized in lieu of using this oath or affirmation statement]. If you should have any questions regarding this submittal, please contact [ ].

Sincerely,

Name, Title

Enclosures:

1. Description and Assessment of Proposed Changes
2. Proposed Technical Specification Changes and Technical Specification Bases Changes
3. Final Technical Specification and Bases pages.

cc: NRR Project Manager, Regional Office, Resident Inspector, State Contact, ITSB Branch Chief.

1.0 Description

This letter is a request to amend Operating License(s) [LICENSE NUMBER(S)] for [PLANT/UNIT NAME(S)].

The proposed changes would revise the Bases sections of Technical Specification (TS) 3.1.6, ''Rod Pattern Control'', and 3.3.2.1, ''Control Rod Block Instrumentation,'' along with TS Table 3.3.2.1–1, ''Control Rod Block Instrumentation,'' to allow reference to an improved, optional Banked Position Withdrawal Sequence (BPWS) for use during reactor shutdown.

The new BPWS is described in Topical Report NEDO–33091–A, Revision 2, ''Improved BPWS Control Rod Insertion Process,'' dated July 2004, and approved by the NRC by Safety Evaluation (SE) dated June 16, 2004 (ADAMS ML041700479). Technical Specification Task Force (TSTF) change traveler TSTF–476, Revision 1, ''Improved BPWS Control Rod Insertion Process (NEDO–33091)'' was announced for availability in the **Federal Register** on [DATE] as part of the consolidated line item improvement process (CLIIP).

2.0 Proposed Changes

Consistent with NRC-approved TSTF–476, Revision 1, the proposed TS and Bases changes include:

- Revised TS Section 3.1.6 Bases to allow use of an optional BPWS during plant shutdown.
- Revised TS Section 3.3.2.1 Bases to allow reprogramming of the [rod worth minimizer/rod pattern controller] during the optional BPWS shutdown sequence.
- Revised TS Table 3.3.2.1–1, ''Control Rod Block Instrumentation,'' which adds a footnote that allows operators to bypass the [rod worth minimizer/rod pattern controller] if conditions for the optional BPWS shutdown process are satisfied.

3.0 Background

The background for this application is as stated in the model SE in NRC's Notice of Availability published on [DATE]([ ] FR [ ]), the NRC Notice for Comment published on [DATE] ([ ] FR [ ]), and TSTF–476, Revision 1.

4.0 Technical Analysis

[LICENSEE] has reviewed NEDO–33091–A, Revision 2, and the staff's SE dated June 16, 2004, as well as TSTF–476, Revision 1, and the model SE published on [DATE] ([ ] FR [ ]) as part of the CLIIP Notice for Comment. [LICENSEE] has applied the methodology in NEDO–33091–A, Revision 2 to the develop the proposed TS changes. [LICENSEE] has also concluded that the justifications presented in TSTF–476, Revision 1 and the model SE prepared by the NRC staff are applicable to [PLANT, UNIT NOS.], and justify this amendment for the incorporation of the changes to the [PLANT] TS.

5.0 Regulatory Analysis

A description of this proposed change and its relationship to applicable regulatory requirements and guidance

was provided in the NRC Notice of Availability published on [DATE] ([ ] FR [ ]), the NRC Notice for Comment published on May 3, 2006 (71 FR 26118), and TSTF–476, Revision 1.

5.1 Regulatory Commitments

As discussed in the model SE published in **Federal Register** on [DATE] for this technical specification improvement, the following plant-specific verifications/commitments were performed. The safety evaluation for NEDO–33091–A explained that the potential for the control rod drop accident (CRDA) will be eliminated by the following changes to the operational procedures, which [PLANT NAME] [has made/will commit to make prior to implementation]:

1. Before reducing power to the low power setpoint (LPSP), operators shall confirm control rod coupling integrity for all rods that are fully withdrawn. Control rods that have not been confirmed coupled and are in intermediate positions must be fully inserted prior to power reduction to the LPSP. No action is required for fully-inserted control rods.

If a shutdown is required and all rods, which are not confirmed coupled, cannot be fully inserted prior to the power dropping below the LPSP, then the original/standard BPWS must be adhered to. The original/standard BPWS can be found in Licensing Topical Report (LTR) NEDO–21231, ''Banked Position Withdrawal Sequence,'' January 1977, and is referred to in NUREG–1433 and NUREG–1434.

2. After reactor power drops below the LPSP, rods may be inserted from notch position 48 to notch position 00 without stopping at the intermediate positions. However, GE Nuclear Energy recommends that operators insert rods in the same order as specified for the original/standard BPWS as much as is reasonably possible. If a plant is in the process of shutting down following improved BPWS with the power below the LPSP, no control rod shall be withdrawn unless the control rod pattern is in compliance with standard BPWS requirements.

In addition to the procedure changes specified above, the staff previously concluded, based on its review of NEDO–33091–A, that no single failure of the boiling water reactor control rod drive (CRD) mechanical or hydraulic system can cause a control rod to drop completely out of the reactor core during the shutdown process. Therefore, the proper use of the improved BPWS will prevent a CRDA from occurring while power is below the LPSP. [LICENSEE] has verified, in accordance with NEDO–33091–A, Revision 2, that no single failure of the boiling water reactor CRD mechanical or hydraulic system can cause a control rod to drop completely out of the reactor core during the shutdown process.

6.0 No Significant Hazards Consideration

[LICENSEE] has reviewed the proposed no significant hazards consideration determination published on [DATE] ([ ] FR [ ]) as part of the CLIIP. [LICENSEE] has concluded that the proposed determination presented in the notice is applicable to [PLANT] and the determination is hereby incorporated by reference to satisfy the requirements of 10 CFR 50.91(a).

7.0 Environmental Evaluation

[LICENSEE] has reviewed the environmental consideration included in the model SE published on [DATE] ([ ] FR [ ]) as part of the CLIIP. [LICENSEE] has concluded that the staff's findings presented therein are applicable to [PLANT] and the determination is hereby incorporated by reference for this application.

8.0 References

Federal Register Notices:

Notice for Comment published on [DATE] ([ ] FR [ ])

Notice of Availability published on [DATE] ([ ] FR [ ])

Model Safety Evaluation, U.S. Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Technical Specification Task Force TSTF–476, Revision 1, ''Improved BPWS Control Rod Insertion Process (NEDO–33091)''

1.0 Introduction

By letter dated [_____, 20__], [LICENSEE] (the licensee) proposed changes to the technical specifications (TS) for [PLANT NAME]. The requested changes are the adoption of TSTF–476, Revision 1, ''Improved BPWS Control Rod Insertion Process (NEDO–33091–A),'' to the Boiling Water Reactor (BWR) Standard Technical Specifications (STS), which was proposed by the Technical Specifications Task Force (TSTF) by letter on January 9, 2007. This TSTF involves changes to NUREG–1433 and NUREG–1434 Section 3.1.6 ''Rod Pattern Control,'' Section 3.3.2.1 ''Control Rod Block Instrumentation,'' and Table 3.3.2.1–1. The proposed TSTF would allow the use of the improved banked position withdrawal sequence (BPWS) during shutdowns if the conditions of NEDO–33091–A, Revision 2, ''Improved BPWS Control Rod Insertion Process,'' dated July 2004, have been satisfied.

2.0 Regulatory Evaluation

The control rod drop accident (CRDA) is the design basis accident for the subject TS changes. In order to minimize the impact of a CRDA, the BPWS process was developed to minimize control rod reactivity worth for BWR plants. The proposed improved BPWS further simplifies the control rod insertion process, and in order to evaluate it, the staff followed the guidelines of Standard Review Plan Section 15.4.9, and referred to General Design Criterion (GDC) 28 of Appendix A to 10 CFR Part 50 as its regulatory requirement. GDC 28 states that the reactivity control systems shall be designed with appropriate limits on the potential amount and rate of reactivity increase to assure that the effects of postulated reactivity accidents can neither (1) result in damage to the reactor coolant pressure boundary greater than limited local yielding nor (2) sufficiently disturb the core, its support structures or other reactor pressure vessel internals to impair significantly the capability to cool the core.

3.0 Technical Evaluation

In its safety evaluation for Licensing Topical Report NEDO–33091-A, ''Improved BPWS Control Rod Insertion Process,'' dated June 16, 2004, (ADAMS ML041700479) the staff determined that the methodology described in TSTF–476, Revision 1, to incorporate the improved BPWS into the STS, is acceptable.

TSTF–476, Revision 1 states that the improved BPWS provides the following benefits: (1) Allows the plant to reach the all-rods-in condition prior to significant reactor cool down, which reduces the potential for re-criticality as the reactor cools down; (2) reduces the potential for an operator reactivity control error by reducing the total number of control rod manipulations; (3) minimizes the need for manual scrams during plant shutdowns, resulting in less wear on control rod drive (CRD) system components and CRD mechanisms; and, (4) eliminates unnecessary control rod manipulations at low power, resulting in less wear on reactor manual control and CRD system components.

[PLANT NAME] has been approved to use the improved BPWS, and the potential for a CRDA with power below the low power setpoint (LPSP) has been eliminated. The safety evaluation for NEDO–33091–A explained that the potential for the CRDA will be eliminated by the following changes to operational procedures, which [PLANT

NAME] [has made/will commit to make prior to implementation]:

1. Before reducing power to the LPSP, operators shall confirm control rod coupling integrity for all rods that are fully withdrawn. Control rods that have not been confirmed coupled and are in intermediate positions must be fully inserted prior to power reduction to the LPSP. No action is required for fully-inserted control rods.

If a shutdown is required and all rods, which are not confirmed coupled, cannot be fully inserted prior to power dropping below the LPSP, then the original/standard BPWS must be adhered to.

2. After reactor power drops below the LPSP, rods may be inserted from notch position 48 to notch position 00 without stopping at the intermediate positions. However, GE Nuclear Energy recommends that operators insert rods in the same order as specified for the original/standard BPWS as much as reasonably possible. If a plant is in the process of shutting down following improved BPWS with the power below the LPSP, no control rod shall be withdrawn unless the control rod pattern is in compliance with standard BPWS requirements.

In addition to the procedure changes specified above, the staff previously verified during its review of NEDO–33091–A, Revision 2 that no single failure of the boiling water reactor CRD mechanical or hydraulic system can cause a control rod to drop completely out of the reactor core during the shutdown process. Therefore, the proper use of the improved BPWS will prevent a CRDA from occurring while power is below the LPSP.

The staff finds the proposed Technical Specification changes in [PLANT NAME's] amendment request properly incorporate the improved BPWS procedure into the STS, and that [PLANT NAME] accurately adopted the TSTF–476 changes. Therefore, the staff approves the [PLANT NAME] license amendment request to adopt TSTF–476, Revision 1.

4.0 State Consultation

In accordance with the Commission's regulations, the [_____] State official was notified of the proposed issuance of the amendment. The State official had [(1) no comments or (2) the following comments—with subsequent disposition by the staff].

5.0 Environmental Consideration

The amendment[s] change[s] a requirement with respect to the installation or use of a facility component located within the restricted area as defined in 10 CFR Part 20 or surveillance requirements. The NRC staff has determined that the amendment involves no significant increase in the amounts, and no significant change in the types, of any effluents that may be released offsite, and that there is no significant increase in individual or cumulative occupational radiation exposure. The Commission has previously issued a proposed finding that the amendment involves no significant hazards consideration and there has been no public comment on such finding published [DATE] ([ ] FR [ ]). Accordingly, the amendment meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the issuance of the amendment.

6.0 Conclusion

The Commission has concluded, based on the considerations discussed above, that (1) There is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) such activities will be conducted in compliance with the Commission's regulations, and (3) the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public.

Principal Contributor: J. Hardy, SRXB/DSSA, 301–415–4029.

Proposed No Significant Hazards Consideration Determination

Description of Amendment Request: [Plant name] requests adoption of an approved change to the standard technical specifications (STS) for Boiling Water Reactor (BWR) Plants (NUREG–1433 & NUREG–1434) and plant specific technical specifications (TS), to allow the use of the improved banked position withdrawal sequence (BPWS) during shutdowns in accordance with NEDO–33091–A, Revision 2, ''Improved BPWS Control Rod Insertion Process,'' dated July 2004. The changes are consistent with NRC approved Industry/Technical Specification Task Force (TSTF) Standard Technical Specification Change Traveler, TSTF–476, Revision 1.

Basis for proposed no-significant-hazards-consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no-significant-hazards-consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed changes modify the TS to allow the use of the improved banked position withdrawal sequence (BPWS) during shutdowns if the conditions of NEDO–33091–A, Revision 2, ''Improved BPWS Control Rod Insertion Process,'' July 2004, have been satisfied. The staff finds that the licensee's justifications to support the specific TS changes are consistent with the approved topical report and TSTF–476, Revision 1. Since the change only involves changes in control rod sequencing, the probability of an accident previously evaluated is not significantly increased, if at all. The consequences of an accident after adopting TSTF–476 are no different than the consequences of an accident prior to adopting TSTF–476. Therefore, the consequences of an accident previously evaluated are not significantly affected by this change. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated

The proposed change will not introduce new failure modes or effects and will not, in the absence of other unrelated failures, lead to an accident whose consequences exceed the consequences of accidents previously evaluated. The control rod drop accident (CRDA) is the design basis accident for the subject TS changes. This change does not create the possibility of a new or different kind of accident from an accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The proposed change, TSTF–476, Revision 1, incorporates the improved BPWS, previously approved in NEDO–33091–A, into the improved TS. The control rod drop accident (CRDA) is the design basis accident for the subject TS changes. In order to minimize the impact of a CRDA, the BPWS process was developed to minimize control rod reactivity worth for BWR plants. The proposed improved BPWS further simplifies the control rod insertion process, and in order to evaluate it, the staff followed the guidelines of Standard Review Plan Section 15.4.9, and referred to General Design Criterion 28 of

Appendix A to 10 CFR Part 50 as its regulatory requirement. The TSTF stated the improved BPWS provides the following benefits: (1) Allows the plant to reach the all-rods-in condition prior to significant reactor cool down, which reduces the potential for re-criticality as the reactor cools down; (2) reduces the potential for an operator reactivity control error by reducing the total number of control rod manipulations; (3) minimizes the need for manual scrams during plant shutdowns, resulting in less wear on control rod drive (CRD) system components and CRD mechanisms; and (4) eliminates unnecessary control rod manipulations at low power, resulting in less wear on reactor manual control and CRD system components. The addition of procedural requirements and verifications specified in NEDO–33091–A, along with the proper use of the BPWS will prevent a control rod drop accident (CRDA) from occurring while power is below the low power setpoint (LPSP). The net change to the margin of safety is insignificant. Therefore, this change does not involve a significant reduction in a margin of safety.

Based upon the above discussion of the amendment request, the requested change does not involve a significant hazards consideration.

Dated at Rockville, Maryland, this 10th day of May 2007.

For the Nuclear Regulatory Commission.

Timothy J. Kobetz,

Branch Chief, Technical Specifications Branch, Division of Inspection & Regional Support, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

Proposed Generic Communication; Managing Gas Intrusion in Emergency Core Cooling, Decay Heat Removal, and Containment Spray Systems

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of opportunity for public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to issue a generic letter (GL) to address the issue of gas intrusion into the emergency core cooling, decay heat removal, and containment spray systems (hereinafter referred to as the ''subject systems''). Specifically, the NRC is issuing this GL for the following two purposes:

(1) to request addressees to submit information demonstrating that the subject systems are in compliance with the current licensing and design bases, and applicable regulatory requirements, and that suitable design, operational, and testing control measures are in place for maintaining this compliance, and

(2) to collect the requested information to determine if additional regulatory action is required.

This **Federal Register** notice is available through the NRC's Agencywide Documents Access and Management System (ADAMS) under accession number ML0704001003.

DATES: Comment period expires July 23, 2007. Comments submitted after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

ADDRESSES: Submit written comments to the Chief, Rulemaking, Directives, and Editing Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Mail Stop T6–D59, Washington, DC 20555–0001, and cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to NRC Headquarters, 11545 Rockville Pike (Room T–6D59), Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

FOR FURTHER INFORMATION, CONTACT: Warren C. Lyon, NRR, at 301–415–2897 or by e-mail: *wcl@nrc.gov* or David P. Beaulieu, NRR, at 301–415–3243 or by e-mail: *dpb@nrc.gov*.

SUPPLEMENTARY INFORMATION:

NRC Generic Letter 2007–XX, Managing Gas Intrusion in Emergency Core Cooling, Decay Heat Removal, and Containment Spray Systems

Addresses

All holders of operating licenses for nuclear power reactors, except those who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel.

Purpose

The U.S. Nuclear Regulatory Commission (NRC) is issuing this generic letter (GL) to address the issue of gas [1] intrusion into the emergency core cooling, decay heat removal [2], and containment spray systems (hereinafter referred to as the ''subject systems''). Specifically, the NRC is issuing this GL:

(1) To request addressees to submit information to demonstrate that the subject systems are in compliance with the current licensing and design bases and applicable regulatory requirements, and that suitable design, operational, and testing control measures are in place for maintaining this compliance, and

(2) to collect the requested information to determine if additional regulatory action is required.

Pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.54(f), addressees are required to submit a written response to this GL.

Background

Instances of gas intrusion into the subject systems have occurred since the beginning of commercial nuclear power plant operation. The NRC has published 20 information notices (INs), two GLs, and a NUREG [3] that are related to this issue and has interacted with the nuclear industry many times in relation to these publications and in response to gas intrusion events. The following paragraphs summarize a few events to illustrate some of the technical and regulatory requirements issues.

In May 1997, at Oconee Nuclear Station Unit 3, hydrogen ingestion during plant cooldown damaged and rendered nonfunctional two high-pressure injection (HPI) pumps. If the operators had started the remaining HPI pump, it too would have been damaged. The NRC responded with an augmented inspection team (IN 97–38, ''Level-Sensing System Initiates Common-Mode Failure of High-Pressure-Injection Pumps,'' Agencywide Documents Access and Management System (ADAMS) Accession No. ML031050514, June 24, 1997). The NRC team reported that there had been a total lack of HPI capability during power operation, a failure to meet technical specification (TS) HPI operability requirements, design deficiencies, inadequate maintenance practices, operators that were less than attentive to plant parameters, a failure to adequately assess operating experience, and a violation of 10 CFR part 50, Appendix

[1] Gas as used here includes, air, nitrogen, hydrogen, water vapor, or any other void that is not filled with liquid water.

[2] Decay heat removal (DHR), residual heat removal (RHR), and shutdown cooling (SDC) are common names for systems used to cool the reactor coolant system (RCS) during some phases of shutdown operation. The NRC staff generally uses DHR here.

[3] GL 88–17, ''Loss of Decay Heat Removal,'' October 17, 1988 (ML031200496); GL 97–04, ''Assurance of Sufficient Net Positive Suction Head for Emergency Core Cooling and Containment Heat Removal Pumps,'' October 7, 1997 (ML031110062); and NUREG–0897, Revision 1, ''Containment Emergency Sump Performance—Technical Findings Related to USI A–43,'' October 1985.

B, Criterion III (''Notice of Violation and Proposed Imposition of Civil Penalties —$330,000,'' August 27, 1997, *http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/reactors/ea97297.html*).

As a result of this Oconee Unit 3 event, the industry initiated an industry-wide improvement activity to address the gas issue. Based on the industry actions, the NRC concluded that no generic action was necessary. However, significant gas events that jeopardized the operability of the subject systems continued to occur, as illustrated in the following paragraphs. Dresden Nuclear Power Station Unit 3 experienced a reactor scram on July 5, 2001, that was accompanied by a water hammer as a result of high pressure coolant injection (HPCI) system voids due to inadequate pipe venting. The licensee discovered a damaged pipe support that rendered the HPCI system inoperable on July 19, 2001. On September 28, 2001, NRC inspectors discovered discrepancies in another HPCI hanger that may have been caused by the water hammer. The licensee repaired the hangers on September 30, 2001, and vented the system. An NRC inspector identified a high point that had not been vented and air was removed when the licensee vented that location. The HPCI system was inoperable from July 5, 2001, to September 30, 2001 (NRC Supplemental Inspection Report 50–237, 50–239/2003–012, ML033530204, December 18, 2003). The NRC found violations of 10 CFR 50.9, a TS, and 10 CFR part 50, Appendix B, Criterion XVI (''Notice of Violation and Proposed Imposition of Civil Penalty—$60,000, and Final Significance Determination for a White Finding,'' ML031740755, June 23, 2003).

On August 14, 2003, the Perry Nuclear Power Plant scrammed from 100 percent power due to a loss of offsite power. This caused a momentary loss of common water leg pumps [4] and a discharge pressure decrease from 44 psig to 7 psig allowed accumulated gas to completely void a water leg pump and the associated feedwater leakage control system piping. Pump operation was restored by venting the pump casing but a piping high point that was not included in fill and vent procedures was not vented. On September 10, 2003, the licensee vented enough gas from the high point that would have caused the pump to be non-functional if another loss of offsite power would occur. If the RHR and/or the LPCS pumps had started while the leakage control system piping was voided, the resulting water hammer could have caused the system piping to rupture. The NRC characterized the inspection finding as white; the finding resulted in a TS violation, escalated enforcement action, and a supplemental inspection (NRC Inspection Report 50–440/2003–009, ML032880107, October 10, 2003, and ML040330980, January 30, 2004).

On July 28, 2004, the Palo Verde licensee identified that emergency core cooling system (ECCS) suction piping voids in all three Palo Verde units could have resulted in a loss of the ECCS during transfer to the recirculation mode for some loss-of-coolant accident (LOCA) conditions. The condition had existed since plant startups in 1986, was contrary to the Palo Verde final safety analysis reports (FSARs), and would not be identified during testing because water is not drawn from the containment emergency sumps. The NRC inspectors identified multiple violations of 10 CFR part 50, Appendix B, Criteria III and V, and violations of 10 CFR 50.59. The NRC responded with a special inspection, issued a yellow finding, and imposed a civil penalty of $50,000 (NRC Special Inspection Report 50–328, 50–329, 50–330/2004–014, ML050050287, January 5, 2005). The Palo Verde licensee identified the ECCS piping suction voids after being contacted by engineer from another plant where an NRC inspector identified the same problem.

In February 2005, an HPI pump at Indian Point Energy Center Unit 2 was found inoperable because the pump casing was filled with gas. The licensee then found numerous locations in the ECCS piping with gas accumulation. The licensee did not initially understand the implications of the gas condition, and the licensee's early assessments were inadequate, particularly with respect to assessing the operability of the other two HPI pumps. The NRC conducted a special inspection that found one HPI pump was not functional and the other two HPI pumps had a 75 percent failure probability. The NRC found several violations of 10 CFR part 50, Appendix B, Criterion XVI, and issued a white finding (NRC Inspection Report 50–247/2005–006, ML051680119, June 17, 2005).

In March 2005, the NRC reported that Diablo Canyon had a sustained history of gas voiding in piping that could possibly result in gas binding or damage to the centrifugal charging pumps or the HPSI pumps during switchover from cold-leg to hot-leg injection.[5] The NRC inspectors concluded that the licensee focused on managing the symptom of the problem rather than finding and eliminating the cause, which is contrary to 10 CFR part 50, Appendix B, Criterion XVI (NRC Inspection Report 50–275, 50–323/2005–006, ML050910120, March 31, 2005).

In September 2005, operators discovered a void in the HPCI pump discharge piping at the Duane Arnold Energy Center due to ''turbulent penetration'' that caused hot water from the feedwater pipe to penetrate downward into the HPCI discharge pipe. This heated the HPCI pipe on the low pressure side of a closed valve to greater than the saturation temperature and caused steam to be generated in the low pressure pipe as fast as it was vented. The condition had existed since plant startup (Licensee Event Report 50–331/2005–004, ML053360261, November 28, 2005). The NRC opened an unresolved item (URI 05000331/2006002–03) for further NRC review of the licensee's piping analysis that evaluated HPSI system operability with the voided piping (NRC Inspection Report 50–331/2006–002, ML061210448, April 27, 2006, and NRC Inspection Report 50–331/2006–008, ML070640515, March 2, 2007).

In October 2005, an NRC inspection team at the Palo Verde Nuclear Generating Station identified that, following a postulated accident when refueling water tank (RWT) level reached the setpoint for containment sump recirculation, the licensee's design basis credited containment pressure for preventing the ECCS pumps from continuing to reduce RWT level and drawing air into the ECCS. However, a recent licensee analysis showed that the minimum containment pressure would be less than needed. The licensee declared the ECCS inoperable at all three units, requiring a shutdown of Units 2 and 3 (Unit 1 was already shut down). The NRC found multiple violations of 10 CFR part 50, Appendix B, Criteria III and V (NRC Supplemental Inspection Report 50–528, 50–529, 50–530/2005–012, ML060300193, January 27, 2006).

These are a few of the more than 60 gas intrusion events reported during recent years involving the subject

[4] These are 40 gpm pumps used to compensate for back-leakage through check valves in RHR and LPSI piping into the suppression pool. The purpose is to keep piping full of water where the pipe elevation is higher than the suppression pool. The system is often referred to as a ''keep-full'' system.

[5] A similar gas accumulation problem under closed valves in the recirculation piping from the DHR discharge to the HPSI and charging pump suctions has occurred at several plants. This has the potential to cause loss of all high pressure RCS makeup capability when shifting suction to the emergency containment sump from the refueling water or borated water storage tank following a LOCA.

systems. The number is larger if other similar events at the same plant are counted. Further, many events do not have to be reported to the NRC, and many of them have not been addressed during the NRC's inspections. For example, at least 40 RHR water hammer events have occurred at the Sequoyah Nuclear Plant, although none of them rendered the RHR system inoperable. Additionally, if an ECCS pump has been damaged because of gas but is repaired and tested operable within the TS completion time (typically, 72 hours), the licensee is not required to report the occurrence to the NRC. The frequency and the significance of these events and the likelihood that unidentified gas issues exist require licensee action to ensure compliance with regulatory requirements that will maintain operability of the subject systems.

Applicable Regulatory Requirements

10 CFR part 50 Appendix A or similar plant-specific principal design criteria [6] provide design requirements, and 10 CFR part 50 Appendix B, TSs, and licensee quality assurance programs provide operating requirements. Appendix A requirements applicable to gas management in the subject systems include the following:

- General Design Criterion (GDC) 1 requires that the subject systems be designed, fabricated, erected, and tested to quality standards.
- GDC 34 requires an RHR system designed to maintain specified acceptable fuel design limits and to meet design conditions that are not exceeded if a single failure occurs and specified electrical power systems fail.
- GDC 35, 36, and 37 require an ECCS design that meets performance, inspection, and testing requirements. Specified performance criteria are provided in 10 CFR 50.46.
- GDC 38, 39, and 40 require a containment heat removal system design that meets performance, inspection, and testing requirements.

Quality assurance criteria provided in Appendix B that apply to gas management in the subject systems include the following:

- Criteria III and V require measures to assure that applicable regulatory requirements and the design basis, as defined in 10 CFR 50.2, ''Definitions,'' and as specified in the license application, are correctly translated into controlled specifications, drawings, procedures, and instructions.
- Criterion XI requires a test program to assure that the subject systems will perform satisfactorily in service. Test results shall be documented and evaluated to assure that test requirements have been satisfied.
- Criterion XVI requires measures to assure that conditions adverse to quality, such as failures, malfunctions, deficiencies, deviations, defective material and equipment, and nonconformances, are promptly identified, corrected, documented, and reported to management.
- Criterion XVII requires maintenance of records of activities affecting quality.

Further, as part of the licensing basis, licensees have committed to certain quality assurance provisions that are identified in both their TSs and quality assurance programs. Licensees have committed to use the guidance of Regulatory Guide (RG) 1.33, ''Quality Assurance Requirements (Operation),'' which endorses American National Standards Institute (ANSI) N18.7–1976/American Nuclear Society 3.2, ''Administrative Controls and Quality Assurance for the Operational Phase of Nuclear Power Plants,'' or equivalent licensee-specific guidance. Section 5.3.4.4, ''Process Monitoring Procedures,'' of ANSI N18.7 that states that procedures for monitoring performance of plant systems shall be required to assure that engineered safety features and emergency equipment are in a state of readiness to maintain the plant in a safe condition if needed. The limits (maximum and minimum) for significant process parameters shall be identified. Operating procedures shall address the nature and frequency of this monitoring, as appropriate.

10 CFR 50.36(c)(3) defines TS surveillance requirements (SRs) as ''relating to test, calibration, or inspection to assure'' maintenance of quality, operation within safety limits, and operability. Typically, TS Section 5 or 6 requires that licensees establish, implement, and maintain written procedures covering the applicable procedures recommended in Appendix A to RG 1.33, Revision 2 (February 1978). Appendix A to RG 1.33 identifies instructions for filling and venting the ECCS and DHR system, as well as for draining and refilling heat exchangers. Surveillance requirements to verify that at least some of the subject system piping is filled are provided in standard technical specifications (STSs) and in most licensee TSs.

Discussion

The events discussed in the BACKGROUND section illustrate that many of the regulatory requirements identified in the APPLICABLE REGULATORY REQUIREMENTS section are not being met. The NRC inspectors often find that the 10 CFR part 50 Appendix B criteria identified above are not adequately addressed in plant venting procedures. In some cases, venting procedures were almost nonexistent, there were no records of gas quantities that were vented and licensees unsuccessfully attempted to recreate the history by asking operators for their recollections. Consequently, there was no foundation for establishing that the subject systems were operable prior to venting. In addition, the venting processes sometimes did not ensure that all gas was removed from the venting location and often did not adequately establish the quantity of vented gas. Further, examination of ultrasonic test (UT) processes at several licensee sites established that one licensee initially did not know how to acceptably determine liquid level via UT. Additional issues include TSs, which often do not require venting of suction piping despite voids in suction pipes generally being of more concern than in discharge piping, and do not adequately address operability of the subject systems prior to surveillance and for the time span until the next surveillance. This GL and the anticipated NRC followup to this GL are intended to correct such conditions.

It is important that the subject systems are sufficiently filled with water to ensure that they can reliably perform their intended functions under all LOCA and non-LOCA conditions that require makeup to the RCS. Portions of these systems and some of the associated pumps are normally in a standby condition while other pumps provide both ECCS and operational functions. For example, some high-pressure pumps are used for normal RCS makeup, and some low-pressure pumps provide a normal DHR capability.

The following safety issues are associated with gas intrusion into the subject systems:

(1) The introduction of gas into a pump can cause the pump to become air-bound with little or no flow, rendering the pump inoperable. Air-binding can render more than one pump inoperable when pumps share common discharge or suction headers, or when the gas accumulation process affects more than one train, greatly increasing the risk significance. Such a common-mode failure would result in the inability of the ECCS or the DHR system to provide adequate core cooling and the inability of the containment spray system to maintain the containment pressure and temperature below design limits. An air-bound pump can become

[6] For facilities with a construction permit issued prior to May 21, 1972, that are not licensed to Appendix A.

damaged quickly, eliminating the possibility of recovering the pump during an event by simply subsequently venting the pump and suction piping.

(2) Gas introduced into a pump can render the pump inoperable, even if the gas does not air bind the pump, because the gas can reduce the pump discharge pressure and flow capacity to the point that the pump cannot perform its design function. For example, an HPI pump that is pumping air-entrained water may not develop sufficient discharge pressure to inject under certain small break LOCA scenarios.

(3) Gas accumulation can result in water hammer or a system pressure transient, particularly in pump discharge piping following a pump start, which can cause piping and component damage or failure. Gas accumulation in the DHR system has resulted in pressure transients that have caused DHR system relief valves to open. In some plants, the relief valve reseating pressure is less than the existing RCS pressure, a condition that complicates recovery.

(4) Pump cavitation caused by entrained gas results in additional stresses that can lead to premature failure of pump components that can render the pump inoperable.

(5) Gas intrusion can result in pumping noncondensible gas into the reactor vessel that may affect core cooling flow.

(6) The time needed to fill voided discharge piping can delay delivery of water beyond the time frame assumed in the accident analysis.

The scope and number of identified gas intrusion problems at some facilities raise concerns about whether similar unrecognized design, configuration, and operability problems exist at other reactor facilities.

A review of the operating experience has identified the following concerns, which are the focus of this GL:

(1) TS SRs, as implemented by associated surveillance procedures, have not reliably precluded gas problems. Operating experience shows many instances in which substantive gas voiding in the system piping has not been identified. The surveillance procedures may not reliably reveal as-found conditions in which the system may be inoperable or degraded because of gas. Additionally, some plants have no TS SR to verify that the subject systems' piping is sufficiently full of water. Still other plants have incomplete TS SRs that cover only portions of the system. For example, the TS may require verifying that ECCS discharge piping is full of water but may not include verification of the suction piping or containment spray piping. Although the TS and FSAR at many facilities indicate that the subject systems are full of water, in practice it is not uncommon for licensees to vent some gas during periodic surveillances. Further, there may be some parts of these systems where it is not possible or practical to verify them to be full of water. Hence, the current TS and FSAR may establish a standard that may not be realistic to establish system operability. A realistic standard should bound the volume of gas that may impact pump operability and the volume for which water-hammer-induced stress limits may be exceeded.

Criterion XI of Appendix B to 10 CFR part 50 requires licensees to perform testing using written test procedures, which include but are not limited to procedures for TS SRs, that incorporate the requirements and acceptance limits contained in applicable design documents. TSs often require surveillance of discharge piping but do not mention suction piping. Consequently, suction piping surveillances may not be performed. However, since the subject systems may be rendered inoperable or degraded because of gas in suction piping, the regulations require that presence of gas in all piping be assessed to establish operability.

(2) Typically the FSAR describes that the subject systems are filled with water. The wording of TS SRs further confirms that the design-basis configuration calls for the specified piping to be filled with water. Operating experience provides many examples of licensees treating the accumulation of gas as an expected condition (rather than a nonconforming condition) that was not documented even when it involved a substantial volume of gas that clearly constituted a significant condition adverse to quality. In such cases, Criterion XVI of Appendix B to 10 CFR part 50 requires that the cause of the condition be determined and corrective action taken to preclude repetition. Based on the as-found volume and location of gas, corrective actions beyond simply refilling a system may be necessary to provide reasonable assurance that the affected system will remain operable until the next surveillance.

(3) Although the subject systems are often susceptible to gas intrusion, not all plants have vent valves at one or more system high points. Some licensees have installed additional vent valves at system high points after operational events. For example, one licensee installed an additional 21 high-point vent valves. Another licensee, who installed an additional 17 vent valves, determined that the primary cause of the gas voiding problem was that the original design specification did not call for a sufficient number of vent valves. No specific NRC requirement mandates the installation of vent valves on the subject systems. However, failure to translate the design basis of assuring the system is maintained sufficiently full of water to maintain operability into drawings, specifications, procedures, and instructions is a violation of Criterion III in Appendix B of 10 CFR part 50.

Further, Criterion V requires documented instructions, procedures, or drawings that include appropriate quantitative or qualitative acceptance criteria for determining that important activities have been satisfactorily accomplished. This means that each addressee must have suitable documentation and records, including acceptance criteria, to establish that the subject systems have been and are maintained sufficiently full of water to ensure system operability. Vent valves and their use are often a key ingredient for satisfying these requirements.

The NRC staff is initiating a Technical Specifications Task Force (TSTF) activity to address the recognized TS weaknesses associated with gas intrusion concerns. In the interim, until new TSs are developed, the NRC staff will treat a SR that the piping be full of water as satisfied if the piping and pumps of the subject systems are maintained sufficiently full of water to ensure system operability when operability is required. This condition must be shown to be satisfied during the time between surveillances, and either venting or UT surveillances are acceptable means of obtaining void data. Further, the NRC staff will consider justification for not conducting a periodic surveillance or for extending the time between surveillances of certain sections of piping if an addressee considers surveillance to be unnecessary. For example, some three loop plants designed by Westinghouse maintain HPSI discharge lines at a pressure greater than the RCS operating pressure. This eliminates the potential for leakage from the accumulators or the RCS as a possible means to introduce gas into the discharge lines. An assessment for such plants that (1) acceptably eliminates other means of introducing gas, (2) establishes acceptable verification that the lines are essentially full following a condition that reduces the discharge line pressure, and (3) establishes an operating history confirming that gas has not accumulated will be adequate justification for not conducting surveillances inside

containment or at locations that constitute a hazard to personnel performing the assessment. The NRC memorandum, ''Technical Considerations for Reasonably Assuring Emergency Core Cooling, Decay Heat Removal, and Containment Spray Systems Operability,'' ML071030382, April 17, 2007, provides some operating experience insights. The NRC staff plans to use this information during inspection activities that are planned as a followup to this GL and for guidance in the TSTF program to develop improved TSs.

Requested Actions

Each addressee is requested to evaluate their ECCS, DHR system, and containment spray system designs, operation, and test procedures to assure that gas intrusion is minimized and monitored in order to maintain system operability and compliance with the requirements of Appendix B to 10 CFR part 50.

Requested Information

Each addressee is requested to provide a summary description of how the REQUESTED ACTIONS have been addressed within 6 months of the date of this GL. This summary description should specifically address the quality assurance criteria in 10 CFR part 50, Appendix B, Sections III, V, XI, XVI, and XVII and the TSs that apply to the subject systems. This summary should include a general description of: (1) The design, (2) the operating procedures, and (3) the test procedures to assure that gas intrusion does not affect the ability of the subject systems to perform their intended functions.

If an addressee determines that system or procedure modifications are necessary based on the review of the requested actions and these changes cannot be accomplished within 6 months of the date of this GL, then the addressee should also provide a plan and schedule for completion of these actions.

Required Response

In accordance with 10 CFR 50.54(f), in order to determine whether a facility license should be modified, suspended, or revoked, or whether other action should be taken, an addressee is required to respond as described below. Within 6 months of the date of this generic letter, an addressee is required to submit a written response if they are unable to provide the information or they cannot meet the requested completion date. The addressee must address in its response any alternative course of action that it proposes to take, including the basis for the acceptability of the proposed alternative course of action.

The required written response should be addressed to the U.S. Nuclear Regulatory Commission, *ATTN:* Document Control Desk, 11555 Rockville Pike, Rockville, MD 20852, under oath or affirmation under the provisions of section 182a of the Atomic Energy Act of 1954, as amended, and 10 CFR 50.54(f). In addition, submit a copy of the response to the appropriate regional administrator.

Reasons for Information Request

The NRC is requesting this information because a review of operating experience shows numerous instances of gas intrusion events involving the subject systems that have rendered or potentially rendered these risk-significant systems inoperable.

RELATED GENERIC COMMUNICATIONS

Document No.	Document name	ADAMS accession No.
GL 88–17	Loss of Decay Heat Removal	ML031200496
GL 97–04	Assurance of Sufficient Net Positive Suction Head for Emergency Core Cooling and Containment Heat Removal Pumps.	ML031110062
IN 86–63	Loss of Safety Injection Capability	ML031250058
IN 86–80	Unit Startup with Degraded High Pressure Safety Injection System	ML031250214
IN 87–63	Inadequate Net Positive Suction Head in Low Pressure Safety Systems	ML031180034
IN 88–23	Potential for Gas Binding of High-Pressure Safety	ML031150208
IN 88–23, Supp. 1	Injection Pumps During a Loss-of-Coolant Accident	ML881230018
IN 88–23, Supp. 2		ML900125002
IN 88–23, Supp. 3		ML901204023
IN 88–23, Supp. 4		ML921215001
IN 88–74	Potentially Inadequate Performance of ECCS in PWRs during Recirculation Operation Following a LOCA.	ML031150118
IN 89–67	Loss of Residual Heat Removal Caused by Accumulator Nitrogen Injection	ML031180745
IN 89–80	Potential for Water Hammer, Thermal Stratification, and Steam Binding in High-Pressure Coolant Injection Piping.	ML031190089
IN 90–64	Potential for Common-Mode Failure of High Pressure Safety Injection Pumps or Release of Reactor Coolant Outside Containment During a Loss-of-Coolant Accident.	ML031103251
IN 91–50	A Review of Water Hammer Events after 1985	ML031190397
IN 94–36	Undetected Accumulation of Gas in Reactor System	ML031060539
IN 94–76	Recent Failures of Charging/Safety Injection Pump Shafts	ML031060430
IN 95–03	Loss of Reactor Coolant Inventory and Potential Loss of Emergency Mitigation Functions While in a Shutdown Condition.	ML031060404
IN 96–55	Inadequate Net Positive Suction Head of Emergency Core Cooling and Containment Heat Removal Pumps under Design Basis Accident Conditions.	ML031050598
IN 96–65	Undetected Accumulation of Gas in Reactor Coolant System and Inaccurate Reactor Water Level Indication During Shutdown.	ML031050500
IN 97–38	Level-Sensing System Initiates Common-Mode Failure of High Pressure Injection Pumps	ML031050514
IN 97–40	Potential Nitrogen Accumulation Resulting from Back-Leakage from Safety Injection Tanks	ML031050497
IN 98–40	Design Deficiencies Can Lead to Reduced ECCS Pump Net Positive Suction Head During Design-Basis Accidents.	ML031040547
IN 02–15	Potential Hydrogen Combustion Events in BWR Piping	ML020980466
IN 02–15, Supp. 1		ML031210054
IN 02–18	Effect of Adding Gas Into Water Storage Tanks on the Net Positive Suction Head for Pumps	ML021570158

RELATED GENERIC COMMUNICATIONS—Continued

Document No.	Document name	ADAMS accession No.
IN 06–21	Operating Experience Regarding Entrainment of Air Into Emergency Core Cooling and Containment Spray Systems.	ML062570468

Backfit Discussion

Under the provisions of Section 182a of the Atomic Energy Act of 1954, as amended, this GL requests a review and appropriate resulting actions for the purpose of assuring compliance with applicable existing requirements. No backfit is either intended or approved by the issuance of this GL. Therefore, the NRC staff has not performed a backfit analysis.

Federal Register Notification

To be done after the public comment period.

Congressional Review Act

In accordance with the Congressional Review Act, the NRC has determined that this GL is not a major rule and the Office of Information and Regulatory Affairs of the Office of Management and Budget has confirmed this determination.

Paperwork Reduction Act Statement

This GL contains an information collection that is subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The Office of Management and Budget approved this information collection under clearance number 3150–0011.

The burden to the public for this mandatory information collection is estimated to average 300 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection. The NRC is seeking public comment on the potential impact of the information collection contained in the GL and on the following issues:

1. Is the proposed information collection necessary for the proper performance of the functions of the NRC, including whether the information will have practical utility?
2. Is the estimate of burden accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques?

Send comments on any aspect of this information collection, including suggestions for reducing the burden, to the Records and FOIA/Privacy Services Branch (T5–F52), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by Internet electronic mail to *infocollects@nrc.gov*; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–10202 (3150–0011), Office of Management and Budget, Washington, DC 20503.

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

Contact: Please direct any questions about this matter to the technical contact or the Lead Project Manager listed below, or to the appropriate Office of Nuclear Reactor Regulation (NRR) project manager.

Michael J. Case, Director, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.

Technical Contact: Warren C. Lyon, NRR, 301–415–2897, *e-mail: wcl@nrc.gov.*

Lead Project Manager: David P. Beaulieu, NRR, 301–415–3243, *e-mail: dpb@nrc.gov.*

Note: NRC generic communications may be found on the NRC public Web site, *http://www.nrc.gov*, under Electronic Reading Room/Document Collections.

End of Draft Generic Letter

Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/NRC/ADAMS/index.html.* If you do not have access to ADAMS or if you have problems in accessing the documents in ADAMS, contact the NRC Public Document Room (PDR) reference staff at 1–800–397–4209 or 301–415–4737 or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 16th day of May 2007.

For the Nuclear Regulatory Commission.

Jennifer Golder, Acting Director, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.

[FR Doc. 07–2557 Filed 5–22–07; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55776; File No. SR–Amex–2007–29]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to the Listing and Trading of Notes Linked to the Performance of the Dow Jones-AIG Commodity Index Total Return

May 17, 2007.

I. Introduction

On March 2, 2007, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] On April 5, 2007, Amex filed Amendment No. 1 to the proposed rule change. The proposed rule change, as amended, was published for comment in the **Federal Register** on May 1, 2007 for a 15-day comment period.[3] The Commission received no comments on the proposal. This order approves the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Proposal

Under Section 107A of the *Amex Company Guide* (''Company Guide''), the Exchange may approve for listing and trading securities which cannot be readily categorized under the listing criteria for common and preferred stocks, bonds, debentures, or warrants, including index and currency warrants. Amex proposes to list for trading under

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 55661 (April 24, 2007), 72 FR 23862 (''Notice'').

Section 107A of the Company Guide floating rate notes (the ''Notes'') linked to the performance of the Dow Jones-AIG Commodity Index Total Return (the ''Index'').[4]

The Exchange states that the Notes will conform to the initial listing guidelines under Section 107A of the Company Guide and the continued listing guidelines under Sections 1001–1003 of the Company Guide. The Notes are senior, non-convertible debt securities of Lehman, have a term of thirteen months, and will provide for participation in the positive performance of the Index during their term. The Notes are cash-settled in United States (''U.S.'') dollars and do not give the holder any right or other ownership interest in the Index or commodities comprising the Index. The Notes are designed for investors who desire to participate in, or gain exposure to, an index composed of a basket of actively-traded commodities, receive monthly coupon interest payments, and are willing to forego principal protection on the Notes during their term. Lehman will issue the Notes in denominations of whole units, with each unit representing a single Note. The original public offering price will be $1,000 per Note.

Unless the Notes have been redeemed earlier, at maturity, a holder would receive per each $1,000 Note, a cash amount equal to the Daily Value per $1,000 Note as of the Valuation Date[5], *plus* accrued and unpaid coupon payments, to, but excluding, the stated maturity date. Lehman may redeem the Notes early if, on any Index Business Day prior to the Valuation Date, the Daily Value per $1,000 Note falls below a certain pre-determined amount. This day is known as the ''Early Redemption Determination Date.'' This pre-determined amount will be determined at the time of issuance of the Notes. In the event of redemption, Lehman will pay an amount per $1,000 Note equal to the Daily Value per $1,000 Note calculated as of the first Index Business Day following the Early Redemption Determination Date, *plus* accrued and unpaid coupon payments to, but excluding, the Early Redemption Determination Date.

If an event of default occurs and the maturity of the Notes are accelerated, Lehman will pay holders an amount equal to the amount that would have been payable at maturity, calculated as though the date of acceleration was the stated maturity date, and the date three Index Business Days before the date of acceleration was the Valuation Date. If a bankruptcy proceeding is commenced, the claims of a holder of a Note may be limited.

Index Description

The Index, developed by AIGI, is a proprietary index that is calculated by Dow Jones, AIGI, and AIG Financial Products Corp. (''AIG–FP'' and, together with AIGI and Dow Jones, the ''Sponsors'') and published by Dow Jones.[6] The methodology for determining the composition and weighting of the Index and for calculating its level is subject to modification by the Sponsors at any time.[7] Dow Jones disseminates the Index level at least every 15 seconds from 8 a.m. to 3 p.m. Eastern Time (''ET''),[8] and publishes a daily Index level at approximately 4 p.m. ET on each DJ–AIG Business Day on its Web site at *www.djindexes.com* and on Bloomberg's Web site.

The Index is re-weighted and re-balanced each year in January on a price-percentage basis. The annual weightings for the Index are determined each year in June or July by AIG–FP under the supervision of the Index Supervisory Committee,[9] announced after approval by such Committee and implemented the following January.

The Index is designed to track rolling futures positions in a diversified basket of 19 exchange-traded futures contracts on physical commodities. The 19 physical commodities selected for 2007 are aluminum, coffee, copper, corn, cotton, crude oil, gold, heating oil, lean hogs, live cattle, natural gas, nickel, silver, soybeans, soybean oil, sugar, unleaded gasoline, wheat, and zinc. Unlike equities, which typically entitle the holder to a continuing stake in a corporation, commodity futures contracts normally specify a certain date for the delivery of the underlying physical commodity. The Index tracks what is known as a rolling futures position, which is a position where, on a periodic basis, futures contracts on physical commodities specifying delivery on a nearby date must be sold and futures contracts on physical commodities that have not yet reached the delivery period must be purchased. An investor with a rolling futures position is able to avoid delivering underlying physical commodities while maintaining exposure to those commodities. The rollover for each Index component occurs over a period of five DJ–AIG Business Days each month according to a pre-determined schedule.

The 19 physical commodities selected for inclusion in the Index for 2007, and their respective weightings, are as follows:

Commodity	Weighting (percent)
Crude oil	12.723561
Natural gas	12.546191
Soybeans	7.747790
Gold	6.825901
Aluminum	6.803820
Copper	6.187758
Live cattle	6.141286
Corn	5.627129
Wheat	4.715495
Unleaded gasoline	3.940958
Heating oil	3.789289
Cotton	3.146094
Sugar	3.122271
Coffee	3.021718
Lean hogs	3.013524
Soybean oil	2.845646
Zinc	2.798069
Nickel	2.715318
Silver	2.288179

[4] Lehman Brothers Holdings Inc. (''Lehman''), Dow Jones & Company, Inc. (''Dow Jones'') and AIG International, Inc. (''AIGI'') have entered into a non-exclusive license agreement providing for the use of the Index by Lehman and certain affiliates and subsidiaries thereof in connection with certain securities including the Notes.

[5] *See* Notice at 23862 (providing a detailed discussion of the calculation methodology of the ''Daily Value'' per $1000 Note as of the Valuation Date). Terms not otherwise defined herein shall have the same meaning as the meaning given in the Notice, supra note 3.

[6] AIG–FP is not a broker-dealer or futures commission merchant; however, AIG–FP may have such affiliates. Therefore, AIG–FP (1) maintains and agrees to continue to maintain procedures reasonably designed to prevent the use and dissemination by relevant employees of AIG–FP, in violation of applicable laws, rules and regulations, of material non-public information relating to changes in the composition or method of computation or calculation of the Index or the Dow Jones-AIG Commodity Index and (2) agrees to periodically check the application of such procedures as they relate to personnel of AIG–FP responsible for such changes. Dow Jones has informed the Exchange that it does not have any affiliates engaged in the securities or commodities trading businesses and, as such, does not believe that such firewall procedures are necessary in its case. In addition, the Supervisory and Advisory Committees (as defined herein) are subject to written policies that acknowledge their obligations with respect to material non-public information.

[7] Lehman has informed the Exchange that Lehman is not affiliated with any of the Sponsors. E-mail from Jeffrey P. Burns, Associate General Counsel, Amex, to Edward Y. Cho, Special Counsel, Division of Market Regulation, Commission, dated May 14, 2007.

[8] Any disseminated Index value after 3 p.m. ET is static due to the close of auction trading of various commodities futures contracts.

[9] On February 21, 2007, Dow Jones announced a change to the Dow Jones-AIG Commodity Index Oversight Committee structure providing for a two-tier committee structure consisting of a ''Supervisory Committee'' and an ''Advisory Committee.'' The Supervisory Committee makes all final decisions relating to the Index with the advice and recommendation from the Advisory Committee.

Commodity	Weighting (percent)
Total (rounded)	100.000000

Futures contracts on the Index are currently listed for trading on the Chicago Board of Trade (''CBOT''). The Index commodities currently trade on U.S. exchanges, with the exception of aluminum, nickel and zinc, which trade on the London Metal Exchange (''LME'').

Designated Contracts for Each Index Commodity

A futures contract, known as a ''Designated Contract,'' is selected by the Supervisory Committee for each Index commodity.[10] With the exception of several LME contracts, the Supervisory Committee selects the futures contract that is traded in the U.S. and denominated in U.S. dollars. If more than one of those contracts exists, the Supervisory Committee will select the most actively traded contract. Data concerning this Designated Contract will be used to calculate the Index value. If a Designated Contract is terminated or replaced, a comparable futures contract would be selected, if available, to replace that Designated Contract.

The Designated Contracts for the Index commodities included in the Index for 2007 are traded on LME, CBOT, the New York Board of Trade (''NYBOT''),[11] the Chicago Mercantile Exchange, Inc. (''CME''), and the New York Mercantile Exchange (''NYMEX''). The particular commodities futures exchanges for each commodity futures contract are as follows: (1) Aluminum, nickel, and zinc—LME at *www.lme.com;* (2) corn, soybeans, soybean oil, and wheat—CBOT at *www.cbot.com;* (3) live cattle and lean hogs—CME at *www.cme.com;* (4) coffee, cotton, and sugar—NYBOT at *www.nybot.com;* and (5) copper, crude oil, gold, heating oil, natural gas, silver, and unleaded gasoline—NYMEX at *www.nymex.com.* In addition, various market data vendors and financial news publications publish futures prices and data. The Exchange represents that futures quotes and last sale information for the commodities underlying the Index are widely disseminated through a variety of major market data vendors worldwide, including Bloomberg and Reuters.

Determination of Relative Weightings

The relative weightings of the component commodities included in the Index are determined annually according to both liquidity and dollar-adjusted production data in 2/3 and 1/3 shares, respectively. Each June, for each commodity designated for potential inclusion in the Index, liquidity is measured by the commodity liquidity percentage and production by the commodity production percentage.[12]

The Index is designed to provide diversified exposure to commodities as an asset class. To ensure that no single commodity or commodity sector dominates the Index, the following diversification rules are applied to the annual re-weighting and re-balancing of the Index as of January of the applicable year:

- No related group of commodities designated as a commodity group (*e.g.*, energy, precious metals, livestock, or grains) may constitute more than 33% of the Index.
- No single commodity may constitute more than 15% of the Index.
- No single commodity, together with its derivatives (*e.g.*, crude oil, together with heating oil and unleaded gasoline), may constitute more than 25% of the Index.

Following the annual re-weighting and re-balancing of the Index in January, the percentage of any single commodity or group of commodities at any time prior to the next re-weighting or re-balancing will fluctuate and may exceed or be less than the percentages set forth above. The Index is then calculated by the Sponsors by applying the impact of the changes to the futures prices of commodities included in the Index (based on their relative weightings).[13]

Index Calculation Disruption Events

From time to time, disruptions can occur in trading futures contracts on various commodity exchanges. The daily calculation of the Index may be adjusted in the event that the Sponsors determine that any of the following Index calculation disruption events exists:

- The termination or suspension of, or material limitation or disruption in, the trading of any futures contract used in the calculation of the Index on that day;
- The settlement price of any futures contract used in the calculation of the Index reflects the maximum permitted price change from the previous day's settlement price;
- The failure of an exchange to publish settlement prices for any futures contract used in the calculation of the Index; or
- With respect to any futures contract used in the calculation of the Index that trades on LME, a business day on which LME is not open for trading.

The Exchange submits that for a temporary disruption in the trading of a futures contract, AIGI will typically use the prior day's price for an Index commodity or commodities. In exceptional cases, AIGI may employ a ''fair value'' price. However, the Exchange represents that if the use of a prior day's price or ''fair value'' pricing for an Index commodity or commodities continues for more than one day, the Exchange will commence delisting the Notes.

Exchange Rules Applicable to the Notes

Amex represents that the Notes will trade on the Exchange subject to existing Amex trading rules applicable to the Notes including, among others, rules governing priority, parity, and precedence of orders, specialist responsibilities, account opening, and customer suitability requirements. In addition, the Notes will be subject to the equity margin rules of the Exchange.[14]

Criteria for Initial and Continued Listing

The Exchange represents that it prohibits the initial and/or continued listing of any security that is not in compliance with Rule 10A–3 under the Act.[15] The Exchange further represents that the Notes will meet the listing requirements set forth in Section 107A of the Company Guide as well as the continued listing requirements set forth in Sections 1001 through 1003 of the Company Guide. The Exchange also has a general policy that prohibits the distribution of material, non-public information by its employees.

Trading Halts

The Exchange states that it will halt trading in the Notes if the circuit breaker parameters of Amex Rule 117 have been reached. In exercising its discretion to halt or suspend trading in

[10] The Supervisory Committee may exclude any otherwise eligible contract from the Index if it determines that it has inadequate liquidity. The Index currently includes contracts traded on LME, which is located in London. During the hours when the LME is closed, Dow Jones uses the last price and the settlement price once they are available in order to publish the Index value through the end of the trading day. The Index value does not reflect any after-hours or overnight trading in contracts traded on LME.

[11] NYBOT recently was purchased by the Intercontinental Exchange (''ICE'') and is now a regulated subsidiary of ICE.

[12] *See* Notice at 23864 (providing a detailed discussion of how the commodity liquidity percentage and the commodity production percentage are determined and adjusted).

[13] *See id.* (describing the mathematical process for the calculation of the Index value).

[14] *See* Amex Rule 462.

[15] *See* 17 CFR 240.10A–3(c)(1).

the Notes, the Exchange may consider factors such as those set forth in Amex Rule 918C(b), in addition to other factors that may be relevant. In particular, if the Index value is not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the Index value occurs. If the interruption to the dissemination of the Index value persists past the trading day on which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.

Surveillance

The Exchange represents that its surveillance procedures are adequate to properly monitor the trading of the Notes. Specifically, Amex will rely on its existing surveillance procedures governing index-linked securities which are similar to its surveillance procedures governing exchange-traded funds and trust-issued receipts. With regard to the Index components, the Exchange currently has in place a comprehensive surveillance sharing arrangement with ICE, LME, and NYMEX, for the purpose of providing information in connection with trading in or related to futures contracts comprising the Index and traded on their respective exchanges. The Exchange also notes that CBOT, CME, and NYBOT are members of the Intermarket Surveillance Group (''ISG''). As a result, the Exchange asserts that it can obtain all necessary market surveillance information, including customer identity information, from CBOT, CME, ICE, LME, NYBOT, and NYMEX, if necessary, due to regulatory concerns that may arise in connection with the commodity futures contracts underlying the Index.

Information Circular

The Exchange will, prior to trading the Notes, distribute an Information Circular to its membership providing guidance with regard to member firm compliance responsibilities (including suitability recommendations) [16] when handling transactions in the Notes and highlighting the special risks and characteristics of the Notes. In addition, the Circular will identify and disclose the applicable trading rules governing the trading of the Notes on the Exchange and that Lehman will deliver a prospectus in connection with the initial sales of the Notes and will reference that the Commission has no jurisdiction over the trading of the physical commodities or the futures contracts or on the commodities upon which the value of the Notes is based. The Exchange submits that it recently received approval to list and trade notes linked to the performance of the Dow Jones-AIG ExEnergy Sub-Index, which is a subset of the Index.[17]

III. Discussion and Commission's Findings

After careful consideration, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[18] In particular, the Commission finds that the proposal is consistent with the requirements of Section 6(b)(5) of the Act,[19] which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission notes that the Notes are substantially similar to other notes, the listing and trading of which have previously been approved by the Commission.[20] The Commission also notes that it has approved indexes comprised of similar commodity pools underlying other derivative products that are currently listed and traded on the Exchange.[21]

The Commission further believes that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Exchange Act,[22] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Dow Jones will disseminate the Index value at least every 15 seconds from 8 a.m. to 3 p.m. ET and publish a daily Index level at approximately 4 p.m. ET on each DJ–AIG Business Day on its Internet Web site and on Bloomberg's Web site. In addition, daily settlement prices, futures quotes, and last-sale information for the designated contracts on the commodities underlying the Index are available through a variety of major market data vendors and financial news publications, including Bloomberg and Reuters.

In support of this proposal, the Exchange has made the following representations:

(1) Amex would rely on its existing surveillance procedures, which are adequate to properly monitor the trading of the Notes. Specifically, the Exchange will rely on its surveillance procedures applicable to index-linked securities, which are similar to the surveillance procedures governing exchange-traded funds and trust-issued receipts. With regard to the Index components, Amex has in place a comprehensive surveillance sharing agreement with ICE, LME, and NYMEX, for the purpose of providing and obtaining information due to regulatory concerns that may arise in connection with the trading of the futures contracts underlying the Index. In addition, Amex states that is able to obtain all such necessary market surveillance information from CBOT, CME, and NYBOT, which are members of ISG. As a result, the Exchange can obtain all necessary market surveillance information due to regulatory concerns that may arise in connection with the commodity futures contracts underlying the Index.

(2) AIG–FP has in place procedures reasonably designed to prevent the improper sharing, use, and dissemination by relevant employees of AIG–FP of material non-public information relating to changes in the composition or method of computation or calculation of the Index and agrees to periodically check the application of such procedures as they relate to personnel of AIG–FP responsible for such changes. In addition, the Supervisory and Advisory Committees are subject to written policies that acknowledge their obligations with

[16] With respect to suitability recommendations and risks, the Exchange will require members, member organizations, and employees thereof recommending a transaction in the Notes: (1) to determine that such transaction is suitable for the customer, and (2) to have a reasonable basis for believing that the customer can evaluate the special characteristics of, and is able to bear the financial risks of, such transaction.

[17] *See* Securities Exchange Act Release No. 54790 (November 20, 2006), 71 FR 68645 (November 27, 2006) (SR-Amex-2006–01).

[18] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[19] 15 U.S.C. 78f(b)(5).

[20] *See, e.g.*, 71 FR 68645, *supra* note 17 (approving the listing and trading of principal protected notes linked to the Dow Jones-AIG ExEnergy Sub-Index, which is comprised of components that make up a subset of the Index); Securities Exchange Act Release No. 53876 (May 25, 2006), 71 FR 32158 (June 2, 2006) (SR–NYSE–2006–16) (approving the listing and trading of index-linked securities of Barclays Bank PLC linked to the performance of the Index).

[21] *See e.g.*, Securities Exchange Act Release No. 55029 (December 29, 2006), 72 FR 806 (January 8, 2007) (SR-Amex-2006–76) (DB Multi-Sector Commodity Trust); Securities Exchange Act Release No. 53105 (January 11, 2006), 71 FR 3129 (January 19, 2006) (SR-Amex-2005–059) (DB Commodity Index Tracking Fund).

[22] 15 U.S.C. 78k–1(a)(1)(C)(iii).

respect to such material non-public information.

(3) The Exchange will halt trading in the Notes if the circuit breaker parameters of Amex Rule 117 have been reached and, in exercising its discretion to halt or suspend trading in the Notes, the Exchange may consider factors such as those set forth in Amex Rule 918C(b), in addition to other factors that may be relevant. In particular, if the Index value is not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the Index value occurs. If the interruption to the dissemination of the Index value persists past the trading day on which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.

(4) Amex will distribute an Information Circular to its members providing guidance with regard to the special characteristics and risks of trading this type of security, member firm compliance responsibilities, including suitability recommendations, the specific Amex trading rules governing transactions in the Notes, and the prospectus delivery requirements applicable to the Notes.

This Order is conditioned on Amex's adherence to the foregoing representations.

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1 thereto, prior to the thirtieth day after publication for comment in the **Federal Register** pursuant to Section 19(b)(2) of the Act.[23] As noted earlier, the Notes are substantially similar to other notes, the listing and trading of which have previously been approved by the Commission, and do not appear to present any new regulatory concerns.[24] In addition, the Commission notes that the same Index currently underlies other products previously approved for listing and trading.[25] Accelerating approval of this proposed rule change would allow the Notes to trade on Amex without undue delay and should generate additional competition in the market for such products.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[26] that the proposed rule change (SR–Amex–2007–29), as modified by Amendment No. 1, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[27]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E7–9854 Filed 5–22–07; 8:45 am]

BILLING CODE 8010–01–P

[23] 15 U.S.C. 78s(b)(2).

[24] *See supra* note 20.

[25] *See id.*

[26] 15 U.S.C. 78s(b)(2).

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55774; File No. SR–BSE–2007–09]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto Relating to Appointment of Market Makers

May 16, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 20, 2007, the Boston Stock Exchange (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the BSE. On May 11, 2007, the Exchange filed with the Commission Amendment No. 1.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Section 4 (Appointment of Market Makers) of Chapter VI of the Rules of the Boston Options Exchange (''BOX''). The BSE is proposing to amend the BOX Rules to grant the authority for the Exchange to approve Market Maker appointments instead of the Board or a committee designated by the Board, as the rule currently states. The Exchange is also proposing to provide a process for those Market Makers who wish to withdraw from trading an option issue within their appointment. The text of the proposed rule change is available on the Exchange's website (*http://www.bse.com*), at the Exchange's Office of the Secretary and at the Commission.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 supersedes and replaces the original proposal in its entirety.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Section 4 (Appointment of Market Makers) of Chapter VI of the BOX Rules to grant the authority for the Exchange to approve Market Maker appointments instead of the Board or committee designated by the Board, as the rule currently states. The Exchange is also proposing to provide a process for those Market Makers who wish to withdraw from trading an option issue within their appointment.

The proposed change of granting the Exchange the authority to approve Market Maker appointments instead of the Board or a committee designated by the Board will help aid in the efficiency of BOX's Market Maker allocation process. If approved, this proposed change will allow the regulatory staff of the Exchange the ability to approve Market Maker appointments. The BSE regulatory staff is more accessible than the Board and this change will help with the expediency of the Market Marker allocation approval process.

The Exchange has also proposed to add a provision to establish a process for those Market Makers who wish to withdraw from trading an option issue within their appointment.[4] A Market Maker may withdraw from an appointment as long as the Market Maker provides BOX with three business days written notice of their intent to withdraw from an appointment. If such written notice is not provided to BOX, then the Market Maker may be subject to formal disciplinary action.

[4] *See* Proposed Section 4, subparagraph (i), Chapter VI of the BOX Rules.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[5] in general, and Section 6(b)(5) of the Act,[6] in particular, in that it is 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 protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

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 BSE 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–BSE–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 No. SR–BSE–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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the BSE. 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 with to make available publicly. All submissions should refer to the file number in the caption above and should be submitted on or before June 13, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E7–9855 Filed 5–22–07; 8:45 am]

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[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55773; File No. SR–BSE–2007–16]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Allow Odd-lot and Mixed-lot Orders To Be Sent To the Boston Equities Exchange

May 16, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 17, 2007, the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the BSE. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders it effective upon filing with the Commission.[5] 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 BSE proposes amending Section 2 and 3 of Chapter XXXVII of the Rules of BSE (''BSE Rules'') to allow odd-lot and mixed-lot market or limit orders to be sent to the Boston Equities Exchange (''BeX''). The text of the proposed rule change is available at BSE, the Commission's Public Reference Room, and (*http://www.bostonstock.com*).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the BSE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those 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 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

On June 13, 2006 the BSE filed Amendment No. 3 to File Number SR–BSE–2006–22 (the ''BeX Facility Filing''), a rule filing submitted in connection with the implementation of the first of two phases of BeX, a fully automated electronic book for the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] The Exchange has asked the Commission to waive the 30- day operative delay required by Rule 19b–4(f)(6)(iii), 17 CFR 240.19b–4(f)(6)(iii). *See* discussion *infra* Section III.

display and execution of orders in securities. On August 25, 2006, File Number SR–BSE–2006–22 was approved by the Commission.[6] On August 3, 2006, the BSE filed, in connection with the implementation of the second phase of BeX and in connection with satisfying the requirements of Regulation NMS, File Number SR–BSE–2006–30. On September 29, 2006 the Commission approved File Number SR–BSE–2006–30.[7]

At the present time, all orders sent to BeX must be round-lot market or limit orders with the exception of orders for Nasdaq Global Market securities and Nasdaq Capital Market securities, which orders may be odd-lot or mixed-lot orders. The purpose of this proposed rule change is to amend BSE Rules to allow all orders sent to BeX to be odd-lot or mixed-lot market or limit orders, thereby removing the limitation that all orders sent to BeX must be round lot orders unless such orders are for Nasdaq Global Market securities or Nasdaq Capital Market securities. In other words, the proposed rule change would allow all orders sent to BeX to be round-lot, odd-lot or mixed-lot market or limit orders. For stocks, 100 shares shall constitute a ''round lot,'' any amount less than 100 shares shall constitute an ''odd lot,'' and any amount greater than 100 shares that is not a multiple of a round lot shall constitute a ''mixed lot.''

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act,[9] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest in that it is designed 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 for a free and open market and a national market system, and, in general, to protect investors and the public interest.

[6] Securities Exchange Act Release No. 54365 (August 25, 2006) 71 FR 52192 (September 1, 2006).

[7] Securities Exchange Act Release No. 54546 (September 29, 2006) 71 FR 59161 (October 6, 2006).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

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 comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for thirty days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and Rule 19b–4(f)(6) [11] thereunder.[12]

A proposed rule change filed under Commission Rule 19b–4(f)(6) [13] normally does not become operative prior to thirty days after the date of filing. The BSE requests that the Commission waive the 30-day operative delay, as specified in Rule 19b–4(f)(6)(iii), and designate the proposed rule change to become operative immediately. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver will allow BSE to implement rules similar to those already in place at other exchanges and establish uniformity with respect to odd-lot and mixed-lot orders for all securities traded on BeX without needless delay. For these reasons, the Commission designates the proposed rule change as operative upon filing.[14]

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] Pursuant to Rule 19b–4(f)(6)(iii), the Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date on which the Exchange filed the proposed rule change. *See* 17 CFR 240.19b–4(f)(6)(iii).

[13] 17 CFR 240.19b–4(f)(6).

[14] For the purposes only of waiving the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in the furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–BSE–2007–16 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BSE–2007–16. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the BSE. 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–BSE–2007–16 and should be submitted on or before June 13, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E7–9876 Filed 5–22–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55780; File No. SR–NYSE–2007–37]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto Relating to Generic Listing Standards for Series of Investment Company Units Based on Fixed Income Indexes and Order Granting Accelerated Approval of Proposed Rule Change as Amended

May 17, 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 March 29, 2007, the New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared substantially by the Exchange. On May 9, 2007, the Exchange filed Amendment No. 1.[3] This order provides notice of the proposed rule change as modified by Amendment No. 1 and approves the proposed rule change as amended on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to revise Section 703.16 of the NYSE Listed Company Manual to include generic listing standards for series of Investment Company Units (''ICUs'') that are based on indexes or portfolios consisting of fixed income securities (''Fixed Income Indexes'') or on composite indexes consisting of equity and fixed income indexes or indexes or portfolios consisting of both equity and fixed income securities (collectively, ''Combination Indexes'').

The text of the proposed rule change is available at the NYSE, at the Commission's Public Reference Room, and on the Exchange's Web site at *www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NYSE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to revise Section 703.16 of the NYSE Listed Company Manual (''Manual'') to include generic listing standards for series of ICUs (also referred to herein as ''exchange-traded funds'' or ''ETFs'') that are based on Fixed Income Indexes or on Combination Indexes. This proposal will enable the Exchange to list and trade ETFs pursuant to Rule 19b–4(e) under the Act[4] if each of the conditions set forth in Section 703.16 of the Manual is satisfied. Rule 19b–4(e) provides that the listing and trading of a new derivative securities product by a self-regulatory organization shall not be deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b–4,[5] if the Commission has approved, pursuant to Section 19(b) of the Act,[6] the self-regulatory organization's trading rules, procedures, and listing standards for the product class that would include the new derivatives securities product, and the self-regulatory organization has a surveillance program for the product class.[7]

Exchange-Traded Funds

NYSE Rule 1100 and Section 703.16 of the Manual provide standards for listing ICUs, which are securities issued by a unit investment trust, an open-end management investment company (open-end mutual fund), or similar entity based on a portfolio of stocks or fixed income securities that seeks to provide investment results that correspond generally to the price and yield performance of a specified foreign or domestic stock index or fixed income securities index. Pursuant to Section 703.16 of the Manual, ICUs must be issued in a specified aggregate number in return for a deposit of specified securities and/or a cash amount, with a value equal to the next determined net asset value (''NAV''). When aggregated in the same specified minimum number, ICUs must be redeemable by the issuer for the securities and/or cash, with a value equal to the next determined NAV. The NAV is calculated once a day after the close of the regular trading day.

To meet the investment objective of providing investment returns that correspond to the price, dividend, and yield performance of the underlying index, an ETF may use a ''replication'' strategy or a ''representative sampling'' strategy with respect to the ETF portfolio. An ETF using a replication strategy will invest in each security found in the underlying index in about the same proportion as that security is represented in the index itself. An ETF using a representative sampling strategy will generally invest in a significant number, but perhaps not all, of the component securities of the underlying index, and will hold securities that, in the aggregate, are intended to approximate the full index in terms of certain key characteristics. In the context of a Fixed Income Index, such characteristics may include liquidity, duration, maturity, and yield.

In addition, an ETF portfolio may be adjusted in accordance with changes in the composition of the underlying index or to maintain compliance with requirements applicable to a regulated investment company under the Internal Revenue Code (''IRC'').[8]

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(l).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaced and superseded the original filing in its entirety.

[4] 17 CFR 240.19b–4(e).

[5] 17 CFR 240.19b–4(c)(1).

[6] 15 U.S.C. 78s(b).

[7] When relying on Rule 19b–4(e), the SRO must submit Form 19b–4(e) to the Commission within five business days after the exchange begins trading the new derivative securities product. *See* 17 CFR 240.19b–4(e)(2)(ii).

[8] For an ETF to qualify for tax treatment as a regulated investment company, it must meet several requirements under the IRC. Among these is the requirement that, at the close of each quarter of the ETF's taxable year, (i) at least 50% of the market value of the ETF's total assets must be represented by cash items, U.S. government securities, securities of other regulated investment companies, and other securities, with such other securities limited for purposes of this calculation in respect of any one issuer to an amount not greater than 5% of the value if the ETF's assets and not greater than 10% of the outstanding voting securities of such issuer; and (ii) not more than 25% of the value of its total assets may be invested in the securities of any one issuer, or two or more issuers that are controlled by the ETF (within the meaning of Section 851(b)(4)(B) of the IRC) and that are engaged in the same or similar trades or businesses or related trades or business (other than U.S. government securities or the securities of other regulated investment companies).

Generic Listing Standards for Exchange-Traded Funds

The Exchange notes that the Commission has previously approved generic listing standards for ETFs based on indexes that consist of stocks listed on U.S. exchanges as well as on indexes consisting of foreign stocks or both U.S. and foreign stocks.[9] In addition, the Commission has previously approved the listing and trading of ETFs based on fixed income securities indexes.[10]

The Exchange notes that the Commission has also approved listing standards for other index-based derivatives that permit the listing—pursuant to Rule 19b–4(e)—of such securities where the Commission had previously approved the trading of specified index-based derivatives on the same index, on the condition that all of the standards set forth in the original order are satisfied by the exchange employing generic listing standards.[11]

The Exchange believes that adopting additional generic listing standards for ETFs based on Fixed Income Indexes and Combination Indexes and applying Rule 19b–4(e) should fulfill the intended objective of that rule by allowing those ETFs that satisfy the proposed generic listing standards to commence trading, without the need for individualized Commission approval. The proposed rules have the potential to reduce the time frame for bringing ETFs to market, thereby reducing the burdens on issuers and other market participants. The failure of a particular ETF to comply with the proposed generic listing standards would not, however, preclude the Exchange from submitting a separate filing pursuant to Section 19(b)(2) requesting Commission approval to list and trade a particular ETF.

Fixed Income and Combination Index ETFs

Requirements for Listing and Trading Based on Fixed Income Indexes

Exchange-traded funds listed pursuant to these generic standards would be traded in all other respects under the Exchange's existing trading rules and procedures that apply to all Exchange-listed securities, including ETFs, and would be covered under the Exchange's surveillance programs for equities.[12]

In order to list an ETF pursuant to the proposed generic listing standards for Fixed Income Indexes, the index underlying the ETF must satisfy all the conditions contained in proposed Section 703.16(D) of the Manual. As with existing generic listing standards for ETFs based on domestic and international or global indexes, the proposed generic listing standards are intended to ensure that fixed income securities with substantial market distribution and liquidity account for a substantial portion of the weight of an index or portfolio. While the standards in this proposal are loosely based on the standards contained in Commission and Commodity Futures Trading Commission (''CFTC'') rules regarding the application of the definition of narrow-based security index to debt security indexes[13] as well as existing fixed income ETFs, they have been adapted as appropriate to apply generally to Fixed Income Indexes for ETFs.

Fixed Income Securities

As proposed, Section 703.16(B)(3) defines the term ''Fixed Income Securities'' to include notes, bonds (including convertible bonds), debentures, or evidence of indebtedness that include, but are not limited to, U.S. Department of Treasury securities (''Treasury Securities''), government-sponsored entity securities (''GSE Securities''), municipal securities, trust-preferred securities,[14] supranational debt,[15] and debt of a foreign country or subdivision thereof. This new definition is designed to create a category of ETFs based on Fixed Income Indexes that may be listed and traded pursuant to Rule 19b–4(e) under the Act.

For purposes of the proposed definition, a convertible bond is deemed to be a Fixed Income Security up until the time that it is converted into its underlying common or preferred stock.[16] Once converted, the equity security may no longer continue as a component of a Fixed Income Index under the proposed rules, and accordingly, would be removed from such index.

The Exchange proposes that, to list a series of ICUs based on a Fixed Income Index pursuant to the generic standards, the index must meet the following criteria:

- The index or portfolio must consist of Fixed Income Securities;
- Components that in aggregate account for at least 75% of the weight of the index or portfolio must have a minimum original principal amount outstanding of $100 million or more;
- No component Fixed Income Security (excluding a Treasury Security or GSE Security) represents more than 30% of the weight of the index, and the five highest weighted component fixed income securities in the index do not in the aggregate account for more than 65% of the weight of the index;
- An underlying index or portfolio (excluding one consisting entirely of exempted securities) must include a minimum of 13 non-affiliated issuers; and
- Component securities that in aggregate account for at least 90% of the weight of the index or portfolio must be either:

[9] In 1996, the Commission approved Section 703.16 of the Listed Company Manual, which sets forth the rules related to the listing of ICUs. *See* Securities Exchange Act Release No. 36923 (March 5, 1996), 61 FR 10410 (March 13, 1996) (SR–NYSE–95–23). In 2000, the Commission approved the Exchange's generic listing standards for the listing and trading, or the trading pursuant to unlisted trading privileges (''UTP''), of ICUs based on U.S. stock indexes under Section 703.16 of the Manual and Exchange Rule 1100. *See* Securities Exchange Act Release No. 43679 (December 5, 2000); 65 FR 77949 (December 13, 2000) (SR–NYSE–00–46). In 2007, the Commission also approved the Exchange's generic listing standards for the listing and trading, or the trading pursuant to UTP, of ICUs based on foreign or global stock indexes. *See* Securities Exchange Act Release No. 55113 (January 17, 2007), 72 FR 3179 (January 24, 2007) (SR–NYSE–2006–101).

[10] *See* Securities Exchange Act Release No. 46299 (August 1, 2002), 67 FR 51907 (August 9, 2002) (SR–NYSE–2002–26).

[11] *See, e.g.*, Section 703.22 of the Manual and Securities Exchange Act Release No. 55687 (May 1, 2007), 72 FR 25824 (May 7, 2007) (SR–NYSE–2007–27); NYSE Arca Equities Rule 5.2(j)(6) and Securities Exchange Act Release No. 52204 (August 3, 2005), 70 FR 46559 (August 10, 2005) (SR–PCX–2005–63) (approving generic listing standards for index-linked securities).

[12] *See, e.g.*, NYSE Rule 1100.

[13] *See* Securities Exchange Act Release No. 54106 (July 6, 2006), 71 FR 39534 (July 13, 2006) (File No. S7–07–06) (the ''Joint Rules'').

[14] Trust-preferred securities are undated cumulative securities issued from a special purpose trust in which a bank or bank holding company owns all of the common securities. The trust's sole asset is a subordinated note issued by the bank or bank holding company. Trust-preferred securities are treated as debt for tax purposes so that the distributions or dividends paid are a tax-deductible interest expense.

[15] Supranational debt represents the debt of international organizations such as the World Bank, the International Monetary Fund, regional multilateral development banks, and multilateral financial institutions. Examples of regional multilateral development banks include the African Development Bank, Asian Development Bank, European Bank for Reconstruction and Development, and the Inter-American Development Bank. In addition, examples of multilateral financial institutions include the European Investment Bank and the International Fund for Agricultural Development.

[16] The Exchange notes that, under the Section 3(a)(11) of the Act, 15 U.S.C. 78c(a)(11), a convertible security is defined as an equity security. However, for the purpose of the proposed generic listing criteria, NYSE believes that defining a convertible security (prior to its conversion) as a Fixed Income Security is consistent with the objectives and intention of the generic listing standards for fixed-income-based ETFs as well as the Act.

• From issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Act; [17]

• From issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of $700 million or more;

• From issuers that have outstanding securities that are notes, bonds, debentures, or evidences of indebtedness having a total remaining principal amount of at least $1 billion;

• Exempted securities, as defined in Section 3(a)(12) of the Act; [18] or

• From issuers that are governments of foreign countries or political subdivisions of foreign countries.

The Exchange believes that these proposed component criteria standards are reasonable for Fixed Income Indexes, and, when applied in conjunction with the other listing requirements, would result in ETFs that are sufficiently broad-based in scope.

The Exchange notes that the proposed standards are similar to the standards set forth by the Commission and the CFTC in the Joint Rules as well as existing fixed-income-based ETFs. First, in the proposed standards, component Fixed Income Securities that in the aggregate account for at least 75% of the weight of the index or portfolio would have to have a minimum original principal amount outstanding of at least $100 million. Second, the proposed standards provide that the most heavily weighted component security cannot exceed 30% of the weight of the index or portfolio, consistent with the standard for U.S. equity ETFs set forth in Section 703.16(C)(2)(a)(iii). In addition, this standard is identical to the standard set forth by the Commission and the CFTC in the Joint Rules.[19] Third, in the proposed standards, the five most heavily weighted component securities could not exceed 65% of the weight of the index or portfolio, consistent with the standard for U.S. equity ETFs set forth in Section 703.16(C)(2)(a)(iii) of the Manual as well as the Joint Rules. Fourth, the minimum number of fixed income securities (except for portfolios consisting entirely of exempted securities, such as Treasury Securities or GSE Securities) from unaffiliated [20] issuers in the proposed standards is 13, consistent with the standard for U.S. equity ETFs set forth in Section 703.16(C)(2)(a)(iv) of the Manual and the Joint Rules. This requirement together with the diversification standards set forth above would provide assurance that the fixed income securities comprising an index would not be overly dependent on the price behavior of a single component or small group of components.

Finally, the proposed standards would require that at least 90% of the weight of the index or portfolio must be either (i) from issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Act; [21] (ii) from issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of $700 million or more; (iii) from issuers that have outstanding securities that are notes, bonds, debentures, or evidences of indebtedness having a total remaining principal amount of at least $1 billion; (iv) exempted securities, as defined in Section 3(a)(12) of the Act; [22] or (v) from issuers that are governments of foreign countries or political subdivisions of foreign countries. This proposed standard is consistent with a similar standard in the Joint Rules and is designed to ensure that the component fixed income securities have sufficient publicly available information.

The proposed generic listing requirements for fixed income ETFs would not require that component securities in an underlying index have an investment-grade rating.[23] In addition, the proposed requirements would not require a minimum trading volume, due to the lower trading volume that generally occurs in the fixed income markets as compared to the equity markets.

The proposed standards would also provide that the Exchange could not approve a series of fixed income ETFs under the proposed generic listing requirements if such series seeks to provide investment results that either exceed the performance of a specified index by a specified multiple or that correspond to the inverse (opposite) of the performance of a specified index by a specified multiple.

Requirements for Listing and Trading ETFs Based on Combination Indexes

The Exchange also seeks to list and trade ETFs based on Combination Indexes. An ETF listed pursuant to the generic standards for Combination Indexes would be traded, in all other respects, under the Exchange's existing trading rules and procedures that apply to all Exchange-listed securities, including ETFs, and would be covered under the Exchange's surveillance program for equities.

To list an ETF pursuant to the proposed generic listing standards for Combination Indexes, an index underlying an ICU must satisfy all the conditions contained in proposed Section 703.16(E). These generic listing standards are intended to ensure that securities with substantial market distribution and liquidity account for a substantial portion of the weight of both the equity and fixed income portions of an index or portfolio.

Proposed Section 703.16(E) would provide that the Exchange may approve series of ICUs—based on a combination of indexes or a series of component securities representing the U.S. or domestic equity market, the international equity market, and the fixed income market—for listing and trading pursuant to Rule 19b–4(e) under the Act. The standards that an ETF would have to comply with are as follows: (i) Such portfolio or combination of indexes has been described in an exchange rule for the trading of options, ICUs, Index-Linked Exchangeable Notes, or Index-Linked Securities that has been approved by the Commission under Section 19(b)(2) of the Act, and all of the standards set forth in the original order are satisfied; or (ii) the equity portion and fixed income portion of the component securities separately meet the criteria set forth in Section 703.16(C) (equities) and proposed Section 703.16(D) (fixed income).

The proposed standards would also provide that the Exchange could not approve a series of ETFs based on a Combination Index under the proposed generic listing requirements if such series seeks to provide investment results that either exceed the performance of a specified index by a specified multiple or that correspond to the inverse (opposite) of the performance of a specified index by a specified multiple.

Index Methodology and Dissemination. The Exchange proposes to adopt Sections 703.16(D)(2) and (E)(1) to establish requirements for index methodology and dissemination in connection with Fixed Income and Combination Indexes.

If a broker-dealer is responsible for maintaining (or has a role in maintaining) the underlying index, such

[17] 15 U.S.C. 78m and 78o(d).

[18] 15 U.S.C. 78c(a)(12).

[19] *See* note 13 *supra.*

[20] Rule 405 under the Securities Act of 1933, 17 CFR 230.405, defines an affiliate as a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, such person. Control, for this purpose, is the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

[21] 15 U.S.C. 78m and 78o(d).

[22] 15 U.S.C. 78c(a)(12).

[23] *Cf.* Joint Rules, 71 FR at 30538.

broker-dealer would be required to erect and maintain a ''firewall,'' in a form satisfactory to the Exchange, to prevent the flow of non-public information regarding the underlying index from the personnel involved in the development and maintenance of such index to others such as sales and trading personnel.

With respect to index dissemination, the Exchange proposes to adopt Sections 703.16(D)(2)(b) and (E)(1)(b) of the Manual. Section 703.16(D)(2)(b) would require that the index value for an ETF listed pursuant to the proposed standards for fixed income ETFs be widely disseminated by one or more major market data vendors at least once a day. If the index value does not change during some or all of the period when trading is occurring on the Exchange, the last official calculated index value must remain available throughout Exchange trading hours. This reflects the nature of the fixed income markets as well as the frequency of intra-day trading information with respect to Fixed Income Indexes. If an ETF is based on a Combination Index, pursuant to proposed Section 703.16(E)(1)(b), the index would have to be widely disseminated by one or more major market data vendors at least every 15 seconds during the time when the ETF shares trade on the Exchange to reflect updates for the prices of the equity securities included in the Combination Index. The fixed income portion of the Combination Index would have to be updated at least daily.

Application of General Rules. Section 703(16)(F) would be added to identify those requirements for ETFs that would apply to all such series of ICUs based on Fixed Income or Combination Indexes. This would include the dissemination of the Intraday Indicative Value, an estimate of the value of a share of each ETF, updated at least every 15 seconds. In addition, Section 703.16(F)(2) would provide that paragraph (C)(5) of Section 703.16, which requires the Exchange to implement written surveillance procedures applicable to a series of ICUs, would apply to series of ICUs based on Fixed Income or Combination Indexes.

The Exchange states that the Commission has approved generic standards providing for the listing pursuant to Rule 19b–4(e) of other derivative products based on indexes described in rule changes previously approved by the Commission under Section 19(b)(2) of the Act. The Exchange proposes to include in the generic standards for the listing of ICUs based on Fixed Income and Combination Indexes, in Section 703.16(E), indexes described in exchange rules approved by the Commission in connection with the listing of options, Investment Company Units, Index-Linked Exchangeable Notes, or Index-Linked Securities. The Exchange believes that the application of that standard to ETFs is appropriate because the underlying index would have been subject to Commission review in the context of the approval of listing of other derivatives.[24]

The Exchange notes that current Section 703.16(E), which includes continued listing criteria applicable to ICUs, would be re-designated as Section 703.16(H), and this provision would apply to a series of ICUs based on Fixed Income or Combination Indexes.

The Exchange further notes that current Section 703.16(A)(6) of the Manual provides that, in connection with approving an ETF issuer for listing on the Exchange, the Exchange will obtain a representation from the ETF issuer that the NAV per share will be calculated each business day and made available to all market participants at the same time.

The trading halt or suspension requirements for existing ETFs contained in current Rule 1100(f) will similarly apply to fixed income and combination index ETFs.

The Exchange represents that its surveillance procedures are adequate to properly monitor the trading of ICUs listed pursuant to the proposed new listing standards or traded pursuant to unlisted trading privileges. In addition, the Exchange has a general policy prohibiting the dissemination of material, non-public information by its employees.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[25] in general, and furthers the objectives of Section 6(b)(5) of the Act[26] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, 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.

[24] *See supra* notes 10 and 11.

[25] 15 U.S.C. 78f(b).

[26] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change would impose no 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 comments on this proposal.

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 (*www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2007–37 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2007–37. 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 (*www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of NYSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You

should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2007–37 and should be submitted on or before June 7, 2007.

IV. Discussion

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[27] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act[28] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, 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.

Currently, the Exchange would have to file a proposed rule change with the Commission pursuant to Section 19(b)(1) of the Act[29] and Rule 19b–4 thereunder[30] to list or trade any ETF based on a Fixed Income Index or on a Combination Index. The Exchange also would have to file a proposed rule change to list or trade an ETF based on a Fixed Income or Combination Index described in an exchange rule previously approved by the Commission as an underlying benchmark for a derivative security. Rule 19b–4(e), however, provides that the listing and trading of a new derivative securities product by an SRO will not be deemed a proposed rule change pursuant to Rule 19b–4(c)(1) if the Commission has approved, pursuant to Section 19(b) of the Act, the SRO's trading rules, procedures, and listing standards for the product class that would include the new derivative securities product, and the SRO has a surveillance program for the product class. The Exchange's proposed rules for the listing and trading of ETFs pursuant to Rule 19b–4(e) based on (1) certain indexes with components that include Fixed Income Securities or (2) indexes or portfolios described in exchange rules previously approved by the Commission as underlying benchmarks for derivative securities fulfill these requirements. Use of Rule 19b–4(e) by NYSE to list and trade such ETFs should promote competition, reduce burdens on issuers and other market participants, and make such ETFs available to investors more quickly.[31]

The Commission previously has approved generic listing standards for another exchange, Amex, that are substantially similar to those proposed here by NYSE.[32] This proposal does not appear to raise any novel regulatory issues. Therefore, the Commission finds that NYSE's proposal is consistent with the Act on the same basis that it approved Amex's generic listing standards for ETFs based on Fixed Income or Combination Indexes or on indexes or portfolios described in exchange rules that have previously been approved by the Commission and underlie derivative securities.

Proposed Sections 703.16(D) and 703.16(E) of the Manual establish the standards for the composition of a Fixed Income Index or Combination Index underlying an ETF. The Commission believes that these standards are reasonably designed to ensure that a substantial portion of any underlying index or portfolio consists of securities about which information is publicly available, and that when applied in conjunction with the other applicable listing requirements, will permit the listing and trading only of ETFs that are sufficiently broad-based in scope to minimize potential manipulation. The Commission further believes that the proposed listing standards are reasonably designed to preclude NYSE from listing and trading ETFs that might be used as a surrogate for trading in unregistered securities.

The proposed generic listing standards also will permit NYSE to list and trade an ETF if the Commission previously has approved an exchange rule that contemplates listing and trading a derivative security based on the same underlying index. NYSE would be able to rely on that earlier approval order, provided that NYSE complies with the commitments undertaken by the other SRO set forth in the prior order, including any surveillance-sharing arrangements.

The Commission believes that NYSE's proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act,[33] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. The value of a Fixed Income Index underlying underlying an ETF listed pursuant to this proposal is required to be widely disseminated by one or more major market data vendors at least once a day. Likewise, the value of an underlying Combination Index is required to be widely disseminated by one or more major market data vendors at least once every 15 seconds during the time when the corresponding ETF trades on the Exchange, provided that, with respect to the fixed income components of the Combination Index, the impact on the index is required to be updated only once each day.

Furthermore, the Commission believes that the proposed rules are reasonably designed to promote fair disclosure of information that may be necessary to price an ETF appropriately. If a broker-dealer is responsible for maintaining (or has a role in maintaining) the underlying index, such broker-dealer would be required to erect and maintain a ''firewall,'' in a form satisfactory to the Exchange, to prevent the flow of non-public information regarding the underlying index from the personnel involved in the development and maintenance of such index to others such as sales and trading personnel. The Commission also notes that current Section 703.16(A)(6) of the Manual provides that, in connection with approving an ETF issuer for listing on the Exchange, the Exchange will obtain a representation from the ETF issuer that the NAV per share will be calculated each business day and made available to all market participants at the same time.

The Commission also believes that the Exchange's trading halt rules are reasonably designed to prevent trading in an ETF when transparency is impaired. NYSE Rule 1100(f)(1) provides that, when the Exchange is the listing market, if the IIV or index value applicable to an ETF is not disseminated as required, the Exchange may halt trading during the day in which the interruption occurs. If the interruption continues, then the Exchange will halt trading no later than the beginning of the next trading day. Also, the Exchange may commence delisting proceedings in the event that

[27] 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).

[28] 15 U.S.C. 78f(b)(5).

[29] 15 U.S.C. 78s(b)(1).

[30] 17 CFR 240.19b–4.

[31] The Commission notes that failure of a particular ETF to satisfy the Exchange's generic listing standards does not preclude the Exchange from submitting a separate proposal under Rule 19b–4 to list and trade such ETF.

[32] *See* Securities Exchange Act Release No. 55434 (March 9, 2007), 72 FR 12233 (March 15, 2006) (SR–Amex–2006–118) (approving generic listing standards for series of ETFs based on Fixed Income and Combination Indexes).

[33] 15 U.S.C. 78k–1(a)(1)(C)(iii).

the value of the underlying index is no longer calculated or available.

The Exchange will implement written surveillance procedures for ETFs based on Fixed Income Indexes or Combination Indexes.[34] In approving this proposal, the Commission relied on NYSE's representation that its surveillance procedures are adequate to properly monitor the trading of ICUs listed pursuant to this proposal. This approval is conditioned on the continuing accuracy of that representation.

Acceleration

The Commission finds good cause for approving the proposed rule change, as amended, prior to the 30th day after the date of publication of the notice of filing thereof in the **Federal Register**. The Commission notes that NYSE's proposal is substantially similar to an Amex proposal that has been approved by the Commission.[35] The Commission does not believe that NYSE's proposal raises any novel regulatory issues and, therefore, believes that good cause exists for approving the filing before the conclusion of a notice-and-comment period. Accelerated approval of the proposal will expedite the listing and trading of additional ETFs by the Exchange, subject to consistent and reasonable standards. Therefore, the Commission finds good cause, consistent with Section 19(b)(2) of the Exchange Act,[36] to approve the proposed rule change, as amended, on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[37] that the proposed rule change (SR–NYSE–2007–37), as amended, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[38]

J. Lynn Taylor,

Assistant Secretary.

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[34] *See* proposed Section 703.16(F)(2).

[35] *See supra* note 32.

[36] 15 U.S.C. 78s(b)(2).

[37] *Id.*

[38] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55775; File No. SR–NYSEArca–2007–40]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Closing Auctions for Securities Similar to Exchange-Traded Funds

May 16, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 11, 2007, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange''), through its wholly owned subsidiary NYSE Arca Equities, Inc. (''NYSE Arca Equities''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange, through NYSE Arca Equities, proposes to amend NYSE Arca Equities Rule 7.35(e)(3)(E) relating to closing auctions for exchange-traded funds (''ETFs''). The text of the proposed rule change is available on the Exchange's Web site (*http://www.nysearca.com*), at the Exchange's principal office and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend NYSE Arca Equities Rule 7.35(e)(3)(E) relating to closing auctions for ETFs. Currently, NYSE Arca Equities Rule 7.35(e)(3)(E) provides special closing auction rules for certain listed ETFs as defined in NYSE Arca Equities Rules 5.1(b)(13) (Unit Investment Trusts), 5.2(j)(3) (Investment Company Units), and 8.100 (Portfolio Depositary Receipts).[5] Since receiving Commission approval to include ETFs in its closing auction process in 2004, the Exchange has obtained approval from the Commission to list and trade the securities of additional derivative securities products that operate in a manner similar to ETFs. These derivative securities products are not currently included in NYSE Arca Equities Rule 7.35(e)(3)(E). The Exchange proposes to amend NYSE Arca Equities Rule 7.35(e)(3)(E) to include references to the rules governing these additional derivative securities products, rendering these types of products subject to the same closing auction rules as ETFs. Specifically, the Exchange proposes to amend NYSE Arca Equities Rule 7.35(e)(3)(E) to include references to NYSE Arca Equities Rules 5.2(j)(5) (Equity Gold Shares),[6] 8.200 (Trust Issued Receipts),[7] 8.201 (Commodity Based Trust Shares),[8] 8.202 (Currency

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 50643 (November 5, 2004), 69 FR 65668 (November 15, 2004) (SR–PCX–2004–98) (approving amendments to NYSE Arca Equities Rule 7.35 to include certain ETFs in the closing auction process). NYSE Arca Equities Rule 7.35(e)(3)(E) applies only to securities that are listed on the Exchange and not to securities that are traded pursuant to unlisted trading privileges (''UTP'').

[6] *See* Securities Exchange Act Release No. 51245 (February 23, 2005), 70 FR 10731 (March 4, 2005) (SR–PCX–2004–117) (approving generic listing standards for Equity Gold Shares and trading, on a UTP basis, of the streetTRACKS® Gold Shares pursuant to NYSE Arca Equities Rule 5.2(j)(5)).

[7] *See* Securities Exchange Act Release No. 44182 (April 16, 2001), 66 FR 21798 (May 1, 2001) (SR–PCX–2001–01) (approving generic listing standards for Trust Issued Receipts pursuant to NYSE Arca Equities Rule 8.200).

[8] *See* Securities Exchange Act Release No. 51067 (January 21, 2005), 70 FR 3952 (January 27, 2005) (SR–PCX–2004–132) (approving generic listing standards for Commodity-Based Trust Shares and trading, on a UTP basis, of the iShares® COMEX Gold Trust pursuant to NYSE Arca Equities Rule 8.201).

Trust Shares),[9] 8.203 (Commodity Index Trust Shares),[10] 8.300 (Partnership Units),[11] and 8.400 (Paired Trust Shares).[12] In addition, the Exchange proposes to amend NYSE Arca Equities Rule 7.35(e)(3)(E) to include references to NYSE Arca Equities Rule 5.1(b)(18) which defines the term ''Exchange-Traded Funds.''

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act [13] in general and furthers the objectives of Section 6(b)(5) of the Act [14] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

[9] *See* Securities Exchange Act Release No. 53253 (February 8, 2006), 71 FR 8029 (February 15, 2006) (SR–PCX–2005–123) (approving generic listing standards for Currency Trust Shares and trading, on a UTP basis, of the Euro Currency Trust pursuant to NYSE Arca Equities Rule 8.202).

[10] *See* Securities Exchange Act Release No. 54025 (June 21, 2006), 71 FR 36856 (June 28, 2006) (SR–NYSEArca–2006–12) (approving generic listing standards for Commodity Index Trust Shares and trading, on a UTP basis, of the iShares® GSCI Commodity Indexed Trust pursuant to NYSE Arca Equities Rule 8.203).

[11] *See* Securities Exchange Act Release No. 53875 (May 25, 2006), 71 FR 32164 (June 2, 2006) (SR–NYSEArca–2006–11) (approving generic listing standards for Partnership Units and trading, on a UTP basis, of the United States Oil Fund, LP pursuant to NYSE Arca Equities Rule 8.300).

[12] *See* Securities Exchange Act Release No. 34–55033 (December 29, 2006), 72 FR 1253 (January 10, 2007) (SR–NYSEArca–2006–75) (approving generic listing standards for Paired Trust Shares and trading, on a UTP basis, of the Claymore MACRO Tradeable Shares pursuant to NYSE Arca Equities Rule 8.400).

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) impose any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act,[15] and Rule 19b–4(f)(6) thereunder.[16]

At any time within 60 days of the filing of the proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2007–40 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2007–40. 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 Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File number SR–NYSEArca–2007–40 and should be submitted by or before June 13, 2007.

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6). The Commission notes that the Exchange satisfied the five-day pre-filing notice requirement.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E7–9856 Filed 5–22–07; 8:45 am]

BILLING CODE 8010–01–P

[17] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new and/or currently approved information collection.

DATES: Submit comments on or before July 23, 2007.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Teresa Lewis, Assistant Administrator, Office of Management and Technical Assistance Small Business Administration, 409 3rd Street, SW., 8th Floor, Wash., DC 20416.

FOR FURTHER INFORMATION CONTACT: Teresa Lewis, Assistant Administrator, Office of Management and Technical Assistance 202–619–1624 *teresa.lewis@sba.gov.* Curtis B. Rich,

Management Analyst, 202–205–7030 *curtis.rich@sba.gov*.

SUPPLEMENTARY INFORMATION:

Title: ''Small Business Administration Application for Certificate of Competency.''

Description of Respondents: Small Business Owners.

Form No: 1531.

Annual Responses: 300.

Annual Burden: 2,400.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Carol Fendler, System Accountant, Investment Division Small Business Administration, 409 3rd Street, SW., 6th Floor, Wash., DC 20416.

FOR FURTHER INFORMATION CONTACT: Carol Fendler, System Accountant, Investment Division 202–205–7559 *carol.fendler@sba.gov* Curtis B. Rich, Management Analyst, 202–205–7030 *curtis.rich@sba.gov*.

SUPPLEMENTARY INFORMATION:

Title: ''SBIC Financial Reports.''

Description of Respondents: Small Business Investment Companies.

Form No's: 468, 468.1, 468.2, 468.3, 468.4.

Annual Responses: 1,265.

Annual Burden: 19,855.

Title: ''Portfolio Financing Report.''

Description of Respondents: Small Business Investment Companies.

Form No: 1031.

Annual Responses: 4,000.

Annual Burden: 800.

Title: ''Financing Eligibility Statement—Social Disadvantage/ Economic Disadvantage.''

Description of Respondents: Small Business seeking financing from specialized Small Business Investment Companies (SSBIC).

Form No's: 1941A, 1941B, 1941C.

Annual Responses: 190.

Annual Burden: 380.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. E7–9905 Filed 5–22–07; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 5809]

Culturally Significant Objects Imported for Exhibition Determinations: ''A Mirror of Nature: Nordic Landscape Painting 1840–1910''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''A Mirror of Nature: Nordic Landscape Painting 1840–1910'', imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Minneapolis Institute of Arts, Minneapolis, Minnesota, from on or about June 24, 2007, until on or about September 24, 2007, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Paul Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: (202) 453–8050). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: May 16, 2007.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E7–9930 Filed 5–22–07; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 5811]

Notice of Public Meeting on FY 2008 Refugee Admissions Program

There will be a meeting on the President's FY 2008 Refugee Admissions Program on Wednesday, June 6, 2007 from 2 p.m. to 4 p.m. The meeting will be held at the Refugee Processing Center, 1401 Wilson Boulevard, Suite 700, Arlington, Virginia. The meeting's purpose is to hear the views of attendees on the appropriate size and scope of the FY 2008 Refugee Admissions Program.

Seating is limited. Persons wishing to attend this meeting must notify the Bureau of Population, Refugees, and Migration at telephone (202) 663–1006 by 5 p.m. on Wednesday, May 30, 2007, to arrange for admission. Persons wishing to present oral comments, or to submit written comments for consideration, must provide them in writing by 5 p.m. on Wednesday, May 30, 2007. All comments should either be e-mailed to *spruellda@state.gov* or faxed to (202) 663–1364.

Any questions about the public meeting should be directed to Delicia Spruell, PRM/Admissions Program Officer at (202) 663–1006. Information about the Refugee Admissions Program may be found at *http://www.state.gov/g/prm/*

Dated: May 17, 2007.

Richard L. Greene,

Acting Assistant Secretary, Department of State.

[FR Doc. E7–9924 Filed 5–22–07; 8:45 am]

BILLING CODE 4710–33–P

DEPARTMENT OF STATE

[Public Notice 5765]

Shipping Coordinating Committee Notice of Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 9:30 a.m. on Wednesday, May 30, 2007, in Room 6103 of the United States Coast Guard Headquarters Building, 2100 Second Street, SW., Washington, DC, 20593–0001. The primary purpose of the meeting is to discuss the testing of voluntary guidelines to monitor carbon dioxide emissions from ships operating internationally.

The International Maritime Organization (IMO), a specialized agency of the United Nations that focuses on improving maritime safety and marine environmental protection, is considering the international regulation of greenhouse gas emissions from ships at its 56th session of the Marine Environment Protection Committee to be held at IMO Headquarters in London, England from July 9th to July 13th, 2007. The open meeting scheduled for Wednesday, May 30, 2007, will focus solely on the discussion of greenhouse gas emissions from ships and the

voluntary guidelines developed by IMO to monitor carbon dioxide emissions from ships operating internationally in anticipation of the MEPC 56 meeting. There will be a separate open meeting scheduled for June 20, 2007, to consider all of the items on the agenda for the MEPC 56 meeting.

In this context, IMO has drafted voluntary guidelines to monitor CO_2 emissions from ships operating internationally. These draft guidelines describe how to generate a CO_2 ''index'' (CO_2 emissions per unit of cargo and kilometer traveled) for each ship in a fleet. IMO member countries have been asked to test the draft guidelines, collect data on a ship's fuel consumed, distance sailed, and cargo carried over one year of operations; and to then apply the calculations in the guidelines to determine the CO_2 index for ships. The draft guidelines' aim to help owners monitor and improve the fuel efficiency of their operations and allow comparisons between the performances of different ships of a certain type (for example: Tankers, cargo ships, or passenger ferries). IMO countries are engaged in a trial period for the guidelines which goes until 2009. Following the trial period, the guidelines will be reassessed, and if found useful, voluntarily implemented internationally.

The U.S. Government would greatly appreciate any assistance that U.S. ship owners may be willing to provide, on a strictly voluntary basis, in testing these guidelines and submitting the results of their testing to the Coast Guard. If shipowners were to test the guidelines, we recommend ship that owners:

1. Collect data on a ship's fuel consumed, distance sailed, and cargo carried over one year of operations; and
2. Apply the calculations in the guidelines to determine the CO_2 index for each ship.

Members of the public are invited to attend the SHC meeting up to the seating capacity of the room. To facilitate the building security process, those who plan to attend should call or send an e-mail two days before the meeting to LT Kevin Ferrie, *Kevin.B.Ferrie@uscg.mil.*

We welcome any feedback on the guidelines, particularly if you have any difficulties, questions, or suggestions for improvement. Your assistance in testing the guidelines will help ensure that any views and concerns you have are taken into consideration in finalizing these voluntary guidelines and that they will be easy to use once they are finalized, which we anticipate to be in 2009.

The draft guidelines, as well as more specific information on how to test them, can be obtained by contacting the Coast Guard through the contact information below.

The public should also be aware that other countries have invited commercial fleets under their respective flags to test the draft guidelines. If members of the public would like data that has already been submitted, please contact the individual listed below for further information.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne Lundy, Systems Engineering Division, Commandant (CG–3PSE–3), telephone 202–372–1379, or by e-mail at *Wayne.M.Lundy@uscg.mil.*

Dated: May 8, 2007.

Michael E. Tousley,

Executive Secretary, Shipping Coordinating Committee, Department of State.

[FR Doc. E7–9922 Filed 5–22–07; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF STATE

[Public Notice 5766]

Shipping Coordinating Committee Notice of Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 9:30 a.m. on Wednesday, May 30, 2007, in Room 2415 of the United States Coast Guard Headquarters Building, 2100 2nd Street SW., Washington, DC, 20593–0001. The primary purpose of the meeting is to prepare for the 15th Session of the International Maritime Organization (IMO) Sub-Committee on Flag State Implementation to be held at the Royal Horticultural Halls and Conference Centre in London, England from June 4th to 8th.

The primary matters to be considered include:

—Responsibilities of Governments and measures to encourage flag State compliance;
—Port State Control (PSC) Guidelines on seafarers' working hours;
—Harmonization of port State control activities;
—Comprehensive analysis of difficulties encountered in the implementation of IMO instruments;
—Mandatory reports under International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 (MARPOL 73/78);
—Casualty statistics and investigations;
—Review of the Code for the investigation of marine casualties and incidents;
—Review of the Survey Guidelines under the Harmonized System of Survey and Certification (HSSC)—(resolution A.948(23));
—Development of guidelines on port State control under the 2004 Ballast Water Management (BWM) Convention;
—Port reception facilities-related issues;
—Illegal, unregulated and unreported (IUU) fishing and implementation of resolution A.925(22);
—Consideration of International Association of Classification Societies (IACS) unified interpretations;

Members of the public may attend this meeting up to the seating capacity of the room. To facilitate the building security process, those who plan to attend should call or send an e-mail two days before the meeting to *Emanuel.J.TerminellaJr@uscg.mil.* Interested persons may seek information by writing to Mr. E.J. Terminella, Commandant (CG–3PCV), U.S. Coast Guard Headquarters, 2100 Second Street SW., Room 1116, Washington, DC 20593–0001 by calling (202) 372–1239, or by e-mail.

Dated: May 10, 2007.

Michael E. Tousley,

Executive Secretary, Shipping Coordinating Committee, Department of State.

[FR Doc. E7–9931 Filed 5–22–07; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RNP SAAAR Approval Consultant Opportunities

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice and request for applications

SUMMARY: The Federal Aviation Administration (FAA) announced today that it is seeking to identify qualified industry consultants to assist 14 Code of Federal Regulations (CFR) part 91, 121, 125, 129, 135 applicants as they pursue approval to conduct ''Required Navigation Performance Special Aircraft and Aircrew Authorization Required'' (RNP SAAAR) approaches. Provisions for gaining those approvals are contained within FAA Advisory Circular 90–101, ''Approval Guidance for RNP Procedures with SAAAR.'' Applicants who meet certain qualifications will be permitted to enter into an agreement with the FAA to be listed as RNP SAAAR Approval Consultants.

DATES: Formal letter of application must be received on or before June 30, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. Vincent Chirasello, Federal Aviation Administration, AFS–400 Flight Technologies and Procedures Division, 470 L'Enfant Plaza, Suite 4102, Washington, DC 20024, (202) 385–4586

SUPPLEMENTARY INFORMATION: RNP SAAAR procedures provide an opportunity to improve safety, efficiency and capacity. Safety is improved when RNP approaches replace visual or non-precision approaches, and efficiency is improved through more repeatable and optimum flight paths. Capacity can be improved by de-conflicting traffic during instrument conditions. RNP SAAAR procedures provide an unprecedented flexibility in construction of approach procedures. RNP SAAAR procedures build upon the performance based National Airspace System (NAS) concept. The performance requirements to conduct an approach are defined, and aircraft are qualified against these performance requirements. RNP approaches include unique characteristics that require special aircraft and aircrew capabilities and authorization similar to Category (CAT) II/III ILS operations.

The AC 90–101 RNP SAAAR approval process is complex and the success of the process depends on the quality of the application. Although the FAA is committed to providing approval services, a reduced budget and increase in attrition leaves fewer resources available to assist new entrants in the approval process. In an effort to address this new RNP SAAAR entrant need, the FAA will develop and maintain a list of qualified AC 90–101 RNP SAAAR Approval Consultants to assist in the approval process. This process will benefit the general public by helping expedite new entrant applications.

(a) Eligibility Requirements: To be identified as an FAA-qualified RNP SAAAR Approval Consultant, the following qualifications must be met:

(1) Have understanding of AC 90–101, as revised, to include the individual appendices. This includes a thorough understanding of the approval process.

(2) At least 2 years experience working with RNP SAAAR or equivalent procedures.

(3) Upon selection for the program, successfully complete an RNP SAAAR Approval Process Seminar.

(4) Have operations and airworthiness personnel qualified through training, experience, and expertise in 14 CFR part 91,121,125,129 and/or 135 operations, or equivalent experience.

(b) Required Documentation: An applicant to become an RNP SAAAR Approval Consultant must submit a formal letter of request in addition to the following documents:

(1) Statement substantiating that the RNP SAAAR Approval Consultant applicant meets eligibility requirements as stated in item (a) above.

(2) Supplemental statement including the names, signatures, and titles of those persons who will perform the authorized functions, and substantiating that they meet the eligibility requirements.

(3) RNP SAAAR Approval Consultant Operations Manual.

(4) References.

(5) Certification that, to the best of its knowledge and belief, the persons serving as management of the organization have not been convicted of, or had a civil or administrative finding rendered against, them for: Commission of fraud, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

(c) How to Apply: An RNP SAAAR Consultant applicant must submit all required documents for consideration before being identified as an FAA-qualified RNP SAAAR Approval Consultant to: Mr. Vincent Chirasello, Federal Aviation Administration, AFS–400 Flight Technologies and Procedures Division, 470 L'Enfant Plaza, Suite 4102, Washington, DC 20240.

(d) Application Process: Upon receipt of the application, AFS–400, will:

(1) Ensure the RNP SAAAR Approval Consultant application package contains all the required documents as listed in item (b) above.

(2) Evaluate documents for accuracy.

(3) Ensure the RNP SAAAR consultant application package contains all the eligibility requirements as listed in item (a) above.

(4) Contact the applicant's personal references.

(5) Conduct a personal interview with the applicant; including those persons within organizations, if any, who will perform authorized functions.

(e) See the following Web site for additional information, *http://www.faa.gov/about/office_org/headquarters_offices/avs/offices/afs/afs400/afs410/rnp/.*

Authority: The FAA is authorized to enter into this Agreement by 49 U.S.C. 106(1), (6) and (m).

Issued in Washington, DC on May 17, 2007.

John M. Allen

Deputy Director, Flight Standards Service, AFS–2G

[FR Doc. 07–2568 Filed 5–22–07; 8:45 am1

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2007–27510]

Agency Information Collection Activities; Request for Comment; Revision of an Information Collection: Driver Qualification Files

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for review and approval and invites public comment. The FMCSA requests approval to revise an ICR entitled, ''Driver Qualification Files,'' which is used to promote safety in the operations of motor carriers of property and passengers by promoting the hiring and retention of responsible drivers of commercial motor vehicles (CMVs).

DATES: Comments must be submitted on or before July 23, 2007.

ADDRESSES: You may submit comments identified by any of the following methods. Please identify your comments by the FMCSA Docket Number FMCSA–2007–27510.

- Web site: *http://dms.dot.gov.* Follow instructions for submitting comments to the Docket.
- Fax: 202–493–2251.
- Mail: U.S. Department of Transportation, Docket Management Facility, 400 Seventh Street, S.W., Plaza level, Washington, DC 20590–0001.
- Hand Delivery: Plaza level of the Nassif, Building, 400 Seventh Street, SW., Washington DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Docket: For access to the Docket Management System (DMS) to read background documents or comments received, go to *http://dms.dot.gov* at any time or to the plaza level of the Nassif Building, 400 Seventh Street, S.W., Washington DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. The DMS is available electronically 24 hours each day, 365 days each year. If you want notification of receipt of your comments, please include a self-addressed, stamped envelope, or postcard or print the acknowledgement page that appears after submitting comments on-line.

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

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Yager, Chief, Driver and Carrier Operations Division, Office of Bus and Truck Standards and Operations, MC–PSD, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590–0001. Telephone: 202–366–4009. E-mail: *MCPSD@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Motor Carrier Safety Act of 1984 (Pub. L. 98–554, Title II, 98 Stat 2834 (October 30, 1984)) requires the Secretary of Transportation (Secretary) to issue regulations pertaining to CMV safety. The regulations require motor carriers to maintain specified information in a driver qualification (DQ) file for each CMV driver it employs. The DQ file contains the minimum information necessary to document the qualifications of a driver to operate a CMV in interstate commerce and in intrastate commerce under compatible State laws and regulations. The authority to require carriers to maintain DQ files is 49 U.S.C. 504, 31133, 31136, and 31502, and 49 CFR 1.73 and 391.51.

This information is available to FMCSA investigators to substantiate the qualifications of each driver to operate a CMV in interstate commerce safely. A qualified driver means fewer crashes.

Title: Driver Qualification Files.

OMB Control Number: 2126–0004.

Type of Request: Revision of a currently approved information collection.

Respondents: Motor Carriers; and Drivers who are also Motor Carriers.

Estimated Number of Respondents: 7 million.

Estimated Time per Response: An average of 28 minutes.

Expiration Date: June 30, 2007.

Frequency of Response: Many of these obligations concern activities involving the hiring of a driver. They also include the obligations of all entities that have employed this applicant-driver in the past 3 years in a safety-sensitive position; usually these are other motor carriers. These obligations occur irregularly because they are associated with the variable needs of motor carriers for new drivers. In addition, this collection imposes obligations that pertain to motor carriers and their employee-drivers. Most of these obligations must be met annually.

Estimated Total Annual Burden: 3,254,580 hours. FMCSA arrives at this estimate through calculation of the time involved with each of the following requirements of the driver qualification regulations:

(A) General Requirements for the Hiring of a Driver by a Motor Carrier are as follows:

(1) Application for employment of the applicant-driver; and

(2) Driving record of the applicant-driver.

(B) Safety Performance History of the Applicant-Driver involves the following:

(1) Investigation by the hiring motor carrier;

(2) Former employer submitting to the hiring motor carrier a copy of its safety performance history on the applicant-driver;

(3) Request of the applicant-driver for a copy of the history; and

(4) Rebuttal of the history by the applicant-driver.

(C) Other Driver Qualification Requirements are as follows:

(1) Employee-driver's certificate of violations;

(2) Motor carrier's review of employee-driver's driving record(s); and

(3) Drivers for more than one motor carrier.

The medical certificate is also required to be included in the Driver's Qualification File. However, the Agency has a separate OMB approval for the medical certificate component of the Driver Qualification Files.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FMCSA's performance; (2) the accuracy of the estimated burden; (3) ways for the FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued on: May 17, 2007.

D. Marlene Thomas,

Associate Administrator for Administration.

[FR Doc. E7–9947 Filed 5–22–07; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2007–27924]

Notice of Request for Information (RFI): Training Certification for Entry-Level Commercial Motor Vehicle Operators

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for review and approval, and invites public comment. The FMCSA requests approval to revise an ICR entitled, ''Training Certification for Entry-Level Commercial Motor Vehicle Operators,'' that relates to the training requirements for drivers applying for a commercial drivers license.

DATES: We must receive your comments on or before July 23, 2007.

ADDRESSES: You may submit comments identified by any of the following methods. Please identify your comments by the FMCSA Docket Number FMCSA–2007–27924.

- Web site: *http://dms.dot.gov.* Follow instructions for submitting comments to the Docket.
- Fax: 202–493–2251.
- Mail: U.S. Department of Transportation, Docket Management Facility, 400 Seventh Street, SW., Plaza level, Washington, DC 20590–0001.
- Hand Delivery: Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington DC, between 9 a.m. and 5 p.m., e.t. Monday through Friday, except Federal holidays.

Docket: For access to the Docket Management System (DMS) to read background documents or comments received, go to *http://dms.dot.gov* at any time or to the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., e.t. Monday through Friday, except Federal holidays. The DMS is available electronically 24 hours each day, 365 days each year. If you want notification of receipt of your comments, please include a self-addressed, stamped envelope, or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone is able to search the electronic form of all comments

received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** on April 11, 2000 (65 FR 19477), or you may visit *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Yager, Chief, Driver and Carrier Operations Division, Office of Bus and Truck Standards and Operations, MC–PSD, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590–0001. Telephone: 202–366–4009. E-mail: *MCPSD@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Commercial Motor Vehicle Safety Act of 1986 (CMVSA) (49 U.S.C. 31301 *et seq.*) established national minimum testing and licensing standards for operators of large trucks and buses. Congress sought to ensure that drivers of large trucks and buses possessed the knowledge and skills necessary to operate these vehicles. The CMVSA established the ''Commercial Drivers License'' (CDL) program and directed the Federal Highway Administration (FHWA), FMCSA's predecessor agency, to establish minimum Federal standards that States must meet when licensing CMV drivers. The CMVSA applies to most operators of CMVs in interstate or intrastate commerce, including employees of Federal, State and local governments.

Section 4007(a)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) (Public Law 102–240, December 18, 1991) directed the FHWA to ''commence a rulemaking proceeding on the need to require training of all entry-level drivers of CMVs.'' On June 21, 1993, the FHWA published in the **Federal Register** an advance notice of proposed rulemaking entitled, ''Commercial Motor Vehicles: Training for All Entry Level Drivers'' (58 FR 33874). The Agency also began a study of the effectiveness of the training of entry-level drivers by the private sector. The results of the study were published in 1997 under the title ''Adequacy of Commercial Motor Vehicle Driver Training,'' and are available in FMCSA Docket 1997–2199. The study found that the heavy truck, motor coach, and school bus segments of the industry were not providing adequate entry-level training.

On August 15, 2003, FMCSA published a notice of proposed rulemaking (NPRM) entitled, ''Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators'' (68 FR 48863). The Agency proposed mandatory training for operators of CMVs in four areas: driver qualifications, hours-of-service of drivers, driver wellness and whistle-blower protection. Training in these topics was not required at that time, and the Agency believed that knowledge of these areas was crucial to CMV safety. On May 21, 2004, FMCSA published a final rule with the same title as the NPRM (69 FR 2004). The Agency mandated training for all CDL operators in the four subject areas, effective July 20, 2004. On June 11, 2004, OMB approved the information collection associated with this requirement for a period of three years expiring June 30, 2007.

Title: Training Certification for Entry-Level Commercial Motor Vehicle Operators.

OMB Control Number: 2126–0028.

Type of Request: Revision of a currently-approved information collection.

Respondents: Entry-level CDL drivers.

Estimated Number of Respondents: 45,611.

Estimated Time per Response: 10 minutes.

Expiration Date: June 30, 2007.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 7,602 hours. FMCSA estimates that an entry-level driver requires approximately 10 minutes to complete the tasks necessary to comply with the regulation. Those tasks are: photocopying the training certificate, giving the photocopy to the motor carrier employer, and placing the original of the certificate in a personal file. Therefore, the annual burden for all entry-level drivers is $(45{,}611 \times 10/60) = 7{,}602$ hours (rounded).

Definitions: ''Commercial Motor Vehicles (CMVs)'': This rule applies to the operators of a specific sub-group of commercial vehicles, i.e. those having a gross vehicle weight rating of 26,001 pounds or more, regardless of weight; are designed to transport 16 or more passengers; or are used to transport placardable and dangerous hazardous materials (49 CFR 383.5). The term ''CMV'' is limited to this definition in this document; the term ''CDL driver'' is used because the operators of these CMVs are required to have a valid commercial driver's license (CDL). This rule currently applies solely to ''entry-level'' CDL drivers, i.e. those who have no experience operating a CMV (49 CFR 380.502(b)).

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FMCSA's performance; (2) the accuracy of the estimated burden; (3) ways for the FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. The Agency will summarize or include your comments in the request for OMB's clearance of this information collection.

Issued on: May 17, 2007.

D. Marlene Thomas,

Associate Administrator for Administration.

[FR Doc. E7–9948 Filed 5–22–07; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2007–27181 (Notice No. 07–2)]

Information Collection Activities Under OMB Review

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Requests (ICR) abstracted below will be forwarded to the Office of Management and Budget (OMB) for review and comments. The ICRs describe the nature of the information collections and their expected burden. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following collections of information was published on February 26, 2007 [72 FR 8421]. In response to our Notice, we received one comment concerning the renewal of OMB Control No. 2137–0586, ''The Hazardous Materials Public Sector Training and Planning Grants.'' A summary of the comment and our response can be found under the abstract for OMB Control No. 2137–0586.

DATES: Interested persons are invited to submit comments on or before June 22, 2007.

ADDRESSES: Because of the recent relocation of the Department of Transportation's Docket Operations facility, which manages the Document Management System (DMS), comments to this notice may be submitted as follows:

1. *During the office closure May 25, 2007, through May 29, 2007:*

a. Electronically through the DMS at *http://dms.dot.gov*, which is available 24 hours a day/7 days a week. Click on ''Help & Information'' to obtain instructions for filing the document electronically.

b. By mail through the U.S. Postal Service after Thursday, May 24, 2007, addressed to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Ave SE., Washington, DC 20590.

Mail will be forwarded to the new building during this transition period.

2. *When the DMS computer is down from June 13, 2007, through June 17, 2007:*

a. By mail addressed to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Ave SE., Washington, DC 20590.

b. By hand delivery to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Ave SE., Washington, DC 20590.

In every case, the comment should refer to the Docket Number PHMSA–2007–27181 (Notice No. 07–2).

Requests for a copy of an information collection should be directed to Deborah Boothe or T. Glenn Foster, U.S. Department of Transportation, Office of Hazardous Materials Standards (PHH–11), Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590–0001, Telephone (202) 366–8553.

FOR FURTHER INFORMATION CONTACT: Deborah Boothe or T. Glenn Foster, U.S. Department of Transportation, Office of Hazardous Materials Standards (PHH–11), Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue, SE., East Building, 2nd Floor, Washington, DC. 20590–0001, Telephone (202) 366–8553.

SUPPLEMENTARY INFORMATION: Section 1320.8 (d), Title 5, Code of Federal Regulations requires PHMSA to provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This notice identifies information collection requests that PHMSA will be submitting to OMB for renewal and extension. These information collections are contained in 49 CFR parts 110 and 130 and the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180). PHMSA has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on changes in proposed or final rules published since the information collections were last approved. *The following information is provided for each information collection:* (1) Title of the information collection, including former title if a change is being made; (2) OMB control number; (3) abstract of the information collection activity; (4) description of affected public; (5) estimate of total annual reporting and recordkeeping burden; and (6) frequency of collection. PHMSA will request a three-year term of approval for each information collection activity and, when approved by OMB, publish notice of the approval in the **Federal Register**.

PHMSA requests comments on the following information collections:

Title: Requirements for Cargo Tanks.

OMB Control Number: 2137–0014.

Type of Request: Extension of a currently approved information collection.

Abstract: This information collection consolidates and describes the information collection provisions in parts 178 and 180 of the HMR involving the manufacture, qualification, maintenance and use of all specification cargo tank motor vehicles. It also includes the information collection and recordkeeping requirements for persons who are engaged in the manufacture, assembly, requalification and maintenance of DOT specification cargo tank motor vehicles. The types of information collected include:

(1) *Registration Statements:* Cargo tank manufacturers and repairers, and cargo tank motor vehicle assemblers are required to be registered with DOT by furnishing information relative to their qualifications to perform the functions in accordance with the HMR. The registration statements are used to identify these persons in order for DOT to ensure that they possess the knowledge and skills necessary to perform the required functions and they are performing the specified functions in accordance with the applicable regulations.

(2) *Requalification and maintenance reports:* These reports are prepared by persons who requalify or maintain cargo tanks. This information is used by cargo tank owners, operators and users, and DOT compliance personnel to verify that the cargo tanks are requalified, maintained and are in proper condition for the transportation of hazardous materials.

(3) *Manufacturers' data reports, certificates and related papers:* These reports are prepared by cargo tank manufacturers and certifiers, and are used by cargo tank owners, operators, users and DOT compliance personnel to verify that a cargo tank motor vehicle was designed and constructed to meet all requirements of the applicable specification.

Affected Public: Manufacturers, assemblers, repairers, requalifiers, certifiers and owners of cargo tanks.

Recordkeeping:

Estimated Number of Respondents: 41,366.

Estimated Number of Responses: 132,600.

Estimated Annual Burden Hours: 102,021.

Frequency of Collection: Periodically.

Title: Inspection and Testing of Portable Tanks and Intermediate Bulk Containers.

OMB Control Number: 2137–0018.

Type of Request: Extension of a currently approved information collection.

Abstract: This information collection consolidates provisions for documenting qualifications, inspections, tests and approvals pertaining to the manufacture and use of portable tanks and intermediate bulk containers under various provisions of the Hazardous Materials Regulations (49 CFR parts 171–180). It is necessary to ascertain whether portable tanks and intermediate bulk containers have been qualified, inspected, and retested in accordance with the HMR. The information is used to verify that certain portable tanks and intermediate bulk containers meet required performance standards prior to their being authorized for use, and to document periodic requalification and testing to ensure the packagings have not deteriorated due to age or physical abuse to a degree that would render them unsafe for the transportation of hazardous materials. Applicable sections include, but are not limited to: § 173.32—requirements for the use of portable tanks; § 173.38—hazardous materials in intermediate bulk containers; § 178.273—approval of specification IM portable tanks and UN portable tanks; § 178.801—general requirements for intermediate bulk containers; § 180.352—requirements for retest and inspection of intermediate bulk containers; and § 180.605—requirements for periodic testing, inspection and repair of portable tanks.

Affected Public: Manufacturers and owners of portable tanks and intermediate bulk containers.

Recordkeeping:

Estimated Number of Respondents: 8,770.

Estimated Number of Responses: 86,100.

Estimated Annual Burden Hours: 66,390.

Frequency of collection: On occasion.

Title: Hazardous Materials Incident Reports.

OMB Control Number: 2137–0039.

Type of Request: Extension of a currently approved information collection.

Abstract: This collection is applicable upon occurrence of incidents as prescribed in §§ 171.15 and 171.16. A Hazardous Materials Incident Report, DOT Form F 5800.1, must be completed by a person in physical possession of a hazardous material at the time a hazardous material incident occurs in transportation, such as a release of materials, serious accident, evacuation or closure of a main artery. Incidents meeting criteria in § 171.15 also require a telephonic report. This information collection enhances the Department's ability to evaluate the effectiveness of its regulatory program, determine the need for regulatory changes, and address emerging hazardous materials transportation safety issues. The requirements apply to all interstate and intrastate carriers engaged in the transportation of hazardous materials by rail, air, water, and highway.

Affected Public: Shippers and carriers of hazardous materials.

Recordkeeping:

Estimated Number of Respondents: 1,781.

Estimated Number of Responses: 17,810.

Estimated Annual Burden Hours: 23,746.

Frequency of collection: On occasion.

Title: Flammable Cryogenic Liquids.

OMB Control Number: 2137–0542.

Type of Request: Extension of a currently approved information collection.

Abstract: Provisions in § 177.840 specify certain safety procedures and documentation requirements for drivers of motor vehicles transporting flammable cryogenic liquids. This information allows the driver to take appropriate remedial actions to prevent a catastrophic release of the flammable cryogenics should the temperature of the material begin to rise excessively or if the travel time will exceed the safe travel time. These requirements are intended to ensure a high level of safety when transporting flammable cryogenics due to their extreme flammability and high compression ratio when in a liquid state.

Affected Public: Carriers of cryogenic materials.

Recordkeeping:

Estimated Number of Respondents: 65.

Estimated Number of Responses: 18,200.

Estimated Annual Burden Hours: 1,213.

Frequency of collection: On occasion.

Title: Container Certification Statement.

OMB Control Number: 2137–0582.

Type of Request: Extension of a currently approved information collection.

Abstract: Shippers of explosives, in freight containers or transport vehicles by vessel, are required to certify on shipping documentation that the freight container or transport vehicle meets minimal structural serviceability requirements. This requirement is intended to ensure an adequate level of safety for transport of explosives aboard vessel and ensure consistency with similar requirements in international standards.

Affected Public: Shippers of explosives in freight containers or transport vehicles by vessel.

Recordkeeping:

Estimated Number of Respondents: 650.

Estimated Number of Responses: 890,000 HM Containers & 4,400 Explosive Containers.

Estimated Annual Burden Hours: 14,908.

Frequency of collection: On occasion.

Title: Hazardous Materials Public Sector Training and Planning Grants.

OMB Control Number: 2137–0586.

Type of Request: Extension of a currently approved information collection.

Abstract: Part 110 of 49 CFR sets forth the procedures for reimbursable grants for public sector planning and training in support of the emergency planning and training efforts of States, Indian tribes and local communities to manage hazardous materials emergencies, particularly those involving transportation. Sections in this part address information collection and recordkeeping with regard to applying for grants, monitoring expenditures, and reporting and requesting modifications.

PHMSA received one comment from the Interested Parties for Hazardous Materials Transportation urging us to require grant applicants to report on the hazardous materials information fees they collect in accordance with § 5125(f) of the Federal hazmat law. The commenter states that such information is important for policy considerations or to determine the appropriateness and necessity of HMEP grant awards.

We have reviewed this request and, based on our findings, will submit a revised information collection to OMB for review and comments in the near future. When we revise the information collection burden for this ICR, we will provide interested members of the public and affected agencies an opportunity to comment by publishing a 60-Day and 30-Day notice in the **Federal Register** describing the nature of the revised information collection and its expected burden.

Affected Public: State and local governments, Indian tribes.

Recordkeeping:

Estimated Number of Respondents: 66.

Estimated Number of Responses: 66.

Estimated Annual Burden Hours: 4,080.

Frequency of collection: On occasion.

Title: Response Plans for Shipments of Oil.

OMB Control Number: 2137–0591.

Type of Request: Extension of a currently approved information collection.

Abstract: In recent years, several major oil discharges damaged the marine environment of the United States. Under authority of the Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990, PHMSA issued regulations in 49 CFR part 130 that require preparation of written spill response plans.

Affected Public: Carriers that transport oil in bulk, by motor vehicle or rail.

Recordkeeping:

Estimated Number of Respondents: 8,000.

Estimated Number of Responses: 8,000.

Estimated Annual Burden Hours: 10,560.

Frequency of collection: On occasion.

Title: Cargo Tank Motor Vehicles in Liquefied Compressed Gas Service.

OMB Control Number: 2137–0595.

Type of Request: Extension of a currently approved information collection.

Abstract: These information collection and recordkeeping requirements pertain to the manufacture, certification, inspection, repair, maintenance, and operation of certain DOT specification and non-specification cargo tank motor vehicles used to transport liquefied compressed gases. These requirements are intended to ensure certain cargo tank motor vehicles used to transport liquefied compressed gases are operated safely, and to minimize the potential for catastrophic releases during unloading and loading operations. They include: (1) Requirements for operators of cargo tank motor vehicles in liquefied compressed gas service to develop operating procedures applicable to

unloading operations and carry the operating procedures on each vehicle; (2) inspection, maintenance, marking, and testing requirements for the cargo tank discharge system, including delivery hose assemblies; and (3) requirements for emergency discharge control equipment on certain cargo tank motor vehicles transporting liquefied compressed gases that must be installed and certified by a Registered Inspector. (See sections 173.315(n); 177.840(l); 180.405; 180.407(h); and 180.416(b), (d) and (f))

Affected Public: Carriers in liquefied compressed gas service, manufacturers and repairers.

Recordkeeping:

Estimated Number of Respondents: 6,958.

Estimated Number of Responses: 920,530.

Estimated Annual Burden Hours: 200,615.

Frequency of collection: On occasion.

Issued in Washington, DC on May 16, 2007.

Theodore L. Willke,

Acting Associate Administrator for Hazardous Materials Safety.

[FR Doc. E7–9872 Filed 5–22–07; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35023]

Dakota, Minnesota & Eastern Railroad Corporation and Iowa, Chicago & Eastern Railroad Corporation—Temporary Trackage Rights Exemption—BNSF Railway Company

BNSF Railway Company (BNSF) has agreed to grant non-exclusive temporary overhead trackage rights to the Dakota, Minnesota & Eastern Railroad Corporation (DME), and the Iowa, Chicago & Eastern Railroad Corporation (ICE)[1] (DME and ICE are referred to collectively as ''User'') over BNSF's lines between milepost 146.0 on BNSF's Corson Subdivision at Sioux Falls, SD, and milepost 705.5 on BNSF's Aberdeen Subdivision at Wolsey, SD, a distance of approximately 149.8 miles.[2]

The transaction is scheduled to be consummated on or after June 1, 2007, the effective date of the exemption (30 days after the exemption was filed). The temporary trackage rights will expire on November 22, 2007.[3]

The purpose of the temporary trackage rights is solely for the overhead movement of User's business cars (and engines and end-of-train devices required to operate those business cars).

As a condition to this exemption, any employee affected by the acquisition of the temporary 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), and any employee affected by the discontinuance of those trackage rights will be protected by the conditions set out in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

This notice is filed under 49 CFR 1180.2(d)(8). If it 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 transaction. Any stay petition must be filed on or before May 25, 2007 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35023, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Michael J. Barron, Jr., Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606.

Board decisions and notices are available on our Web site at ''*WWW.STB.DOT.GOV.*''

Decided: May 11, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E7–9911 Filed 5–22–07; 8:45 am]

BILLING CODE 4915–01–P

[1] ICE is a wholly owned subsidiary of Cedar American Rail Holdings, Inc. which in turn is wholly owned by DME.

[2] User indicates that this is a ''reinstatement'' of a previous trackage rights agreement between the same parties and also involving the above-referenced track, in STB Finance Docket No. 34790, which expired on November 22, 2006. They also state that the temporary trackage rights agreement in that proceeding will be incorporated by reference in this proceeding as modified by agreement between User and BNSF signed on April 25, 2007, and filed herein. A request for a protective order was filed concurrently with this exemption and will be addressed in a separate decision.

[3] User states that the parties have agreed on the possible extension of the temporary trackage rights. Any temporary trackage rights extension agreement must be filed with the Board.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–163–84]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS–163–84 (TD 8439), Treatment of Transactions Between Partners and Partnerships §§ 1.707–3(c)(2), 1.707–5(a)(7)(ii), 1.707–6(c) and 1.707–8.

DATES: Written comments should be received on or before July 23, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to R. Joseph Durbala at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202)622–3634, or through the internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Treatment of Transactions Between Partners and Partnerships.

OMB Number: 1545–1243. Regulation Project Number: PS–163–84.

Abstract: Internal Revenue Code section 707(a)(2) provides that if there are transfers of money or property between a partner and a partnership, the transfer will be treated, in certain situations, as a disguised sale between the partner and the partnership. The regulations require that the partner or the partnership should disclose the transfer and certain attendant facts in some situations.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Time Per Respondents: 7,500.

Estimated Time Per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 2,500.

The following paragraph applies to all of the collections of information covered by this notice:

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

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

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 16, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–9857 Filed 5–22–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–124405–03, TD 9168 (final)]

Proposed Collection: Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation. TD 9168, Optional 10-Year Write-off of Certain Tax Preferences.

DATES: Written comments should be received on or before July 23, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the for and instructions should be directed to R. Joseph Durbala, at (202) 622–3634, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet, at *RJoseph.Durbala@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Optional 10-Year Write-off of Certain Tax Preferences.

OMB Number: 1545–1903.

Regulation Project Number: REG–124405–03 [TD 9168 (final)].

Abstract: This collection of information is required by the IRS to verify compliance with section 59(e). This information will be used to determine whether the amount of tax has been calculated correctly.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, Businesses and other for-profit organizations.

Estimated Number of Respondents: 10,000.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Hours: 10,000.

The following paragraph applies to all of the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 16, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–9861 Filed 5–22–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1040–C

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1040–C, U.S. Departing Alien Income Tax Return.

DATES: Written comments should be received on or before July 23, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala

at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3634, or through the internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: U.S. Departing Alien Income Tax Return.

OMB Number: 1545–0086.

Form Number: 1040–C.

Abstract: Form 1040–C reflects Internal Revenue Code section 6851 and regulation sections 1.6851–1 and 1.6851–2. The form is used by aliens departing the U.S. to report income received or expected to be received for the entire year. The information collected is used to insure that the departing alien has no outstanding U.S. tax liability.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 2,000.

Estimated Time Per Respondent: 5 hours, 49 minutes.

Estimated Total Annual Burden Hours: 11,632.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 15, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–9862 Filed 5–22–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 3800

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 3800, General Business Credit.

DATES: Written comments should be received on or before July 23, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3634, or through the internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: General Business Credit.

OMB Number: 1545–0895.

Form Number: Form 3800.

Abstract: Internal Revenue Code section 38 permits taxpayers to reduce their income tax liability by the amount of their general business credit, which is an aggregation of their investment credit, work opportunity credit, welfare-to-work credit, alcohol fuel credit, research credit, low-income housing credit, disabled access credit, enhanced oil recovery credit, etc. Form 3800 is used to figure the correct credit.

Current Actions:

We added new line 1u to accommodate the energy efficient appliance credit (new section 45M).

We added new line 1y to accommodate the mine rescue team training credit (new section 45N).

We deleted Schedule A—Additional General Business Credit Allowed by Code Section 38(c)(2) because this provision has expired. We are making this submission to renew the OMB approval.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations, farms and individuals.

Estimated Number of Respondents: 179,650.

Estimated Time per Respondent: 17 hours, 26 minutes.

Estimated Total Annual Burden Hours: 3,131,300.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 15, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–9866 Filed 5–22–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–19–92]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS–19–92 (TD 8520), Carryover Allocations and Other Rules Relating to the Low-Income Housing Credit (§§ 1.42–6, 1.42–8, and 1.42–10).

DATES: Written comments should be received on or before July 23, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to R. Joseph Durbala, at (202) 622–3634, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Carryover Allocations and Other Rules Relating to the Low-Income Housing Credit.

OMB Number: 1545–1102.

Regulation Project Number: PS–19–92.

Abstract: Section 42 of the Internal Revenue Code provides for a low-income housing tax credit. The regulations provide guidance with respect to eligibility for a carryover allocation, procedures for electing an appropriate percentage month, the general public use requirement, the utility allowance to be used in determining gross rent, and the inclusion of the cost of certain services in gross rent. This information will assist State and local housing tax credit agencies and taxpayers that apply for or claim the low-income housing tax credit in complying with the requirements of Code section 42.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals, business or other for-profit organizations, not-for-profit institutions, and state, local or tribal governments.

Estimated Number of Respondents/Recordkeepers: 2,230.

Estimated Time Per Respondent/Recordkeeper: 1 hr., 48 min.

Estimated Total Annual Reporting/Recordkeeping Burden Hours: 4,008.

The following paragraph applies to all of the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 15, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–9873 Filed 5–22–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–116608–97]

Proposed Collection: Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation. REG–116608–97 EIC Eligibility Requirements (§ 1.32–3).

DATES: Written comments should be received on or before July 23, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the instructions should be directed to R. Joseph Durbala, at (202) 622–3634, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: EIC Eligibility Requirements.

OMB Number: 1545–1575.

Regulation Project Number: REG–116608–97.

Abstract: Under Section 1.32–3, this regulation provides guidance to taxpayers who have been denied the earned income credit (EIC) as a result of the deficiency procedures and wish to claim the EIC in a subsequent year. The regulation applies to taxpayers claiming the EIC for taxable years beginning after December 31, 1996.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 1.

Estimated Time Per Respondent: 1.

Estimated Total Annual Hours: 1.

The following paragraph applies to all of the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 16, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–9882 Filed 5–22–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

IRS Seeking Electronic Tax Administration Advisory Committee (ETAAC) Applicants From Large Businesses

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: The Electronic Tax Administration Advisory Committee (ETAAC) was established to provide continued input into the development and implementation of the Internal Revenue Service (IRS) strategy for electronic tax administration. The ETAAC provides an organized public forum for discussion of electronic tax administration issues in support of the overriding goal that paperless filing should be the preferred and most convenient method of filing tax and information returns. ETAAC members convey the public's perception of IRS electronic tax administration activities, offer constructive observations about current or proposed policies, programs, and procedures, and suggest improvements. This document seeks representatives from large businesses who file annual corporation and partnership tax returns.

The Director, Electronic Tax Administration (ETA) assures that the size and organizational representation of the ETAAC obtains balanced membership and includes representatives from various groups including: (1) Tax practitioners and preparers, (2) transmitters of electronic returns, (3) tax software developers, (4) large and small business, (5) employers and payroll service providers, (6) individual taxpayers, (7) financial industry (payers, payment options and best practices), (8) system integrators (technology providers), (9) academic (marketing, sales or technical perspectives), (10) trusts and estates, (11) tax exempt organizations, and (12) state and local governments. Members serve a three-year term on the ETAAC to allow a change in membership. The change of members on the Committee ensures that different perspectives are represented. All travel expenses within government guidelines will be reimbursed. Potential candidates must pass an IRS tax compliance check and Federal Bureau of Investigation (FBI) background investigation.

DATES: Applications must be received no later than Wednesday, June 6, 2007.

ADDRESSES: Completed applications, resumes, and statements should be submitted by using one of the following methods:

- *E-Mail:* Send to *etaac@irs.gov.*
- *Mail:* Send to Internal Revenue Service, Electronic Tax Administration, SE:W:ETA:S:RM, 5000 Ellin Road (M/Stop C4–470, Attn: Cassandra Daniels (C4–226), Lanham, Maryland 20706.
- *Fax:* Send via facsimile to (202) 283–4829 (not a toll-free number).

Application packages can be obtained by sending an e-mail to *etaac@irs.gov* or calling (202) 283–2178 (not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Cassandra Daniels, (202) 283–2178 or send an e-mail to *etaac@irs.gov.*

SUPPLEMENTARY INFORMATION: The ETAAC will provide continued input into the development and implementation of the Internal Revenue Service (IRS) strategy for electronic tax administration. The ETAAC members will convey the public's perception of IRS electronic tax administration activities, offer constructive observations about current or proposed policies, programs, and procedures, and suggest improvements. The ETAAC will also provide an annual report to Congress on IRS progress in meeting the Restructuring and Reform Act of 1998 goals for electronic filing of tax returns. This activity is based on the authority to administer the Internal Revenue laws conferred upon the Secretary of the Treasury by section 7802 of the Internal Revenue Code and delegated to the Commissioner of the Internal Revenue. The ETAAC will research, analyze, consider, and make recommendations on a wide range of electronic tax administration issues and will provide input into the development of the strategic plan for electronic tax administration.

Completed applications, resumes, and statements should describe and document the proposed member's qualifications for membership to the Committee. Equal opportunity practices will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken into account the needs of the diverse groups served by the Department, membership will include, to the extent practicable, individuals, with demonstrated ability to represent minorities, women, and persons with disabilities. The Secretary of Treasury will review the recommended candidates and make final selections.

Dated: May 18, 2007.

Gregory K. Kay,

Director, Strategic Services Division.

[FR Doc. E7–9952 Filed 5–22–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Low Income Taxpayer Clinic Grant Program; Availability of 2008 Grant Application Package

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This document contains a notice that the IRS has made available the grant application package and guidelines (Publication 3319) for organizations interested in applying for a Low Income Taxpayer Clinic (LITC) matching grant for the 2008 grant cycle (January 1, 2008, through December 31,

2008). The IRS will award a total of up to $6,000,000 (unless otherwise provided by specific Congressional appropriation) to qualifying organizations, subject to the limitations of Internal Revenue Code section 7526, for LITC matching grants.

DATES: Grant applications for the 2008 grant cycle must be postmarked or filed electronically by July 6, 2007.

ADDRESSES: Send completed grant applications to: Internal Revenue Service, Taxpayer Advocate Service, LITC Program Office, TA:LITC, Attention: LITC Applications, 1111 Constitution Ave., NW., Room 1034, Washington, DC 20224. Copies of the *2008 Grant Application Package and Guidelines,* IRS Publication 3319 (Rev. 5–2007), can be downloaded from the IRS Internet site at *www.irs.gov/advocate* or ordered from the IRS Distribution Center by calling 1–800–829–3676. Applicants can also file electronically at *www.grants.gov.* For applicants applying through the Federal Grants Web site, the Funding Number is TREAS–GRANTS–052008–001.

FOR FURTHER INFORMATION CONTACT: The LITC Program Office at 202–622–7186 (not toll-free number) or by e-mail at *LITCProgramOffice@irs.gov.*

SUPPLEMENTARY INFORMATION:

Background

Section 7526 of the Internal Revenue Code authorizes the IRS, subject to the availability of appropriated funds, to award organizations matching grants of up to $100,000 per year for the development, expansion, or continuation of qualified low income taxpayer clinics. Section 7526 authorizes the IRS to provide grants to qualified organizations that represent low income taxpayers in controversies with the IRS or inform individuals for whom English is a second language or who have limited English proficiency of their taxpayer rights and responsibilities. Qualified organizations must provide these services for free or for a nominal fee. The IRS may award grants to qualifying organizations to fund one-year, two-year or three-year project periods. Grant funds may be awarded for start-up expenditures incurred by new clinics during the grant cycle. The costs of preparing and submitting an application are the responsibility of each applicant. Each application will be given due consideration and the LITC Program Office will notify each applicant by mail of whether they were awarded a grant no later than November 30, 2007.

Selection Considerations

Applications that pass the eligibility screening process will be numerically ranked based on the information contained in each proposed program plan. Please note that the IRS Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) Programs are independently funded and separate from the LITC Program. Organizations currently participating in the VITA or TCE Programs may also be eligible to apply for a LITC grant if they meet the criteria and qualifications outlined in the *2008 Grant Application Package and Guidelines.* Organizations that seek to operate VITA and LITC Programs, or TCE and LITC Programs, must maintain separate and distinct programs even if co-located to ensure proper cost allocation for LITC grant funds and adherence to the rules and regulations of the VITA, TCE, and LITC Programs, as appropriate. In addition to the criteria and qualifications outlined in the *2008 Grant Application Package and Guidelines,* to foster parity regarding clinic availability and accessibility for taxpayers nationwide, the IRS will consider the geographic areas served by applicants as part of the decision-making process.

Comments

Interested parties are encouraged to provide comments on the IRS's administration of the grant program on an ongoing basis. Comments may be sent to: Internal Revenue Service, Taxpayer Advocate Service, Attn: Shawn Collins, Internal Revenue Service, Taxpayer Advocate Service, LITC Program Office, TA:LITC, 1111 Constitution Ave., NW., Room 1034, Washington, DC 20224.

Nina E. Olson,

National Taxpayer Advocate, Internal Revenue Service.

[FR Doc. 07–2572 Filed 5–22–07; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Art Advisory Panel—Notice of Closed Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of closed meeting of Art Advisory Panel.

SUMMARY: Closed meeting of the Art Advisory Panel will be held in Washington, DC.

DATES: The meeting will be held June 20, 2007.

ADDRESSES: The closed meeting of the Art Advisory Panel will be held on June 20, 2007, in Room 4200E beginning at 9:30 a.m., Franklin Court Building, 1099 14th Street, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Karen Carolan, C:AP:AS, 1099 14th Street, NW., Washington, DC 20005. Telephone (202) 435–5609 (not a toll free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App., that a closed meeting of the Art Advisory Panel will be held on June 20, 2007, in Room 4200E beginning at 9:30 a.m., Franklin Court Building, 1099 14th Street, NW., Washington, DC 20005.

The agenda will consist of the review and evaluation of the acceptability of fair market value appraisals of works of art involved in Federal income, estate, or gift tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of 26 U.S.C. 6103.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that this meeting is concerned with matters listed in section 552b(c)(3), (4), (6), and (7), and that the meeting will not be open to the public.

Karen S. Ammons,

Deputy Chief, Appeals.

[FR Doc. E7–9879 Filed 5–22–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Advisory Group to the Internal Revenue Service Tax Exempt and Government Entities Division (TE/GE); Meeting

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: The Advisory Committee on Tax Exempt and Government Entities (ACT) will hold a public meeting on Wednesday, June 13, 2007.

FOR FURTHER INFORMATION CONTACT: Steven J. Pyrek, Director, TE/GE Communications and Liaison; 1111 Constitution Ave., NW.; SE:T:CL—Penn Bldg; Washington, DC 20224. Telephone: 202–283–9966 (not a toll-free number). E-mail address: *Steve.J.Pyrek@irs.gov.*

SUPPLEMENTARY INFORMATION: By notice herein given, pursuant to section

10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), a public meeting of the ACT will be held on Wednesday, June 13, 2007, from 9 a.m. to 2 p.m., at the Internal Revenue Service; 1111 Constitution Ave., NW.; Room 3313; Washington, DC. Issues to be discussed relate to Employee Plans, Exempt Organizations, and Government Entities.

Reports from five ACT subgroups cover the following topics:

- Indian Tribal Governments: Review of Voluntary Self-Compliance Program for Indian Tribal Governments.
- Exempt Organizations: A Proposal for an Exempt Organizations Voluntary Compliance Program.
- Tax-Exempt Bonds: After the Bonds Are Issued: Then What?
- Employee Plans: Improving Compliance for Adopters of Pre-approved Plans.
- Federal, State and Local Governments: A Prototype for Public Sector Defined Contribution Plans.
- Federal, State and Local Governments: Public Employers' Withholding and Reporting for Non-Resident Alien Taxation.

Last minute agenda changes may preclude advance notice. Due to limited seating and security requirements, attendees must call Cynthia PhillipsGrady to confirm their attendance.

Ms. PhillipsGrady can be reached at (202) 283–9954. Attendees are encouraged to arrive at least 30 minutes before the meeting begins to allow sufficient time for security clearance. Picture identification must be presented. Please use the main entrance at 1111 Constitution Ave., NW., to enter the building.

Should you wish the ACT to consider a written statement, please call (202) 283–9966, or write to: Internal Revenue Service; 1111 Constitution Ave., NW.; SE:T:CL–Penn Bldg; Washington, DC 20224, or e-mail *Steve.J.Pyrek@irs.gov*

Dated: May 14, 2007.

Steven J. Pyrek,

Designated Federal Official, Tax Exempt and Government Entities Division.

[FR Doc. E7–9880 Filed 5–22–07; 8:45 am]

BILLING CODE 4830–01–P

U.S.–CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Notice of Open Public Hearing

AGENCY: U.S.—China Economic and Security Review Commission.

ACTION: Notice of open public hearing—June 14–15, 2007, Washington, DC.

SUMMARY: Notice is hereby given of the following hearing of the U.S.-China Economic and Security Review Commission.

Name: Carolyn Bartholomew, Chairman of the U.S.-China Economic and Security Review Commission.

The Commission is mandated by Congress to investigate, assess, evaluate and report to Congress annually on ''the national security implications and impact of the bilateral trade and economic relationship between the United States and the People's Republic of China.'' Pursuant to this mandate, the Commission will hold a public hearing in Washington, DC on June 14–15, 2007 on ''China's Energy Consumption and Opportunities for U.S.-China Cooperation to Address the Effects of China's Energy Use.''

Background

This event is the fourth in a series of public hearings the Commission will hold during its 2007 report cycle to collect input from leading experts in academic, business, industry, government and the public on the impact of the economic and national security implications of the U.S. bilateral trade and economic relationship with China. The June 14–15 hearing is being conducted to examine the trends of China's energy consumption; the strategic and environmental consequences of China's energy use for the United States, China and the world; and strategies for addressing these effects. The June 14–15 hearing on ''China's Energy Consumption and Opportunities for U.S.-Cooperation to Address the Effects of China's Energy Use'' will be co-chaired by Vice Chairman Daniel Blumenthal and Commissioners Richard D'Amato, Dennis Shea, and Peter Videnieks.

Information on this hearing, including a detailed hearing agenda and information about panelists, will be made available on the Commission's Web site closer to the hearing date. Detailed information about the Commission, the texts of its annual reports and hearing records, and the products of research it has commissioned can be found on the Commission's Web site at *http://www.uscc.gov.*

Any interested party may file a written statement by June 14, 2007, by mailing to the contact below.

DATES AND TIMES: Thursday, June 14, 2007, 8:30 a.m. to 4 p.m.; and Friday, June 15, 2007, 9:30 a.m. to 4 p.m. A detailed agenda for the hearing will be posted to the Commission's Web site at *http://www.uscc.gov* in the near future.

ADDRESSES: The hearings will be held on Capitol Hill in Room 385, Russell Senate Office Building, located at Delaware & Constitution Avenues, NE., Washington, DC 20510. Public seating is limited to approximately 50 people on a first come, first served basis. Advance reservations are not required.

FOR FURTHER INFORMATION CONTACT: Kathy Michels, Associate Director for the U.S.-China Economic and Security Review Commission, 444 North Capitol Street, NW., Suite 602, Washington DC 20001; *phone:* 202–624–1409, or via e-mail at *kmichels@uscc.gov.*

Authority: Congress created the U.S.-China Economic and Security Review Commission in 2000 in the National Defense Authorization Act (Public Law 106–398), as amended by Division P of the Consolidated Appropriations Resolution, 2003 (Public Law 108–7), as amended by Public Law 109–108 (November 22, 2005).

Dated: May 17, 2007.

Kathleen J. Michels,

Associate Director, U.S.-China Economic and Security Review Commission.

[FR Doc. E7–9890 Filed 5–22–07; 8:45 am]

BILLING CODE 1137–00–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Disability Benefits Commission; Notice of Meeting

The Department of Veterans' Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Veterans' Disability Benefits Commission has scheduled a meeting for June 7–8, 2007, at the Washington Plaza Hotel, 10 Thomas Circle, NW., Washington, DC. The meeting sessions will begin at 8 a.m. and end between 5–5:30 p.m. each day. The meeting is open to the public.

The purpose of the Commission is to carry out a study of the benefits under the laws of the United States that are provided to compensate and assist veterans and their survivors for disabilities and deaths attributable to military service.

The agenda for the meeting will feature updates on the progress of the studies being conducted by the Center for Naval Analyses (CNA) and the Institute of Medicine (IOM). There will be additional discussions with CNA on topics of ongoing research and analyses. The IOM Committees on Presumptions and Medical Evaluation of Veterans for Disability are expected to provide an overview of each Committee's final report and discuss their findings with the Commission. The Commission will receive presentations on several draft

Issue Papers in various stages of development, discuss priorities for future meetings and sections of the Commissions final report.

Interested persons may attend and present oral statements to the Commission on June 8. Oral presentations will be limited to five minutes or less, depending on the number of participants. Interested parties may also provide written statements for review by the Commission prior to the meeting or at any time, by e-mail to *veterans@vetscommission.com* or by mail to Mr. Ray Wilburn, Executive Director, Veterans' Disability Benefits Commission, 1101 Pennsylvania Avenue, NW., 5th Floor, Washington, DC 20004.

Dated: May 17, 2007.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 07–2558 Filed 5–22–07; 8:45 am]

BILLING CODE 8320–07–M

Federal Register

Wednesday,
May 23, 2007

Part II

The President

Proclamation 8146—National Hurricane Preparedness Week, 2007

Proclamation 8147—World Trade Week, 2007

Proclamation 8148—National Maritime Day, 2007

Presidential Determination No. 2007–18 of May 9, 2007—Presidential Determination on Transfer of Funds from FY 2006 Economic Support Fund Account to the International Peacekeeping Account To Support Security Sector Reform in Liberia

Federal Register
Vol. 72, No. 99
Wednesday, May 23, 2007

Presidential Documents

Title 3—

The President

Proclamation 8146 of May 18, 2007

National Hurricane Preparedness Week, 2007

By the President of the United States of America

A Proclamation

Each year, millions of Americans living in coastal areas are faced with the hazards of hurricanes. As hurricane season approaches, National Hurricane Preparedness Week provides an opportunity to raise awareness of steps that can be taken to help protect our citizens, and their communities and property.

Hurricanes can be devastatingly powerful and include storm surge, high winds, tornadoes, and flooding. To reduce the potentially deadly effects of these storms, it is imperative for people in hurricane-prone areas to prepare for each type of hurricane hazard. Taking the time to develop a family disaster plan, create a disaster supply kit, and stay aware of current weather situations can improve preparedness and help save lives.

My Administration is committed to strengthening our Nation's ability to prepare for, respond to, and recover from these types of disasters. I've asked the Federal Emergency Management Agency (FEMA) to find ways to provide better assistance to those affected by catastrophe. FEMA has enhanced coordination between all levels of government during times of crisis and, along with the National Oceanic and Atmospheric Administration, is helping raise awareness about the dangers of hurricanes. In addition, the Department of Homeland Security and FEMA provide Americans with important emergency preparation checklists and valuable resources about what to do after a disaster at ready.gov and fema.gov. By working together, citizens and Federal, State, local, and tribal officials can help safeguard lives and protect property.

Throughout the hurricane season, we are also grateful for the compassion, courage, and generosity of the volunteers and first responders who stand ready to help their neighbors in need. Their good hearts reflect the character of our Nation.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 20 through May 26, 2007, as National Hurricane Preparedness Week. I call upon government agencies, private organizations, schools, and the media to share information about hurricane preparedness. I also urge all Americans living in vulnerable coastal areas of our Nation to take appropriate measures and precautions to protect themselves against the effects of hurricanes.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of May, in the year of our Lord two thousand seven, and of the Independence of the United States of America the two hundred and thirty-first.

[FR Doc. 07–2582
Filed 5–22–07; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 8147 of May 18, 2007

World Trade Week, 2007

By the President of the United States of America

A Proclamation

World trade is essential to promoting global economic growth, development, freedom, and prosperity. During World Trade Week, we underscore our commitment to free and fair trade and acknowledge the benefits of open markets for our citizens and for people around the globe.

Trade creates wealth and opportunities, and United States engagement in the global economy has contributed to rising living standards throughout our country. Businesses that participate in international trade are more productive, have higher employment growth, and pay greater wages. Advancing free trade on a level playing field helps ensure that America benefits from the international market.

My Administration is committed to reducing barriers to trade, strengthening our strategic partnerships, and promoting economic growth throughout the world. At the beginning of my Administration, America had free trade agreements with three countries. Today, we have free trade agreements in force with 14 countries, creating benefits for American businesses, workers, and consumers. These trade agreements are particularly important for small and medium-sized companies to help them identify and take full advantage of new trade opportunities.

The United States continues to work with other nations in the World Trade Organization to complete the Doha Development Round, which has the potential to lift millions of people out of poverty. I have also called upon the Congress to extend Trade Promotion Authority so we can complete the Doha Round and continue to negotiate robust trade agreements. By working to expand trade, we open new markets for American products and services and help build free economies that can raise the standard of living for families.

NOW, THEREFORE I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 20 through May 26, 2007, as World Trade Week. I encourage all Americans to observe this week with events, trade shows, and educational programs that celebrate the benefits of trade to our Nation and the global economy.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of May, in the year of our Lord two thousand seven, and of the Independence of the United States of America the two hundred and thirty-first.

[FR Doc. 07–2583
Filed 5–22–07; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 8148 of May 18, 2007

National Maritime Day, 2007

By the President of the United States of America

A Proclamation

America has a proud maritime history, and the United States Merchant Marine has played a vital role in helping meet our country's economic and national security needs. On National Maritime Day, we honor merchant mariners for their dedication to promoting commerce and protecting our freedom.

During times of peace, the U.S. Merchant Marine helps ensure our economic security by keeping the oceans open to trade. Ships operated by merchant mariners transport goods across our Nation's waterways and on the high seas around the world to connect American businesses and consumers with valuable foreign markets and commodities. The skill and expertise of merchant mariners facilitates trade and helps to strengthen our economy.

In times of war, the Merchant Marine is the lifeline of our troops overseas. By carrying critical supplies, equipment, and personnel, merchant mariners provide essential support to our Armed Forces and help advance the cause of freedom. Today, merchant mariners are supporting operations in Afghanistan and Iraq, and their devotion to duty is a tribute to the generations of men and women who have served our Nation with courage and determination in every conflict in America's history. On this day, and throughout the year, America is grateful for their service.

In recognition of the importance of the U.S. Merchant Marine, the Congress, by joint resolution approved on May 20, 1933, as amended, has designated May 22 of each year as ''National Maritime Day,'' and has authorized and requested that the President issue an annual proclamation calling for its appropriate observance.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim May 22, 2007, as National Maritime Day. I call upon the people of the United States to mark this observance by honoring the service of merchant mariners and by displaying the flag of the United States at their homes and in their communities. I also request that all ships sailing under the American flag dress ship on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of May, in the year of our Lord two thousand seven, and of the Independence of the United States of America the two hundred and thirty-first.

[FR Doc. 07–2584
Filed 5–22–07; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Presidential Determination No. 2007–18 of May 9, 2007

Presidential Determination on Transfer of Funds from FY 2006 Economic Support Fund Account to the International Peacekeeping Account To Support Security Sector Reform in Liberia

Memorandum for the Secretary of State

Pursuant to the authority vested in me by the Constitution and the laws of the United States, including section 610 of the Foreign Assistance Act of 1961, as amended (the ''Act''), and section 301 of title 3 of the United States Code, I hereby determine it necessary for the purposes of the Act that $11 million in FY 2006 funds made available under the Economic Support Fund account be transferred to, and consolidated with, funds made available under chapter 6 of part II of the Act, and such funds are hereby so transferred and consolidated.

You are hereby authorized and directed to report this determination to the Congress and to publish it in the **Federal Register**.

THE WHITE HOUSE,
Washington, May 9, 2007.

[FR Doc. 07–2581
Filed 5–22–07; 8:45 am]
Billing code 4710–10–P

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LIST OF PUBLIC LAWS

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H.R. 1681 / P.L. 110-26
The American National Red Cross Governance Modernization Act of 2007
(May 11, 2007; 121 Stat. 103; 8 pages)
Last List May 10, 2007

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