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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE271, Special Condition 23–211–SC]

Special Conditions; Symphony Aircraft Industries, Inc. Model SA160; Protection of Systems for High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued to Symphony Aircraft Industries, Inc. for a type design change to the SA160 airplane. This airplane will have novel and unusual design features when compared to the state of technology envisaged in the applicable airworthiness standards. These novel and unusual design features include the installation of electronic flight instrument system (EFIS) displays (Entegra Avionics Suite) manufactured by Avidyne Corporation for which the applicable regulations do not contain adequate or appropriate airworthiness standards for the protection of these systems from the effects of high intensity radiated fields (HIRF). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to the airworthiness standards applicable to these airplanes.

DATES: The effective date of these special conditions is July 6, 2007. Comments must be received on or before August 20, 2007.

ADDRESSES: Mail two copies of your comments to: Federal Aviation Administration, Regional Counsel, ACE–7, Attention: Rules Docket Clerk, Docket No. CE271, Room 506, 901 Locust, Kansas City, Missouri 64106. All comments must be marked: Docket No. CE271. You may inspect comments in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Jim Brady, Aerospace Engineer, Standards Office (ACE–111), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone (816) 329–4132.

SUPPLEMENTARY INFORMATION:

The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay issuance of the approval design and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA, therefore, finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

We invite interested persons to take part in this rulemaking by sending written data, views, or comments. Identify the regulatory docket or notice number and submit two copies to the address specified above. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will file in the docket all comments we receive on or before the closing date as well as a report summarizing each substantive public contact with FAA personnel about these special conditions. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments.

We will consider all comments we receive by the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. Based on the comments we receive, we may change these special conditions.

If you want the FAA to acknowledge receipt of your comments, include a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. CE271.'' The postcard will be date stamped and we will mail it back to you.

Background

On November 11, 2006, Symphony Aircraft Industries, Inc. applied to the FAA for a type design change to the SA160 airplane. The Symphony Aircraft SA160 is currently approved under TC No. A46CE. The proposed modification incorporates a novel or unusual design feature, such as digital avionics consisting of an EFIS that is vulnerable to HIRF external to the airplane.

Type Certification Basis

Under the provisions of 14 CFR part 21, § 21.101, Symphony Aircraft Industries, Inc. must show that the SA160 aircraft design change meets the following provisions, or the applicable regulations in effect on the date of application for the change to the project: Cert basis, 14 CFR part 23 effective February 1, 1965, including Amendments 23–1 through 23–53; 14 CFR part 36 effective November 18, 1969, including Amendments 36–1 through 36–22; as applicable, and § 23.1301 of Amendment 23–20; §§ 23.1309, 23.1311, and 23.1321 of Amendment 23–49; and § 23.1322 of Amendment 23–43; exemptions, if any; and the special conditions adopted by this rulemaking action.

Discussion

If the Administrator finds that the applicable airworthiness standards do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane, special conditions are prescribed under the provisions of § 21.16.

Special conditions, as appropriate, as defined in § 11.19, are issued in accordance with § 11.38 after public notice and become part of the type certification basis in accordance with § 21.101 (b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model already included on the same type certificate to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101.

Novel or Unusual Design Features

Symphony Aircraft Industries, Inc. plans to incorporate certain novel and unusual design features into an airplane for which the airworthiness standards do not contain adequate or appropriate safety standards for protection from the effects of HIRF. These features include EFIS, which are susceptible to the HIRF environment, that were not envisaged by the existing regulations for this type of airplane.

Protection of Systems From High Intensity Radiated Fields (HIRF): Recent advances in technology have given rise to the application in aircraft designs of advanced electrical and electronic systems that perform functions required for continued safe flight and landing. Due to the use of sensitive solid state advanced components in analog and digital electronics circuits, these advanced systems are readily responsive to the transient effects of induced electrical current and voltage caused by the HIRF. The HIRF can degrade electronic systems performance by damaging components or upsetting system functions.

Furthermore, the HIRF environment has undergone a transformation that was not foreseen when the current requirements were developed. Higher energy levels are radiated from transmitters that are used for radar, radio, and television. Also, the number of transmitters has increased significantly. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling to cockpit-installed equipment through the cockpit window apertures is undefined.

The combined effect of the technological advances in airplane design and the changing environment has resulted in an increased level of vulnerability of electrical and electronic systems required for the continued safe flight and landing of the airplane. Effective measures against the effects of exposure to HIRF must be provided by the design and installation of these systems. The accepted maximum energy levels in which civilian airplane system installations must be capable of operating safely are based on surveys and analysis of existing radio frequency emitters. These special conditions require that the airplane be evaluated under these energy levels for the protection of the electronic system and its associated wiring harness. These external threat levels, which are lower than previous required values, are believed to represent the worst case to which an airplane would be exposed in the operating environment.

These special conditions require qualification of systems that perform critical functions, as installed in aircraft, to the defined HIRF environment in paragraph 1 or, as an option to a fixed value using laboratory tests, in paragraph 2, as follows:

(1) The applicant may demonstrate that the operation and operational capability of the installed electrical and electronic systems that perform critical functions are not adversely affected when the aircraft is exposed to the HIRF environment defined below:

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

The field strengths are expressed in terms of peak root-mean-square (rms) values.

or, (2) The applicant may demonstrate by a system test and analysis that the electrical and electronic systems that perform critical functions can withstand a minimum threat of 100 volts per meter peak rms, electrical field strength, from 10 kHz to 18 GHz. When using this test to show compliance with the HIRF requirements, no credit is given for signal attenuation due to installation.

A preliminary hazard analysis must be performed by the applicant, for approval by the FAA, to identify either electrical or electronic systems that perform critical functions. The term ''critical'' means those functions whose failure would contribute to, or cause, a failure condition that would prevent the continued safe flight and landing of the airplane. The systems identified by the hazard analysis that perform critical functions are candidates for the application of HIRF requirements. A system may perform both critical and non-critical functions. Primary electronic flight display systems, and their associated components, perform critical functions such as attitude, altitude, and airspeed indication. The HIRF requirements apply only to critical functions.

Compliance with HIRF requirements may be demonstrated by tests, analysis, models, similarity with existing systems, or any combination of these. Service experience alone is not acceptable since normal flight operations may not include an exposure to the HIRF environment. Reliance on a system with similar design features for redundancy as a means of protection against the effects of external HIRF is generally insufficient since all elements of a redundant system are likely to be exposed to the fields concurrently.

Applicability

As discussed above, these special conditions are applicable to the SA160 Avidyne Entegra Avionics Suite project. Should Symphony Aircraft Industries, Inc. apply at a later date for a supplemental type certificate to modify any other model on the same type certificate to incorporate the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101.

Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

Citation

■ The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113 and 44701; 14 CFR 21.16 and 21.101; and 14 CFR 11.38 and 11.19.

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for SA160 Avidyne Entegra Avionics Suite Project airplane modified by Symphony Aircraft Industries, Inc. to add an EFIS.

1. Protection of Electrical and Electronic Systems from High Intensity Radiated Fields (HIRF). Each system that performs critical functions must be designed and installed to ensure that the operations, and operational capabilities of these systems to perform critical functions, are not adversely affected when the airplane is exposed to high intensity radiated electromagnetic fields external to the airplane.

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

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

Issued in Kansas City, Missouri, on July 6, 2007.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–14050 Filed 7–18–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 179

[Docket No. 1994F–0008 (formerly Docket No. 94F–0008)]

Irradiation in the Production, Processing and Handling of Food

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; response to objections and denial of requests for a hearing.

SUMMARY: The Food and Drug Administration (FDA) is responding to objections and is denying the requests that it has received for a hearing on the final rule that amended the food additive regulations to authorize the use of a machine source of high energy x-rays to inspect cargo containers that may contain food. After reviewing the objections to the final rule and the requests for a hearing, the agency has concluded that the objections do not raise issues of material fact that justify a hearing or otherwise provide a basis for revoking or modifying the amendment to the regulation.

FOR FURTHER INFORMATION CONTACT: Andrew J. Zajac, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835, 301–436–1267.

SUPPLEMENTARY INFORMATION:

I. Introduction

In the **Federal Register** of February 24, 1994 (59 FR 8995), FDA published a notice announcing the filing of a petition (FAP 4M4407) submitted by Analytical Systems Engineering Corp. (ASEC) (now ACS Defense, Inc.) to amend the food additive regulations in § 179.21 *Sources of radiation used for inspection of food, for inspection of packaged food, and for controlling food processing* (21 CFR 179.21) to provide for the safe use of machine sources of high energy x-rays to inspect cargo containers that may contain food. The rights to the petition were subsequently transferred to R. F. Reiter and Associates. In response to the petition, FDA issued a final rule in the **Federal Register** of April 10, 2001 (66 FR 18537), permitting the use of x-rays produced by machine sources of 10 million electron volts (MeV) or lower to inspect food, providing that no food receives a dose in excess of 0.5 gray (Gy). This rule will be referred to in this document as the ''cargo inspection final rule.'' The preamble to the final rule advised that objections to the final rule and requests for a hearing were due within 30 days of the publication date (i.e., by May 10, 2001).

II. Objections and Requests for a Hearing

Section 409(f) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(f)), provides that, within 30 days after publication of an order relating to a food additive regulation, any person adversely affected by such order may file objections, ''specifying with particularity the provisions of the order deemed objectionable, stating reasonable grounds therefor, and requesting a public hearing upon such objections.'' FDA may deny a hearing request if the objections to the regulation do not raise genuine and substantial issues of fact that can be resolved at a hearing. (*Community Nutrition Institute* v. *Young*, 773 F. 2d 1356, 1364 (D.C. Cir. 1985), *cert. denied*, 475 U.S. 1123 (1986)).

Under the food additive regulations at 21 CFR 171.110, objections and requests for a hearing are governed by part 12 (21 CFR part 12) of FDA's regulations. Under § 12.22(a), each objection must meet the following conditions: (1) Must be submitted on or before the 30th day after the date of publication of the final rule; (2) must be separately numbered; (3) must specify with particularity the provision of the regulation or proposed order objected to; (4) must specifically state each objection on which a hearing is requested; failure to request a hearing on an objection constitutes a waiver of the right to a hearing on that objection; and (5) must include a detailed description and analysis of the factual information to be presented in support of the objection if a hearing is requested; failure to include a description and analysis for an objection constitutes a waiver of the right to a hearing on that objection.

Following publication of the cargo inspection final rule, FDA received a letter from Public Citizen within the 30-day objection period. Public Citizen sought revocation of the final rule based on three objections and requested a hearing on issues raised by each objection.

III. Standards for Granting a Hearing

Specific criteria for deciding whether to grant or deny a request for a hearing are set out in § 12.24(b). Under that regulation, a hearing will be granted if the material submitted by the requester shows, among other things, the following: (1) There is a genuine and substantial factual issue for resolution at a hearing; a hearing will not be granted on issues of policy or law; (2) the factual issue can be resolved by available and specifically identified reliable evidence; a hearing will not be granted on the basis of mere allegations or denials or general descriptions of positions and contentions; (3) the data and information submitted, if established at a hearing, would be adequate to justify resolution of the factual issue in the way sought by the requestor; a hearing will be denied if the data and information submitted are insufficient to justify the factual determination urged, even if accurate; (4) resolution of the factual issue in the way sought by the person is adequate to justify the action requested; a hearing will not be granted on factual issues that are not determinative with respect to the action requested (e.g., if the action would be the same even if the factual issue were resolved in the way sought); (5) the action requested is not inconsistent with any provision in the act or any FDA regulation; and (6) the requirements in other applicable regulations, e.g., 21 CFR 10.20, §§ 12.21 and 12.22, and in the notice issuing the final requlation or

the notice of opportunity for hearing are met.

A party seeking a hearing is required to meet a ''threshold burden of tendering evidence suggesting the need for a hearing'' (*Costle* v. *Pacific Legal Foundation*, 445 U.S. 198, 214–215 (1980), *reh. denied*, 446 U.S. 947 (1980), citing *Weinberger* v. *Hynson, Westcott & Dunning, Inc.*, 412 U.S. 609, 620–621 (1973)). An allegation that a hearing is necessary to ''sharpen the issues'' or to ''fully develop the facts'' does not meet this test (*Georgia Pacific Corp.* v. *EPA*, 671 F.2d 1235, 1241 (9th Cir. 1982)). If a hearing request fails to identify any factual evidence that would be the subject of a hearing, there is no point in holding one. In judicial proceedings, a court is authorized to issue summary judgment without an evidentiary hearing whenever it finds that there are no genuine issues of material fact in dispute and a party is entitled to judgment as a matter of law (see Rule 56, Federal Rules of Civil Procedure). The same principle applies in administrative proceedings (see § 12.28).

A hearing request must not only contain evidence, but that evidence should raise a material issue of fact concerning which a meaningful hearing might be held (*Pineapple Growers Ass'n* v. *FDA*, 673 F.2d 1083, 1085 (9th Cir. 1982)). Where the issues raised in the objection are, even if true, legally insufficient to alter the decision, the agency need not grant a hearing (see *Dyestuffs and Chemicals, Inc.* v. *Flemming*, 271 F.2d 281 (8th Cir. 1959), *cert. denied*, 362 U.S. 911 (1960)). FDA need not grant a hearing in each case where an objector submits additional information or posits a novel interpretation of existing information (see *United States* v. *Consolidated Mines & Smelting Co.*, 455 F.2d 432 (9th Cir. 1971)). In other words, a hearing is justified only if the objections are made in good faith and if they ''draw in question in a material way the underpinnings of the regulation at issue'' (*Pactra Industries* v. *CPSC*, 555 F.2d 677 (9th Cir. 1977)). Finally, courts have uniformly recognized that a hearing need not be held to resolve questions of law or policy (see *Citizens for Allegan County, Inc.* v. *FPC*, 414 F.2d 1125 (D.C. Cir. 1969); *Sun Oil Co.* v. *FPC*, 256 F.2d 233, 240 (5th Cir.), *cert. denied*, 358 U.S. 872 (1958)).

Even if the objections raise material issues of fact, FDA need not grant a hearing if those same issues were adequately raised and considered in an earlier proceeding. Once an issue has been so raised and considered, a party is estopped from raising that same issue in a later proceeding without new evidence. The various judicial doctrines dealing with finality can be validly applied to the administrative process. In explaining why these principles ''self-evidently'' ought to apply to an agency proceeding, the U.S. Court of Appeals for the District of Columbia Circuit wrote: ''The underlying concept is as simple as this: Justice requires that a party have a fair chance to present his position. But overall interests of administration do not require or generally contemplate that he will be given more than a fair opportunity.'' *Retail Clerks Union, Local 1401* v. *NLRB*, 463 F.2d 316, 322 (D.C. Cir. 1972). (See *Costle* v. *Pacific Legal Foundation*, supra at 215–220. See also *Pacific Seafarers, Inc.* v. *Pacific Far East Line, Inc.*, 404 F.2d 804 (D.C. Cir. 1968), *cert denied*, 393 U.S. 1093 (1969).)

In summary, a hearing request must present sufficient credible evidence to raise a material issue of fact and the evidence must be adequate to resolve the issue as requested and to justify the action requested.

IV. Analysis of Objections and Response to Hearing Requests

The objections to the cargo inspection final rule pertain to FDA's safety determination. FDA addresses each of the objections below, as well as the data and information filed in support of each, comparing each objection and the information submitted in support of it to the standards for granting a hearing in § 12.24.

A. Safety of Irradiation for Inspection of Cargo Containers

Under 21 CFR 170.3(i), safety of a food additive means that there is a reasonable certainty in the minds of competent scientists that the substance is not harmful under the intended conditions of use. FDA's regulations reflect the congressional judgment that the additive must be properly tested and such tests carefully evaluated, but that the additive need not, indeed cannot, be shown to be safe to an absolute certainty. The House Report on the Food Additives Amendment of 1958 stated: ''Safety requires proof of a reasonable certainty that no harm will result from the proposed use of the additive. It does not—and cannot—require proof beyond any possible doubt that no harm will result under any conceivable circumstance'' (H. Rept. 2284, 85th Cong., 2d sess., 1958).

The cargo inspection final rule discussed in detail FDA's evaluation of the safety of radiation for inspection of cargo containers that may contain food (66 FR 18537). Under that regulation, machine sources producing x-rays at energies no greater than 10 MeV may be used to inspect containers of food, provided that the absorbed dose not exceed 0.5 Gy.

Among the reports submitted in the petition or that FDA identified in scientific publications, the agency explicitly cited three in its final rule. These reports, which were among the most recent studies or reviews, assessed the potential for induced radioactivity in food by experimental measurement and theoretical calculation, and provided the primary basis for FDA's conclusion regarding safety of the petitioned use of 10 MeV x-rays at a dose not to exceed 0.5 Gy.

One of the reports is from the World Health Organization (WHO). This WHO report concluded that no detectable radioactivity will be induced in foodstuffs by x-rays with a maximum energy level of 10 MeV when a radiation dose of 0.5 Gy is not exceeded.

The second report (Wakeford and Blackburn, 1991) discussed a study investigating the radioactivity induced in codfish, rice, and a macerated meat product irradiated with high energy bremsstrahlung[1] x-rays produced by an electron linear accelerator that generated electrons at energies up to 12 MeV and predominantly at 8 MeV. The authors reported that the bremsstrahlung x-rays used to irradiate the food had a maximum energy in the region of 10 MeV. These foods received radiation doses ranging from 8.8 to 14 kilogray (kGy), which is 17,600 to 28,000 times higher than the 0.5 Gy maximum dose permitted by the final rule. Induced activities in the foods from the bremsstrahlung x-rays were reported to be extremely small and of the same order as natural background levels, and any induced activities dropped quickly.

The third report (Findlay et al., 1992) summarized a study that investigated the induced radioactivity in chicken, prawns, cheeses, and spices irradiated with electron beams at two energies, 10 MeV and 20 MeV and at different doses up to 10 kGy. The authors noted that any induced radioactivity was due to photonuclear reactions resulting from bremsstrahlung x-rays and electronuclear reactions induced by the electron beams. The authors found that even when the food was irradiated with

[1]Bremsstrahlung refers to the type of x-rays that are emitted when high-speed electrons are suddenly decelerated due to interactions with atomic nuclei. X-rays also can be produced when accelerated electrons have sufficient energy to eject electrons from the inner shells of atoms. As outer-shell electrons move in to fill the vacancies in the lower energy level, x-rays are emitted, called characteristic x-rays.

electrons at 20 MeV and doses at 10 kGy, the highest energy and dose tested, any induced activity was negligible after 1 day.[2] The authors reported that the measured values agreed well with calculated values. Based on the totality of the data and other relevant material evaluated by FDA, the agency concluded that no detectable radioactivity will be induced in food when an x-ray energy of 10 MeV and a dose of 0.5 Gy are not exceeded, and that the use of x-rays, produced by a machine source at energies of 10 MeV or lower, to inspect food, is safe.

B. Objections

Public Citizen contends that FDA has failed to demonstrate that the use of the subject additive is safe and gives three reasons for objecting to the final rule. Public Citizen requests a public hearing on their objections.

First, Public Citizen contends that FDA's use of the conclusion in the WHO report that ''no detectable radioactivity will be induced in foodstuffs when an x-ray energy level of 10 MeV and a dose of 0.5 Gy are not exceeded'' is flawed because the conclusion is based on an extrapolation of theoretical and experimental studies that the report does not reference.

The WHO report states that ''* * * relevant experimental data are available from studies designed to evaluate the use of activation analysis and the application of x-rays and electrons in food irradiation and medical uses at energy levels up to 24 MeV and at doses up to 50 kGy. Such studies, both theoretical and experimental, can be used to extrapolate downwards to a lower dose such as the 0.5 Gy considered for surveillance systems and that these studies show no evidence that detectable levels of radioactivity would be induced at these lower doses.'' Although not specifically cited, it is clear that the experimental data referred to in the report are the data from studies that were discussed in several working papers that were presented to the WHO consultation group and several relevant published papers referenced in the WHO report. These working papers were included in the petition along with the WHO report. For example, one paper that discussed experimental and theoretical work concerning the possible induction of radionuclides in food by high energy x-ray systems used for cargo surveillance referenced several relevant studies, including one by Glass and Smith.[3] This particular study, which was submitted with the petition, examined isomer radioactivities in elements and food using a variety of radiation sources, including 4–24 MeV x-ray sources at doses up to 50 kGy. FDA is denying the request for a hearing on this point because a hearing will not be granted if there is no genuine and substantial factual issue to be resolved (§ 12.24(b)(1)).

Public Citizen has failed to submit any evidence that would call into question the scientific validity of extrapolation of results obtained at higher energy levels and radiation doses to draw conclusions regarding effects that might be produced at lower energy levels and doses. Public Citizen is merely alleging that this approach is scientifically unsound. FDA is denying the request for a hearing on this point because a hearing will not be granted on the basis of mere allegations or denials or general descriptions of positions or contentions (§ 12.24(b)(2)).

In its second objection, Public Citizen contends that the Wakeford report is cited in the final rule to support the statement that electrons with energies of 8–10 MeV induced an extremely small level of radioactivity in various types of food, but that this statement is irrelevant to this petition because the petition concerns the use of x-rays. The objection further asserts that the statement in the final rule ''FDA would not expect any detectable radioactivity above background in food resulting from the petitioned use,'' is based on no data or evidence.

Contrary to Public Citizen's contention, the Wakeford report did concern the use of x-rays. As referenced in the final rule, the report by Wakeford, Blackburn, and Swallow (FDA inadvertently omitted the name of the third co-author, A.J. Swallow), titled ''Induction and Detection of Radioactivity in Foodstuffs Irradiated with 10 MeV Electrons and X-rays,'' studied food irradiated with electron beams as well as with high energy bremsstrahlung x-rays. The authors state that the food was irradiated directly by 0–10 MeV x-rays to a maximum dose of 15–20 kGy (the results table shows an average dose ranging from 8.8 to 14 kGy, which is 17,600 to 28,000 times higher than the maximum permitted dose level under the final rule of 0.5 Gy). The authors concluded that the induced activity from the 0–10 MeV bremsstrahlung x-rays was extremely small. Public Citizen provided no information to support its contention that the radiation reported as x-rays in the Wakeford report is irrelevant to the safety review of the subject additive. FDA is denying the request for a hearing on this point because a hearing will not be held on the basis of mere allegations or denials or general descriptions of positions or contentions (§ 12.24(b)(2)).

Similarly, the objection does not identify any evidence to support its assertion that FDA's conclusion is based on no data or evidence. The data and evidence relied upon by FDA is set out in the final rule. The Wakeford report, the WHO report and Findlay report are all part of the data relied upon by FDA in making its determination. FDA is denying the request for a hearing on this point because a hearing will not be held on the basis of mere allegations or denials or general descriptions of positions or contentions (§ 12.24(b)(2)).

Public Citizen also states in its second objection that, according to the Wakeford report, x-rays of energy greater than 3 MeV could induce radioactivity, and four isotopes can be activated at x-ray energies below 5 MeV and cause neutron induced activity in food. Among the four isotopes, Public Citizen specifically mentions carbon-13, oxygen-17, and deuterium. The objection does not show that FDA failed to consider important information that would have altered the agency's conclusion that the x-rays at energies up to 10 MeV at the maximum proposed dose of 0.5 Gy will result in negligible amounts of induced radioactivity in food. Indeed, the WHO report cited in the final rule concluded that thresholds for inducing radioactivity in some isotopes is less than 10 MeV, but that the probability of radioactivity being induced under these conditions is so low that it would not be detected by methods that can determine activity that is only 1 percent of what occurs naturally in food. The language from the Wakeford report cited in the objection is consistent with the conclusions in the WHO report. Public Citizen identifies no information to support a conclusion contrary to that reached by FDA. Therefore, FDA is denying the request for a hearing on this point because a hearing will not be held if there is no factual issue that can be resolved by available and specifically identified reliable evidence (§ 12.24(b)(2)).

In its third objection, Public Citizen states that the Findlay report is not relevant to the petition because induction of radioactivity in food was studied using electron beams whereas the petition concerns the use of x-rays.

[2] The authors reported a specific activity after 1 day of 0.01 becquerel/gram.

[3] R.A. Glass and H.D. Smith, ''Radioactive Isomer Production in Foods by Gamma Rays and X-rays,'' Stanford Research Institute Report S–594, No. 3 (DA 19–129–1QM–1511), 1960.

In support of its assertion, Public Citizen references a report from the International Consultative Group on Food Irradiation titled ''The Development of X-Ray Machines for Food Irradiation (Proceedings of a Consultants' Meeting),'' dated October 1995 (ICGFI report), for its statement that ''neutron activity produced by 5 MeV x-rays is in the order of 60 times greater than that produced by 10 MeV electrons.''

However, contrary to Public Citizen's objection, the ICGFI report shows that the difference in expected neutron activation in irradiated food from electron beams and x-rays has been calculated, thereby permitting use of electron beam studies to estimate neutron activation expected from irradiation with x-rays. Public Citizen has offered no evidence to support its assertion that electron beam studies are inappropriate to support conclusions about x-ray irradiation. FDA is denying the request for a hearing on this point because the evidence submitted by Public Citizen in support of their argument, even if established at a hearing, would not be adequate to justify resolution of the factual issue in the way sought by the objector (§ 12.24(b)(3)).

Moreover, it bears noting that the ICGFI report directly supports FDA's conclusion of safety in the final rule, when it cites 10 MeV x-rays at doses less than 0.5 Gy (the maximum energy and dosage in the final rule) as an example of ''extremely low'' dosage that ''would not produce any significant radioactivity.'' Public Citizen's reference to the conclusion in the ICGFI report that ''increasing the energy of x-rays above 7.5 MeV would result in * * * possible induction of radioactivity in the irradiated food'' is unavailing because that conclusion refers to the uses permitted by the Codex Alimentarius Commission for treating food at dosages up to 10 kGy, which is 20,000 times higher than the 0.5 Gy maximum dosage permitted by the final rule for inspecting food.

Although Public Citizen alleged that the studies that FDA evaluated do not support the safety of x-rays of 10 MeV or lower used for inspection of cargo containers that may contain food, Public Citizen did not present any evidence that would have led to a different conclusion concerning the safety of the subject additive. Because Public Citizen's first and second objections provided no information to support their assertions regarding FDA's safety review, they provide no basis for FDA to reconsider its decision to issue the cargo inspection final rule. As noted previously, a hearing will not be granted on the basis of general descriptions of positions and contentions (see § 12.24(b)(1) and (b)(2)). Public Citizen's third objection relied on information that, even if established at a hearing, would not be adequate to justify resolution of the factual issue in the way sought by the objector. A hearing will be denied if the information submitted are insufficient to justify the factual determination urged, even if accurate (§ 12.24(b)(3)). The issues posed by Public Citizen in support of the objections do not justify the granting of a hearing.

V. Summary and Conclusions

The safety of x-rays produced by a machine source at energies of 10 MeV or lower, to inspect food irradiated at doses up to 0.5 Gy has been thoroughly tested, and the data have been reviewed by the agency. As discussed previously, FDA concluded that the available studies establish the safety of food for human consumption irradiated at doses up to 0.5 Gy as a result of being subjected to x-rays produced by a machine source at energies of 10 MeV or lower. The petitioner has the burden to demonstrate safety before FDA can approve the use of a food additive. Nevertheless, once the agency makes a finding of safety in an approval document, the burden shifts to an objector, who must come forward with evidence that calls into question FDA's conclusion (*American Cyanamid Co.* v. *FDA*, 606 F. 2d 1307, 1314–1315 (D.C. Cir. 1979)). For the reasons set out previously, the objections do not raise genuine and substantial issues of fact supported by specifically identified reliable evidence that, if established at a hearing would be adequate to justify resolution in the way sought by Public Citizen. Therefore, Public Citizen's objections are not sufficient to justify a hearing under the requirements of § 12.24(b). Accordingly, FDA is overruling the objections and is denying the requests for a hearing.

Dated: July 11, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–13947 Filed 7–18–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 573

[Docket No. 1998F–0196] (Formerly 98F–0196)

Food Additives Permitted in Feed and Drinking Water of Animals; Selenium Yeast

AGENCY: Food and Drug Administration, HHS

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for food additives permitted (FAP) in feed to provide for the safe use of selenium yeast as a source of supplemental selenium in feed supplements for limit feeding for beef cattle and in salt mineral mixes for free-choice feeding for beef cattle. This action is in response to an amendment of a food additive petition filed by Alltech, Inc.

DATES: This rule is effective July 19, 2007. Submit written or electronic objections and requests for a hearing by August 20, 2007. See section V of this document for information on the filing of objections.

ADDRESSES: You may submit written or electronic objections and requests for a hearing identified by Docket No. 1998F–0196, by any of the following methods:

Electronic Submissions

Submit electronic objections in the following ways:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Agency Web site: *http://www.fda.gov/dockets/ecomments*. Follow the instructions for submitting comments on the agency Web site.

Written Submissions

Submit written objections in the following ways:

- Fax: 301–827–6870.
- Mail/Hand delivery/Courier [For paper, disk, or CD–ROM submissions]: Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

To ensure more timely processing of objections, FDA is no longer accepting objections submitted to the agency by e-mail. FDA encourages you to continue to submit electronic objections by using the Federal eRulemaking Portal or the agency Web site, as described in the *Electronic Submissions* portion of this paragraph.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All objections received will be posted without change to *http://www.fda.gov/ohrms/dockets/default.htm*, including any personal information provided. For detailed instructions on submitting objections, see the ''Objections'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or objections received, go to *http://www.fda.gov/ohrms/dockets/default.htm* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Isabel W. Pocurull, Center for Veterinary Medicine (HFV–226), 7519 Standish Pl., Rockville, MD 20855, 240–453–6853.

SUPPLEMENTARY INFORMATION:

I. Background

In a notice published in the **Federal Register** of May 12, 1998 (63 FR 26193), FDA announced that a food additive petition (animal use) (FAP 2238) had been filed by Alltech Biotechnology Center, 3031 Catnip Hill Pike, Nicholasville, KY 40356. The petition proposed to amend the food additive regulations in § 573.920 *Selenium* (21 CFR 573.920) to provide for the safe use of selenium yeast as a source of selenium in feeds for poultry, swine, and cattle. Based on the information in the petition, the selenium food additive regulation was amended to include the use of selenium yeast in feed for chickens on June 6, 2000 (65 FR 35823). FDA sought additional data from the sponsor before approving use in other species. After these data were submitted for turkeys and swine, the selenium food additive regulation was amended to extend the use of selenium yeast in the complete feeds of turkeys and swine on July 17, 2002 (67 FR 46850). Additional data submitted by the sponsor and further amendments to the petition provided information to extend the use to beef and dairy cattle. Based on the information in the petition, the selenium food additive regulation was again amended to include the use of selenium yeast in the complete feed of beef and dairy cattle on September 3, 2003 (68 FR 52339). Additional data submitted by the sponsor and further amendments to the petition provided information for safe use of selenium yeast as a source of supplemental selenium in feed supplements for limit feeding for beef cattle and in salt mineral mixes for free-choice feeding for beef cattle. The notice of filing provided for a 60-day comment period on the petitioner's environmental assessment. No substantive comments have been received.

II. Conclusion

FDA concludes that the data establish the safety and utility of selenium yeast, for use as proposed and that the food additive regulations should be amended as set forth in this document.

III. Public Disclosure

In accordance with § 571.1(h) (21 CFR 571.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition will be made available for inspection at the Center for Veterinary Medicine by appointment with the information contact person (see **FOR FURTHER INFORMATION CONTACT**). As provided in § 571.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

IV. Environmental Impact

The agency has determined under 21 CFR 25.32(r), that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment, nor an environmental impact statement is required.

V. Objections and Hearing Requests

Any person who will be adversely affected by this regulation may file with the Division of Dockets Management (see **ADDRESSES**) written or electronic objections. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents are to be submitted and are to be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 573

Animal feeds, Food additives.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 573 is amended as follows:

PART 573—FOOD ADDITIVES PERMITTED IN FEED AND DRINKING WATER OF ANIMALS

■ 1. The authority citation for 21 CFR part 573 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348.

■ 2. Section 573.920 is amended by revising paragraph (h) to read as follows:

§ 573.920 Selenium.

* * * * *

(h) Selenium yeast is a dried, non-viable yeast (*Saccharomyces cerevisiae*) cultivated in a fed-batch fermentation which provides incremental amounts of cane molasses and selenium salts in a manner which minimizes the detrimental effects of selenium salts on the growth rate of the yeast and allows for optimal incorporation of inorganic selenium into cellular organic material. Residual inorganic selenium is eliminated in a rigorous washing process and must not exceed 2 percent of the total selenium content in the final selenium yeast product.

(1) Selenium, as selenium yeast, is added to feed as follows:

(i) In complete feed for chickens, turkeys, swine, beef cattle, and dairy cattle at a level not to exceed 0.3 part per million.

(ii) In feed supplements for limit feeding for beef cattle at a level not to exceed an intake of 3 milligrams per head per day.

(iii) In salt-mineral mixtures for free-choice feeding for beef cattle up to 120 parts per million in a mixture for free-choice feeding at a rate not to exceed an intake of 3 milligrams per head per day.

(2) Guaranteed organic selenium content from selenium yeast must be declared on the selenium yeast product label.

(3) The additive, as selenium yeast, shall be incorporated into feed as follows:

(i) It shall be incorporated into each ton of complete feed by adding no less than 1 pound of a premix containing no more than 272.4 milligrams of added selenium per pound.

(ii) It shall be incorporated into each ton of salt-mineral mixture for beef cattle from a premix containing no more than 4.5 grams of added selenium per pound.

(4) Usage of this additive must conform to the requirements of paragraphs (e) and (f) of this section.

Dated: July 6, 2007.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. E7–13954 Filed 7–18–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF DEFENSE

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AM50

Increase in Rates Payable Under the Montgomery GI Bill—Selected Reserve and Other Miscellaneous Issues

AGENCIES: Department of Defense, Department of Homeland Security (United States Coast Guard), and Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends Department of Veterans Affairs (VA) regulations to increase the monthly rates of basic educational assistance payable under the Montgomery GI Bill—Selected Reserve (MGIB–SR) program for fiscal years 2005 and 2006 in accordance with statutory requirements, increase the percentage of basic educational assistance payable to reservists pursuing apprenticeship or other on-the-job training in accordance with the Veterans Benefits Act of 2004, and remove obsolete education break-pay provisions.

DATES: *Effective Date:* This final rule is effective July 19, 2007.

Applicability Dates: The changes in the MGIB–SR rates for fiscal years 2005 and 2006 are applied retroactively to October 1, 2004, and October 1, 2005, respectively to conform to statutory requirements. The change in the percentage of basic educational assistance payable to reservists pursuing apprenticeship or other on-the-job training is applied retroactively to October 1, 2005, to conform to statutory requirements. The changes in the break-pay regulations contained in 38 CFR 21.7640 are effective July 19, 2007.

FOR FURTHER INFORMATION CONTACT: Brandye R. Kidd, Management and Program Analyst, Education Service (225C), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (202) 273–7420. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

I. Increase in MGIB–SR Monthly Rates

Under the formula mandated by 10 U.S.C. 16131(b), the rates of basic educational assistance under the MGIB–SR payable to students pursuing a program of education full-time, three-quarter-time, and half-time must be increased by the percentage by which the total monthly Consumer Price Index-W for the 12-month period ending on June 30 preceding the fiscal year during which the increase is applicable exceeds the Consumer Price Index-W for the 12-month period ending on June 30 the previous fiscal year. Using this formula, VA calculated a 2 percent increase for fiscal year 2005 and a 3 percent increase for fiscal year 2006.

Section 16131(b) also requires that VA pay reservists, who are pursuing a program of education at less than half-time, an appropriately reduced rate. Since payment for less than half-time educational programs became available under the MGIB–SR in fiscal year 1990, VA has paid less than half-time students at 25 percent of the full-time rate. In this rule, VA continues that practice and will pay eligible reservists 25 percent of the increased full-time rate described above.

Section 16131(d) requires that reservists pursuing a full-time program of apprenticeship or other on-the-job training be paid a percentage of the basic educational monthly rate. Benefits for the first 6 months of training, the second 6 months of training, and the remainder of the program, are payable at 75 percent, 55 percent, and 35 percent respectively. Based on the section 16131(b) formula described above, there is a 2 percent increase for the apprenticeship and other on-the-job training pursued during fiscal year 2005 and a 3 percent increase for training during fiscal year 2006.

The increase in the MGIB–SR rates are applied in accordance with the applicable statutory provisions discussed above. Thus, VA began paying the 2005 and 2006 fiscal year increases effective October 1, 2004 and October 1, 2005 respectively.

II. Increase in the Percentage of Basic Educational Assistance Payable to Reservists Pursuing Apprenticeship or Other On-the-Job Training

The Veterans Benefits Improvement Act of 2004, Public Law 108–454, temporarily increased the percentages payable for apprenticeship and other on-the-job training from 75 percent, 55 percent, and 35 percent, to 85 percent, 65 percent, and 45 percent of the full-time rate of basic educational assistance, respectively, after September 30, 2005, and before January 1, 2008.

VA began paying the increased rates for reservists pursuing apprenticeship or other on-the-job training effective October 1, 2005, in accordance with Public Law 108–454.

III. Changes to Education Break-Pay Regulations Including the Removal of Obsolete Provisions

We are amending 38 CFR 21.7640(b) to remove obsolete provisions and provide greater clarity of regulations regarding benefit payments for school break periods between terms. In 2003, 38 CFR 21.4138(f), governing payment for breaks between terms, quarters or semesters, was amended to conform to statutory requirements. The final rule was published June 9, 2003, in the **Federal Register** (68 FR 34327–34332). The preamble to that final rule states that changes made to § 21.4138(f) are applicable to the Montgomery GI Bill—Active Duty, Survivors' and Dependents' Educational Assistance Program, Veterans Educational Assistance Program, and MGIB–SR. Although we amended the language in § 21.4138(f) in that final rule, we neglected to make a conforming amendment to § 21.7640(b) regarding payment for breaks, including intervals between terms. This document amends the language in the aforementioned section in accordance with statutory requirements and the previously published rule.

The changes to the break-pay regulations, including the removal of obsolete provisions, are effective from July 19, 2007.

Administrative Procedure Act

Changes to 38 CFR part 21 are being published without regard to the notice-and-comment and delayed-effective-date provisions of 5 U.S.C. 553 since they merely conform VA's existing rules to the statutory requirements. Accordingly, these changes involve interpretive rules that are exempt from

the notice-and-comment and delayed-effective-date requirement of 5 U.S.C. 553(b) and (d).

Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a ''significant regulatory action,'' requiring review by the Office of Management and Budget (OMB) unless OMB waives such review, as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this final rule have been examined and it has been determined not to be a significant regulatory action under Executive Order 12866.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The initial and final regulatory flexibility analyses requirements of sections 603 and 604 of the Regulatory Flexibility Act, 5 U.S.C. 601–612, are not applicable to this rule, because a notice of proposed rulemaking is not required for this rule. Even so, the Secretary of Veterans Affairs hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act. This final rule directly affects only individuals and does not directly affect small entities. Therefore, this final rule is also exempt pursuant to 5 U.S.C. 605(b) from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any given year. This final rule would have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

There is no Catalog of Federal Domestic Assistance number for the program affected by this final rule.

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Education, Employment, Grant programs—education, Grant programs—veterans, Health care, Loan programs—education, Loan programs—veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: February 9, 2007.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

Approved: March 12, 2007.

Clifford L. Pearson,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Human Resources.

Approved: May 7, 2007.

T.F. Hall,

Assistant Secretary of Defense for Reserve Affairs.

■ For the reasons stated above, VA amends 38 CFR part 21, subpart L, as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart L—Educational Assistance for Members of the Selected Reserve

■ 1. Revise the authority citation for part 21, subpart L, to read as follows:

Authority: 10 U.S.C. ch. 1606; 38 U.S.C. 501(a), 512, ch. 36, and as stated in specific sections.

■ 2. Amend § 21.7635(c)(3) by removing ''§ 21.7640'' and adding, in its place, ''§ 21.4138(f)''.

■ 3. Amend § 21.7636 by revising paragraphs (a)(1), (a)(2)(i), and (a)(3) to read as follows:

§ 21.7636 Rates of payment.

(a) *Monthly rate of educational assistance.* (1) Except as otherwise provided in this section or in § 21.7639, basic educational assistance is payable at the following monthly rates.

(i) For training that occurs after September 30, 2004, and before October 1, 2005:

Training	Monthly rate
Full time	$288.00
¾ time	216.00
½ time	143.00
¼ time	72.00

(ii) For training that occurs after September 30, 2005:

Training	Monthly rate
Full time	$297.00
¾ time	222.00
½ time	147.00
¼ time	74.25

(2)(i) The monthly rate of basic educational assistance payable to a reservist for apprenticeship or other on-the-job training full time is payable at the following rates.

(A) For training which occurs after September 30, 2004, and before October 1, 2005:

Training	Monthly rate
First 6 months of pursuit of training	$216.00
Second 6 months of pursuit of training	158.40
Remaining pursuit of training	100.80

(B) For training which occurs after September 30, 2005:

Training	Monthly rate
First 6 months of pursuit of training	$252.45
Second 6 months of pursuit of training	193.05
Remaining pursuit of training	133.65

(ii) * * *

(3) The monthly rate of basic educational assistance payable to a reservist for pursuit of a cooperative course is as follows:

(i) For full-time training that occurs after September 30, 2004, and before October 1, 2005, the rate payable is the rate stated in paragraph (a)(1)(i) of this section.

(ii) For full-time training that occurs after September 30, 2005, the rate payable is the rate stated in paragraph (a)(1)(ii) of this section.

* * * * *

■ 4. Amend § 21.7640 by revising paragraph (b) to read as follows:

§ 21.7640 Release of payments.

* * * * *

(b) *Payment for breaks, including intervals between terms.* In administering 10 U.S.C. chapter 1606, VA will apply the provisions of § 21.4138(f) when determining whether a reservist is entitled to payment for a break, including an interval between terms.

(Authority: 10 U.S.C. 16136(b), 38 U.S.C. 3680)

* * * * *

[FR Doc. 07–3466 Filed 7–18–07; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2006–0502, FRL–8441–9]

Approval and Promulgation of Air Quality Implementation; North Dakota; Revisions to New Source Review Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of North Dakota. The revision, adopted by North Dakota on February 1, 2005, to Chapter 33–15–15 of the North Dakota Administrative Code (Prevention of Significant Deterioration of Air Quality), incorporates EPA's December 31, 2002 NSR Reforms. North Dakota submitted the request for approval of these rule revisions into the State Implementation Plan (SIP) on February 10, 2005. North Dakota has a federally-approved Prevention of Significant Deterioration (PSD) program for new and modified sources impacting attainment areas in the State. North Dakota is in attainment for all pollutants, and does not have a SIP-approved non-attainment permit program. This action is being taken under section 110 of the Clean Air Act.

DATES: *Effective Date:* This final rule is effective August 20, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2006–0502. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Carl Daly, Air and Radiation Program, U.S. Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, Colorado 80202, (303) 312–6416, *daly.carl@epa.gov*.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. What Action Is EPA Taking?
II. Background
III. Final Action
IV. Statutory and Executive Order Reviews

Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

(i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.

(ii) The words *EPA*, *we*, *us* or *our* mean or refer to the United States Environmental Protection Agency.

(iii) The initials *SIP* mean or refer to State Implementation Plan.

(iv) The words *State* or *North Dakota* mean the State of North Dakota, unless the context indicates otherwise.

I. What Action Is EPA Taking?

EPA is taking final action to approve revisions to the North Dakota SIP regarding North Dakota's PSD program. On December 18, 2006 (71 FR 75687), EPA published a notice of proposed rulemaking (NPR) to approve North Dakota's revisions to their Prevention of Significant Deterioration regulations (Chapter 33–15–15) that incorporated EPA's December 31, 2002 NSR Reforms. The formal SIP revision was submitted by North Dakota on February 10, 2005. The December 18, 2006 NPR provides more detailed information about the North Dakota SIP revisions being approved today. The public comment period for the proposed action ended on January 17, 2007. No comments, adverse or otherwise, were received on EPA's proposed action.

II. Background

On December 31, 2002, EPA published revisions to the federal PSD and non-attainment NSR regulations in 40 CFR parts 51 and 52 (67 FR 80186). These revisions are commonly referred to as the ''NSR Reform'' regulations and became effective nationally in areas not covered by a SIP on March 3, 2003. These regulatory revisions included provisions for baseline emissions determinations, actual-to-future-actual methodology, plantwide applicability limits (PALs), clean units, and pollution control projects (PCPs). As stated in the December 31, 2002 rulemaking, State and local permitting agencies must adopt and submit revisions to their part 51 permitting programs implementing the minimum program elements of that rulemaking no later than January 2, 2006 (67 FR 80240). With the February 10, 2005 submittal, North Dakota requested approval of program revisions into the State Implementation Plan (SIP) that satisfy this requirement.

On November 7, 2003, EPA published a reconsideration of the NSR Reform regulations that clarified two provisions in the regulations by including a definition of ''replacement unit'' and by clarifying that the plantwide applicability limitation (PAL) baseline calculation procedures for newly constructed units do not apply to modified units (68 FR 63021).

On February 10, 2005, North Dakota submitted revisions to Chapter 33–15–15 of the North Dakota Administrative Code (Prevention of Significant Deterioration of Air Quality). These revisions to Chapter 33–15–15 were adopted by the North Dakota Department of Health on February 1, 2005; and repealed 33–15–15–01 (General provisions), added 33–15–15–01.1 (Purpose) and 33–15–15–01.1 (Scope), and made reference and other non-substantive changes to 33–15–15–02 (Reclassification). North Dakota's Regulations for a PSD program for attainment areas were federally-approved and made a part of the SIP on November 2, 1979 (44 FR 63103).

On June 24, 2005, the United States Court of Appeals for the District of Columbia Circuit issued a ruling on challenges to the December 2002 NSR Reform revisions (*State of New York et al.* v. *EPA*, 413 F.3d 3 (D.C. Cir. 2005)). Although the Court upheld most of EPA's rules, it vacated both the Clean Unit and the Pollution Control Project provisions and remanded back to EPA the recordkeeping provision at 40 CFR 52.21(r)(6) that required a stationary source to keep records of projects when there was a ''reasonable possibility'' that

the project could result in a significant emissions increase.

In an August 30, 2005 letter to EPA, North Dakota requested that EPA not take action on the clean unit and PCP provisions of the state rule and on the term ''reasonable possibility'' as they were incorporated by reference into the North Dakota Air Pollution Control Rules Chapter 33–15–15. North Dakota requested no action on these provisions because of the June 24, 2005 decision of the United States Court of Appeals for the District of Columbia Circuit. References to clean units and PCPs were subsequently removed by EPA from federal regulation on June 13, 2007 (see 72 FR 32526). North Dakota did withdraw their request for no action on the term ''reasonable possibility.'' North Dakota has also supplemented its February 10, 2005 request in a November 2, 2005 submission that provided corrections to several typographical errors in Chapter 33–15–15. All of these documents are available for review as part of the Docket for this action.

III. Final Action

EPA is taking final action to approve North Dakota's revisions to their Air Pollution Control Rules Chapter 33–15–15 (Prevention of Significant Deterioration of Air Quality), submitted by North Dakota on February 10, 2005, that relate to the State's PSD construction permit program. These revisions to Chapter 33–15–15 were adopted by the North Dakota Department of Health on February 1, 2005, and supersede and replace the previous SIP-approved Chapter 33–15–15 PSD Regulations.

IV. Statutory and Executive Order Reviews

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

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, 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 action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. 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 approves a state rule implementing a Federal standard.

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 17, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: July 10, 2007.

Kerrigan G. Clough,

Acting Regional Administrator, Region 8.

■ 40 CFR part 52 is amended to read 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 JJ—North Dakota

■ 2. In § 52.1820 the table in paragraph (c) is amended by revising the entry under Chapter ''33–15–15'' to read as follows:

§ 52.1820 [Amended]

State citation	Title/subject	State effective date	EPA approval date and citation [1]	Explanations
*	*	*	*	*
	33–15–15 Prevention of Significant Deterioration of Air Quality			
33–15–15–01	General Provisions (Repealed)	2/1/05	[Insert **Federal Register** page number where the document begins] 7/19/07.	
33–15–15–01.1	Purpose	2/1/05	[Insert **Federal Register** page number where the document begins] 7/19/07.	
33–15–15–01.2	Scope	2/1/05	[Insert **Federal Register** page number where the document begins] 7/19/07.	
33–15–15–02	Reclassification	2/1/05	[Insert **Federal Register** page number where the document begins] 7/19/07.	
*	*	*	*	*

[1] In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

[FR Doc. E7–14005 Filed 7–18–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2006–0772; FRL–8439–8]

Approval and Promulgation of Air Quality Implementation Plans; Minnesota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Minnesota State Implementation Plan (SIP) for sulfur dioxide (SO_2) submitted on April 23, 2007. Specifically, the revisions involve Continental Nitrogen & Resource Corporation (Continental Nitrogen) of Dakota County, Minnesota. The emission limits for the Continental Nitrogen steam boilers have been removed. Continental Nitrogen has physically disconnected its three boilers. The boilers cannot operate, thus there are no emissions.

DATES: This direct final rule will be effective September 17, 2007, unless EPA receives adverse comments by August 20, 2007. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2006–0772, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-mail: mooney.john@epa.gov.*
3. *Fax:* (312) 886–5824.
4. *Mail:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2006–0772. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal

holidays. We recommend that you telephone Matt Rau, Environment Engineer, at (312) 886–6524 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6524, *rau.matthew@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. What Is the Background for This Action?
II. What Is EPA's Analysis of the State Submission?
III. What Are the Environmental Effects of This Action?
IV. What Action Is EPA Taking?
V. Statutory and Executive Order Reviews

I. What Is the Background for This Action?

Continental Nitrogen operates its facility in the Pine Bend area of Rosemount, Minnesota. Minnesota's Findings and Order Amendment One contains the SO_2 limits for Continental Nitrogen's boilers, Emission Point numbers 1, 2, and 3. EPA approved these emission limits into the Minnesota SIP on September 9, 1994. Sulfur dioxide emissions from the boilers are limited to 1.5 pounds per million British Thermal Units. The Findings and Order also restricts the quantity of Number 6 fuel oil that Continental Nitrogen can use and includes recordkeeping requirements.

Continental Nitrogen informed the Minnesota Pollution Control Agency (PCA) that its three boilers are permanently shut down. The boilers cannot be operated. On April 23, 2007, Minnesota PCA requested that SO_2 limits for the boilers be removed from the SIP.

II. What Is EPA's Analysis of the State Submission?

Minnesota supplied information on the Continental Nitrogen boilers. The three steam boilers at this facility have been physically disconnected. In addition, the fuel train to boilers has been disassembled, making the boilers inoperable. As a result, there will be no SO_2 emissions from Emission Points 1, 2, or 3. Rescinding the Findings and Order will relieve Continental Nitrogen from future recordkeeping requirements under the Findings and Order.

III. What Are the Environmental Effects of This Action?

Sulfur dioxide causes breathing difficulties and aggravation of existing cardiovascular disease. It is also a precursor of acid rain and fine particulate matter formation. Sulfate particles are a major cause of visibility impairment in America. Acid rain damages lakes and streams impairing aquatic life and causes damage to buildings, sculptures, statues, and monuments. Sulfur dioxide also causes the loss of chloroform leading to vegetation damage.

Continental Nitrogen has permanently shut down its boilers. There will be no SO_2 emissions from these units. These sources are in the Pine Bend area, which is a sulfur dioxide maintenance area. The reduction in SO_2 emissions should help the area remain in attainment of the SO_2 standard.

IV. What Action Is EPA Taking?

EPA is approving revisions to SO_2 emissions regulations for Continental Nitrogen & Resource Corporation of Dakota County, Minnesota. The revision rescinds the Findings and Order Amendment One. The Findings and Order limits the SO_2 emissions, impose fuel restrictions, and provide recordkeeping requirements on Continental Nitrogen.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective September 17, 2007 without further notice unless we receive relevant adverse written comments by August 20, 2007. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective September 17, 2007.

V. Statutory and Executive Order Reviews

Executive Order 12866: Regulatory Planning and Review

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.

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

Because it is not a ''significant regulatory action'' under Executive Order 12866 or a ''significant energy action,'' this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly'' Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001).

Regulatory Flexibility Act

This action merely approves State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Unfunded Mandates Reform Act

Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

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 (59 FR 22951, November 9, 2000).

Executive Order 13132: Federalism

This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the States, or on the distribution of power and

responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

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

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 approves a state rule implementing a Federal Standard.

National Technology Transfer Advancement Act

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

Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Congressional Review Act

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 17, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Sulfur oxides.

Dated: July 5, 2007.

Bharat Mathur,

Acting Regional Administrator, Region 5.

■ For the reasons stated in the preamble, part 52, chapter I, of title 40 of the Code of Federal Regulations 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 Y—Minnesota

§ 52.1220 [Amended]

■ 2. In § 52.1220, the table in paragraph (d) is amended by removing the entry for ''Continental Nitrogen & Resource Corporation.''

[FR Doc. E7–13785 Filed 7–18–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2006–0772; FRL–8439–7]

Approval and Promulgation of Air Quality Implementation Plans; Minnesota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving revisions to the Minnesota State Implementation Plan (SIP) for sulfur dioxide (SO_2). Specifically, the revisions involve Flint Hills Resources, L.P. (Flint Hills) of Dakota County, Minnesota. In these revisions, Flint Hills is expanding operations at its petroleum refinery. To account for the increased SO_2 emissions from the expansion, Flint Hills is closing its sulfuric acid plant. An analysis of the revisions shows that air quality in the area will be protected after the modifications are made at the facility. Minnesota has also included additional monitoring requirements in the revisions. EPA proposed approval of this revision on April 9, 2007. One comment was received on the proposed rule, but the comment did not involve the proposed revision. The comment is addressed in this action.

DATES: This final rule is effective on August 20, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2006–0772. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.*, 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 electronically through *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Matt Rau, Environmental Engineer, (312) 886–6524 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6524, *rau.matthew@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. What Is the Background for This Action?
II. What Is EPA's Analysis of the State Submission?
III. What Comments Were Received?
IV. What Are the Environmental Effects of This Action?
V. What Action Is EPA Taking Today?
VI. Statutory and Executive Order Reviews

I. What Is the Background for This Action?

Flint Hills operates a petroleum refinery in the Minneapolis-Saint Paul metropolitan area. Flint Hills is expanding its crude oil processing operations. The expansion will increase the crude oil unit's gasoline production capacity from 100,000 to 150,000 barrels per day. Minnesota amended its Findings and Order to allow the revisions necessary for the expansion. This is the eighth amendment to the Flint Hills Findings and Order.

Minnesota held a public hearing regarding Findings and Order Amendment Eight on May 25, 2006. No comments on the Flint Hills revisions were received at the public meeting or during the 30 day public comment period.

EPA proposed approval of the SIP revision on April 9, 2007 (72 FR 17461–63). The comment period closed on May 9, 2007. One comment from the Minnesota Pollution Control Agency (PCA) was received. It is addressed in Section III.

II. What Is EPA's Analysis of the State Submission?

Minnesota included air dispersion modeling results in its submission. The modeling analysis includes all Flint Hills SO_2 emissions sources, including the additional and modified sources. Other significant SO_2 sources in the area were also included. The modeling analysis examined the impact of the revisions on the SO_2 air quality standards. The primary SO_2 National Ambient Air Quality Standard (NAAQS) has both an annual and 24-hour averaging period. The secondary NAAQS has a 3-hour averaging period.

Flint Hills used the ISCST3 dispersion model in the regulatory mode. Five years of surface meteorological data from the Minneapolis-Saint Paul International Airport and upper air data from Saint Cloud were used. Building downwash effects from the new and existing structures were accounted for in the modeling. The analysis found that the predicted annual SO_2 concentration is 38.5 $\mu g/m^3$ compared to the standard of 80 $\mu g/m^3$. The modeled 24-hour level of 266.8 $\mu g/m^3$ is under the 365 $\mu g/m^3$ NAAQS. Similarly, the predicted 3-hour average is 726.2 $\mu g/m^3$ which is under the secondary standard of 1300 $\mu g/m^3$.

III. What Comments Were Received?

One comment from the Minnesota PCA was received during the comment period. Minnesota PCA requested EPA to rescind the Administrative Order which established emission limits at the Continental Nitrogen & Resource Corporation (Continental Nitrogen) facility. Information on this company's removal of its boilers was included in the Flint Hills submission. Minnesota PCA has requested that EPA rescind the Administrative Order for the Continental Nitrogen boilers. EPA will address this request in a separate action.

The comment does not involve the proposed revisions to the emission limits for Flint Hills. The outcome of the requested revision for Continental Nitrogen will not affect the Flint Hills revision because the Continental Nitrogen boilers are permanently disconnected. The emissions reduction from Continental Nitrogen has already occurred and is not dependent on EPA action.

IV. What Are the Environmental Effects of This Action?

Sulfur dioxide causes breathing difficulties and aggravation of existing cardiovascular disease. It is also a precursor of acid rain and fine particulate matter formation. Sulfate particles are a major cause of visibility impairment in America. Acid rain damages lakes and streams impairing aquatic life and causes damage to buildings, sculptures, statues, and monuments. Sulfur dioxide also causes the loss of chloroform leading to vegetation damage.

The expansion of the Flint Hills facility includes an additional unit and revised limits on several units at the refinery that result in higher SO_2 emissions. The projected increase in SO_2 emissions from this project is 315 tons per year. However, overall SO_2 emissions from Flint Hills will be reduced after the modifications. When considering all sources at the facility there is no increase in SO_2 emissions, in fact there is a projected decrease of 99.6 tons per year. Therefore, the ''net emissions increase'' is below the Prevention of Significant Deterioration (PSD) significant threshold for SO_2 of 40 tons per year. This project is not subject to PSD requirements.

The effects of the expansion were analyzed. Both the projected SO_2 emissions from the Flint Hills facility and the reductions from other area facilities were considered. That analysis showed that the maximum predicted ambient SO_2 concentrations are below the primary and secondary NAAQS. This indicates that public health and welfare in Dakota County, Minnesota will be protected. The additional monitoring requirements placed on the heater combusting the fuel gas from the 45 mix drum will also help protect the air quality by continuously checking the sulfur dioxide emissions from this unit. Corrective action can be taken should the emissions rise above the unit's limit.

V. What Action Is EPA Taking Today?

EPA is approving revisions to SO_2 emissions regulations for Flint Hills Resources, L.P. of Dakota County, Minnesota. The revisions authorize adding a new heater, modifying two heaters, and additional monitoring requirements.

VI. Statutory and Executive Order Reviews

Executive Order 12866: Regulatory Planning and Review

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.

Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Because it is not a ''significant regulatory action'' under Executive Order 12866 or a ''significant regulatory action,'' this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001).

Regulatory Flexibility Act

This action merely approves State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Unfunded Mandates Reform Act

Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

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).

Executive Order 13132: Federalism

This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

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

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 approves a state rule implementing a Federal Standard.

National Technology Transfer Advancement Act

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

Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Congressional Review Act

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

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 17, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* Section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: July 5, 2007.

Bharat Mathur,

Acting Regional Administrator, Region 5.

■ For the reasons stated in the preamble, part 52, chapter I, of title 40 of the Code of Federal Regulations 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 Y—Minnesota

2. In § 52.1220, the table in paragraph (d) is amended by revising the entry for ''Flint Hills Resources, L.P.'' to read as follows:

§ 52.1220 Identification of plan.

* * * * *

(d) * * *

Name of source	Permit No.	State effective date	EPA approval date	Comments
*	*	*	*	*
Flint Hills Resources, L.P. (formerly Koch Petroleum).	.....	7/14/06	8/20/07, [insert page number where the document begins].	Amendment Eight to Findings and Order.
*	*	*	*	*

* * * * *

[FR Doc. E7–13789 Filed 7–18–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2006–0715; FRL–8440–2]

Determination of Attainment, Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Indiana; Redesignation of the Clark and Floyd Counties 8-Hour Ozone Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On November 15, 2006, the Indiana Department of Environmental Management (IDEM) submitted a request to EPA for approval of the redesignation of the Indiana portion of the Louisville 8-hour ozone National Ambient Air Quality Standard (NAAQS) nonattainment area (Clark and Floyd Counties) to attainment of the 8-hour ozone NAAQS and of an ozone maintenance plan for Clark and Floyd Counties as revisions to the Indiana State Implementation Plan (SIP). On May 8, 2007, EPA proposed to approve this submission and no adverse comments have been received. Today, EPA is approving Indiana's request and corresponding SIP revision. In so doing, EPA is making a determination that the Indiana portion of the Louisville 8-hour ozone NAAQS has attained the 8-hour ozone NAAQS. This determination is based on three years of complete, quality-assured ambient air quality monitoring data for the 2003–2005 ozone seasons that demonstrate that the 8-hour ozone NAAQS has been attained in the area. In addition, quality-assured monitoring data for 2006 show that the area continues to attain the standard. Finally, EPA is approving, for purposes of transportation conformity, the motor vehicle emission budgets (MVEBs) for the years 2003 and 2020.

DATES: This final rule is effective on July 19, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2006–0715. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.*, 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 electronically through www.regulations.gov or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Steven Rosenthal, Environmental Engineer, at (312) 886–6052 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Steven Rosenthal, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6052, *rosenthal.steven@epa.gov.*

SUPPLEMENTARY INFORMATION: In the following, whenever ''we,'' ''us,'' or ''our'' are used, we mean the United States Environmental Protection Agency.

Table of Contents

I. What Is the Background for This Rule?
II. What Comments Did We Receive on the Proposed Action?
III. What Are Our Final Actions?
IV. Statutory and Executive Order Review

I. What Is the Background for This Rule?

The background for today's action is discussed in detail in EPA's May 8, 2007 proposal (72 FR 26057). In that rulemaking, we noted that, under EPA regulations at 40 CFR part 50, the 8-hour ozone standard is attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations is less than or equal to 0.08 ppm. (See 69 FR 23857 (April 30, 2004) for further information.) The data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than 90%, and no single year has less than 75% data completeness, as determined in accordance with Appendix I of Part 50.

Under the CAA, EPA may redesignate nonattainment areas to attainment if sufficient complete, quality-assured data are available to determine that the area has attained the standard and that it meets the other CAA redesignation requirements in section 107(d)(3)(E).

On November 15, 2006, Indiana submitted a request for the redesignation of Clark and Floyd Counties to attainment for the 8-hour ozone standard. The request included three years of complete, quality-assured data for the period of 2003 through 2005, indicating the 8-hour NAAQS for ozone had been achieved. The data satisfy the applicable CAA requirements discussed above. The May 8, 2007, proposed rule provides a detailed discussion of how Indiana met these requirements.

On December 22, 2006, the U.S. Court of Appeals for the District of Columbia Circuit vacated EPA's Phase 1 Implementation Rule for the 8-hour Ozone Standard. (69 FR 23951, April 30, 2004). *South Coast Air Quality Management Dist.* v. *EPA,* 472 F.3d 882 (D.C. Cir. 2006). On June 8, 2007, in *South Coast Air Quality Management Dist.* v. *EPA,* Docket No. 04–1201, in response to several petitions for rehearing, the D.C. Circuit clarified that the Phase 1 Rule was vacated only with regard to those parts of the rule that had been successfully challenged. Therefore, the Phase 1 Rule provisions related to classifications for areas currently classified under subpart 2 of title I, part D of the Act as 8-hour nonattainment areas, the 8-hour attainment dates and the timing for emissions reductions needed for attainment of the 8-hour ozone NAAQS remain effective. The June 8 decision left intact the Court's rejection of EPA's reasons for implementing the 8-hour standard in certain nonattainment areas under subpart 1 in lieu of subpart 2. By limiting the vacatur, the Court let stand EPA's revocation of the 1-hour standard and those anti-backsliding provisions of the Phase 1 Rule that had not been successfully challenged. The June 8 decision reaffirmed the December 22, 2006 decision that EPA had improperly failed to retain measures required for 1-hour nonattainment areas under the anti-backsliding provisions of the regulations: (1) Nonattainment area New Source Review (NSR) requirements based on an area's 1-hour nonattainment classification; (2) Section 185 penalty fees for 1-hour severe or extreme nonattainment areas; and (3) measures to be implemented pursuant to section 172(c)(9) or 182(c)(9) of the Act, on the contingency of an area not making reasonable further progress toward attainment of the 1-hour NAAQS, or for failure to attain that NAAQS. In addition, the June 8 decision clarified that the Court's reference to conformity requirements for anti-backsliding purposes was limited to requiring the continued use of 1-hour motor vehicle emissions budgets until 8-hour budgets were available for 8-hour conformity determinations. The Court thus clarified that 1-hour conformity determinations are not required for anti-backsliding purposes.

For the reasons set forth in the proposal, EPA does not believe that the

Court's rulings alter any requirements relevant to this redesignation action so as to preclude redesignation, and do not prevent EPA from finalizing this redesignation. EPA believes that the Court's December 22, 2006 and June 8, 2007 decisions impose no impediment to moving forward with redesignation of this area to attainment, because even in light of the Court's decisions, redesignation is appropriate under the relevant redesignation provisions of the Act and longstanding policies regarding redesignation requests.

With respect to the requirement for transportation conformity under the 1-hour standard, the Court in its June 8 decision clarified that for those areas with 1-hour motor vehicle emissions budgets in their 1-hour maintenance plans, anti-backsliding requires only that those 1-hour budgets must be used for 8-hour conformity determinations until replaced by 8-hour budgets. To meet this requirement, conformity determinations in such areas must continue to comply with the applicable requirements of EPA's conformity regulations at 40 CFR Part 93. The Court clarified that 1-hour conformity determinations are not required for anti-backsliding purposes.

II. What Comments Did We Receive on the Proposed Action?

EPA provided a 30-day review and comment period and received no comments.

III. What Are Our Final Actions?

EPA is taking several related actions for the Indiana portion of the Louisville 8-hour nonattainment area (Clark and Floyd Counties). First, EPA is making a determination that Clark and Floyd Counties have attained the 8-hour ozone standard. EPA is also approving the State's request to change the legal designation of Clark and Floyd Counties from nonattainment to attainment of the 8-hour ozone NAAQS. Further, EPA is approving Indiana's maintenance plan SIP revision for Clark and Floyd Counties (such approval being one of the CAA criteria for redesignation to attainment status). The maintenance plan is designed to keep Clark and Floyd Counties in attainment of the 8-hour ozone NAAQS through 2020 by ensuring that the VOC and NO_X emissions in both Clark and Floyd Counties and the entire Louisville area will be lower in 2020 than in 2003, an attainment year. Finally, as supported by and consistent with the ozone maintenance plan, EPA is approving the 2003 and the 2020 VOC and NO_X MVEBs for the Louisville area for transportation conformity purposes.

In accordance with 5 U.S.C. 553(d), EPA finds that there is good cause for these actions to become effective immediately upon publication. This is because a delayed effective date is unnecessary due to the nature of a redesignation to attainment, which relieves the area from certain CAA requirements that would otherwise apply to it. The immediate effective date for this action is authorized under both 5 U.S.C. 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule ''grants or recognizes an exemption or relieves a restriction,'' and section 553(d)(3) which 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.'' The purpose of the 30-day waiting period prescribed in 553(d) 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 relieves the State of planning requirements for these 8-hour ozone nonattainment areas. For these reasons, EPA finds good cause under 5 U.S.C. 553(d)(3) for these actions to become effective on the date of publication of these actions.

IV. Statutory and Executive Order Review

Executive Order 12866: Regulatory Planning and Review

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.

Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Because it is not a ''significant regulatory action'' under Executive Order 12866 or a ''significant energy action,'' this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001).

Regulatory Flexibility Act

This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Redesignation of an area to attainment under section 107(d)(3)(E) of the Clean Air Act does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on sources. 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.*).

Unfunded Mandates Reform Act

Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

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).

Executive Order 13132: Federalism

This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). Redesignation is an action that merely affects the status of a geographical area, and does not impose any new requirements on sources, or allows a State to avoid adopting or implementing additional requirements, and does not alter the relationship or distribution of power and responsibilities established in the Clean Air Act.

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

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.

National Technology Transfer Advancement Act

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Redesignation is an action that affects the status of a geographical area but does not impose any new requirements on sources. 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.

Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Congressional Review Act

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 17, 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 force its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Volatile organic compounds.

40 CFR Part 81

Air pollution control, Environmental protection, National parks, Wilderness areas.

Dated: July 10, 2007.

Bharat Mathur,

Acting Regional Administrator, Region 5.

■ Parts 52 and 81, chapter I, title 40 of the Code of Federal Regulations 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 P—Indiana

■ 2. Section 52.777 is amended by adding paragraph (ii) to read as follows:

§ 52.777 Control strategy: photochemical oxidants (hydrocarbons).

* * * * *

(ii) Approval—On November 15, 2006, Indiana submitted a request to redesignate the Indiana portion of the Louisville 8-hour ozone nonattainment area (Clark and Floyd Counties) to attainment of the 8-hour ozone National Ambient Air Quality Standard. As part of the redesignation request, the State submitted a maintenance plan as required by section 175A of the Clean Air Act. Elements of the section 175 maintenance plan include a contingency plan and an obligation to submit a subsequent maintenance plan revision in eight years as required by the Clean Air Act. Also included were motor vehicle emission budgets to determine transportation conformity for the entire Louisville area. The 2003 and 2020 motor vehicle emission budgets are 40.97 tons per day for VOC and 95.51 tons per day for NO_X, and 22.92 tons per day for VOC and 29.46 tons per day for NO_X, respectively.

PART 81—[AMENDED]

■ 1. The authority citation for part 81 continues to read as follows:

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

■ 2. Section 81.315 is amended by revising the entry for Louisville, KY–IN: Clark and Floyd Counties in the table entitled ''Indiana Ozone (8-Hour Standard)'' to read as follows:

§ 81.315 Indiana.

* * * * *

INDIANA OZONE

[8-hour standard]

Designated area	Designation [a]		Classification	
	Date [1]	Type	Date [1]	Type
* * * *	*		*	*
Louisville, KY–IN:				
Clark County.	July 19, 2007	Attainment.		
Floyd County				
* * * *	*		*	*

[a] Includes Indian Country located in each county or area, except as otherwise specified.
[1] This date is June 15, 2004, unless otherwise noted.

[FR Doc. E7–13791 Filed 7–18–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2006–0459; FRL–8440–4]

Determination of Attainment, Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Indiana; Redesignation of LaPorte County to Attainment for Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On May 30, 2006, the Indiana Department of Environmental Management (IDEM) submitted a request for EPA approval of redesignation of LaPorte County to attainment of the 8-hour ozone National Ambient Air Quality Standard (NAAQS). In this submittal, IDEM also requested EPA approval of an Indiana State Implementation Plan (SIP) revision containing a plan to maintain the ozone standard in LaPorte County through 2020 and established 2020 motor vehicle Volatile Organic Compounds (VOC) and Nitrogen Oxides (NO_X) emission budgets for LaPorte County. EPA is making a determination that LaPorte County, Indiana has attained the 8-hour ozone NAAQS. This determination is based on three years of complete, quality assured ambient air quality monitoring data for the 2003–2005 ozone seasons that demonstrate that the 8-hour ozone NAAQS has been attained in LaPorte County. Quality assured monitoring data for 2006 show that the area continues to attain the ozone standard. EPA is approving, as a SIP revision, the State's ozone maintenance plan for LaPorte County. As a result, Indiana has satisfied the criteria for redesignation of LaPorte County to attainment of the 8-hour ozone NAAQS, and EPA is approving Indiana's ozone redesignation request for this area. Further, EPA is approving, for purposes of transportation conformity, the motor vehicle emission budgets (MVEBs) for VOC and NO_X for the year 2020 that are contained in the 8-hour ozone maintenance plan for this area.

DATES: This final rule is effective on July 19, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID NO. EPA–R05–OAR–2006–0459. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., 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 electronically through *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Edward Doty, Environmental Scientist, at (312) 886–6057 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Edward Doty, Environmental Scientist, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6057, *doty.edward@epa.gov.*

SUPPLEMENTARY INFORMATION: In the following, whenever ''we,'' ''us,'' or ''our'' are used, we mean the United States Environmental Protection Agency.

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I. What Is the Background for This Rule?
II. What Comments Did We Receive on the Proposed Action?
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I. What Is the Background for This Rule?

The Clean Air Act (CAA) requires EPA to designate as nonattainment any area that is violating the 8-hour ozone NAAQS based on three consecutive years of air quality monitoring data. EPA designated LaPorte County, Indiana as a nonattainment area for the 8-hour ozone NAAQS in a **Federal Register** notice published on April 30, 2004 (69 FR 23857). At the same time, EPA classified LaPorte County as a subpart 2 moderate 8-hour ozone nonattainment area, based on quality assured air quality data for the period of 2001–2003.

On May 30, 2006, Indiana submitted a request for redesignation of LaPorte County to attainment of the 8-hour ozone NAAQS. Additional supporting information was submitted on August 24, 2006. The redesignation request included three years of complete, quality-assured data for the period of 2003–2005, indicating attainment of the 8-hour ozone NAAQS. The ozone data show attainment of the 8-hour ozone NAAQS when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.08 parts per million parts of air at all monitoring sites in an area. Under the CAA, nonattainment areas may redesignated to attainment if sufficient complete, quality-assured data are available for the Administrator to determine that an area has attained the standard and if the area meets other redesignation requirements in section 107(d)(3)(E) of the CAA. An April 18, 2007, proposed rule (72 FR 19424) provides a discussion of how LaPorte County and the State of Indiana met these requirements for this area.

II. What Comments Did We Receive on the Proposed Action?

EPA provided a 30-day review and comment period on the April 18, 2007, proposed rule. No comments were received by the EPA regarding this proposed rule.

III. Impacts of Recent Court Decisions

On December 22, 2006, the U.S. Court of Appeals for the District of Columbia Circuit vacated EPA's Phase 1 implementation rule for the 8-hour ozone standard (69 FR 23951, April 30, 2004). *South Coast Air Quality Management Dist.* v. *EPA*, 472 F.3d 882 (D.C. Cir. 2006). On June 8, 2007, in *South Coast Management Dist.* v. *EPA,* Docket No. 04–1201, in response to several petitions for rehearing, the D.C. Circuit clarified that the Phase 1 rule was vacated only with regard to those parts of the rule that had been successfully challenged. Therefore, the Phase 1 rule provisions related to classifications for areas currently classified under subpart 2 of Title I, part D of the CAA as nonattainment areas, the 8-hour attainment dates and the timing for emissions reductions needed for attainment of the 8-hour ozone NAAQS remain effective. The June 8th decision left intact the Court's rejection of EPA's reasons for implementing the 8-hour ozone standard in certain nonattainment areas under subpart 1 in lieu of subpart 2. By limiting the vacatur, the Court let stand EPA's revocation of the 1-hour ozone standard and anti-backsliding provisions of the Phase 1 rule that had not been successfully challenged. The June 8th decision reaffirmed the December 22, 2006, decision that EPA had improperly failed to retain four measures required for 1-hour ozone nonattainment areas under the anti-backsliding provisions of the regulations: (1) Nonattainment area New Source Review (NSR) requirements based on an area's 1-hour nonattainment

classification; (2) section 185 penalty fees for 1-hour severe or extreme nonattainment areas; (3) measures to be implemented pursuant to section 172(c)(9) or 182(c)(9) of the CAA, on the contingency of an area not making reasonable further progress toward attainment of the 1-hour ozone NAAQS, or for failure to attain that NAAQS; and, (4) certain transportation conformity requirements for certain types of Federal actions. The June 8th decision clarified that the Court's reference to conformity requirements was limited to requiring the continued use of 1-hour motor vehicle emissions budget until 8-hour budgets were available for 8-hour conformity determinations.

For the reasons set forth in the proposal, EPA does not believe that the Court's rulings alter any requirements relevant to this redesignation action so as to preclude redesignation, and do not prevent EPA from finalizing this redesignation. EPA believes that the Court's December 22, 2006, and June 8, 2007, decisions impose no impediment to moving forward with redesignation of this area to attainment, because even in light of the Court's decisions, redesignation is appropriate under the relevant redesignation provisions of the CAA and longstanding policies regarding redesignation requests.

With respect to the 8-hour ozone standard, LaPorte County, which is classified as a marginal nonattainment area under subpart 2, the June 8, 2007, opinion clarifies that the Court did not vacate the Phase 1 rule's provisions with respect to classifications for areas under subpart 2. The Court's decision, therefore, upholds EPA's classification for LaPorte County under subpart 2 for the 8-hour ozone standard.

IV. What Are Our Final Actions?

EPA is taking several related actions. EPA is making a determination that LaPorte County, Indiana has attained the 8-hour ozone standard. EPA is approving Indiana's ozone maintenance plan as a SIP revision for LaPorte County (such approval being one of the CAA criteria for redesignation to attainment). The maintenance plan is designed to keep LaPorte County in attainment of the 8-hour ozone NAAQS through 2020. Because Indiana has met these and other prerequisites for redesignation to attainment, EPA is approving the State's request to change the legal designation of LaPorte County from nonattainment to attainment of the 8-hour ozone NAAQS. In addition, and supported by and consistent with the ozone maintenance plan, EPA is approving the 2020 VOC and NO_X MVEBs for LaPorte County for transportation conformity purposes. The 2020 MVEBs for LaPorte County are 3.40 tons per day for VOC and 6.50 tons per day for NO_X.

EPA finds that there is good cause for these actions to become effective immediately upon publication because a delayed effective date is unnecessary due to the nature of redesignation to attainment, which relieves the area from certain CAA requirements that would otherwise apply to it. The immediate effective date for this action is authorized under both 5 U.S.C. 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule ''grants or recognizes an exemption or relieves a restriction'' and section 553(d)(3), which 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.'' The purpose of the 30-day waiting period prescribed in 553(d) 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 relieves the State of planning requirements for this 8-hour ozone nonattainment area. For these reasons, EPA finds good cause under 5 U.S.C. 553(d)(3) for these actions to become effective on the date of publication of these actions.

IV. Statutory and Executive Order Review

Executive Order 12866: Regulatory Planning and Review

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.

Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Because it is not a ''significant regulatory action'' under Executive Order 12866 or a ''significant energy action,'' this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001).

Regulatory Flexibility Act

This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Redesignation of an area to attainment under section 107(d)(3)(E) of the Clean Air Act does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on sources. 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.).

Unfunded Mandates Reform Act

Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

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).

Executive Order 13132: Federalism

This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). Redesignation is an action that merely affects the status of a geographical area, and does not impose any new requirements on sources, or allows a state to avoid adopting or implementing additional requirements, and does not alter the relationship or distribution of power and responsibilities established in the Clean Air Act.

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

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 approves a state rule implementing a Federal Standard.

National Technology Transfer Advancement Act

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Redesignation is an action that affects the status of a geographical area but does not impose any new requirements on sources. 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.

Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

Congressional Review Act

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

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 17, 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 force its requirements. (See Section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Volatile organic compounds.

40 CFR Part 81

Air pollution control, Environmental protection, National parks, Wilderness areas.

Dated: July 5, 2007.

Bharat Mathur,

Acting Regional Administrator, Region 5.

■ Parts 52 and 81, chapter I, title 40 of the Code of Federal Regulations 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 P—Indiana

■ 2. Section 52.777 is amended by adding paragraph (gg) to read as follows:

§ 52.777 Control strategy: Photochemical oxidants (hydrocarbons).

* * * * *

(gg) Approval—On May 30, 2006, Indiana submitted a request to redesignate LaPorte County to attainment of the 8-hour ozone National Ambient Air Quality Standard. As part of the redesignation request, the State submitted a maintenance plan as required by section 175A of the Clean Air Act. Elements of the section 175 maintenance plan include a contingency plan and an obligation to submit a subsequent maintenance plan revision in eight years as required by the Clean Air Act. The maintenance plan establishes 2020 motor vehicle emission budgets for LaPorte County of 3.40 tons per day for volatile organic compounds (VOC) and 6.50 tons per day for oxides of nitrogen (NO_X).

PART 81—[AMENDED]

■ 1. The authority citation for part 81 continues to read as follows:

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

■ 2. Section 81.315 is amended by revising the entries for LaPorte County, Indiana: LaPorte County in the table entitled ''Indiana Ozone (8–Hour Standard)'' to read as follows:

§ 81.315 Indiana.

* * * * *

OHIO OZONE

[8-hour standard]

Designated area	Designation [a]		Classification	
	Date [1]	Type	Date [1]	Type
* * * *	*		*	*
LaPorte Co., IN:				
LaPorte County	8/20/07	Attainment.		
* * * *	*		*	*

[a] Includes Indian Country located in each county or area, except as otherwise specified.
[1] This date is June 15, 2004, unless otherwise noted.

[FR Doc. E7–13794 Filed 7–18–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2006–0305; FRL–8440–3]

Determination of Attainment, Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Indiana; Redesignation of the South Bend-Elkhart 8-Hour Ozone Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On May 30, 2006, the Indiana Department of Environmental Management (IDEM) submitted a request to EPA for approval of the redesignation of St. Joseph and Elkhart Counties to attainment of the 8-hour ozone National Ambient Air Quality Standard (NAAQS) and of an ozone maintenance plan for St. Joseph and Elkhart Counties as revisions to the Indiana State Implementation Plan (SIP). On April 18, 2007, EPA proposed to approve this submission. Today, EPA is approving Indiana's request and corresponding SIP revision. In so doing, EPA is making a determination that St. Joseph and Elkhart Counties have attained the 8-hour ozone NAAQS. This determination is based on three years of complete, quality-assured ambient air quality monitoring data for the 2003–2005 ozone seasons that demonstrate that the 8-hour ozone NAAQS has been attained in the area. In addition, quality-assured monitoring data for 2006 show that the area continues to attain the standard. Finally, EPA is approving, for purposes of transportation conformity, the motor vehicle emission budgets (MVEBs) for the year 2020 that are contained in the 14-year 8-hour ozone maintenance plan for St. Joseph and Elkhart Counties.

DATES: This final rule is effective on July 19, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2006–0305. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., 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 electronically through *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Steven Rosenthal, Environmental Engineer, at (312) 886–6052 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Steven Rosenthal, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6052, *rosenthal.steven@epa.gov*.

SUPPLEMENTARY INFORMATION: In the following, whenever ''we,'' ''us,'' or ''our'' are used, we mean the United States Environmental Protection Agency.

Table of Contents

I. What Is the Background for This Rule?
II. What Comments Did We Receive on the Proposed Action?
III. What Are Our Final Actions?
IV. Statutory and Executive Order Review

I. What Is the Background for This Rule?

The background for today's action is discussed in detail in EPA's April 18, 2007 proposal (72 FR 19413). In that rulemaking, we noted that, under EPA regulations at 40 CFR part 50, the 8-hour ozone standard is attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations is less than or equal to 0.08 ppm. (See 69 FR 23857 (April 30, 2004) for further information). The data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than 90%, and no single year has less than 75% data completeness, as determined in accordance with Appendix I of Part 50.

Under the Clean Air Act (CAA), EPA may redesignate nonattainment areas to attainment if sufficient complete, quality-assured data are available to determine that the area has attained the standard and that it meets the other CAA redesignation requirements in section 107(d)(3)(E).

On May 30, 2006, Indiana submitted a request for the redesignation of St. Joseph and Elkhart Counties to attainment for the 8-hour ozone standard. The request included three years of complete, quality-assured data for the period of 2003 through 2005, indicating the 8-hour NAAQS for ozone had been achieved. The data satisfy the applicable CAA requirements discussed above. The April 18, 2007, proposed rule provides a detailed discussion of how Indiana met these requirements.

On December 22, 2006, the U.S. Court of Appeals for the District of Columbia Circuit vacated EPA's Phase 1 Implementation Rule for the 8-hour Ozone Standard. (69 FR 23951, April 30, 2004). *South Coast Air Quality Management Dist.* v. *EPA,* 472 F.3d 882 (D.C.Cir. 2006). On June 8, 2007, in *South Coast Air Quality Management Dist.* v. *EPA,* Docket No. 04–1201, in response to several petitions for rehearing, the D.C. Circuit clarified that the Phase 1 Rule was vacated only with regard to those parts of the rule that had been successfully challenged. Therefore, the Phase 1 Rule provisions related to classifications for areas currently classified under subpart 2 of Title I, part D of the Act as 8-hour nonattainment areas, the 8-hour attainment dates and the timing for emissions reductions needed for attainment of the 8-hour ozone NAAQS remain effective. The June 8 decision left intact the Court's rejection of EPA's reasons for implementing the 8-hour standard in certain nonattainment areas under subpart 1 in lieu of subpart 2. By limiting the vacatur, the Court let stand EPA's revocation of the 1-hour standard and those anti-backsliding provisions of the Phase 1 Rule that had not been successfully challenged. The June 8 decision reaffirmed the December 22, 2006, decision that EPA had improperly failed to retain four measures required for 1-hour nonattainment areas under the anti-backsliding provisions of the regulations: (1) Nonattainment area New Source Review (NSR) requirements based on an area's 1-hour nonattainment classification; (2) Section 185 penalty fees for 1-hour severe or extreme nonattainment areas; (3) measures to be implemented pursuant to section 172(c)(9) or 182(c)(9) of the Act, on the contingency of an area not making reasonable further progress toward attainment of the 1-hour NAAQS, or for failure to attain that NAAQS; and, (4) certain transportation conformity requirements for certain types of Federal actions. The June 8 decision clarified that the Court's reference to conformity requirements was limited to requiring the continued use of 1-hour motor vehicle emissions budgets until 8-hour budgets were available for 8-hour conformity determinations.

For the reasons set forth in the proposal, EPA does not believe that the Court's rulings alter any requirements relevant to this redesignation action so as to preclude redesignation, and does

not prevent EPA from finalizing this redesignation. EPA believes that the Court's December 22, 2006, and June 8, 2007, decisions impose no impediment to moving forward with redesignation of this area to attainment, because even in light of the Court's decisions, redesignation is appropriate under the relevant redesignation provisions of the Act and longstanding policies regarding redesignation requests.

With respect to the requirement for transportation conformity under the 1-hour standard, the Court in its June 8 decision clarified that for those areas with 1-hour motor vehicle emissions budgets in their maintenance plans, anti-backsliding requires only that those 1-hour budgets must be used for 8-hour conformity determinations until replaced by 8-hour budgets. To meet this requirement, conformity determinations in such areas must comply with the applicable requirements of EPA's conformity regulations at 40 CFR part 93.

II. What Comments Did We Receive on the Proposed Action?

EPA provided a 30-day review and comment period. The only comment that we received was from a resident of Elkhart, Indiana, who stated that the redesignation recognized the region's efforts to improve air quality.

III. What Are Our Final Actions?

EPA is taking several related actions. First, EPA is making a determination that St. Joseph and Elkhart Counties have attained the 8-hour ozone standard. EPA is also approving the State's request to change the legal designation of St. Joseph and Elkhart Counties from nonattainment to attainment of the 8-hour ozone NAAQS. Further, EPA is approving Indiana's maintenance plan SIP revision for St. Joseph and Elkhart Counties (such approval being one of the CAA criteria for redesignation to attainment status). The maintenance plan is designed to keep St. Joseph and Elkhart Counties in attainment for ozone through 2020. Finally, as supported by and consistent with the ozone maintenance plan, EPA is approving the 2020 volatile organic content and oxides of nitrogen MVEBs for St. Joseph and Elkhart Counties for transportation conformity purposes.

In accordance with 5 U.S.C. 553(d), EPA finds that there is good cause for these actions to become effective immediately upon publication. This is because a delayed effective date is unnecessary due to the nature of a redesignation to attainment, which relieves the area from certain CAA requirements that would otherwise apply to it. The immediate effective date for this action is authorized under both 5 U.S.C. 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule ''grants or recognizes an exemption or relieves a restriction,'' and section 553(d)(3) which 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.'' The purpose of the 30-day waiting period prescribed in 553(d) 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 relieves the State of planning requirements for these 8-hour ozone nonattainment areas. For these reasons, EPA finds good cause under 5 U.S.C. 553(d)(3) for these actions to become effective on the date of publication of these actions.

IV. Statutory and Executive Order Review

Executive Order 12866: Regulatory Planning and Review

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.

Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Because it is not a ''significant regulatory action'' under Executive Order 12866 or a ''significant energy action,'' this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001).

Regulatory Flexibility Act

This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Redesignation of an area to attainment under section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on sources. 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.*).

Unfunded Mandates Reform Act

Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

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).

Executive Order 13132: Federalism

This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). Redesignation is an action that merely affects the status of a geographical area, and does not impose any new requirements on sources, or allows a state to avoid adopting or implementing additional requirements, and does not alter the relationship or distribution of power and responsibilities established in the Clean Air Act.

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

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.

National Technology Transfer Advancement Act

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus

standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Redesignation is an action that affects the status of a geographical area but does not impose any new requirements on sources. 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.

Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Congressional Review Act

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

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 17, 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 force its requirements. (See Section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Volatile organic compounds.

40 CFR Part 81

Air pollution control, Environmental protection, National parks, Wilderness areas.

Dated: July 5, 2007.

Bharat Mathur,

Acting Regional Administrator, Region 5.

■ Parts 52 and 81, chapter I, title 40 of the Code of Federal Regulations 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 P—Indiana

■ 2. Section 52.777 is amended by adding paragraph (hh) to read as follows:

§ 52.777 Control strategy: photochemical oxidants (hydrocarbons).

* * * * *

(hh) Approval—On May 30, 2006, Indiana submitted a request to redesignate St. Joseph and Elkhart Counties to attainment of the 8-hour ozone National Ambient Air Quality Standard. As part of the redesignation request, the State submitted a maintenance plan as required by section 175A of the Clean Air Act. Elements of the section 175 maintenance plan include a contingency plan and an obligation to submit a subsequent maintenance plan revision in eight years as required by the Clean Air Act. Also included were motor vehicle emission budgets to determine transportation conformity in St. Joseph and Elkhart Counties. The 2020 motor vehicle emission budgets are 6.64 tons per day for volatile organic compounds and 7.73 tons per day for oxides of nitrogen.

PART 81—[AMENDED]

■ 1. The authority citation for part 81 continues to read as follows:

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

■ 2. Section 81.315 is amended by revising the entry for South Bend-Elkhart, IN: Elkhart and St. Joseph Counties in the table entitled ''Indiana Ozone (8-Hour Standard)'' to read as follows:

§ 81.315 Indiana.

* * * * *

INDIANA OZONE

[8-hour standard]

Designated area	Designation [a]		Classification	
	Date [1]	Type	Date [1]	Type
* * *	*	*	*	*
South Bend-Elkhart, IN: Elkhart County. St. Joseph County.	7/19/07	Attainment.		
* * *	*	*	*	*

[a] Includes Indian Country located in each county or area, except as otherwise specified.
[1] This date is June 15, 2004, unless otherwise noted.

[FR Doc. E7–13797 Filed 7–18–07; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 060314069–6069–01]

RIN 0648–XA86

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Closure of the Closed Area I Scallop Access Area to General Category Scallop Vessels

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS announces that the Closed Area I Scallop Access Area (CAI) will close to general category scallop vessels for the remainder of the 2007 scallop fishing year. This action is based on the determination that 216 general category scallop trips into CAI are projected to be taken as of 0001 hr local time, July 15, 2007. This action is being taken to prevent the allocation of general category trips in CAI from being exceeded during the 2007 fishing year, in accordance with the regulations implementing Framework 18 to the Atlantic Sea Scallop Fishery Management Plan (FMP) and the Magnuson-Stevens Fishery Conservation and Management Act.

DATES: The closure is effective from 0001 hours, July 15, 2007, through February 29, 2008.

FOR FURTHER INFORMATION CONTACT: Ryan Silva, Fishery Management Specialist, (978)–281–9326, fax (978)–281–9135.

SUPPLEMENTARY INFORMATION: Regulations governing fishing activity in the Sea Scallop Access Areas (§ 648.59 and 648.60) authorize vessels issued a valid general category scallop permit to fish in CAI under specific conditions, including a cap of 216 trips that may be taken by general category vessels during the 2007 fishing year. The regulations at § 648.59(b)(5)(ii) require CAI to be closed to general category scallop vessels once the Northeast Regional Administrator has determined that the allowed number of trips are projected to be taken.

Based on Vessel Monitoring System (VMS) trip declarations by general category scallop vessels fishing in CAI, and analysis of fishing effort, a projection concluded that, given current activity levels by general category scallop vessels in the area, the trip cap will be attained on July 15, 2007. Therefore, in accordance with the regulations at § 648.59(b)(5)(ii), CAI is closed to all general category scallop vessels as of 0001 hr local time, July 15, 2007. No general category scallop vessel may declare or initiate a trip into this area. This closure is in effect for the remainder of the 2007 scallop fishing year. CAI is scheduled to re-open to scallop fishing, including trips for general category scallop vessels, on June 15, 2008, unless the schedule for scallop access areas is modified by the New England Fishery Management Council.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

Due to the need to take immediate action to close CAI once the allowed number of trips have been taken, pursuant to 5 U.S.C. 553(b)(3) proposed rulemaking is waived because it would be impracticable and contrary to the public interest to allow a period for public comment. CAI opened for the 2007 fishing year at 0001 hours on June 15, 2007. Data indicating the general category scallop fleet has taken all of CAI trips have only recently become available. To allow general category scallop vessels to continue to take trips in CAI during the period necessary to publish and receive comments on a proposed rule would result in vessels taking much more than the allowed number of trips in CAI. Excessive trips and harvest from CAI would result in excessive fishing effort in CAI, where effort controls are critical, thereby undermining conservation objectives of the FMP. Should excessive effort occur in CAI, future management measures would need to be more restrictive. Furthermore, for the same reasons, there is good cause under 5 U.S.C 553(b)(3) to waive the 30-day delayed effectiveness period for this action.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 13, 2007.

Emily Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 07–3499 Filed 7–13–07; 3:27 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070213032–7032–01]

RIN 0648–XB52

Fisheries of the Exclusive Economic Zone Off Alaska; Shortraker Rockfish in Statistical Area 610 of the Gulf of Alaska

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

ACTION: Temporary rule; prohibition of retention.

SUMMARY: NMFS is prohibiting retention of shortraker rockfish in Statistical Area 610 of the Gulf of Alaska (GOA). NMFS is requiring that shortraker rockfish in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the 2007 total allowable catch (TAC) of shortraker rockfish in this area has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 13, 2007, through 1200 hrs, A.l.t., December 31, 2007.

FOR FURTHER INFORMATION CONTACT: Jennifer Hogan, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2007 TAC of shortraker rockfish in Statistical Area 610 of the GOA is 153 metric tons as established by the 2007 and 2008 harvest specifications for groundfish of the GOA (72 FR 9676, March 5, 2007).

In accordance with § 679.20(d)(2), the Regional Administrator has determined that the 2007 TAC of shortraker rockfish in Statistical Area 610 of the GOA has been reached. Therefore, NMFS is requiring that shortraker rockfish in Statistical Area 610 of the GOA be treated as prohibited species in accordance with § 679.21(b).

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the prohibition of retention of shortraker rockfish in Statistical Area 610 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of July 12, 2007.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 13, 2007.

Emily Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 07–3500 Filed 7–13–07; 3:27 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070213033–7033–01]

RIN 0648–XB51

Fisheries of the Exclusive Economic Zone Off Alaska; Greenland Turbot in the Bering Sea Subarea of the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Greenland turbot in the Bering Sea subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2007 Greenland turbot total allowable catch (TAC) in the Bering Sea subarea of the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 14, 2007, through 2400 hrs, A.l.t., December 31, 2007.

FOR FURTHER INFORMATION CONTACT: Jennifer Hogan, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2007 Greenland turbot TAC in the Bering Sea subarea of the BSAI is 1,428 metric tons (mt) as established by the 2007 and 2008 final harvest specifications for groundfish in the BSAI (72 FR 9451, March 2, 2007).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS, has determined that the 2007 Greenland turbot TAC in the Bering Sea subarea of the BSAI will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 828 mt, and is setting aside the remaining 600 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Greenland turbot in the Bering Sea subarea of the BSAI.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Greenland turbot in the Bering Sea subarea of the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of July 12, 2007.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 12, 2007.

James P. Burgess,

Acting Director, Office Of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 07–3501 Filed 7–13–07; 3:27 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 72, No. 138
Thursday, July 19, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 733

RIN 3206–AL32

Political Activity—Federal Employees Residing in Designated Localities

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: OPM proposes to amend its regulations at 5 CFR part 733 by granting Federal employees residing in Fauquier County, Virginia, a partial exemption from the political activity restrictions specified in 5 U.S.C. 7323(a)(2) and (3), and adding Fauquier County to its regulatory list of designated localities in 5 CFR 733.107(c). The proposed amendment reflects OPM's determination that Fauquier County meets the criteria in 5 U.S.C. 7325 and 5 CFR 733.107(a) for a partial exemption to issue.

DATES: Written comments must be received on or before September 17, 2007.

ADDRESSES: Comments may be mailed to Kerry B. McTigue, General Counsel, Room 7355, United States Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Jo-Ann Chabot, Office of the General Counsel, United States Office of Personnel Management, (202) 606–1700.

SUPPLEMENTARY INFORMATION: The Hatch Act, at 5 U.S.C. 7321–7326, governs the political activity of Federal employees, and individuals employed with the United States Postal Service and the Government of the District of Columbia. Section 7323(a) generally permits Federal employees who are not employed in the Federal agencies or positions described in section 7323(b), as amended, to take an active part in partisan political campaigns. Employees employed in the Federal agencies or positions specified in 5 U.S.C. 7323(b), as amended, generally may participate in nonpartisan political activities. According to 5 U.S.C. 7323(a)(2) and (3), Federal employees may not become candidates for partisan political office and may not solicit, accept, or receive political contributions. Section 7325, however, authorizes OPM to prescribe regulations exempting Federal employees from the prohibitions in section 7323(a)(2) and (3) to the extent OPM considers it to be in their domestic interest.

Under the authority of 5 U.S.C. 7325, OPM may issue such regulatory exemptions when two conditions exist in the municipality or political subdivision. One condition is met if the municipality or political subdivision is in Maryland or Virginia and is in the immediate vicinity of the District of Columbia, *or* if the majority of voters in the municipality are employed by the Government of the United States. The second condition is met if OPM determines that, because of special or unusual circumstances, the domestic interest of the employees is served by permitting their political participation in accordance with regulations prescribed by OPM.

In regulations at 5 CFR 733.107(c) OPM has designated municipalities and political subdivisions where Federal employees may participate in local elections. At 5 CFR 733.103–733.106, OPM has established limitations on political participation by most Federal employees residing in these designated municipalities and subdivisions. Under 5 CFR 733.103, most Federal employees who reside in a municipality or political subdivision designated by OPM may:

(1) Run as independent candidates for election to partisan political office in elections for local office in the municipality or political subdivision;

(2) Solicit, accept, or receive a political contribution as, or on behalf of, an independent candidate for partisan political office in elections for local office in the municipality or political subdivision;

(3) Accept or receive a political contribution on behalf of an individual who is a candidate for local partisan political office and who represents a political party;

(4) Solicit, accept, or receive uncompensated volunteer services as an independent candidate, or on behalf of an independent candidate, for local partisan political office, in connection with the local elections of the municipality or subdivision; and

(5) Solicit, accept, or receive uncompensated volunteer services on behalf of an individual who is a candidate for local partisan political office and who represents a political party.

Under 5 CFR 733.104, however, these employees may not:

(1) Run as the representative of a political party for local partisan political office;

(2) Solicit a political contribution on behalf of an individual who is a candidate for local partisan political office and who represents a political party;

(3) Knowingly solicit a political contribution from any Federal employee, except as permitted under 5 U.S.C. 7323(a)(2)(A)–(C).

(4) Accept or receive a political contribution from a subordinate;

(5) Solicit, accept, or receive uncompensated volunteer services from a subordinate for any political purpose;

(6) Participate in political activities:

- While they are on duty:
- While they are wearing a uniform, badge, or insignia that identifies the employing agency or instrumentality or the position of the employee;
- While they are in any room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States or any agency or instrumentality thereof; or
- While using a Government-owned or leased vehicle or while using a privately owned vehicle in the discharge of official duties.

Moreover, candidacy for, and service in, a partisan political office shall not result in neglect of, or interference with, the performance of the duties of the employee or create a conflict, or apparent conflict, of interest.

Sections 733.103 and 733.104 of Title 5, Code of Federal Regulations, do not apply to individuals, such as career senior executives and employees of the Federal Bureau of Investigation, who are employed in the agencies or positions listed in 5 CFR 733.105(a). These individuals are subject to the more stringent limitations described in 5 CFR 733.105 and 733.106.

Individuals who require advice concerning specific political activities, and whether an activity is permitted or prohibited under 5 CFR 733.103–733.106, should contact the United States Office of Special Counsel at (800) 854–2824 or (202) 254–3650. Requests for Hatch Act advisory opinions may be made by e-mail to: *hatchact@osc.gov*.

In response to requests from a Federal employee who resides in Fauquier County, Virginia, OPM proposes to designate that county as one in which

Federal employees may run for local partisan political office, subject to the limitations established by OPM, and accept or receive political contributions in connection with elections for local public office. This proposal reflects OPM's determination that special or unusual circumstances exist so that it is in the domestic interest of Federal employees residing in Fauquier County to participate in these political activities. This determination is based on written material provided by the applicant, interviews with the applicant, and documentary material obtained through independent research. Principal factors leading to OPM's determination are the proximity of Fauquier County to the District of Columbia, the rapid growth of the county within the past few years, and significant public issues associated with this growth.

A copy of this notice will be published in two local newspapers serving Fauquier County.

If this proposed rule is adopted, OPM will amend 5 CFR 733.107(c) by adding Fauquier County to the list of designated Virginia municipalities and political subdivisions in which Federal Government employees may participate in elections for local partisan political office in accordance with the conditions specified in 5 CFR 733.103–733.106. The addition of Fauquier County will be listed after Falls Church, Virginia, and before Herndon, Virginia.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the changes will affect only employees of the Federal Government.

List of Subjects in 5 CFR Part 733

Government employees, Political activities.

U.S. Office of Personnel Management.

Linda M. Springer,

Director.

Accordingly, the Office of Personnel Management proposes to amend 5 CFR part 733 as follows:

PART 733—POLITICAL ACTIVITY—FEDERAL EMPLOYEES RESIDING IN DESIGNATED LOCALITIES

1. The authority citation for part 733 continues to read as follows:

Authority: 5 U.S.C. 7325; sec. 308 of Pub. L. 104–93, 109 Stat. 961, 966 (Jan. 6, 1996).

2. Section 733.107(c) is amended by adding Fauquier County, Virginia, alphabetically to the list of designated Virginia municipalities and political subdivisions as set forth below.

§ 733.107 Designated localities.

* * * * *

(c)

* * * * *

In Virginia

* * * * *

Fauquier County

* * * * *

[FR Doc. E7–14003 Filed 7–18–07; 8:45 am]

BILLING CODE 6325–48–P

FEDERAL ELECTION COMMISSION

11 CFR Part 113

[Notice 2007–15]

Use of Campaign Funds for Donations to Non-Federal Candidates and Any Other Lawful Purpose Other Than Personal Use

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Election Commission requests comments on a proposed revision to its rules regarding the use of campaign funds. The proposed revision would add to the current list of permissible uses of campaign funds in Commission regulations: donations to non-Federal candidates; and any other lawful purpose other than personal use. This change would conform the provision with those in the Federal Election Campaign Act, as amended (''the Act''). The Commission has made no final decision on the issues presented in this rulemaking. Further information is provided in the supplementary information that follows.

DATES: Comments must be received on or before August 20, 2007.

ADDRESSES: All comments must be in writing, must be addressed to Ms. Amy L. Rothstein, Assistant General Counsel, and must be submitted in either e-mail, facsimile, or paper copy form. Commenters are strongly encouraged to submit comments by e-mail to ensure timely receipt and consideration. E-mail comments must be sent to *439aNPRM@fec.gov.* If e-mail comments include an attachment, the attachment must be in either Adobe Acrobat (.pdf) or Microsoft Word (.doc) format. Faxed comments must be sent to (202) 219–3923, with paper copy follow-up. Paper comments and paper copy follow-up of faxed comments must be sent to the Federal Election Commission, 999 E Street, NW., Washington, DC 20463. All comments must include the full name and postal service address of the commenter or they will not be considered. The Commission will post comments on its Web site after the comment period ends.

FOR FURTHER INFORMATION CONTACT: Ms. Amy L. Rothstein, Assistant General Counsel, or Ms. Stacey J. Shin, Attorney, 999 E Street, NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: Section 313 of the Federal Election Campaign Act of 1971, as amended (''the Act''), sets forth permissible uses of contributions accepted by candidates and donations received by individuals to support their activities as Federal officeholders. (This section is codified at 2 U.S.C. 439a and will be referred to hereafter as ''Section 439a.'') Section 439a(a) provides that candidates may use contributions, and individuals holding Federal office may use donations, for: (1) Expenditures in connection with the candidate's or individual's campaign for Federal office; (2) ordinary and necessary expenses incurred in connection with duties of the individual as a Federal officeholder; (3) contributions to an organization described in section 170(c) of the Internal Revenue Code; (4) transfers, without limitation, to a national, State, or local committee of a political party; (5) donations to State and local candidates subject to the provisions of State law; and (6) any other lawful purpose, unless such purpose constitutes personal use of contributions or donations. *See* 2 U.S.C. 439a(a).

Part 113 of the Commission's regulations implements section 439a. Section 113.2 tracks the first four permissible uses of campaign funds and funds donated to a Federal officeholder as set out in the Act (to defray Federal campaign expenses; to pay ordinary and necessary expenses incurred in connection with the duties of a Federal officeholder; to make donations to organizations described in section 170(c) of the Internal Revenue Code; and to transfer such funds without limitation to any national, State, or local political party committee). *See* 11 CFR 113.2. The Commission is initiating this rulemaking to add to section 113.2 the last two permissible uses regarding donations to non-Federal candidates, and donations for any other lawful purpose other than personal use.

This difference between the Commission's regulations and the Act

resulted from amendments to the Act by the Bipartisan Campaign Reform Act of 2002 (''BCRA'')[1] and the Consolidated Appropriations Act of 2005.[2] Prior to the passage of BCRA, the Act and Commission regulations permitted the use of campaign funds for ''any other lawful purpose'' other than personal use. In BCRA, Congress deleted ''any other lawful purpose'' from section 439a and retained only four permissible uses of campaign funds. The Commission amended its regulation accordingly.[3]

Congress later amended section 439a again, in the Consolidated Appropriations Act of 2005, by reinstating ''any other lawful purpose'' and adding donations to State and local candidates as permissible uses of campaign funds. These changes to the Act have prompted this rulemaking.

I. Donations to State and Local Candidates

Section 439a(a)(5) of the Act expressly permits Federal candidates and officeholders to donate contributions accepted and other monies received to State and local candidates. The Commission proposes to amend 11 CFR 113.2 accordingly, by adding a new paragraph (d), which would permit Federal candidates and officeholders to donate campaign funds from their authorized committees to ''State and local candidates subject to the provisions of State law.'' The Commission seeks comment on this proposed revision.

II. Any Other Lawful Purpose

The Commission also proposes to amend 11 CFR 113.2 by inserting a new paragraph (e), which would state that campaign funds ''may be used for any other lawful purpose, unless such use is personal use under 11 CFR 113.1(g).'' New paragraph (e) would follow current section 439a(a)(6) of the Act, which permits the use of campaign funds ''for any other lawful purpose,'' unless the funds are converted by any person to personal use. The Commission seeks comment on this proposed revision to the regulation. The Commission notes that this change to the statute has the effect of superseding the analysis in Advisory Opinions 2003–26 (Voinovich) and 2004–03 (Dooley).

[1] Pub. L. 107–155, 116 Stat. 81 (2002).

[2] Pub. L. 108–447, 118 Stat. 2809 (2004). The Consolidated Appropriations Act of 2005 directed that section 312a(a) of the Act be amended, but was executed by amending section 313(a) of the Act ''as the probable intent of Congress.'' 2 U.S.C.A. 439a (West 2004).

[3] *Disclaimers, Fraudulent Solicitation, Civil Penalties, and Personal Use of Campaign Funds; Final Rule,* 67 FR 76962, 76970–75 and 76978–79 (Dec. 13, 2002).

Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)

The Commission certifies that the attached proposed rule would not, if promulgated, have a significant economic impact on a substantial number of small entities. The basis for this certification is that any individuals and not-for-profit entities that would be affected by this proposed rule are not ''small entities'' under 5 U.S.C. 601. The definition of ''small entity'' does not include individuals, but classifies a not-for-profit enterprise as a ''small organization'' if it is independently owned and operated and not dominant in its field. 5 U.S.C. 601(4). The proposed rule would affect authorized committees, which are not independently owned and operated because they are not financed and controlled by a small identifiable group of individuals. Authorized committees are financed by contributions from a large number of persons and controlled by the candidate and the candidate's campaign employees and volunteers. To the extent that any authorized committees might be considered ''small organizations,'' the number that would be affected by this proposed rule is not substantial.

The proposed rule also would not impose any additional restrictions or increase the costs of compliance for authorized committees. Instead, the proposed rule would provide authorized committees with additional options for using campaign funds. The proposed rule would not impose an undue burden upon authorized committees because they are already required to report the use of campaign funds to the Commission. Therefore, the attached proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 11 CFR Part 113

Campaign funds.

PART 113—USE OF CAMPAIGN ACCOUNTS FOR NON-CAMPAIGN PURPOSES

For the reasons set out in the preamble, the Federal Election Commission proposes to amend Subchapter A of Chapter I of Title 11 of the *Code of Federal Regulations* as follows:

1. The authority citation for part 113 continues to read as follows:

Authority: 2 U.S.C. 432(h), 438(a)(8), 439a, 441a.

2. Section 113.2 is amended by:

a. Adding paragraph (d); and

b. Redesignating paragraphs (e) and (f) as paragraphs (f) and (g) and adding new paragraph (e) to read as follows:

§ 113.2 Permissible non-campaign use of funds (2 U.S.C. 439a).

* * * * *

(d) May be donated to State and local candidates subject to the provisions of State law; or

(e) May be used for any other lawful purpose, unless such use is personal use under 11 CFR 113.1(g).

* * * * *

Dated: July 12, 2007.

Robert D. Lenhard,

Chairman, Federal Election Commission.

[FR Doc. E7–13956 Filed 7–18–07; 8:45 am]

BILLING CODE 6715–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28433; Directorate Identifier 2007–CE–052–AD]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company, Models 172, 182, and 206 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Cessna Aircraft Company (Cessna), Models 172, 182, and 206 series airplanes. This proposed AD would require you to remove the seats, modify the seat base/back attach brackets, and reinstall the seats of all the crew seats of the affected airplanes and seats 3 and 4 on Model 206 series airplanes. This proposed AD results from reports of the seat base/back attach bracket failing where it is welded to the seat base. We are proposing this AD to prevent failure of the seat base/back attach brackets, which could result in the seats collapsing backwards during flight with consequent loss of control.

DATES: We must receive comments on this proposed AD by September 17, 2007.

ADDRESSES: Use one of the following addresses to comment on this proposed AD:

• *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the

instructions for sending your comments electronically.

- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Fax:* (202) 493–2251.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.

For service information identified in this proposed AD, contact Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277; telephone: (316) 517–5800; fax: (316) 942–9006.

FOR FURTHER INFORMATION CONTACT: Gary Park, Aerospace Engineer, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4123; fax: (316) 946–4107.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments regarding this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number, ''FAA 2007–28433; Directorate Identifier 2007–CE–052–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Discussion

We have received three reports of the seat base/back bracket failing on Cessna Models 172, 182, and 206 series airplanes. Inadequate penetration of the weld bead may cause the weld to fail where the seat back bracket attaches to the seat base.

This condition, if not corrected, could result in the seats collapsing backwards during flight with consequent loss of control.

Relevant Service Information

We have reviewed Cessna Service Bulletin, No. SB–7–25–04, dated April 23, 2007. The service information describes procedures for removing the seats, modifying the seat base/back attach brackets, and reinstalling the seats of all the crew seats of the affected airplanes and seats 3 and 4 on Model 206 series airplanes.

FAA's Determination and Requirements of the Proposed AD

We are proposing this AD because we evaluated all information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design. This proposed AD would require you to remove the seats, modify the seat base/back attach brackets, and reinstall the seats of all the crew seats of the affected airplanes and seats 3 and 4 on Model 206 series airplanes.

Costs of Compliance

We estimate that this proposed AD would affect 1,556 airplanes in the U.S. registry.

We estimate the following costs to do the proposed modification:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
For Models 172 and 182 series airplanes: 5 work-hours × $80 per hour = $400 (for two seats).	$800 (for two seats)	$1,200	$1,599,600
For Model 206 series airplanes: 9 work-hours × 80 per hour = $720 (for four seats).	1,234 (for four seats)	1,954	435,742

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

Examining the AD Docket

You may examine the AD docket that contains the proposed AD, the regulatory evaluation, any comments received, and other information on the Internet at *http://dms.dot.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5527) is located at the street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator,

the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Cessna Aircraft Company: Docket No. FAA 2007–28433; Directorate Identifier 2007–CE–052–AD.

Comments Due Date

(a) We must receive comments on this airworthiness directive (AD) action by September 17, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the following airplane models and serial numbers that are certificated in any category:

Models	Serial Nos.
(1) 172R	17281211 through 17281356.
(2) 172S	172S9621 through 172S10310, 172S10312 through 172S10324, 172S10327 through 172S10332, 172S10334 through 172S10349, 172S10351 through 172S10374, 172S10376 through 172S10386, 172S10388 through 172S10408, 172S10410 through 172S10412, 172S10414 through 172S10417, and 172S10421 through 172S10423.
(3) 182T	18281328 through 18281867, 18281869 through 18281871, 18281873 through 18281875, and 18281877.
(4) T182T	T18208240 through T18208651, T18208654, T18208656 through T18208659, T18208663, T18208664, and T18208667 through T18208668.
(5) 206H	20608216 through 20608283.
(6) T206H	T20608445 through T20608662, T20608664 through T20608671, T20608673, T20608674, T20608676 through T20608681, T20608683 through T20608689, T20608691, T20608692, T20608694 through T20608696, T20608699 through T20608701, T20608703, and T20608704.

Unsafe Condition

(d) This AD results from reports of the seat base/back attach bracket failing where it is welded to the seat base. We are issuing this AD to prevent failure of the seat base/back attach brackets, which could result in the seats collapsing backwards during flight with consequent loss of control.

Compliance

(e) To address this problem, you must do the following, unless already done:

Actions	Compliance	Procedures
Remove, modify, and reinstall the crew seats (and seats 3 and 4 on the Model 206 series airplanes).	Within the next 50 hours time-in-service after the effective date of this AD or within the next 6 months after the effective date of this AD, whichever occurs first.	Follow Cessna Aircraft Company Service Bulletin SB07–25–04, dated April 23, 2007.

Alternative Methods of Compliance (AMOCs)

(f) The Manager, Wichita Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Gary Park, Aerospace Engineer, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4123; fax: (316) 946–4107. 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

(g) To get copies of the service information referenced in this AD, contact Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277; telephone: (316) 517–5800; fax: (316) 942–9006. To view the AD docket, go to U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, or on the Internet at *http://dms.dot.gov.* The docket number is Docket No. FAA–2007–28433; Directorate Identifier 2007–CE–052–AD.

Issued in Kansas City, Missouri, on July 12, 2007.

Sandra J. Campbell,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–13984 Filed 7–18–07; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2006–0772; FRL–8439–9]

Approval and Promulgation of Air Quality Implementation Plans; Minnesota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Minnesota State Implementation Plan (SIP) for sulfur dioxide (SO_2). Specifically, the revisions involve Continental Nitrogen & Resource Corporation (Continental Nitrogen) of Dakota County, Minnesota submitted on April 23, 2007. The emission limits for the Continental Nitrogen steam boilers have been removed. Continental Nitrogen has physically disconnected its three boilers. The boilers cannot operate, thus there are no emissions.

DATES: Comments must be received on or before August 20, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2006–0772, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-mail: mooney.john@epa.gov.*
3. *Fax:* (312) 886–5824.
4. *Mail:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only

accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6524, *rau.matthew@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: July 5, 2007.

Bharat Mathur,

Acting Regional Administrator, Region 5.

[FR Doc. E7–13776 Filed 7–18–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[EPA–HQ—RCRA–2005–0017, FRL–8441–8]

RIN 2050–AG24

Expansion of RCRA Comparable Fuel Exclusion; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: EPA is announcing that the comment period to the proposed rule entitled Expansion of RCRA Comparable Fuel Exclusion, published on June 15, 2007 (72 FR 33284), is being extended until September 14, 2007. In the proposed rule, EPA is expanding the comparable fuel exclusion under the rules implementing subtitle C of the Resource Conservation and Recovery Act (RCRA) for fuels that are produced from hazardous waste but which generate emissions that are comparable to emissions from burning fuel oil when such fuels are burned in an industrial boiler. We are requesting comments on a number of issues associated with this expansion of the Comparable Fuel Exclusion.

DATES: The comment period for the proposed rule published at 72 FR 33284, June 15, 2007, is extended from the original closing date of August 14, 2007 to September 14, 2007. Under the Paperwork Reduction Act, comments on the information collection provisions were originally due to be received by OMB on or before July 16, 2007. Those comments will now be due along with the rest of the comments on or before September 14, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–RCRA–2005–0017, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *E-mail: rcra-docket@epa.gov.*
- *Fax:* 202–566–9744.
- *Mail:* U.S. Postal Service, send comments to: RCRA Docket, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please include a total of two copies. We request that you also send a separate copy of each comment to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).
- *Hand Delivery:* In person or by courier, deliver comments to: RCRA Docket, EPA Docket Center (2822T), Room 3334, 1301 Constitution Ave., NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. Please include a total of two copies. We request that you also send a separate copy of each comment to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

Instructions: Direct your comments to Docket ID No. EPA–HQ–RCRA–2005–0017. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. Send or deliver information identified as CBI to only the following address: Ms. LaShan Haynes, RCRA Document Control Officer, EPA (Mail Code 5305P), Attention Docket ID No. EPA–HQ–RCRA–2005–0017, 1200 Pennsylvania Avenue, Washington DC 20460. Clearly mark the part or all of the information that you claim to be CBI. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.* We also request that interested parties who would like information they previously submitted to EPA to be considered as part of this

reconsideration action identify the relevant information by docket entry numbers and page numbers.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the RCRA Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The HQ EPA Docket Center telephone number is (202) 566–1742. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the RCRA Docket is (202) 566–0270. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: For more information on this rulemaking, contact Mary Jackson at (703) 308–8453, or *jackson.mary@epa.gov*, Office of Solid Waste (MC: 5302P), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

Comment Period. We are extending the comment period by thirty days in response to commenters' request for more time to respond to issues in the proposed rule published on June 15, 2007 (72 FR at 33284). In addition, we are extending the comment period for the information collection provisions by 60 days. Therefore, the public comment period for the rule and information collection provisions will now end on September 14, 2007.

Regulated Entities. Categories and entities potentially affected by this action include:

Category	NAICS code	SIC code	Examples of potentially regulated entities
Any industry that generates or combusts hazardous waste as defined in the proposed rule.	562	49	Waste Management and Remediation Services.
	327	32	Non-metallic Mineral Products Manufacturing.
	325	28	Chemical Manufacturing.
	324	29	Petroleum and Coal Products Manufacturing.
	331	33	Primary Metals Manufacturing.
	333	38	Machinery Manufacturing.
	326	306	Plastic and Rubber Products Manufacturing.
	488, 561	49	Administration and Support Services.
	421	50	Scrap and waste materials.
	422	51	Wholesale Trade, Non-durable Goods, N.E.C.
	512, 541, 812	73	Business Services, N.E.C.
	512, 514, 541, 711	89	Services, N.E.C.
	924	95	Air, Water and Solid Waste Management.
	336	37	Transportation Equipment.
	928	97	National Security.
	334	35	Computer and Electronic Products Manufacturing.
	339	38	Miscellaneous Manufacturing.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be impacted by this action. This table lists examples of the types of entities EPA is now aware could potentially be regulated by this action. Other types of entities not listed could also be affected. To determine whether your facility, company, business, organization, etc., is affected by this action, you should examine the applicability criteria in the proposed rule published on June 15, 2007. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

World Wide Web (WWW). In addition to being available in the docket, an electronic copy of the proposed rule is available at *http://epa.gov/epaoswer/hazwaste/combust/compfuels/exclusion.htm*. This Web site also provides other information related to the Comparable Fuel Exclusion.

Submitting CBI. Do not submit this information to EPA through *www.regulations.gov* or e-mail. Send or deliver information identified as CBI only to the address listed in the **ADDRESSES** section of this document. 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.

List of Subjects in 40 CFR Part 261

Hazardous waste, Recycling, Reporting and recordkeeping requirements.

Dated: July 12, 2007.

Robert W. Hall,

Acting Director, Office of Solid Waste.

[FR Doc. E7–14006 Filed 7–18–07; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[ET Docket No. 07–113; FCC 07–104]

Operation in the 57–64 GHz Band

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the requirements of the Commission's rules applicable to transmitters operating on an unlicensed basis in the 57–64 GHz frequency range (''the 60 GHz band''). The proposed changes would allow longer communication ranges for unlicensed point-to-point 60 GHz broadband digital

systems and thereby extend the ability of such systems to supply very high speed broadband service to office buildings and other commercial facilities. The Commission believes these proposals would encourage broader deployment of point-to-point digital systems in this band without increasing the potential for harmful interference, and thereby further the Commission's objective of promoting the availability of broadband connectivity to all Americans.

DATES: Comments must be filed on or before October 17, 2007, and reply comments must be filed on or before November 16, 2007.

FOR FURTHER INFORMATION CONTACT: Anh Wride, Office of Engineering and Technology, (202) 418–0577, e-mail: *Anh.Wride@fcc.gov,* TTY (202) 418–2989.

ADDRESSES: You may submit comments, identified by ET Docket No. 07–113, RM–11104, 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.
- E-mail: [Optional: Include the e-mail address only if you plan to accept comments from the general public]. Include the docket number(s) in the subject line of the message.
- Mail: [Optional: Include the mailing address for paper, disk or CD–ROM submissions needed/requested by your Bureau or Office. Do not include the Office of the Secretary's mailing address here.]
- 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.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making,* ET Docket No. 07–113, FCC 07–104, adopted May 25, 2007, and released June 1, 2007. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room, CY–B402, Washington, DC 20554. The full text may also be downloaded at: *http://www.fcc.gov.*

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. 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 should 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).

Summary of Notice of Proposed Rulemaking

1. The *Notice of Proposed Rule Making* (''NPRM''), proposes to amend the requirements in part 15 of the Commission's rules applicable to transmitters operating on an unlicensed basis in the 57–64 GHz frequency range (''the 60 GHz band''). The Commission granted the Petition for Rule Making submitted by the Wireless Communications Association (WCA) and proposes to increase the fundamental radiated emission limit for unlicensed 60 GHz transmitters with very high gain antennas, specify the emission limit as an equivalent isotropically radiated power (''EIRP'') level, and eliminate the requirement for a transmitter identification for 60 GHz transmitters. The Commission also proposes to increase the current part 15 average power EIRP level from 40 dBm to a new level of 82 dBm minus 2 dB for every dB that antenna gain is below 51 dBi. The Commission also proposes to increase the current part 15 peak power EIRP level from 43 dBm to a new level of 85 dBm minus 2 dB for every dB that the antenna gain is below 51 dBi. These increases would be limited to 60 GHz transmitters located outdoors or those located indoors with emissions directed outdoors, *e.g.* through a window. The proposed changes would allow longer communication ranges for unlicensed point-to-point 60 GHz broadband digital systems and thereby extend the ability of such systems to supply very high speed broadband service to office buildings and other commercial facilities. The Commission believes these proposals would encourage broader deployment of point-to-point digital systems in this band without increasing the potential for harmful interference, and thereby

further the Commission's objective of promoting the availability of broadband connectivity to all Americans.

2. The Wireless Communications Association International, Inc. filed a Petition for Rulemaking requesting that the Commission amend its rules for 60 GHz devices to implement certain changes related to operation with very high gain antennas. WCA requests that the average emission limit for point-to-point systems employing very high gain antennas be specified in EIRP and that the limits be increased to 82 dBm less 2 dB for every dB that the systems' antenna gain is below 51 dBi. It submits that the proposed higher EIRP levels for 60 GHz equipment with an antenna exceeding a specific amount of gain would foster the development of products with longer operating range that could offer high speed communications to compete with, complement, or extend the broadband services provided on existing media. It states that under the existing rules, outdoor link distances are effectively limited to 700 meters in most cities. WCA states that operation at the higher EIRP level it requests would enable an increase in operating range, on the order of 1.5 kilometers, that would permit the delivery of multi-gigabit broadband services to an ''exponentially larger number of office buildings and other commercial properties.'' It further submits that specification of the power limit in EIRP units would remove confusion in measurements involving very high gain antennas. WCA states that 60 GHz devices could comply with either the EIRP specification or the existing power density standards. In addition, WCA requests that the Commission eliminate the transmitter identification requirement for ''window links,'' *i.e.*, for transmitters that are located indoors but direct their emissions through a window to the outside, which would reduce installation costs for 60 GHz products.

3. The Commission proposes to allow operation at higher power levels by 60 GHz unlicensed equipment with an antenna exceeding a specific gain. The Commission believes that this has the potential to foster the development of a variety of products with longer operating ranges than are achieved under the current rules and promote the 60 GHz band's potential as a vehicle for broadband transmission links in addition to services offered by incumbent providers. This would promote the development of very high speed wireless products for environments where obstacles such as highways, parking lots, etc., prevent extension of fiber or wireline connections, or as a means to serve as broadband link or backhaul for an entire building or campus, where adding new cables could result in major construction costs. The Commission also proposes to adopt for 60 GHz equipment a radiated emission limit specified in EIRP for 60 GHz equipment using very high gain antennas that would facilitate emission measurements. The Commission further proposes to allow emission measurements in EIRP as an alternative for all other 60 GHz devices. Finally, the Commission proposes to eliminate the transmitter identification requirement for indoor 60 GHz transmitters whose emissions are directed outdoors, and it seeks comment on eliminating the transmitter identification requirement for all indoor 60 GHz transmitters. The Commission believes that these proposals would promote greater utility for the 60 GHz band without increasing the interference risk to existing services in the band and would encourage a more flexible development of broadband data products. The Commission also notes that 60 GHz consumer applications are now being developed and our proposals herein would help bring valuable new services to consumers, and advance economic opportunities for the American public, consistent with the Commission's objectives.

4. The Commission proposes to increase the average emission limit for point-to-point systems employing very high gain antennas and for the reasons discussed in the following section, to specify this higher limit in EIRP units. Specifically, it proposes to increase the average EIRP power limit for systems employing very high gain antennas to 82 dBm less 2 dB for every dB that the systems' antenna gain is below 51 dBi. The Commission further proposes that this increase in the emission level be limited to 60 GHz transmitters located outdoors or those located indoors with emissions directed outdoors, *e.g.*, through a window. This proposal would allow eligible devices to operate with as much as a 42 dB increase in their emission level. As WCA states, with higher power 60 GHz devices will be able to increase link distances to provide very high speed wireless service to a greater number of locations than is currently possible. The Commission believes that allowing higher power operations by systems with very high gain antennas would foster the development of high speed communication products with longer operating range and lower costs, and thereby promote the availability of broadband services.

5. The Commission believes that several factors will offset any increase in the interference potential between equipment with very high gain antennas and other devices in the 60 GHz band. First, the very high gain antennas used would be highly directional, reducing the probability that a low power, omnidirectional system would be located within its beamwidth. Second, it is likely that low power devices primarily will operate indoors because of their shorter range, whereas, very high gain, directional systems, which have a longer emission range, primarily will be located outdoors or will have their signals directed outdoors. Thus, the emissions from directional systems, as seen by lower power indoors devices, will be attenuated significantly from intervening objects, such as building walls. Third, oxygen and water vapor absorption and scattering should further reduce ranges at which the radiated emission levels from 60 GHz equipment with very high gain antennas could cause interference. To reduce the interference risk between very high gain and other of 60 GHz devices, the Commission proposes to require that equipment with very high gain antennas operating under the proposed high power limit only operate outdoors or direct their emissions outdoors, *e.g.*, through a window. Thus, it believes that the risk of interference from higher power, directional 60 GHz transmission systems to lower power, omnidirectional systems will be minimal. While the Commission anticipates that consumer applications for wireless interconnections in the 60 GHz band are forthcoming, the 60 GHz devices that are now being marketed are intended for enterprise and commercial use; therefore, there is no immediate risk of interference to 60 GHz unlicensed consumer devices.

6. The Commission believes that a limit on the peak radiated emission level should continue to apply to 60 GHz emissions. Under the current standards, the peak power density may not exceed 18 $\mu W/cm^2$ at 3 meters (43 dBm EIRP). This is 3 dB higher than the average power density limit. It believes that a similar 3 dB relationship between the maximum peak and average emission limits should apply to all 60 GHz systems, whether they comply with a limit based on power density or on EIRP. The Commission proposes to apply a peak limit of 85 dBm minus 2 dB for every dB that the antenna gain is less than 51 dBi to 60 GHz systems operating under the higher proposed average power limit. The Commission

also proposes to retain the existing limits on spurious emissions and peak transmitter output power.

7. Comments are requested on the various aspects of this proposal to modify the emission limit for 60 GHz equipment with very high gain antennas. The Commission requests comments accompanied by analysis on any interference concerns along with methods that may be suitable for mitigating such concerns. It also requests comments on the feasibility of using extremely high antenna gains, *e.g.*, greater than 51 dBi.

8. Because the far field of a 60 GHz device with a very high gain antenna begins at a distance much farther than the 3 meters measurement distance specified in the rules, the Commission believes it is appropriate to specify the emission limits for those devices only in EIRP. However, in the case of devices with lower gain antennas, the far field distance is generally closer to the 3 meters measurement distance. The Commission also recognizes that some parties may still wish to demonstrate compliance of devices with lower gain antennas under the existing power density limits and measurement procedures. The Commission proposes to maintain the existing power density limits for devices other than very high gain systems as an alternative to the EIRP limits. It seeks comments on this proposal and on the amount of antenna gain above which use of the EIRP limits would be mandatory. Comments are requested on the various aspects of this proposal to express the emission limits as EIRPs as alternatives to the existing power density standards. Comments are also requested on whether the Commission should continue to specify measurements using the existing power density limits as an alternative to measurements using the proposed EIRP limits or if it should delete the power density limits in favor of EIRP limits.

9. *Antenna Substitution.* Section 15.204(c)(4) of the rules allows intentional radiators to be marketed and used with any antenna that is of the same type and of equal or less directional gain as the antenna authorized with the equipment. The Commission notes that the comments contained considerable discussion regarding the Commission's emission limits for the 60 GHz band and their relationship to the RF exposure guidelines at the time the emission limits were adopted. The Commission is concerned here that the emission levels it proposes in this proceeding continue to remain below the current RF exposure guidelines. Intentional radiators must be designed to ensure that the public is not exposed to RF energy in excess of the Commission's guidelines. In some cases, this could require that transmitters operate at a lower emission level than the maximum limit specified in the rules. The Commission notes that the near field and antenna surface RF exposure levels may increase as the size of the antenna decreases. Thus, the use of a lower gain antenna could result in a transmission system that is more likely to exceed the RF exposure guidelines. In addition, the proposed rule changes would require that the maximum EIRP decrease as the antenna gain is reduced below 51 dBi. Because of these considerations, the Commission believes that 60 GHz systems operating under the higher power EIRP standards should be marketed and used only with the specific model antenna(s) with which the transmitter is certified. For these reasons, the Commission proposes to specify that the provisions contained in section 15.204(c) of the rules permitting antenna substitutions not apply to 60 GHz transmission systems operating under the proposed higher EIRP limits. The Commission requests comment on this proposal.

10. The Commission propose not to require transmitter identification for any indoors transmitters whose emissions are directed outdoors, *e.g.*, through a window, and seek comment on this proposal. It believes that any interference potential likely will be localized around a window link, and that any 60 GHz emissions that are reflected from the glass in a window link will be attenuated by the walls and other surrounding objects and will not impact operations in adjacent areas, primarily affecting equipment located in the same room as the window link. In most cases, all equipment within the same room will be under the control of the same user. Thus, potential interference to other co-located units appears to be a frequency management problem that should be addressed by the equipment user. Because of this, it appears that the source of any such interference could be easily identified without the need for a transmitter identification signal. Further, the Commission believes that it is more likely that any 60 GHz emissions that are reflected from the glass in a window link will be attenuated by the walls and other surrounding objects and will not impact operations in adjacent areas. It seeks comment on this proposal.

11. The Commission also seeks comment on whether the transmitter identification requirement should be eliminated for all 60 GHz systems. It believes that the proximity of indoors co-located equipment should allow the user to identify the interfering transmitter to other indoors devices without having to use the transmitter identification feature. If interference should be experienced from a transmitter that is not co-located, the Commission questions whether the 60 GHz receiver experiencing the interference would be able to detect and demodulate an identification signal from a transmitter that may be operating using a different modulation format. Because manufacturers may voluntarily choose to incorporate the transmitter identification and specifications for transmitter identification could reside in industry standards, the Commission question the need to maintain a requirement that adds costs to equipment design and installation.

Initial Regulatory Flexibility Analysis

12. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[1] the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the *Notice of Proposed Rule Making* (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 provided in paragraph 23 of this *NPRM.* The Commission will send a copy of the *NPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).[2]

A. Need for, and Objectives of, the Proposed Rules

13. The rule making proposal was initiated to obtain comments regarding proposed changes to the regulations for radio frequency devices that do not require a license to operate. The Commission seeks to determine if the standards should be amended to permit an increase in the allowable emitted signal level for systems using very high gain directional antennas, to permit the emissions from 60 GHz systems to be measured as an equivalent isotropically radiated power instead of as a power density, and to eliminate the need for all 60 GHz systems to emit a transmitter identification signal.

[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), Public Law 104–121, Title II, 110 Stat. 847 (1996).

[2] *See* 5 U.S.C. 603(a).

B. Legal Basis

14. The proposed action is taken pursuant to Sections 4(i), 301, 302, 303(e), 303(f), 303(r), 304 and 307 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 301, 302, 303(e), 303(f), 303(r), 304 and 307.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

15. 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 generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.''[4] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[5] A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.[6]

16. We do not expect that the rules proposed in the *NPRM* will have a significant negative economic impact on small businesses.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

17. Part 15 transmitters already are required to be authorized under the Commission's certification procedure as a prerequisite to marketing and importation. The reporting and recordkeeping requirements associated with these equipment authorizations would not be changed by the proposals contained in the NPRM. The changes to the regulations would permit operation at a higher emission level, would permit a new method of measuring compliance with the emission limits, and would eliminate the need for transmitters in the 60-GHz band to incorporate a transmitter identification system.

[3] 5 U.S.C. 603(b)(3).

[4] 5 U.S.C. 601(6).

[5] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small business concern'' in 15 U.S.C. 632). Pursuant to the RFA, the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.'' 5 U.S.C. 601(3).

[6] Small Business Act, 15 U.S.C. 632 (1996).

E. Federal Rules that May Duplicate, Overlap or Conflict With the Proposed Rules

None.

Ordering Clauses

18. Pursuant to sections 1, 4(i), 7(a), 301, 303(f), 303(g), 303(r), 307(e) and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 157(a), 301, 303(f), 303(g), 303(r), 307(e), and 332, the *NPRM* is adopted and the Petition for Rule Making by the Wireless Communications Association filed on September 30, 2004, is hereby granted to the extent described herein.

19. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of the *NPRM,* including the Initial Regulatory Flexibility Analysis to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 15

Communications equipment.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Proposed Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 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 15.204 is amended by revising paragraph (c) introductory text to read as follows:

§ 15.204 External radio frequency power amplifiers and antenna modifications.

* * * * *

(c) An intentional radiator may be operated only with the antenna with which it is authorized. If an antenna is marketed with the intentional radiator, it shall be of a type which is authorized with the intentional radiator. An intentional radiator may be authorized with multiple antenna types. Exceptions to the following provisions, if any, are noted in the rule section under which the transmitter operates, e.g., see § 15.255 (b)(1)(ii) of this part.

* * * * *

3. Section 15.255 is amended by removing paragraph (i) and revising paragraphs (b)(1), (c)(3), (e) to read as follows:

§ 15.255 Operation within the band 57–64 GHz.

* * * * *

(b) * * *

(1) Products other than fixed field disturbance sensors shall comply with one of the following emission limits, as measured during the transmit interval:

(i) The average power density of any emission shall not exceed 9 μW/cm^2 and the peak power density of any emission shall not exceed 18 μW/cm^2, both as measured at 3 meters from the radiating structure provided, however, that 3 meters is in the far field of the emission. If 3 meters is not in the far field, the measurements shall be performed at whatever greater distance is necessary to result in the measurement being performed in the far field and the results shall be extrapolated to a distance of 3 meters, as specified in Section 15.31(f)(1) of this part. As an alternative to these spectral density emission limits, the average power density of any emission shall not exceed an equivalent isotropically radiated power (EIRP) level of 40 dBm and the peak power density of any emission shall not exceed an EIRP of 43 dBm.

(ii) As an alternative to paragraph (b)(1)(i) of this section, for transmitters located outdoors or located indoors with emissions directed outdoors, *e.g.* through a window, the average power density of any emission shall not exceed an EIRP level of 82 dBm minus 2 dB for every dB that the antenna gain is less than 51 dBi. The peak power density of any emission shall not exceed 85 dBm minus 2 dB for every dB that the antenna gain is less than 51 dBi. The provisions of section 15.204(c) of this part that permit the use of different antennas of the same type and of equal or less directional gain do not apply to intentional radiator systems operating under this provision. In lieu thereof, intentional radiator systems shall be certified using the specific antenna(s) with which the system will be marketed and operated. Compliance testing shall be performed using the highest gain and the lowest gain antennas for which certification is being sought. Testing shall be performed with the intentional radiator operated at its maximum available output power level. The responsible party, as defined in section 2.909 of this chapter, shall supply a list of acceptable antennas with the application for certification.

* * * * *

(c) * * *

* * * * *

(3) Between 40 GHz and 200 GHz, the level of these emissions shall not exceed

an EIRP of −10 dBm or, alternatively, a power density of 90 pW/cm² at a distance of 3 meters. If a power density measurement is performed and 3 meters is not within the far field, the measurements shall be performed at whatever greater distance is necessary to result in the measurement being in the far field and the results shall be extrapolated to a distance of 3 meters as specified in section 15.31(f)(1) of this part.

* * * * *

(e) Except as specified below, the total peak transmitter output power shall not exceed 500 mW. Depending on the gain of the antenna, it may be necessary to operate the intentional radiator using a lower peak transmitter output power in order to comply with the power density limits or EIRP limits specified in paragraph (b) of this section.

* * * * *

[FR Doc. E7–13832 Filed 7–18–07; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 71

[OST Docket No. 2007–28746]

RIN 2105–AD71

Standard Time Zone Boundary in Southwest Indiana

AGENCY: Office of the Secretary (OST), the Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: DOT proposes to relocate the time zone boundary in Indiana to move Knox, Daviess, Martin, Pike, and Dubois Counties from the Central Time Zone to the Eastern Time Zone. This action is taken at the request of the Boards of Commissioners of each of the counties. DOT requests comment on whether this change would serve the convenience of commerce, the statutory standard for a time zone change and whether the time zone boundary should be changed for other contiguous counties in southwestern Indiana. Persons supporting or opposing the change should not assume that the change will be made merely because DOT is making the proposal. The final rule will be based on all of the information received during the entire rulemaking proceeding and whether the statutory standard has been met.

DATES: Comments should be received by August 20, 2007 to be assured of consideration. Comments received after that date will be considered to the extent practicable. If the time zone boundary is changed as a result of this rulemaking, the effective date would be November 4, 2007.

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

- *Web site: http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* Room W12–140 on the plaza level of the U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

General Instructions: All submissions must include the agency name and docket number (OST Docket Number 2007–28746) or Regulatory Identification Number (RIN 2105–AD71) for this rulemaking. Note that all comments received will be posted without change (including any personal information provided) to *http://dms.dot.gov.* Please refer to the Privacy Act heading under Regulatory Notices.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room W12–140 on the plaza level of the U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Judith S. Kaleta, Office of the General Counsel, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, *indianatime@dot.gov,* (202) 493–0992.

SUPPLEMENTARY INFORMATION:

Current Indiana Time Observance

Indiana is divided into 92 counties. Under Federal law, 75 counties are in the Eastern Time Zone and 17 are in the Central Time Zone. There are six Central Time Zone counties in the northwest (Lake, Porter, La Porte, Starke, Newton, and Jasper) and eleven in the southwest (Knox, Daviess, Martin, Gibson, Pike, Dubois, Posey, Vanderburgh, Warrick, Spencer, and Perry). Neighboring states differ as to whether they observe Eastern or Central Time. Illinois and western Kentucky observe Central Time, while eastern Kentucky, Ohio, and the portion of Michigan adjoining Indiana observe Eastern Time.

Federal law provides that an individual State can decide whether or not to observe daylight saving time. In 2005, the Indiana General Assembly adopted legislation (Pub. L. 243–005 or the Indiana Act) that provides that the entire State of Indiana would observe daylight saving time beginning in 2006. In addition, the Indiana Act addressed the issue of changing the Eastern and Central Time Zone boundaries.

In January 2006 (71 FR 3228) and February 2007 (72 FR 6170), DOT completed rulemaking proceedings establishing new time zone boundaries that resulted in the current time zone observance. Knox, Daviess, Martin, Pike, and Dubois Counties (the Petitioning Counties), which were moved to the Central Time Zone in January 2006, have now filed a Joint Petition requesting a time zone change back to the Eastern Time Zone.

Statutory Requirements

Under the Standard Time Act of 1918, as amended by the Uniform Time Act of 1966 (15 U.S.C. 260–64), the Secretary of Transportation has authority to issue regulations modifying the boundaries between time zones in the United States in order to move an area from one time zone to another. The standard to modify a boundary contained in the statute for such decisions is ''regard for the convenience of commerce and the existing junction points and division points of common carriers engaged in interstate or foreign commerce.'' 15 U.S.C. 261.

DOT Procedures To Change a Time Zone Boundary

DOT has typically used a set of procedures to address time zone issues. Under these procedures, DOT will generally begin a rulemaking proceeding to change a time zone boundary if the highest elected officials in the area submit a petition requesting a time zone change and provide adequate data supporting the proposed change. We ask that the petition include, or be accompanied by, detailed information supporting the requesting party's contention that the requested change would serve the convenience of commerce. The principle for deciding whether to change a time zone is defined very broadly to include consideration of all impacts of such a change on a community. We also ask that the supporting documentation address, at a minimum, each of the

following questions in as much detail as possible:

1. From where do businesses in the community get their supplies, and to where do they ship their goods or products?
2. From where does the community receive television and radio broadcasts?
3. Where are the newspapers published that serve the community?
4. From where does the community get its bus and passenger rail services; if there is no scheduled bus or passenger rail service in the community, to where must residents go to obtain these services?
5. Where is the nearest airport; if it is a local service airport, to what major airport does it carry passengers?
6. What percentage of residents of the community work outside the community; where do these residents work?
7. What are the major elements of the community's economy; is the community's economy improving or declining; what Federal, State, or local plans, if any, are there for economic development in the community?
8. If residents leave the community for schooling, recreation, health care, or religious worship, what standard of time is observed in the places where they go for these purposes?

In addition, we consider any other information that the county or local officials believe to be relevant to the proceeding. We consider the effect on economic, cultural, social, and civic activities, and how a change in time zone would affect businesses, communication, transportation, and education.

2005–2006 Indiana Time Zone Rulemaking Proceedings Involving the Petitioning Counties

On August 17, 2005, DOT published a notice in the **Federal Register** inviting county and local officials in Indiana that wished to change their current time zone in response to the Indiana Act to notify DOT of their request for a change by September 16, 2005, and to provide data in response to the questions identified in the previous section on DOT Procedures to Change a Time Zone Boundary. DOT received 19 petitions from counties asking to be changed from the Eastern Time Zone to the Central Time Zone, including the five Petitioning Counties.

The Petitioning Counties are located between Evansville and Indianapolis, near the geographic center of North America and the median center of the U.S. population. The Petitioning Counties are bordered to the north and east by counties in Indiana that are currently located in the Eastern Time Zone. The Petitioning Counties are bordered to the west by Illinois and to the south by counties in Indiana that are currently located in the Central Time Zone. According to data from STATS Indiana (an information service of the Indiana Business Research Center at Indiana University's Kelly School of Business), the Petitioning Counties had a total population of 132,842 in 2005. The Petitioning Counties were five of the eight counties that moved from the Eastern Time Zone to the Central Time Zone under DOT's January 2006 final rule.

In the original 2005 rulemaking proceeding, the Petitioning Counties submitted their petitions individually. In their 2005 petitions, they enumerated reasons for a move to the Central Time Zone based in large part on comments made during open, local public meetings in the respective counties. The Daviess County petition emphasized Evansville (in the Central Time Zone) as the place with the closest airport and the place where its residents shop, conduct business, and receive television broadcasts, with ''numerous citizens'' employed in Gibson County (in the Central Time Zone). The Dubois County petition pointed out that while many services are obtained within-county, the decision to move to the Central Time Zone was supported by ''60 to 70% of the general public, by representatives of three local school districts, and by approximately 50% of local business and industry.'' The Knox County petition stated that many of its residents work in the Central Time Zone, creating ''time zone issues during substantial portions of the year'' and those residents who leave for schooling, recreation, healthcare and religious worship go to areas in the Central Time Zone. The Martin County petition stated that ''inclusion in the Central Time Zone is preferred by a majority of those responding,'' that 40% of its residents work outside of the County (mainly in the Central Time Zone), and that the primary providers of goods and recipients of products to and from the County are already located in or are petitioning to be in the Central Time Zone. The Pike County petition cited television and radio broadcasting, the interests of its mining industry and an increasing number of employees commuting to counties in the Central Time Zone.

Based on these petitions and comments that were submitted to the docket and made at the public hearings, as well as an analysis of Indiana economic, workforce, transportation, and education regions as well as media/commerce data, DOT concluded that the Petitioning Counties have stronger ties to each other and to other counties to their south in the Central Time Zone than to the counties on their northern and eastern borders in the Eastern Time Zone. DOT, therefore, granted the petitions and changed the time zone boundaries for the Petitioning Counties from the Eastern Time Zone to the Central Time Zone. The change to the Central Time Zone became effective on April 2, 2006.

Only a few months later, on August 18, 2006, the Boards of Commissioners of the Petitioning Counties jointly submitted a petition (Joint Petition) in which they enumerated the reasons that the Petitioning Counties, as a unit, should be changed back to the Eastern Time Zone. As compared to the original petitions from the Petitioning Counties, the Joint Petition includes updated answers to the questions DOT considers in making time zone determinations as well as exhibits in support of these answers. The Joint Petition provides more detailed responses to DOT's questions related to community imports and exports, television and radio broadcasts, newspapers, bus and passenger rail services, airports/airline services, worker commuting patterns, the community's economy/economic development, and schooling, recreation, health care, or religious worship.

The Joint Petition requests a change that is contrary to the Petitioning Counties' positions in their original individual petitions. The Joint Petition claims the original petitions ''were incomplete and conclusory, and the information they contained was limited and largely based on opinion and not backed by substantial and verifiable evidence.'' The Joint Petition states that, since the January 2006 ruling, there has been ''a groundswell of support for returning to the Eastern Time Zone, which has been a product of residents and businesses having been inconvenienced in ways that they could not have fully anticipated until the switch occurred.'' Accordingly, the Joint Petition claims ''to contain more extensive and thorough research on this issue.''

The Joint Petition was accompanied by letters from Indiana Governor Mitchell Daniels, the Indiana Economic Development Corporation, and the Indiana Department of Workforce Development. The Governor wrote in support of the Joint Petition, stating that putting more of the State in the same time zone will provide clarity on the time questions and advance economic growth. The two organizations addressed regional connectivity. They

noted that they established their respective State regions based on their ability to deliver services. They did not establish regions based on time zones or ''convenience of commerce.''

After reviewing the Joint Petition and its accompanying exhibits and letters of support, on September 28, 2006, DOT sent a letter to the Petitioning Counties requesting that certain procedural concerns be addressed. Specifically, DOT requested the submission of amended signature pages for each county, certifying that the request was the result of official action by the Board of County Commissioners, the vote of the Board members concerning the submission of the Joint Petition, the date of the vote, and the signature for each Board member. The Petitioning Counties complied with this request on November 13, 2006 (First Supplemental Response).

On November 14, 2006, the DOT sent a second letter seeking clarification and additional information from the Petitioning Counties before making any determination on whether to propose a time zone boundary change for the Petitioning Counties. In turn, on December 6, 2006, the Petitioning Counties submitted to DOT a supplemental response (Second Supplemental Response) and appendix to DOT's request for this additional substantive information.

Upon reviewing the Second Supplemental Response, DOT determined that while the Petitioning Counties provided answers to most of DOT's inquiries, in some instances gaps remained, and there were inconsistencies in the responses. Information provided by the Petitioning Counties needed to be corrected or clarified. On April 2, 2007, therefore, DOT sent another letter to the Petitioning Counties requesting additional information and verification of the data submitted. This request was necessary in light of the lack of complete and accurate information previously provided to DOT by the Petitioning Counties. DOT noted, ''While the clarification of particular facts may not be dispositive to DOT's determination that a time zone change would serve the convenience of commerce standard, we want to ensure the integrity of the data we rely upon.'' On May 29, 2007, the Petitioning Counties responded by letter (Third Supplemental Response), accompanied by numerous exhibits.

Comments to the Docket

There are currently nearly 300 entries to the docket addressing the request of the Petitioning Counties to be changed back to the Eastern Time Zone and the information submitted by the Petitioning Counties. These comments express the preferences of the residents of the Petitioning Counties and the views of businesses and individuals on how a particular time zone has impacted or would impact the Petitioning Counties. The focus of this Notice of Proposed Rulemaking is on the Joint Petition and Supplemental Responses. Before making a final determination on whether to change the time zone boundaries for the Petitioning Counties, we will carefully review the Joint Petition and Supplemental Responses in conjunction with any additional comments received and data gathered during the rulemaking process.

DOT Determination

Based on the Joint Petition and the three Supplemental Responses, DOT finds that the Petitioning Counties have provided enough information to justify proposing to change their boundary from the Central Time Zone to the Eastern Time Zone. As set forth below, the Petitioning Counties addressed all of the factors that we consider in these proceedings and overall made a reasonable case that changing back the Petitioning Counties to the Eastern Time Zone would serve ''the convenience of commerce.''

Community Imports and Exports

The 2005 individual petitions from each Petitioning County to move from the Eastern Time Zone to the Central Time Zone did not include very detailed analyses of community imports and exports. On the other hand, in the Joint Petition and the Second and Third Supplemental Responses, the Petitioning Counties provide additional evidence in support of the contention that, when considered as a single unit, the balance of the evidence supports placement in the Eastern Time Zone.

The original Daviess County petition stated that the largest metropolitan area where its residents transact business is Evansville. In contrast, the Joint Petition quotes the Executive Director of the Daviess County Economic Development Corporation as stating that businesses in Daviess County ''uniformly desire to be on Eastern Time'' and that the top businesses and industries there ship most of their products into the Eastern Time Zone. The original Dubois County petition stated that its businesses ''acquire and ship supplies and products nationally and internationally, and probably as to purchase and sales no time zone would have priority over any other zone.'' On the other hand, citing the Directors of the Jasper and Huntingburg Chambers of Commerce, the Joint Petition states that the major employers in Dubois County ship their products to major metropolitan areas up and down the East Coast and that ''the dollar volume of commerce in the county is driven by customers and suppliers in the Eastern Time Zone.'' The original Knox County petition stated that its businesses ''obtain supplies and ship goods and products from and to locations in various time zones'' and to ''all parts of the United States and the Northern Hemisphere.'' The Joint Petition makes a similar assertion, stating specifically that Futaba Indiana of America manufactures door frames for Toyota's Princeton, Indiana plant in the Central Time Zone and also ships products to Toyota's Georgetown, Indiana plant in the Eastern Time Zone. The Joint Petition adds that another large employer in Dubois County, Gemtron/Schott, ships products all over the United States. The original Martin County petition declared that the primary providers and recipients of its products were counties petitioning for placement or currently in the Central Time Zone. On the other hand, the Joint Petition refers to a business manager for EG&G Crane Operations located at the Naval Surface Warfare Center Crane Division (NSWC Crane) and identifies NSWC Crane as the largest employer in the County, and claims that although NSWC Crane ships its products throughout the United States, its two largest customers are located in the Eastern Time Zone. (We note that this information comes from the Joint Petition, not directly from NSWC Crane or its officials.) Finally, while the original Pike County petition made no mention of its community imports and exports, it noted that Pike County has a significant coal mining industry. The Joint Petition reiterates the importance of the coal mining industry in Pike County and that the bulk of coal mined in the County is used by two of the County's largest employers (Indiana Power & Light and Hoosier Energy), which maintain headquarters and generating plants in the Eastern Time Zone.

In addition to focusing on the imports and exports in each of the Petitioning Counties, the Joint Petition takes a broader perspective. Citing statistics compiled by the Indiana Chamber of Commerce (Chamber), it notes that over one-third of all Indiana's exports are sent to the Eastern Time Zone, whereas only one-fourth of all Indiana's exports had a final destination in the Central Time Zone. The Chamber's statistics

also indicate that over one-half of Indiana's imports come from a ''point of origin'' in the Eastern Time Zone, whereas less than one-half of all Indiana imports had a point of origin in the Central Time Zone. However, DOT questioned the Petitioning Counties on whether these facts support a move to the Eastern Time Zone, noting that these statistics also reveal that two-thirds of products are exported to locations other than the Eastern Time Zone and that just less than one-half come from a point of origin other than the Eastern Time Zone. In their Second Supplemental Response, the Petitioning Counties nonetheless contend that, although the total import/export data may not support a change to the Eastern Time Zone, they wanted to ensure that they addressed all the criteria considered by DOT and asserted that the balance of the evidence presented in the Joint Petition supports a move from the Central Time Zone to the Eastern Time Zone.

The Joint Petition also points out that ''if the Petitioning Counties are put on Eastern Time, all of the nearest Wal-Marts for residents in the Petitioning Counties would be on Eastern Time.'' The Joint Petition claims that, although the majority of these stores are open 24 hours a day, the Jasper location in Dubois closes during the night and has a different schedule than its distribution center (located in Jackson County, in the Eastern Time Zone), thereby adversely affecting its shipping schedule. The Joint Petition contends this is important for the counties because many ''[i]ndividuals and small businesses * * * depend on Wal-Mart Stores and Supercenters for their goods and supplies.'' Thus, the Joint Petition concludes that the convenience of commerce would be best served if all stores and distribution centers were located in the same zone, in order to reduce confusion for just-in-time delivery systems and to accommodate work schedules.

In the Third Supplemental Response, the Petitioning Counties clarify that the Jasper Wal-Mart is open 24 hours a day. Nevertheless, the Third Supplemental Response notes that, because the pharmacy and automotive department operate under limited hours, it might better serve the convenience of commerce if the store was located in the Eastern Time Zone.

The Joint Petition also states that product manufacturers (the major employers in Dubois County) ship their products mainly to ''major metropolitan areas up and down the East Coast,'' while the ''majority of suppliers are likewise located in, or are in areas petitioning to be in, the Eastern Time Zone.'' In fact, ''over 50% of the dollar volume of commerce is driven by customers in the Eastern Time Zone'' for those companies. In response to DOT's inquiry regarding the fact that Dubois County has historically been on a different time than its suppliers and customers during seven months of the year (before Indiana began to observe daylight saving time in 2006), the Second Supplemental Response notes that the convenience of commerce would nonetheless be even better served if businesses could communicate in ''real time'' (communicating at the same hour in both places) with their customers during the course of an entire year. They claim that this move would shift resources away from coping mechanisms and toward more productive business activities.

In the Second Supplemental Response, the Petitioning Counties address DOT's questions about commerce in Knox County arising from the Joint Petition. The Second Supplemental Response claims that a move to the Eastern Time Zone would put Futaba Indiana of America (FIA), identified as a major Knox County automobile parts producer, in the same time zone as its two important customers in the Eastern Time Zone. Although FIA also ships its products to locations in the Central Time Zone (including Chicago and Texas), the Second Supplemental Response asserts that harmonizing the manufacturing plant with at least two of its customers located in the Eastern Time Zone would positively advance the convenience of commerce. DOT requested support for these assertions and, in the Third Supplemental Response, the Petitioning Counties cite to an FIA receptionist, newspaper articles, and the Director of the Knox County Development Corporation in support of their position on this issue.

While DOT remains unconvinced by the assertions of the Petitioning Counties as they relate to FIA and the Knox County economy, the Petitioning Counties have submitted sufficient information to show that many businesses and industries located in the Petitioning Counties have substantial business connections in the Eastern Time Zone that would justify proposing to move the time zone boundary for the Petitioning Counties to the Eastern Time Zone. In addition, the Petitioning Counties have submitted sufficient information to justify proposing to move the time zone boundary based on their claims that the convenience of commerce would better be served if businesses did not have to adjust for time zone differences. DOT solicits further information concerning community imports and exports that would aid in determining whether a change in the time zone for the Petitioning Counties would serve the convenience of commerce.

Television and Radio Broadcasts

With regard to television and radio broadcasts, the original petitions submitted by each Petitioning County made general statements about transmissions that each Petitioning County receives. The original Daviess County petition stated that it receives its television broadcasts from both Evansville and Terre Haute. The original Dubois County petition stated that it receives radio transmissions from within the county and television broadcasts from Evansville, Louisville, Terre Haute, and Indianapolis. The original Knox County petition pointed out that it is the second-largest television audience for Terre Haute and the fourth-largest for Evansville. The original Martin County petition noted that it is served by television stations located in Evansville in Vanderburgh County and Vincennes in Knox County. Finally, the original Pike County petition stated that the majority of its broadcasts originate out of Evansville.

The Joint Petition and Second and Third Supplemental Responses provide more detailed information regarding television and radio broadcasting in the Petitioning Counties. The Joint Petition states that the majority of the Petitioning Counties (Knox, Daviess, and Martin) are in the Terre Haute Designated Market Area (DMA), in the Eastern Time Zone. The remaining Petitioning Counties (Pike and Dubois) are part of the Evansville DMA, in the Central Time Zone.

The Joint Petition claims that every radio station with the strongest signal in the Petitioning Counties is currently located, or petitioning to be, in the Eastern Time Zone. In support of this statement, the Joint Petition includes two charts that list the stations (both FM and AM) with the three strongest signals that reach each of the five petitioning counties. These charts also indicate the city and county where the station is currently located, as well as the time zone of the station's location if the petition were granted. DOT questioned the decision to include only the signals with the three strongest frequencies, whether these were the strongest frequencies, and the choice to include certain frequencies themselves in the chart.

In the Second Supplemental Response, the Petitioning Counties

again claim that the chart in the Joint Petition ''demonstrates that the Petitioning Counties are oriented toward the Eastern Time Zone.'' In order to supplement that claim, the Petitioning Counties submitted a second set of charts in Appendix C to the Second Supplemental Response (not ''Appendix B'' as referenced in the Second Supplemental Response). Rather than including the three strongest signals available in each of the respective counties, these charts provide more specific information, including all radio stations (both FM and AM) and the major city of the listening audience of each petitioning county: Washington in Davies, Jasper in Dubois, Vincennes in Knox, Loogootee in Martin, and Petersburg in Pike. Based on classifications by *http://www.radio-locator.com*, the chart arranges the stations in order of strength of signal to the listening area, with the strongest signals listed first. The chart also includes the current time zone of the radio signal's origin and the time zone if the petition were granted. The only difference between the chart in the Joint Petition and the chart in the Second Supplemental Response is the differing time zone origin. Stations (both FM and AM) that originated in the Petitioning Counties would move from the Central Time Zone to the Eastern Time Zone. With such a uniform shift, it is not clear that a change in time zone would serve the convenience of commerce. Furthermore, DOT questions whether signal strength is sufficient evidence to support the conclusion that the particular time zone matters for radio broadcasting. The Petitioning Counties have not shown how having a strong signal translates into an increased audience nor have they accounted for the type of radio programming that is being offered.

With regard to television broadcasting, the Joint Petition includes a chart listing the TV stations for the Petitioning Counties, the city and county where each station is located, and the time zone of the station if the petition were granted. In addition, the Joint Petition indicates that the National Weather Service Center serving four of the Petitioning Counties (Daviess, Knox, Martin, and Dubois) is in the Eastern Time Zone, while only one county (Pike) has the National Weather Service Center in the Central Time Zone. The Petitioning Counties claim that because ''most of the radio and television stations that cover local news and weather in the Petitioning Counties is either located within the Petitioning Counties themselves or are in counties in the Eastern Time Zone, the convenience of commerce is best served by moving the Petitioning Counties to Eastern Time.''

Because the Joint Petition's claims that ''these counties are served by various cable systems and a variety of satellite systems,'' DOT requested that the Petitioning Counties list the channels offered by any cable providers in each county that are locally generated and the location and time zone of those broadcasts. In the Second Supplemental Response, the Petitioning Counties provide a chart indicating the Designated Market Area and the significantly viewed channels for each County with the city and county where the station is located as well as the current time zone and the projected time zone if the Joint Petition were granted. The only significant change in time zone involves stations located within the Petitioning Counties themselves, which move from the Central Time Zone to the Eastern Time Zone.

In further support of a change to the Eastern Time Zone, in the Second Supplemental Response, the Petitioning Counties state that, under the status quo, ''viewers in the Petitioning Counties may miss their news because it comes on at 5 a.m. in the morning and at 4 p.m. in the evening.'' On the other hand, if the Joint Petition were granted, the Petitioning Counties simply argue that ''the majority of viewers in the Petitioning Counties who work 8 a.m. to 5 p.m. (and currently receive their programming from a station operating on Eastern Time) will receive their local news before going to work in the morning and after they return from work in the evening.'' Seeking clarification of this argument and additional justification, DOT wrote to the Petition Counties and noted that each of the Petitioning Counties receives a signal that originates in the Central Time Zone. In the Third Supplemental Response, the Petitioning Counties assert, ''Convenience of commerce is served by providing viewers with better access to the market designated to provide them coverage'' and refer to significantly viewed stations, which are the most viewed stations. The significantly reviewed stations in the three Petitioning Counties that are in the Terre Haute Designated Market Area are in the Eastern Time Zone.

The Petitioning Counties have not provided sufficient information concerning the television/radio broadcasting aspect of the convenience for commerce standard to justify proposing to change the time zone boundary. DOT questions whether radio signal strength is enough evidence to support proposing a change in time zone. In addition, the majority of television signals become aligned with the Eastern Time Zone because the Counties have petitioned to move as a single unit. DOT seeks comments on the information submitted by the Petitioning Counties and requests any additional information on television and radio broadcasting, including audience size in the Petitioning Counties, that would aid in determining whether a time zone change for these Counties would serve the convenience of commerce.

Newspapers

Only three out of the five original individual petitions, Dubois, Knox, and Martin Counties, discussed newspaper distribution numbers within their counties. These three petitions emphasized that the primary newspapers delivered are local daily newspapers. Nevertheless, the original Dubois County petition acknowledged receipt of newspapers from Evansville in the Central Time Zone and Louisville in the Eastern Time Zone. The original Knox County petition also noted that there is a ''substantial circulation'' of the *Evansville Courier*, and that residents also receive newspapers from Terre Haute and Indianapolis, both in the Eastern Time Zone.

The Joint Petition expounds on the idea that the Petitioning Counties are largely served by their local newspapers. The Joint Petition states that residents of the Petitioning Counties rely on other newspapers published in or adjacent to their own counties, ''all of which are already in or are petitioning to be in the Eastern Time Zone'' and thereby ''likely serve the advertising needs of local businesses.'' The Joint Petition acknowledges that the Petitioning Counties are served by both the *Indianapolis Star* (with a total circulation of 4,251) and the *Evansville Courier & Press* (with a total circulation of 12,740). However, the Joint Petition claims that these papers focus almost exclusively on national news and the local news particular to their cities, Indianapolis and Evansville. The Second Supplemental Response supports this claim by stating that ''[t]here is very little if any advertising by companies doing business in the Petitioning Counties.'' The Second Supplemental Response also notes that the ''vast majority'' of businesses advertising in the *Courier and Press* are located in Evansville or Henderson, Kentucky (both in the Central Time Zone) to support the claim that those newspapers primarily serve the

communities in the immediate vicinity of the city. (The Second Supplemental Response also corrected the Joint Petition and acknowledged that the *Courier and Press* is distributed in Martin County.)

The Joint Petition includes a chart that lists the names and circulation numbers of the local newspapers serving each of the Petitioning Counties, as well as the County and the time zone of publication if the petition is granted. For example, for Daviess County, the chart indicates that the *Washington Times-Herald*, with a weekly circulation of 6,459, is published in Daviess, which will be moved to the Eastern Time Zone if the petition is granted. In addition, the *Washington Extra*, another local newspaper identified in the chart, is published in Daviess County and (like the *Washington Times-Herald*) has a significantly higher weekly circulation in Daviess County than either the *Indianapolis Star* (496) or the *Evansville Courier & Press* (92). In total, all four local newspapers serving Daviess County are published within the Petitioning Counties. This pattern is consistent with the circulation patterns in the other Petitioning Counties as well, where the total circulation for the main local newspaper published in each county far outweighs the circulation for either the *Indianapolis Star* or the *Evansville Courier & Press*.

There are only two local newspapers shown in the chart that are published outside of the Petitioning Counties: the *Paoli News Republican*, which is published in Orange and has a weekly circulation of 400 in Dubois County; and the *Bedford Times-Mail*, which is published in Lawrence County and has a negligible weekly circulation in both Dubois and Martin Counties. Both of these newspapers are published in the Eastern Time Zone and would continue to be published in the Eastern Time Zone if the Joint Petition were granted. The remaining local newspapers are all published in one of the five Petitioning Counties. According to the Joint Petition and reiterated in the Second Supplemental Response, these counties are served by a number of papers published locally, which ''likely serve the advertising needs of local businesses.'' The Second Supplemental Response claims, ''the lack of advertising by companies located in the Petitioning Counties *suggests* a lack of connection to the Evansville area.'' (Emphasis added.) The Second Supplemental Response concludes that, with regard to newspaper circulation, ''[t]his factors in favor of treating the Petitioning Counties as a unit and moving them all to Eastern Time as a block.'' Because the overwhelming majority of local newspapers in circulation within the Petitioning Counties are currently on Central Time, moving them as a ''block'' would simply represent a universal shift of local newspapers to Eastern Time if the petition were granted.

In the Third Supplemental Response, the Petitioning Counties responded to DOT's question on whether the residents of the Petitioning Counties might shop or use the services of businesses that advertise in the *Indianapolis Star* or the *Courier and Press*. The Petitioning Counties admitted that discussions with individuals in the Petitioning Counties ''yielded different responses.'' There were no overwhelming preferences for either the Eastern or Central Time Zone shops or businesses advertising in these papers.

The Petitioning Counties have not submitted sufficient information concerning the newspaper aspect of the convenience for commerce standard to justify proposing to change the time zone boundary based. DOT seeks comments on the information submitted by the Petitioning Counties and requests any additional information on newspaper circulation in the Petitioning Counties that would aid in determining whether a time zone change for these Counties would serve the convenience of commerce.

Bus and Passenger Rail Service

Only three out of the five original individual petitions, from Dubois, Knox, and Pike Counties, discussed bus and rail service within their Counties. The original Dubois County petition stated that Dubois County is not served by passenger bus or rail service; however, such service is available out of Louisville, Indianapolis or Evansville. The original Knox County petition stated that its citizens can obtain bus service from Evansville and Terre Haute, and that passenger rail service is available in Effingham, Illinois and Indianapolis. The original Pike County petition stated that the closest major passenger rail and bus service is generally located in Evansville.

With regard to bus service, the Joint Petition points out that three of the four Greyhound bus stations that are closest to the Petitioning Counties are on Eastern Time. It states that these stations are located in Indianapolis, Terre Haute, and Louisville in the Eastern Time Zone, and in Evansville in the Central Time Zone. The Joint Petition also claims that, although the Evansville station is relatively close to many residents of the Petitioning Counties, ''it only offers transportation to western and southern routes.'' On the other hand, the stations located in the Eastern Time Zone offer much broader service to the Petitioning Counties. For example, the Terre Haute station offers connections both to southwest destinations and to Indianapolis, which in turn provides service to all destinations. In addition, the Louisville station offers transportation to north, northeast, and southern destinations. Accordingly, the Joint Petition uses these bus service routes as support to change back to the Eastern Time Zone.

With regard to rail service, the Joint Petition focuses on commercial rail carriers. The Joint Petition points out that, because most of the existing major junction and division points for common carriers are located in the Eastern Time Zone, it would best serve the convenience of commerce to place all of the Petitioning Counties on Eastern Time. Answering DOT's inquiry concerning the availability of passenger rail service to its residents and how changing to Eastern Time would impact such services, the Second Supplemental Response states that ''[n]one of the railroad companies that run through southwest Indiana provides passenger service in the area.'' Moreover, it states that Amtrak, the only passenger rail company in Indiana, runs on commercial lines only through northern and central Indiana (in the Eastern Time Zone), far from the Petitioning Counties. As such, the Petitioning Counties assert that ''[p]assenger rail schedules are not a factor here.''

The Petitioning Counties have submitted sufficient information based on the bus service aspect of the convenience of commerce standard to justify proposing to change the time zone boundary. The Petitioning Counties have provided information on the broader bus service available in locations in the Eastern Time Zone. According to the Petitioning Counties, passenger rail service is not at issue. DOT seeks comment on the information submitted by the Petitioning Counties and requests any additional information on bus and rail services in the Petitioning Counties that would aid in determining whether a change in the time zone for the Petitioning Counties would serve the convenience of commerce.

Airports/Airline Services

The original petitions for Daviess, Knox and Pike Counties stated that the closest airport providing passenger service to their respective counties is located in Evansville. The original petition for Dubois County stated that

the airport in the County serves primarily private business planes and lists Louisville, Evansville, and Indianapolis as ''major airports providing service'' to its residents. The original petition for Martin County noted that the nearest general airport is in Vanderburgh County in the Central Time Zone, and also noted that Martin County residents are served by local airports in Daviess and Dubois Counties.

The Joint Petition discusses the three major airports that could potentially serve residents of the Petitioning Counties for commercial passenger service: one in the Central Time Zone in Evansville and two in the Eastern Time Zone in Indianapolis and Louisville. The Joint Petition acknowledges that the Evansville Regional Airport is the closest geographically for many residents in some parts of the Petitioning Counties. However, despite this proximity, the Joint Petition claims that, according to ''travel agents who serve residents in the Petitioning Counties,'' it is more expensive to fly out of Evansville and that the Evansville airport offers ''very few direct connections.'' The Joint Petition also states that Evansville offers direct flights to only six destinations: Chicago (O'Hare), Cincinnati, Atlanta, Memphis, Detroit, and Dallas. In contrast, the Joint Petition notes that the Indianapolis International Airport in the Eastern Time Zone services 34 destinations, while the Louisville International Airport, also in the Eastern Time Zone, services 28 destinations. The Joint Petition declares that ''Indianapolis is one of the top jumping-off points for air travelers from the Petitioning Counties.'' To support this claim, the Joint Petition again relies on travel agents who serve residents in the Petitioning Counties and have reported that ''70 to 75% of their customers fly out of Indianapolis or Louisville for reasons of cost or convenience.'' The Joint Petition does not offer any specific information regarding whether these are business or leisure travelers, the destination of these travelers, or whether the location, and therefore, the relevant time zone of the airport affected their choice. In addition, the Joint Petition, citing information obtained from an employee of NSWC Crane, points out that 80% of the employee travelers from Crane military base (located in Martin County) use the Indianapolis airport.

The Joint Petition also provides detailed information regarding local service airports that are situated within or near the Petitioning Counties, and states that such ''airports provide county-based business with direct air travel access.'' The Joint Petition maintains that nearly all of these Indiana-based local airports would be in the Eastern Time Zone if the Petition were granted. However, the Second Supplemental Response clarifies that, although they are the ''nearest airports'' in terms of geographic location, none of the local airports situated in the Petitioning Counties provides commercial passenger service.

The Joint Petition also notes that the two closest hubs of the largest private express package carriers serving the Petitioning Counties, United Parcel Service and Federal Express, are situated in the Eastern Time Zone, in Indianapolis and in Louisville, and that air travel for cargo is thus oriented toward counties that are already in the Eastern Time Zone.

The Petitioning Counties have not submitted sufficient information concerning the airports/airline services aspect of the convenience of commerce standard to justify proposing to change the time zone boundary. DOT seeks comment on the information submitted by the Petitioning Counties and requests any additional information on airport and airlines services in the Petitioning Counties that would aid in determining whether changing the time zone for the Petitioning Counties would serve the convenience of commerce.

Worker Commuting Patterns

The Joint Petition claims that the majority of workers in the Petitioning Counties live and work in their home counties. For those who work outside of their home counties, the Joint Petition states, ''Of those migrating to a Petitioning County for work, the majority come from locations in the Eastern Time Zone. Of those leaving a Petitioning County for work, the majority go to locations in the Eastern Time Zone.'' The Joint Petition relies on commuting patterns data from the Indiana Department of Revenue. In the Third Supplemental Response, the Petitioning Counties explained that the basis of their statement was their consideration that the Petitioning Counties were in the Eastern Time Zone, ''as Eastern Time is the Petitioning Counties' desired time zone.'' The Third Supplemental goes on to say that the commuting patterns demonstrate the strong connection among the Petitioning Counties and recognizes that the commuters do not have a large impact on the overall workforce in most of the Petitioning Counties, with the exception of Martin County where commuters make up 46.9% of the Martin County workforce.

The Petitioning Counties have not submitted sufficient information concerning the worker commuting patterns aspect of the convenience of commerce standard to justify proposing to change in the time zone boundary. DOT seeks comment on the information submitted by the Petitioning Counties and requests any additional information on worker commuting patterns in the Petitioning Counties that would aid in determining whether changing their time zone boundaries.

The Community's Economy/Economic Development

While the original Daviess County petition did not mention anything about the elements of the Daviess County economy, each of the other original petitions discussed each County's individual economy and economic development as one of the matters to consider as part of the convenience of commerce standard. The original Dubois County petition stated that the principle element of its economy is wood furniture manufacturing, followed by agriculture. The original Knox County petition mentioned healthcare and education as the major elements of its economy. The original Pike County petition stated that its economy is largely dependent on the local mining industry. The original Martin County petition noted that the major elements of its economy are ''agriculture, timber, and technology connected to'' NSWC Crane. In addition, the original Martin petition mentioned that the local economy is expected to improve with the continued operation of NSWC Crane, and that Martin County is working along with Daviess and Greene Counties to develop a technology park adjacent to NSWC Crane.

The Joint Petition provides additional information about the major elements of each County's economy, the state of the economy, and economic development. The Joint Petition states that manufacturing and agriculture are two of the leading industries in the local economies of several of the Petitioning Counties. Consequently, in order to increase their competitive edge over international competitors, Dubois County seeks placement in the same time zone as a significant number of its companies' suppliers and customers. Dubois County employers have reported that 60–90% of their business relationships remain in the Eastern Time Zone. Moreover, the Joint Petition refers to the President of the Knox County Development Corporation who anticipates that manufacturing growth experienced in that county should continue and does not foresee a shift to the Eastern Time Zone as having a negative impact. On the other hand, in

Pike County, local business and industry have been tied to coal mining and power generation and ''the industries that support them,'' including ''fabricating, welding, and shipping.'' One of the main coal mine operators in Pike County, Solar Sources, Inc., has its headquarters in Indianapolis and several mines in the Petitioning Counties. As such, the Joint Petition states that shifting Pike County to the Eastern Time Zone would serve the convenience of commerce by helping to prevent the scheduling and shipping problems that have coincided with the placement of the Petitioning Counties in the Central Time Zone.

The Joint Petition also focuses on the economy of the Petitioning Counties as a block, and states that the Petitioning Counties have stronger economic and cultural connections to each other, and the Indiana counties currently in the Eastern Time Zone, than they do with other southern Indiana counties and the Evansville-based economy in the Central Time Zone. The Petitioning Counties assert that one major economic development project potentially shared by all of the Petitioning Counties is the proposed extension of Interstate 69 (I–69) through central and southwestern Indiana. The Petitioning Counties point out that the expansion of I–69 will provide more economical and efficient access to Indianapolis, although they cannot ''precisely quantify the economic impact to the region of the planned highway expansion.'' Nonetheless, because traffic will be able to flow north from southwest Indiana to the larger network of highways that go through Indianapolis, the highway will provide ''a crucial link to central Indiana and beyond.'' As such, the Petitioning Counties contend that they should be placed in the Eastern Time Zone in order to stay associated with the infrastructure and markets that will be made more accessible through the extension of I–69. The Second Supplemental Response notes that updated information on the project ''has yet to be completed.''

The Joint Petition also emphasizes the economic impact in both Daviess and Martin Counties of the NSWC Crane, which it asserts serves as a large regional employer and has entrances that currently span two time zones and three counties. The Joint Petition notes that Daviess County has partnered with the local and county redevelopment commissions of Martin County and Greene County, which is located in the Eastern Time Zone, to create a major technology park called ''The West Gate @ Crane,'' which is ''expected to become Indiana's showcase technology facility for intelligent and environmentally balanced development.'' Moreover, the Joint Petition states that a shift to the Eastern Time Zone would ''greatly simplify communications and improve the support'' of NSWC Crane's primary customers, which are located in the Eastern Time Zone. The Joint Petition notes that 67% of Crane's employees commute from the Eastern to the Central Time Zone for work, causing business efficiency and productivity to drop as a consequence of irregular business hours and meetings, relying on information provided by leaders of six employee organizations on NSWC Crane. Moreover, the Second Supplemental Response points out that this situation has gotten worse with the implementation of daylight savings time in Indiana, which ''has moved 76% of NSWC Crane's workforce to the Eastern Time Zone while the plant has remained on Central Time.'' The Second Supplemental Response quotes the President of Crane Technology, Inc. as stating that this has created a ''nightmare for scheduling and employee productivity'' because ''the plant must operate two sets of clocks to complete its business'' and ''virtually all employees strongly desire a move that would bring all workers on the same time.'' The Third Supplemental Response says that EG&G Technical Services, Crane, is ''a major contractor supporting'' NSWC Crane and states that, according to this contractor, ''core business hours have been reduced'' and this change ''adversely impacts workload execution and delays meetings and decisions.'' No information was provided by officials from NSCW Crane.

The Petitioning Counties have submitted sufficient information concerning the community's economy/economic development aspect of the convenience of commerce standard to justify proposing to change in the time zone boundary. DOT solicits further information and data supporting or rebutting the information supplied by the Petitioning Counties and how it supports a change in the time zone for the convenience of commerce.

Schools, Recreation, Health Care, or Religious Worship

With regard to schools, the original Daviess County petition stated that the closest State college is the University of Southern Indiana (USI) in Evansville in the Central Time Zone. The original Dubois County petition stated that the majority of students leaving the community for post-high school education attend universities in the Eastern Time Zone, although ''a number'' attend schools in Evansville. The original Knox County petition pointed out that residents who leave the community for school go to Illinois, or Gibson or Vanderburgh Counties, all in the Central Time Zone. The original Martin County petition stated that the primary local outlets for higher education were in the Central Time Zone and include USI , IVY Tech, and the University of Evansville, in Vanderburgh County; Vincennes University with campuses in Knox and Dubois Counties; and Oakland City University in Gibson County. The original Pike petition did not mention where its citizens go for higher education.

Unlike the original petitions which focused on higher education, the Joint Petition focuses on primary and secondary education, including sporting events, and also on vocational students. The Joint Petition notes that there are 15 school districts covering the five Petitioning Counties. No school district in the Petitioning Counties is in more than one time zone. The Joint Petition points out, however, that schools in these districts compete in athletic events against schools that are located in other time zones. Consequently, ''many away games have to be played in counties that are already in the Eastern Time Zone,'' which causes ''time-related confusion of both students and parents.'' To support this claim, the Joint Petition cites to the football schedule for North Daviess High School in Daviess County, which includes 6 games in the Eastern Time Zone (or 67% of its games). In the Second Supplemental Response, the Petitioning Counties provide their high school basketball schedules stating, ''If the Petitioning Counties are shifted to the Eastern Time Zone, there will be a reduction in the number of games played in differing time zones from 27 to 18.'' The Second Supplemental Response explained that this would ''reduce the games played in different time zones to between 6% and 17%,'' depending on the school. The Second Supplemental Response also points out that only one high school, Pike Central, would play more games in a time zone different from their own, if the Joint Petition were granted. The Second Supplemental Response concludes, ''Based on the significant reduction of games played outside the school's time zone in four out of the five Petitioning Counties, a move to Eastern Time best serves the convenience of commerce by easing time-related confusion of both students and parents.''

The Joint Petition states that students in the Petitioning Counties who attend

vocational schools would also benefit from their counties being switched to the Eastern Time Zone and provided statistics for vocational students in Martin County. The Exhibit to the Joint Petition indicates that 15 students must travel back and forth across time zones in the Shoals Community School Corporation in Martin County. The Second Supplemental Response provides information on vocational students in Pike and Dubois Counties, but not for Daviess and Knox Counties, noting an inability to obtain statistics for these Counties. The Second Supplemental Response mentions Twin Rivers Vocational School (a cooperative between school corporations in Knox County, and Greene and Sullivan Counties, which are already in the Eastern Time Zone) as a school that currently has scheduling difficulties related to the different time zones. In summary, approximately 67 vocational students are affected by the time zone differences.

With regard to recreation, the original Daviess County petition stated that the largest metropolitan area where its citizens transact business is Evansville. The original Dubois County petition noted that ''major recreational events'' would be in either the Eastern or Central Time Zones. The original Knox County petition pointed out that residents who leave the community for recreation go to Illinois, or Gibson or Vanderburgh Counties, all in the Central Time Zone. The original Martin County petition listed Daviess, Dubois, Knox, and Vanderburgh Counties as the primary recreational outlets for its citizens. The original Pike County petition states that ''by far the majority of any entertainment available to the citizens of Pike is located in Evansville.''

The Joint Petition notes, ''Recreational facilities are distributed fairly evenly throughout the Petitioning Counties,'' and that ''residents therefore typically do not have to cross time zones to participate in a sporting activity.'' The Joint Petition specifically refers to a variety of sporting events and opportunities for golfers, boaters, tennis players, and fishers. On the other hand, the Joint Petition states that if residents want to go to a college athletic event at one of the State's three major universities, they must cross into the Eastern Time Zone.

DOT requested comments from the Petitioning Counties on time zone change as it relates to recreation and tourism surrounding the Holiday World & Splashin' Safari amusement park in Spencer County because of strong economic ties between several of the Petitioning Counties and Spencer and Perry Counties, with its 1450 seasonal employees many who come from the Petitioning Counties, and its nearly 900,000 visitors a year. In the Second Supplemental Response, the Petitioning Counties state that, ''Due to its lengthy hours of operation, Holiday World will not be negatively impacted if the Petitioning Counties move to Eastern Time.'' Rather, Holiday World stands to benefit, ''as visitors from Petitioning Counties might arrive earlier in the day due to their being an hour ahead.'' The Second Supplemental Response did not provide a source for these assertions.

In the Second Supplemental Response, the Petitioning Counties identify the two other attractions in the region: the French Lick Casino and Resort, located in Orange County, in the Eastern Time Zone, and Patoka Lakes located in Dubois, Orange, and Crawford Counties, in both the Eastern and Central Time Zones. In the Third Supplemental Response, the Petitioning Counties provide more detailed information about these attractions. The French Lick Casino re-opened at the end of October, 2006 and employs 1400 workers. From its opening through March 2007, there had been 520,367 visitors. The fishing tournaments at Patoka Lakes attract between 750,000 and 1,000,000 visitors. The Third Supplemental Response adds an attraction not mentioned in the Joint Petition or the Second Supplemental Response, Paoli Peaks, a ski resort in Orange County that attracts 100,000 visitors annually.

With regard to health care, the original individual petitions for Dubois County stated that the citizens of their counties receive ordinary medical care within their respective county. For more specialized medical care, the original Dubois County petition stated that its citizens go to Evansville, Indianapolis, and Louisville. The original Knox County petition pointed out that residents who leave the community for health care go to Illinois, or Gibson or Vanderburgh Counties, all in the Central Time Zone. The original Martin County petition stated that a vast majority of its residents utilize hospitals in Daviess, Dubois, and Knox Counties. The original Martin County petition cites Evansville as the closest location with a major medical center. The original petitions for Daviess and Pike Counties did not mention where its citizens receive medical care.

The Joint Petition includes a chart indicating that, with the exception of Lawrence County Memorial in Lawrence County, Indiana, all of the hospitals located closest to the Petitioning Counties are currently located in the Central Time Zone. The Joint Petition also states that the best and closest specialty hospitals are located in Indianapolis and Louisville, both in the Eastern Time Zone, and that ''there are no comparable hospitals with world-renowned specialists and facilities located in the Petitioning Counties.'' In the Second Supplemental Response, the Petitioning Counties correct the location of the Lawrence County Memorial Hospital, which is located in Lawrence, Illinois, in the Central Time Zone. In the Third Supplemental Response, the Petitioning Counties attempt to provide some justification for its assertions that patients from the Petitioning Counties seek treatment in Indianapolis or Louisville. The Third Supplemental Response refers to a report from the Daviess County Hospital that indicates that the majority of patients were transferred to another Petitioning County and more to a Central Time Zone hospital than to a hospital in the Eastern Time Zone. The Third Supplemental Response states, ''For many of the Petitioning Counties (Daviess, Knox, and Martin) the majority of transfers outside of the Petitioning Counties went to hospitals on Eastern Time;'' however, it does not provide a reference to support this assertion.

The Joint Petition does not mention any specific information regarding religious worship, but concludes that, based on the numerous places of worship in each Petitioning County, the majority of people worship in or near the same county in which they live.

The Petitioning Counties have submitted sufficient information concerning the recreation aspect of the convenience of commerce standard to justify proposing to change in the time zone boundary based on sporting activities and area attractions. The Petitioning Counties have also submitted sufficient information concerning the education aspect of the convenience of commerce standard to justify proposing to change the time zone boundary based on after school activities and higher education. The Petitioning Counties have not submitted sufficient information concerning the religious observance or health care aspect of the convenience of commerce standard to justify proposing to change the time zone boundary. DOT questions the number of residents of the Petitioning Counties that go to the more specialized hospitals located in the Eastern Time Zone, especially in light of the fact that, if the petition were granted, there would be more local hospitals in a different time zone than the current alignment. DOT seeks

comment on the information submitted by the Petitioning Counties and requests any additional information that would aid in determining whether a change in the time zone for the Petitioning Counties would serve the convenience of commerce.

Regional Connections

In the original rulemaking proceeding to change time zone boundaries from the Eastern Time Zone to the Central Time Zone, the Petitioning Counties and commenters advocated for a move by referring to their ties to other Indiana counties currently in the Central Time Zone. Many referred to data from STATS Indiana, including the Indiana Annual Commuting Trends Profile, based on Indiana IT 40 returns. Commenters who supported the change to Central Time also referred to data from the Indiana Economic Development Corporation, the Indiana Department of Workforce Development, the Indiana Department of Transportation, the Indiana Department of Education, and Designated Market Areas as defined by Nielsen Media Research for use in television ratings.

DOT carefully reviewed and used this data when it reached its prior decision to change the time zone boundaries of the Petitioning Counties to the Central Time Zone. Recognizing the importance of regional connections, the benefits of similar time zones, and regional ties among counties, DOT stated in the January 2006 final rule, ''While Daviess, Dubois, Knox, Martin, and Perry border other Indiana counties in the Eastern Time Zone, their ties to those counties are not as strong as they are to each other and to other counties to their south, which are currently in the Central Time Zone. Along with Pike, these counties are located in the same workforce, commerce, transportation, and education regions designated by Indiana.'' DOT also noted that, in general, remaining in the same time zone and maintaining their regional ties better position counties to realize advantages in economic, cultural, social, and civic activities, thereby serving the convenience of commerce.

Contrary to the original statements about ties to the Central Time Zone and DOT's determination, the Joint Petition now asserts ties to the Eastern Time Zone. The Joint Petition concludes, ''The Petitioning Counties are on the periphery of the regional, Evansville-based economy and have stronger economic and cultural connections to each other and the interior counties currently on Eastern Time than they do with the relatively few counties at the southern tip of Indiana on Central Time.''

While the Joint Petition refers to ties to the Eastern Time Zone, the Joint Petition also mentions the United States Bureau of Economic Analysis (BEA) in its discussion of Martin County. It uses the BEA information to explain the major elements of the community's economy.

According to BEA's Web site, ''BEA produces economic account statistics that enable government and business decision-makers, researchers, and the American public to follow and understand the performance of the Nation's economy * * * BEA's economic areas define the relevant regional markets surrounding metropolitan or micropolitan statistical areas. They consist of one or more economic nodes—metropolitan or micropolitan statistical areas that serve as regional centers of economic activity—*and the surrounding counties that are economically related to the nodes.*'' (Emphasis added.). The economic areas are based on commuting patterns, statistical areas, and on newspaper circulation data. With the exception of Knox County, the Petitioning Counties are in BEA economic area 54 (the Evansville, KY area), along with other counties that are in the Central Time Zone. Knox County, on the other hand, is in a BEA economic area with counties in both the Central and Eastern Time Zones.

DOT asked the Petitioning Counties to address these differences in the Joint Petition's assertions of connections to the Eastern Time Zone and the BEA data. Despite the BEA classification, in their Second Supplemental Response, the Petitioning Counties now insist that their strongest economic connections are among themselves and the surrounding counties on Eastern Time rather than to the other counties in BEA economic area 54. The Second Supplemental Response states, ''A better assessment of regional connectivity can be seen on the State and local level.'' The Second Supplemental Response notes that State and local economic development agencies may consider commuter patterns and also ''look to the types of businesses in the area upon which communities rely to sustain growth'' as well as funding, and transportation opportunities. More specifically, the Second Supplemental response refers to the Indiana Association of Regional Councils (IARC), an organization that supports regional planning efforts that prioritize and categorize local community and economic development needs and projects as well as the transportation and special needs of the communities. Under IARC, none of the Petitioning Counties considered to be within the Evansville region and are connected with other Petitioning Counties and counties.

The Second Supplemental Response also refers to other connections to counties already on Eastern Time. Under Region 15 Economic Area, Dubois and Pike Counties are paired with Orange and Crawford Counties in the Eastern Time Zone. The Second Supplemental Response also notes that Daviess, Knox, and Martin Counties are served by the Southern Indiana Development Commission (SIDC) along with two other counties currently in the Eastern Time Zone. According to the Second Supplemental Response, SIDC counties have collaborated on Federal and State grant applications. As an example of these collaborative efforts, the Second Supplemental Response refers to a demand-based rural transit system funded by a Federal grant. The Second Supplemental Response asserts that placing all participating counties in the same time zone will preserve the cohesiveness and viability of the system.

Another regional economic development project referenced in the Second Supplemental Response is Crane Diversification, which is composed of six counties, including Daviess and Martin Counties and four others counties which are on Eastern Time. According to the Second Supplemental Response, the goal of Crane Diversification ''is to develop an economic diversification plan that will result in an orderly transition of this block of counties * * * from economic dependence on national defense spending to a more balanced local economy with a mix of private and public sector employment opportunities for the area's citizens.'' The Petitioning Counties believe that projects such as Crane Diversification would be negatively impacted by the current time zone disparity, affecting planning, integration, and strategic development. The Second Supplemental Response also mentions other projects that it says define the economic region in terms of counties tied to each other through potential business development. These include the Indiana Uplands Growth Partnership, developed under a gaming statute; Economic Growth Region 8; and West Gate @ Crane Technology Park. The Third Supplemental Response explains these in greater detail.

According to the Third Supplemental Response, the Indiana Upland Growth Partnership concerns the French Lick Casino and arose under State legislation.

The Third Supplemental Response states that ''a portion of the admission taxes at the casino will go towards supporting regional economic activity for Orange County (Eastern) and the five counties surrounding Orange.'' While the Third Supplemental response refers to five counties, it only lists four and states, ''These counties have worked together to develop a strategic plan for the economic development of the six county region.'' With regard to West Gate @ Crane Technology Park, the Third Supplemental Response notes that it was certified by the Indiana Economic Development Corporation and developed by county and economic development commissions from Daviess (Central), Martin (Central), and Greene (Eastern) counties. The Third Supplemental Response states, ''The state-of-the-art facilities in development are expected to serve major commercial technology companies associated with the $2 billion NSWC Crane military technical center. Facilities are also being designed for academic and training operations.'' As for Economic Growth Region 8, the Third Supplemental Response explains that the region was designated by the Indiana Department of Workforce Development ''to promote economic growth and serve as a means for implementing the State's Strategic Plan Initiative.''

The Third Supplemental Response concludes that failing to change the time zone boundary to the Eastern Time Zone and ''cement the connection between the Petitioning Counties and the State Capitol, and between a large portion of the business in the Petitioning Counties and their customer base, is likely to have a significantly negative impact on the already struggling economies of this region.''

The Petitioning Counties' references to Region 15 Economic Area and Economic Growth Region 8 are also addressed in letters from the Indiana Economic Development Corporation and the Indiana Department of Workforce Development. As noted above, these organizations explained that they established their respective State regions based on their ability to deliver services. They did not establish regions based on time zones or ''convenience of commerce.'' Nevertheless, the Petitioning Counties have submitted sufficient information concerning the regional connections and ties to the Eastern Time Zone to justify proposing to change the time zone. DOT seeks comment on the information submitted by the Petitioning Counties and requests any additional information concerning regional connections that would aid in determining whether changing the time zone for these counties would serve the convenience of commerce.

Request for Comments

To aid us in our consideration of whether a time zone change would be ''for the convenience of commerce,'' we ask for comments on the impact on commerce of a change in the time zone and whether a new time zone would improve the convenience of commerce. The comments should address the impact on such things as economic, cultural, social, and civic activities and how time zone changes affect businesses, communication, transportation, and education. The comments should be as detailed as possible, providing the basis of the information including factual data or surveys. For example, with regard to major bus, rail, and air transportation, information such as the average time it takes for a county resident to travel to a transportation terminal or the average distance to the terminal for a county resident would be useful. With regard to the impact of the time zone on education, if a school district crosses county lines, the number of students in each county in that district would be helpful. Information on school activities such as sporting events or academic competitions that take place in other counties or locations that are not on the same time zone as the school district would also be useful. Similar information on community colleges could also be beneficial. Finally, we would appreciate information on how the different time zones affect the students and the schools.

We specifically invite comment from neighboring Indiana counties and counties in other States that may also be impacted by changing the Petitioning Counties' time zone boundary.

Although the Petitioning Counties have submitted sufficient information to begin the rulemaking process, the decision whether actually to make the change will also consider information submitted in writing to the docket. Persons supporting or opposing the change should not assume that the change will be made merely because DOT is making the proposal. DOT here issues no opinion on the ultimate merits of the Petitioning Counties' request. We note that the Petitioning Counties and their residents have had only a short time to experience the effects of changing from Eastern to Central Time and now the Petitioning Counties request to change back again. We also understand that this proposal may have an impact on surrounding Counties, particularly Perry County which changed time zone boundaries at the same time as the Petitioning Counties. This may result in many comments to the docket. Our decision in the final rule will be made on the basis of information and comments developed during the entire rulemaking proceeding. In our experience, time zone boundary changes can be extremely disruptive to a community and, therefore, should not be made without careful consideration. At the close of the comment period, we will analyze the comments submitted and decide whether to withdraw the proposal (and deny the Joint Petition) or issue a final rule.

Comment Period

We are providing 30 days for public comments in this proceeding. Although we normally provide 60 days for public comments on proposed rules, we believe that 30 days is an adequate public comment period in this instance. It is important to resolve this rulemaking expeditiously so that we can provide ample notice if a change to the Petitioning Counties' time zone boundaries is adopted. Since the introduction and passage of the Indiana Act in 2005 and through DOT's time zone regulatory proceeding and review of three Supplemental Responses, the time zone boundary issue has been actively discussed and analyzed. In this regard, we expect that 30 days is adequate time to submit the necessary data, which is based on currently available information.

Regulatory Analysis and Notices

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (44 FR 11040; February 26, 1979). We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The rule primarily affects the convenience of individuals in scheduling activities. By itself, it imposes no direct costs. Its impact is localized in nature.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed rule would have a significant economic impact on a

substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This proposal, if adopted, would primarily affect individuals and their scheduling of activities. Although it would affect some small businesses, not-for-profits and, perhaps, a number of small governmental jurisdictions, it would not be a substantial number. In addition, the change should have little, if any, economic impact.

Therefore, I certify under 5 U.S.C. 605(b) that this proposed rule would not, if adopted, have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES.** In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call Judith Kaleta at (202) 366–9315.

Collection of Information

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

Federalism

We have analyzed this proposed rule under E.O. 12612 and have determined that this rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) and E.O. 12875, Enhancing the Intergovernmental Partnership, (58 FR 58093; October 28, 1993) govern the issuance of Federal regulations that impose unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

This proposed rule would not result in a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

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

Protection of Children

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

Environment

This rulemaking is not a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act and, therefore, an environmental impact statement is not required.

Privacy Act

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

List of Subjects in 49 CFR Part 71

Time zones.

For the reasons discussed above, the Office of the Secretary proposes to amend Title 49 part 71 as follows:

1. The authority citation for part 71 continues to read as follows:

Authority: Secs. 1–4, 40 Stat. 450, as amended; sec. 1, 41 Stat. 1446, as amended; secs. 2–7, 80 Stat. 107, as amended; 100 Stat. 764; Act of Mar. 19, 1918, as amended by the Uniform Time Act of 1966 and Pub. L. 97–449, 15 U.S.C. 260–267; Pub. L. 99–359; Pub. L. 106–564, 15 U.S.C. 263, 114 Stat. 2811; 49 CFR 1.59(a).

2. Paragraph (b) of § 71.5 is revised to read as follows:

§ 71.5 Boundary line between eastern and central zones.

* * * * *

(b) *Indiana-Illinois.* From the junction of the western boundary of the State of Michigan with the northern boundary of the State of Indiana easterly along the northern boundary of the State of Indiana to the east line of LaPorte County; thence southerly along the east line of LaPorte County to the north line of Starke County; thence east along the north line of Starke County to the west line of Marshall County; thence south along the west line of Marshall County; thence west along the north line of Pulaski County to the east line of Jasper County; thence south along the east line of Jasper County to the south line of Jasper County; thence west along the south lines of Jasper and Newton Counties to the western boundary of the State of Indiana; thence south along the western boundary of the State of Indiana to the north line of Gibson County; thence easterly and northerly along the north line of Gibson County to the west line of Pike County; thence south along the west line of Pike County to the north line of Warrick County; thence east along the north line of Warrick and Spencer Counties to the west line of Perry County; thence easterly and southerly along the north and east line of Perry County to the Indiana-Kentucky boundary.

* * * * *

Issued in Washington, DC on July 16, 2007.

D.J. Gribbin,

General Counsel.

[FR Doc. 07–3516 Filed 7–16–07; 12:13 pm]

BILLING CODE 4910–9X–P

Notices

Federal Register

Vol. 72, No. 138

Thursday, July 19, 2007

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

California Coast Provincial Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The California Coast Provincial Advisory Committee (CCPAC) will meet on July 25–26, 2007, in Eureka, California. The purpose of the meeting is to discuss issues relating to implementing the Northwest Forest Plan (NWFP).

DATES: The meeting will be a half day field trip from 12 p.m. to 3:30 p.m. on July 25, 2007 and a one day meeting from 8 a.m. to 3 p.m. on July 26, 2007.

ADDRESSES: July 25, 2007, is a half day field trip to the Head Waters Trail. Meet for the filed trip in Fortuna, California at the Park and Ride Parking Lot, Off Kenmar Exit, on Highway 101. On July 26, 2007, the meeting will be held at the Six Rivers National Forest, Supervisor's Office, 1330 Bayshore Way, Eureka, California.

FOR FURTHER INFORMATION CONTACT: Kathy Allen, Committee Coordinator, USDA, Six Rivers National Forest, 1330 Bayshore Way, Eureka, CA 95501 (707) 441–3557 *kmallen@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda topics to be covered on July 26, 2007, include: (1) Survey and Manage Update; (2) Aquatic Conservation Strategy Update; (3) Orleans Community Fuels Reduction Project Presentation; (4) Northern Spotted Owl Recovery Plan; (5) Managing Wilderness Areas; and (6) Marijuana Cultivation Presentation.

The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: July 13, 2007.

Tyrone Kelley,

Designated Federal Official.

[FR Doc. 07–3515 Filed 7–18–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XB54

Mid-Atlantic Fishery Management Council (MAFMC); Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council), its Squid, Mackerel, and Butterfish Committee, its Research Set Aside (RSA) Committee, its Ecosystems Committee, and its Surfclam-Ocean Quahog/Tilefish Committee, will hold public meetings.

DATES: Monday, August 6, 2007 through Thursday, August 9, 2007. On Monday, August 6 the Squid, Mackerel, and Butterfish Committee will meet from 9 a.m. until 5:30 p.m. On Tuesday, August 7 the RSA Committee will meet from 8:30 a.m. until 10 a.m. There will also be a concurrent session of the Ecosystems Committee from 9 a.m. until 10 a.m. The Council will convene at 10 a.m. and remain in session until 5 p.m. On Wednesday, August 8 the Council will convene at 8 a.m. and remain in session until 5 p.m. On Thursday August 9 the Surfclam-Ocean Quahog/Tilefish Committee will meet from 8 a.m. until 9 a.m. The Council will then convene at 9 a.m. and remain in session until 3 p.m.

ADDRESSES: This meeting will be held at Danford's on the Sound, 25 East Broadway, Port Jefferson, NY 11777, telephone 631–928–5200.

Council Address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19904; telephone: 302–674–2331.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302–674–2331, ext. 19.

SUPPLEMENTARY INFORMATION: Agenda items by day for the Council(s committees and the Council itself are: Monday, August 6 - the Squid, Mackerel, and Butterfish Committee will review the outcome of the June Fishery Management Action (FMAT) meeting, adopt issues to be included in Amendment 10 and its Draft Environmental Impact Statement (EIS), and finalize alternatives for adopted issues to be included in Amendment 10. Tuesday, August 7 - the Research Set-Aside Committee will finalize the Council's research priorities for 2009 RSA request for proposals, and review policies for incorporation of research results into management advice. The Ecosystems Committee will receive a presentation by Derek Orner on Fisheries Ecosystem Planning for the Chesapeake Bay, and receive an update on the National Offshore Aquaculture Act of 2007. The Council will receive a presentation by NMFS Highly Migratory Species (HMS) staff on Amendment 2 to the Consolidated HMS Fishery Management Plan (FMP), its associated Draft EIS and proposed rule. The Council will review and, if warranted, comment on the proposed management measures for Atlantic sharks. The Council will receive a report from Dr. James Weinberg on the summary results of the 45th Stock Assessment Review Committee (SARC) and the Center for Independent Expertise's (CIE) opinion regarding Stock Assessment Workshop (SAW) reports on sea scallops and northern shrimp. The Council will then finalize scup management measures for 2008 (2009, 2010) in conjunction with the Atlantic States Marine Fisheries Commission's Scup Board by reviewing and adopting the scup Monitoring Committee's recommendations regarding harvest levels and associated commercial management measures.

The Council will review the status of Amendment 15 to the Summer Flounder, Scup, and Black Sea Bass FMP, review the comments received as a consequence of the scoping process for Amendment 15 and continue to develop a list of potential actions to be addressed in Amendment 15. Wednesday, August 8 - the Council will finalize the summer flounder management measures for 2008 (2009, 2010) in conjunction with the Atlantic States Marine Fisheries Commission's Summer Flounder Board by reviewing

and adopting the summer flounder Monitoring Committee's recommendations regarding harvest levels and associated commercial management measures. The Council will finalize black sea bass management measures for 2008 (2009, 2010) in conjunction with the Atlantic States Marine Fisheries Commission's Black Sea Bass Board by reviewing and adopting the black sea bass Monitoring Committee's recommendations regarding harvest levels and associated commercial management measures. The Council will finalize bluefish management measures for 2008 in conjunction with the Atlantic States Marine Fisheries Commission's Bluefish Board by reviewing and adopting the bluefish Monitoring Committee's recommendations regarding 2008 harvest levels and associated management measures. Thursday, August 9 - the Surfclam-Ocean Quahog/Tilefish Committee will review Tilefish Amendment 1 management issues. The Council will adopt and approve Amendment 9 to the Squid, Mackerel, and Butterfish FMP for Secretarial Submission followed by its regular business session and any continuing and new business.

Although non-emergency issues not contained in this agenda may come before the Council for discussion, these issues may not be the subject 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 actions to address such emergencies.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to M. Jan Bryan (302–674–2331 ext: 18) at least five days prior to the meeting date.

Dated: July 16, 2007.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E7–13978 Filed 7–18–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XB32

Small Coastal Shark 2007 Peer Review Workshop

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

ACTION: Notice.

SUMMARY: NMFS announces the date, time, and location for the small coastal shark (SCS) Peer Review Workshop, the final of three stock evaluation workshops for the SCS stock assessment to be conducted in 2007. Any potential changes to existing management measures for SCS will be based, in large part, on the results of this 2007 stock assessment. The workshop is open to the public.

DATES: The Review Workshop will start at 1 p.m. on Monday, August 6, 2007, and will conclude at 1 p.m. on Friday, August 10, 2007.

ADDRESSES: The Review Workshop will be held at the Bay Point Marriott Resort, 4200 Marriott Drive, Panama City Beach, FL 32408.

FOR FURTHER INFORMATION CONTACT: Julie Neer at (850) 234-6541; or Karyl Brewster-Geisz at (301) 713–2347, fax (301) 713–1917.

SUPPLEMENTARY INFORMATION: The Atlantic shark fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act. The Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP) (October 2, 2006; 71 FR 58058) is implemented by regulations at 50 CFR part 635.

Stock assessments are periodically conducted to determine stock status relative to current management criteria. Collection of the best available scientific data and conducting stock assessments are critical to determine appropriate management measures for managing stocks. Based on the last SCS stock assessment in 2002, NMFS determined that the SCS complex and three of the species in that complex are not overfished with no overfishing occurring. The only exception was for finetooth sharks, where fishing mortality in some years was above the mortality level associated with producing maximum sustainable yield (MSY). Any potential changes to existing management measures for SCS will be based, in large part, on the results of this 2007 stock assessment.

This assessment will be conducted in a manner similar to the Southeast Data, Assessment, and Review (SEDAR) process. SEDAR is a cooperative process initiated in 2002 to improve the quality and reliability of fishery stock assessments in the South Atlantic, Gulf of Mexico, and U.S. Caribbean. SEDAR emphasizes constituent and stakeholder participation in assessment development, transparency in the assessment process, and a rigorous and independent scientific review of completed stock assessments. SEDAR is organized around three workshops. The first is a Data Workshop where datasets are documented, analyzed, and reviewed, and data for conducting assessment analyses are compiled. The second workshop is an Assessment Workshop where quantitative population analyses are developed and refined and population parameters are estimated. The third and final workshop is a Review Workshop where a panel of independent experts review the data and assessment and recommend the most appropriate values of critical population and management quantities. All workshops are open to the public. More information on the SEDAR process can be found at *http://www.sefsc.noaa.gov/sedar/*. The 2005/2006 large coastal shark stock assessment also followed this process.

NMFS announces the Peer Review Workshop, the third and final of three workshops for the SCS 2007 stock assessment. The Review Workshop will be held from August 6 - 10, 2007, at the Bay Point Marriott Resort in Panama City Beach, FL (see **DATES** and **ADDRESSES**). Prospective participants and observers will be contacted with the data workshop details. This workshop is open to the public. Persons interested in participating or observing the SCS Peer Review Workshop should contact Julie Neer (see **FOR FURTHER INFORMATION CONTACT**).

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Julie Neer at (850) 234-6541, at least 7 business days prior to the Assessment Workshop.

Authority: 16 U.S.C. 971 et seq.

Dated: July 11, 2007.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E7–13953 Filed 7–18–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XB48

Marine Mammals; File No. 932–1489

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

ACTION: Notice; issuance of permit amendment.

SUMMARY: Notice is hereby given that the NMFS Marine Mammal Health and Stranding Response Program has been issued an amendment to scientific research and enhancement Permit No. 932–1489–08.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following office(s): see **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Amy Sloan, Dr. Tammy Adams, or Carrie Hubard, (301)713–2289.

SUPPLEMENTARY INFORMATION: The requested amendment has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

Permit No. 932–1489–08 (70 FR 38883) authorizes the NMFS Marine Mammal Health and Stranding Response Program to carry out activities pursuant to Title IV of the MMPA (16 U.S.C. 1421 *et seq.*), including activities directed on threatened and endangered marine mammals, and import and export activities. This amendment (Permit No. 932–1489–09) extends the expiration date of the permit one year, to June 30, 2008.

Issuance of this permit amendment, as required by the ESA, was based on a finding that such permit amendment: (1) was applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

The amendment and related documents are available for review in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521;

Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0700; phone (206)526–6150; fax (206)526–6426;

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907)586–7221; fax (907)586–7249;

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4001; fax (562)980–4018;

Pacific Islands Region, NMFS, 1601 Kapiolani Blvd., Rm 1110, Honolulu, HI 96814–4700; phone (808)973–2935; fax (808)973–2941;

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298; phone (978)281–9300; fax (978)281–9394; and

Southeast Region, NMFS, 263 13th Avenue South, Saint Petersburg, Florida 33701; phone (727)824–5312; fax (727)824–5309.

Dated: July 12, 2007.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E7–13949 Filed 7–18–07; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Determination Under the African Growth and Opportunity Act

July 13, 2007.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Directive to the Commissioner of U.S. Customs and Border Protection.

SUMMARY: The Committee for the Implementation of Textile Agreements (CITA) has determined that certain textile and apparel goods from South Africa shall be treated as ''handloomed, handmade, folklore articles, or ethnic printed fabrics'' and qualify for preferential treatment under the African Growth and Opportunity Act. Imports of eligible products from South Africa with an appropriate visa will qualify for duty-free treatment.

EFFECTIVE DATE: July 30, 2007.

FOR FURTHER INFORMATION CONTACT: Anna Flaaten, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUPPLEMENTARY INFORMATION:

Authority: Sections 112(a) and 112(b)(6) of the African Growth and Opportunity Act (Title I of the Trade and Development Act of 2000, Pub. L. No. 106-200) (''AGOA''), as amended by section 7(c) of the AGOA Acceleration Act of 2004 (Pub. L. 108-274) (''AGOA Acceleration Act'') (19 U.S.C. §§ 3721(a) and (b)(6)); Sections 2 and 5 of Executive Order No. 13191 of January 17, 2001; Sections 25-27 and Paras. 13-14 of Presidential Proclamation 7912 of June 29, 2005.

AGOA provides preferential tariff treatment for imports of certain textile and apparel products of beneficiary sub-Saharan African countries, including handloomed, handmade, or folklore articles of a beneficiary country that are certified as such by the competent authority in the beneficiary country. The AGOA Acceleration Act further expanded AGOA by adding ethnic printed fabrics to the list of textile and apparel products made in the beneficiary sub-Saharan African countries that may be eligible for the preferential treatment described in section 112(a) of the AGOA. In Executive Order 13191 (January 17, 2001) and Presidential Proclamation 7912 (June 29, 2005), the President authorized CITA to consult with beneficiary sub-Saharan African countries and to determine which, if any, particular textile and apparel goods shall be treated as being handloomed, handmade, folklore articles, or ethnic printed fabrics. (66 FR 7271-72 and 70 FR 37959, 37961 & 63).

In a letter to the Commissioner of Customs dated January 18, 2001, the United States Trade Representative directed Customs to require that importers provide an appropriate export visa from a beneficiary sub-Saharan African country to obtain preferential treatment under section 112(a) of the AGOA (66 FR 7837). The first digit of the visa number corresponds to one of nine groupings of textile and apparel products that are eligible for preferential tariff treatment. Grouping ''9'' is reserved for handmade, handloomed, folklore articles, or ethnic printed fabrics.

CITA has consulted with South African authorities and has determined that handloomed fabrics, handloomed articles (e.g., handloomed rugs, scarves, place mats, and tablecloths), handmade articles made from handloomed fabrics, and the ethnic printed fabrics described in Annex A to this notice, if produced in and exported from South Africa, are eligible for preferential tariff treatment under section 112(a) of the AGOA, as amended. After further consultations with South African authorities, CITA

may determine that additional textile and apparel goods shall be treated as folklore articles. In the letter published below, CITA directs the Commissioner of U.S. Customs and Border Protection to allow duty-free entry of such products under U.S. Harmonized Tariff Schedule subheading 9819.11.27 if accompanied by an appropriate AGOA visa in grouping ''9''.

R. Matthew Priest,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 13, 2007.

Commissioner of Customs,
U.S. Customs and Border Protection, Washington, DC 20229.

Dear Commissioner: The Committee for the Implementation of Textiles Agreements (''CITA''), pursuant to Sections 112(a) and (b)(6) of the African Growth and Opportunity Act (Title I of the Trade and Development Act of 2000, Pub. L. No. 106-200) (''AGOA''), as amended by Section 7(c) of the AGOA Acceleration Act of 2004 (Pub. L. 108-274) (''AGOA Acceleration Act'') (19 U.S.C. §§ 3721(a) and (b)(6)), Executive Order No. 13191 of January 17, 2001, and Presidential Proclamation 7912 of June 29, 2005, has determined, effective on July 30, 2007, that the following articles shall be treated as ''handloomed, handmade, folklore articles, and ethnic printed fabrics'' under the AGOA: (a) handloomed fabrics, handloomed articles (e.g., handloomed rugs, scarves, placemats, and tablecloths), and handmade articles made from handloomed fabrics, if made in South Africa from fabric handloomed in South Africa; and (b) ethnic printed fabrics described in Annex A, if made in South Africa. Such articles are eligible for duty-free treatment only if entered under subheading 9819.11.27 and accompanied by a properly completed visa for product grouping ''9'', in accordance with the provisions of the Visa Arrangement between the Government of the Republic of South Africa and the Government of the United States Concerning Textile and Apparel Articles Claiming Preferential Tariff Treatment under Section 112 of the Trade and Development Act of 2000. After further consultations with South African authorities, CITA may determine that additional textile and apparel goods shall be treated as folklore articles.

Sincerely,
R. Matthew Priest,
Chairman, Committee for the Implementation of Textile Agreements.

ANNEX A: South African Ethnic Printed Fabrics

Each ethnic print must meet all of the criteria listed below:

A) selvedge on both edges
B) width of less than 50 inches
C) classifiable under subheading 5208.52.30 [1] or 5208.52.40 [2] of the Harmonized Tariff Schedule of the United States
D) contains designs, symbols, and other characteristics of African prints normally produced for and sold in Africa by the piece.
E) made from fabric woven in the U.S. using U.S. yarn or woven in one or more eligible sub-Saharan beneficiary countries using U.S or African yarn
F) printed, including waxed, in one or more eligible sub-Saharan beneficiary countries

[1] printed plain weave fabrics of cotton, 85% or more cotton by weight, weighing over 100g/m2 but not more than 200 g/m2, of yarn number 42 or lower

[2] printed plain weave fabrics of cotton, 85% or more cotton by weight, weighing over 100g/m2 but not more than 200g/m2, of yarn numbers 43-68

[FR Doc. E7–14009 Filed 7–18–07; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before September 17, 2007.

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.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: July 12, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: New.

Title: Assessment Accommodations for English Language Learners.

Frequency: Annually.

Affected Public: Individuals or household.

Reporting and Recordkeeping Hour Burden:

Responses: 3,667.
Burden Hours: 397.

Abstract: This study will examine the effect of a test accommodation and its impact on the validity of assessments for English language learners (ELLs). Specifically, it will examine the ways in which linguistic modification affects students' ability to access content (e.g. math) during testing. Linguistic modification is theory-based process in which the language in test items, directions, and/or response options are modified in ways that clarify and simplify the text without simplifying or significantly altering the construct tested. By comparing the effects of linguistic modification on the performance of ELL students with that of English language proficient general education students without disabilities (non-ELL/non-SD), this study aims to increase understanding of the effects of an accommodation—one that holds promise as a means of decreasing the achievement gap between non-ELL/non-SD and ELL students—on construct validity, differential validity, and incremental validity of achievement test scores. While the initial phase of this study focuses on instrument refinement and validation, the second phase uses experimental design to examine the effectiveness of this accommodation for

ELLs on tests of mathematics achievement.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3412. 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. E7–13986 Filed 7–18–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before September 17, 2007.

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.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: July 12, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: New.

Title: The Effects of a Hybrid Secondary School Course in Algebra 1 on Teacher Practices, Classroom Quality and Adolescent Learning.

Frequency: Annually.

Affected Public: Individuals or household; Businesses or other for-profit; Not-for-profit institutions; Federal Government; State, Local, or Tribal Government, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 10,900

Burden Hours: 1,705

Abstract: Algebra I has emerged in recent years as a critical gatekeeper course, necessary to prepare students for the rigorous mathematics curriculum required for high school graduation and successful postsecondary experiences. Therefore, providing Algebra I teachers with the very best resources and professional development to ensure effective instruction has become a priority in Kentucky and across the nation. This research study is designed to test, through a rigorous experimental design, an approach that combines online and technology enhanced instruction with face-to-face classroom instruction to address this need. This hybrid or ''blended'' approach has shown promising results in Kentucky and elsewhere. Teachers who receive the intervention in this study will apply the hybrid approach using the Kentucky Virtual High School's (KVHS) online course curriculum in Algebra I. They will be supported by extensive professional development in hybrid instruction and research-based practices for teaching Algebra I. The KVHS course is fully aligned with national and new state standards for Algebra instruction. The results on improved instructional practices, classroom quality, and student learning will be compared to those in control sites in which Algebra I instruction will continue as it has with traditional classroom instruction. Participating schools will be randomly assigned to either an intervention group or a control group in Spring 2008 and participating teachers will assume the intervention or control status assigned to their school. Baseline data collection for both intervention and control groups will begin in the fall of 2008, and continue each semester through spring 2010. Participating teachers in the intervention schools will begin professional development in May 2008, and will continue with the facilitated face-to-face on online support of a master teacher as they implement the intervention in 2008–2009. Teachers will continue to have access to all of the online resources for instruction in 2009–2010, as well as on-demand support for KVHS. Results of the study will be made available following a technical review by the U.S. Department of Education, Institute of Education Sciences.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3411. 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. E7–13987 Filed 7–18–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before September 17, 2007.

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. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: July 12, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of the Chief Financial Officer

Type of Review: New.

Title: Recordkeeping and Reporting Requirements in the Education Department General Administrative (EDGAR) Regulations.

Frequency: On Occasion; As needed or required.

Affected Public: Individuals or household; Businesses or other for-profit; Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 7,835.

Burden Hours: 33,395.

Abstract: The Education Department General Administrative Regulations (EDGAR) Recordkeeping and Reporting Requirements are currently part of another collection, OMB Control Number 1890–0004. The 1890–0004 collection currently includes three distinct information collection instruments, the ED 524 Budget Form, the ED 524B Grant Performance Report and the recordkeeping and reporting requirements that carry burden in EDGAR. As part of the renewal of these instruments, we are requesting that each of the instruments be approved under separate OMB Control numbers. Separating these instruments into three information collections will make it easier to make additions, deletions, revisions or other needed changes to each instrument throughout the approval period and eliminate any potential confusion when changes are made to only one of the instruments. We are requesting a new OMB Control number for the EDGAR Recordkeeping and Reporting Requirements and a three-year approval for this collection. Please note that the ED 524B, Grant Performance Report will retain the 1890–0004 number.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 3381. 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. E7–13988 Filed 7–18–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before September 17, 2007.

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.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate

of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: July 12, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of the Chief Financial Officer

Type of Review: New.

Title: Budget Information and Non-Construction Programs, ED–524 Budget Form and Instructions.

Frequency: New Awards.

Affected Public: Individuals or household; Businesses or other for-profit; Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 17,000.

Burden Hours: 297,500.

Abstract: The ED–524 Budget Information Non-Construction Programs Form and Instructions were previously part of another collection, OMB control number 1890–0004. The 1890–0004 collection currently includes three distinct information collection instruments, the ED 524 Budget Form, the ED 524B Grant Performance Report and the administrative requirements in the Education Department General Administrative Regulations (EDGAR). As part of the renewal of these instruments, we are requesting that each of the instruments be approved under separate OMB control numbers. Separating these instruments into three information collections will make it easier to make additional deletions, revisions or other needed changes to each instrument throughout the approval period and eliminate any potential confusion when changes are made to only one of the instruments. We are requesting a new OMB control number for the ED 524, Budget Form and a three-year approval. Please note that the ED 524B, Grant Performance Report will retain the 1890–0004 number. The ED 524 form and instructions are included in U.S. Department of Education (ED) discretionary grant application packages and are needed in order for applicants to submit summary-level budget data by budget category, as well as a detailed budget narrative, to request and justify their proposed grant budgets which are part of their grant applications.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3372. 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. E7–13989 Filed 7–18–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of open meeting and retreat.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge Reservation. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Saturday, August 11, 2007; 8 a.m.

ADDRESSES: Rothchild Catering, 8807 Kingston Pike, Knoxville, Tennessee.

FOR FURTHER INFORMATION CONTACT: Pat Halsey, Federal Coordinator, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831. Phone (865) 576–4025; Fax (865) 576–5333 or e-mail: *halseypj@oro.doe.gov* or check the Web site at *http://www.oakridge.doe.gov/em/ssab.*

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: The planning retreat, which will be held from 8 a.m. to 4 p.m., will focus on establishing the work of the Board for Fiscal Year 2008. Election of officers for Fiscal Year 2008 will be the order of business during the regular monthly meeting, which will begin at 4 p.m.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to the agenda item should contact Pat Halsey at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: Minutes of this meeting will be available for public review and copying at the Department of Energy's Information Center at 475 Oak Ridge Turnpike, Oak Ridge, TN between 8 a.m. and 5 p.m., Monday through Friday, or by writing to Pat Halsey, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831, or by calling her at (865) 576–4025.

Issued at Washington, DC, on July 16, 2007.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. E7–13992 Filed 7–18–07; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[IC07–582–001, FERC–582]

Commission Information Collection Activities, Proposed Collection; Comment Request; Extension

July 12, 2007.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice.

SUMMARY: In compliance with the requirements of section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507, the Federal Energy Regulatory Commission (Commission) has submitted the information collection described below to the Office of Management and Budget (OMB) for review and extension of this

information collection requirement. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission received comments from an entity in response to an earlier **Federal Register** notice of April 14, 2007 (72 FR 19829–30) and has provided responses to the commenter in its submission to OMB. Copies of the submission were also submitted to the commenter.

DATES: Comments on the collection of information are due by August 21, 2007.

ADDRESSES: Address comments on the collection of information to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Regulatory Commission Desk Officer. Comments to OMB should be filed electronically, c/o *oira_submission@omb.eop.gov* and include the OMB Control No. as a point of reference. The Desk Officer may be reached by telephone at 202–395–4650. A copy of the comments should also be sent to the Federal Energy Regulatory Commission, Office of the Executive Director, ED–34, Attention: Michael Miller, 888 First Street, NE., Washington, DC 20426. Comments may be filed either in paper format or electronically. Those persons filing electronically do not need to make a paper filing. For paper filings an original and 14 copies, of such comments should be submitted to the Secretary of the Commission, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and should refer to Docket No. IC07–582–001.

Documents filed electronically via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's Web site at: *http://www.ferc.gov* and click on ''Make an E-Filing,'' and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments. User assistance for electronic filings is available at 202–502–8258 or by e-mail to: *efiling@ferc.gov.* Comments should not be submitted to this e-mail address.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For user assistance, contact *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676. or for TTY, contact (202) 502–8659.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 502–8415, by fax at (202) 273–0873, and by e-mail at: *michael.miller@ferc.gov.*

SUPPLEMENTARY INFORMATION:

Description

The information collection submitted for OMB review contains the following:

1. *Collection of Information:* FERC 582 ''Electric Fees and Annual Charges.''

2. *Sponsor:* Federal Energy Regulatory Commission.

3. Control No. 1902–0132.

The Commission is now requesting that OMB approve and extend the expiration date for an additional three years with no changes to the existing collection. The information filed with the Commission is mandatory.

4. *Necessity of the Collection of Information:* Submission of the information is necessary for the Commission to carry out its responsibilities in implementing the statutory provisions of the Independent Offices Appropriation Act of 1952 (IOAA) (31 U.S.C. 9701) which authorizes the Commission to establish fees for its services. In addition, the Omnibus Budget Reconciliation Act of 1986 (OBRA) (42 U.S.C. 7178) authorizes the Commission ''to assess and collect fees and annual charges in any fiscal year in amounts equal to all the costs incurred by the Commission in that fiscal year.'' In calculating annual charges, the Commission first determines the total costs of its electric regulatory program and then subtracts all electric regulatory program filing fee collections to determine the total collectible electric regulatory program costs. It then uses the data submitted under FERC information collection requirement FERC–582 to determine the total megawatt-hours of transmission of electric energy in interstate commerce. This is measured by the sum of the megawatt-hours of all unbundled transmission (including MWh delivered in wheeling transactions and MWh delivered in exchange transactions) and the megawatt-hours of all bundled wholesale power sales (to the extent these later megawatt-hours were not separately reported as unbundled transmission). This information must be reported to three (3) decimal places. Public utilities and power marketers subject to these annual charges must submit FERC–582 to the Secretary of the Commission by April 30 of each year. The Commission issues bills for annual charges, and public utilities and power marketers then must pay the charges within 45 days of the Commission's issuance of the bill.

The Commission's staff uses companies' financial information filed under waiver provisions to evaluate requests for a waiver or exemption of the obligation to pay a fee for an annual charge. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR part 381, sections 381.108, and 381.302 and part 382, section 382.201(c).

5. *Respondent Description:* The respondent universe currently comprises 125 companies (on average) subject to the Commission's jurisdiction.

6. *Estimated Burden:* 500 total hours, 125 respondents (average), 1 response per respondent, and 4 hours per response (rounded off and average time).

7. *Estimated Cost Burden to Respondents:* 500 hours/2080 hours per years × $122,137 per year = $ 29,360. The cost per respondent is equal to $235.

Statutory Authority: Statutory provisions of sections Independent Offices Appropriation Act of 1952 (IOAA) (31 U.S.C. 9701) which authorizes the Commission to establish fees for its services. In addition, the Omnibus Budget Reconciliation Act of 1986 (OBRA) (42 U.S.C. 7178) authorizes the Commission ''to assess and collect fees and annual charges in any fiscal year in amounts equal to all the costs incurred by the Commission in that fiscal year.''

Kimberly D. Bose,

Secretary.

[FR Doc. E7–13973 Filed 7–18–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER07–903–000]

Bethlehem Renewable Energy, LLC; Notice of Issuance of Order

July 12, 2007.

Bethlehem Renewable Energy, LLC (Bethlehem) filed an application for market-based rate authority, with an accompanying rate schedule. The proposed market-based rate schedule provides for the sale of energy, capacity and ancillary services at market-based rates. Bethlehem also requested waivers of various Commission regulations. In particular, Bethlehem requested that the Commission grant blanket approval under 18 CFR part 34 of all future

issuances of securities and assumptions of liability by Bethlehem.

On July 11, 2007, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—West, granted the requests for blanket approval under Part 34 (Director's Order). The Director's Order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard concerning the blanket approvals of issuances of securities or assumptions of liability by Bethlehem should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing protests is August 10, 2007.

Absent a request to be heard in opposition to such blanket approvals by the deadline above, Bethlehem is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Bethlehem, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approvals of Bethlehem's issuance of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at: *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–13974 Filed 7–18–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TS04–286–002]

Exelon Corporation; Notice of Filing

July 12, 2007.

Take notice that on June 29, 2007, Exelon Corporation, on behalf of its subsidiaries PECO Energy Company and Commonwealth Energy Company, filed a request for clarification of waiver with respect to the application of existing waivers issued to the two companies under the Commission's Standards of Conduct with respect to renewable energy credits.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at: *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at: *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail: *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on July 20, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–13969 Filed 7–18–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL07–71–000]

NSTAR Electric Company; Notice of Institution of Proceeding and Refund Effective Date

July 12, 2007.

On July 9, 2007, the Commission issued an order that instituted a proceeding in the above-referenced docket, pursuant to section 206 of the Federal Power Act (FPA) 16 U.S.C. 824e, concerning the justness and reasonableness of NSTAR Electric Company's proposed rate decrease.

The refund effective date in the above-docketed proceeding, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–13970 Filed 7–18–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 1

July 12, 2007.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG07–53–000.

Applicants: Bethlehem Renewable Energy, LLC.

Description: Bethlehem Renewable Energy, LLC submits a supplement to its 5/16/07 filing.

Filed Date: 06/28/2007.

Accession Number: 20070703–0145.

Comment Date: 5 p.m. Eastern Time on Thursday, July 19, 2007.

Docket Numbers: EG07–64–000.

Applicants: Benton County Wind Farm.

Description: Benton County Wind Farm submits an Exempt Wholesale Generator Notice of Self-Certification.

Filed Date: 07/03/2007.

Accession Number: 20070703–5009.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 24, 2007.

Docket Numbers: EG07–66–000.

Applicants: Edison Mission Group.

Description: Edison Mission Group submits a Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 07/09/2007.

Accession Number: 20070709–5046.

Comment Date: 5 p.m. Eastern Time on Monday, July 30, 2007.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER99–4122–023; ER99–4124–019; ER07–428–001.

Applicants: Arizona Public Service Company; APS Energy Services Company; Pinnacle West Marketing & Trading.

Description: Arizona Public Service Co et al. submits a notice of change in status of generation capacity.

Filed Date: 07/02/2007.

Accession Number: 20070711–0036.

Comment Date: 5 p.m. Eastern Time on Monday, July 23, 2007.

Docket Numbers: ER03–1368–004; ER03–1372–005; ER03–1371–004.

Applicants: Cleco Power LLC; Arcadia Power Partners, LLC; Cleco Evangeline LLC.

Description: Cleco Power LLC et al. submits 1st Revised Sheet 4, Superseding Original Sheet 4 et al. to FERC Electric Tariff, 1st Revised Volume 2.

Filed Date: 07/03/2007.

Accession Number: 20070711–0035.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 24, 2007.

Docket Numbers: ER03–1413–005.

Applicants: Sempra Energy Trading Corp.

Description: Sempra Energy Trading Corp informs FERC that effective 6/1/07 its energy management agreement with Lake Road Generating Company, LP was terminated.

Filed Date: 06/14/2007.

Accession Number: 20070702–0257.

Comment Date: 5 p.m. Eastern Time on Monday, July 23, 2007.

Docket Numbers: ER05–69–003.

Applicants: NSTAR Electric Company.

Description: NSTAR Electric Company's request for a two week extension of time to allow them to make the annual informational reports filing on 7/14/07.

Filed Date: 06/28/2007.

Accession Number: 20070702–0060.

Comment Date: 5 p.m. Eastern Time on Thursday, July 19, 2007.

Docket Numbers: ER07–653–002.

Applicants: The United Illuminating Company.

Description: The United Illuminating Company submits its clean and black-lined versions of revisions to Schedule UI–21 of ISO New England Inc's Open Access Transmission Tariff.

Filed Date: 07/06/2007.

Accession Number: 20070709–0137.

Comment Date: 5 p.m. Eastern Time on Friday, July 27, 2007.

Docket Numbers: ER07–720–001.

Applicants: New York Independent System Operator, Inc.

Description: New York Independent System Operator submits its compliance filing required by FERC's June Order.

Filed Date: 07/03/2007.

Accession Number: 20070706–0053.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 24, 2007.

Docket Numbers: ER07–883–002.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc submits an executed Service Agreement for Network Integration Transmission Service with Kansas City Power & Light Company.

Filed Date: 06/29/2007.

Accession Number: 20070703–0113.

Comment Date: 5 p.m. Eastern Time on Friday, July 20, 2007.

Docket Numbers: ER07–924–001.

Applicants: Kansas City Power & Light Company.

Description: Kansas City Power & Light submits substitute sheets to replace the corresponding sheets that were originally filed on 5/22/07.

Filed Date: 07/05/2007.

Accession Number: 20070709–0118.

Comment Date: 5 p.m. Eastern Time on Thursday, July 26, 2007.

Docket Numbers: ER07–984–001.

Applicants: Entergy Gulf States, Inc.

Description: Entergy Gulf States Inc submits an executed version of an amended and conformed Power Sales Agreement for the Toledo Bend Project with Sabine River Authority.

Filed Date: 07/06/2007.

Accession Number: 20070709–0142.

Comment Date: 5 p.m. Eastern Time on Friday, July 27, 2007.

Docket Numbers: ER07–1065–001.

Applicants: Public Service Company of New Mexico.

Description: City of Farmington, New Mexico submits a certificate of Concurrence re the filing by Public Service Co of New Mexico on 6/21/07.

Filed Date: 07/09/2007.

Accession Number: 20070711–0034.

Comment Date: 5 p.m. Eastern Time on Monday, July 30, 2007.

Docket Numbers: ER07–1090–001.

Applicants: PJM Interconnection L.L.C.

Description: PJM Interconnection, L.L.C. submits a corrected version of its Wholesale Market Participation Agreement.

Filed Date: 07/10/2007.

Accession Number: 20070711–0033.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 31, 2007.

Docket Numbers: ER07–1100–000.

Applicants: Entergy Services, Inc.

Description: Entergy Services Inc submits its Second Revised Network Integration Transmission Service Agreement and First Revised Network Operating Agreement.

Filed Date: 06/29/2007.

Accession Number: 20070702–0061.

Comment Date: 5 p.m. Eastern Time on Friday, July 20, 2007.

Docket Numbers: ER07–1100–001.

Applicants: Entergy Services, Inc.

Description: Entergy Services, Inc. submits an erratum to the Second Revised Network Integration Transmission Service Agreement with the City of North Little Rock, Arkansas.

Filed Date: 07/05/2007.

Accession Number: 20070709–0117.

Comment Date: 5 p.m. Eastern Time on Friday, July 20, 2007.

Docket Numbers: ER07–1134–000.

Applicants: Old Dominion Electric Cooperative, Inc.

Description: Old Dominion Electric Cooperative submits an application for approval of a cost-of-service rate formula to recover its revenue requirement for certain transmission facilities located in the Commonwealth of Virginia.

Filed Date: 07/05/2007.

Accession Number: 20070709–0116.

Comment Date: 5 p.m. Eastern Time on Thursday, July 26, 2007.

Docket Numbers: ER07–1135–000.

Applicants: Entergy Services, Inc.

Description: Entergy Services Inc. agent for the Entergy Operating Companies et al. submits a mutually executed Dynamic Transfer Operating Agreement with EIS, NLR, and Benton.

Filed Date: 07/06/2007.

Accession Number: 20070709–0141.

Comment Date: 5 p.m. Eastern Time on Friday, July 27, 2007.

Docket Numbers: ER07–1136–000.

Applicants: Camp Grove Wind Farm LLC.

Description: Camp Grove Wind Farm, LLC submits its proposed market-based rate tariff, entitled FERC Electric Tariff 1 for its wind powered electric generating facility located in Marshall and Stark Counties, IL.

Filed Date: 07/06/2007.

Accession Number: 20070709–0140.

Comment Date: 5 p.m. Eastern Time on Friday, July 27, 2007.

Docket Numbers: ER07–1137–000.

Applicants: Lockhart Power Company.

Description: Lockhart Power Company requests FERC's authorization to make wholesale sales of energy, capacity, and ancillary services at negotiated, market-based rates pursuant to Wholesale Market-Based Rate Tariff.

Filed Date: 07/06/2007.
Accession Number: 20070709–0139.
Comment Date: 5 p.m. Eastern Time on Friday, July 27, 2007.

Docket Numbers: ER07–1138–000.
Applicants: Jeffers Wind 20, LLC.
Description: Petition of Jeffers Wind 20, LLC for order accepting market-based rate tariff for filing and granting waivers and blanket approvals and request for expedited action.
Filed Date: 07/09/2007.
Accession Number: 20070711–0032.
Comment Date: 5 p.m. Eastern Time on Monday, July 30, 2007.

Docket Numbers: ER07–1139–000.
Applicants: York Haven Holdings, Inc.
Description: York Haven Holdings, Inc. submits a Petition for market-based rate authority under Section 205 of the Federal Power Act, and request for waivers and blanket approvals.
Filed Date: 07/09/2007.
Accession Number: 20070711–0031.
Comment Date: 5 p.m. Eastern Time on Monday, July 30, 2007.

Docket Numbers: ER07–1140–000.
Applicants: New York Independent System Operator, Inc.
Description: New York Independent System Operator, Inc., submits revised tariff sheets for its Market Administration and Control Area Services Tariff pursuant to Section 205 of the Federal Power Act.
Filed Date: 07/09/2007.
Accession Number: 20070711–0037.
Comment Date: 5 p.m. Eastern Time on Monday, July 30, 2007.

Take notice that the Commission received the following electric securities filings:
Docket Numbers: ES07–43–000: ES07–44–000; ES07–45–000.
Applicants: PSEG Fossil LLC; PSEG Nuclear LLC; PSEG Energy Resources & Trade LLC.
Description: PSEG Companies submit an application for continued authorization to have outstanding up to $2 billion of short-term unsecured debt.
Filed Date: 07/09/2007.
Accession Number: 20070710–0040.
Comment Date: 5 p.m. Eastern Time on Monday, July 30, 2007.

Take notice that the Commission received the following electric reliability filings:
Docket Numbers: RR07–11–001.
Applicants: North American Electric Reliability Corp.
Description: Compliance Filing of the North American Electric Reliability Corp., in Response to Paragraph 108 of Order Approving Regional Reliability Standards for the Western Interconnection and Directing Modifications.
Filed Date: 07/09/2007.
Accession Number: 20070709–5076.
Comment Date: 5 p.m. Eastern Time on Wednesday, August 8, 2007.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at: *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,
Secretary.

[FR Doc. E7–13975 Filed 7–18–07; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 1

July 11, 2007.

Take notice that the Commission received the following electric corporate filings:
Docket Numbers: EC07–112–000.
Applicants: Metro Energy, L.L.C.; DTE Pontiac North, LLC; DTE Energy Services, Inc.; CL Michigan Holdings, LLC.
Description: Metro Energy, LLC et al. submit an application for order authorizing disposition of Jurisdictional Facilities under section 203 of the Federal Power Act and request for waivers.
Filed Date: 07/02/2007.
Accession Number: 20070709–0028.
Comment Date: 5 p.m. Eastern Time on Friday, July 20, 2007.

Take notice that the Commission received the following exempt wholesale generator filings:
Docket Numbers: EG07–64–000.
Applicants: Benton County Wind Farm.
Description: Exempt Wholesale Generator Notice of Self-Certification of Benton County Wind Farm.
Filed Date: 07/03/2007.
Accession Number: 20070703–5009.
Comment Date: 5 p.m. Eastern Time on Tuesday, July 24, 2007.

Take notice that the Commission received the following electric rate filings:
Docket Numbers: ER00–2917–010; ER99–2948–011; ER00–2918–010; ER97–2261–021; ER01–1654–012; ER02–2567–010; ER02–699–004; ER04–485–007; ER07–247–002; ER07–245–002; ER07–244–002.
Applicants: Calvert Cliffs Nuclear Power Plant, Inc.; Baltimore Gas and Electric Company; Constellation Power Source Generation, Inc.; Calvert Cliffs Nuclear Power Plant, Inc.; Constellation energy Commodities Group, Inc.; Handsome Lake Energy, LLC; Nine Mile Point Nuclear Station, LLC; Constellation NewEnergy, Inc.; Constellation Energy Commodities Group Maine, LLC; R.E.Ginna Nuclear Power Plant, LLC; Raven One, LLC; Raven Two, LLC; Raven Three, LLC.
Description: Constellation Energy Group, Inc submits a notice of change is status for which FERC has granted market-based rate authority in compliance with Order 652 under ER99–2948 *et al.*
Filed Date: 07/02/2007.
Accession Number: 20070705–0197.

Comment Date: 5 p.m. Eastern Time on Monday, July 23, 2007.

Docket Numbers: ER01–48–008.
Applicants: Powerex Corp.
Description: Powerex Corporation submits this notice of change in status with respect to events that have taken place since the date of its last change in status filing submitted on 5/12/06.
Filed Date: 07/02/2007.
Accession Number: 20070705–0199.
Comment Date: 5 p.m. Eastern Time on Monday, July 23, 2007.

Docket Numbers: ER01–1363–007; ER96–25–029.
Applicants: Coral Energy Management, LLC; Coral Power, L.L.C.
Description: Coral Power LLC and Coral Energy Management LLC submits a notice of change in status pursuant to requirements of Order 652.
Filed Date: 07/03/2007.
Accession Number: 20070706–0051.
Comment Date: 5 p.m. Eastern Time on Tuesday, July 24, 2007.

Docket Numbers: ER04–115–007.
Applicants: California Independent System Operator.
Description: California Independent System Operator submits its compliance report pursuant to Commission's Order issued 9/22/05.
Filed Date: 07/02/2007.
Accession Number: 20070706–0004.
Comment Date: 5 p.m. Eastern Time on Monday, July 23, 2007.

Docket Numbers: ER07–562–003.
Applicants: Trans-Allegheny Interstate Line Company.
Description: Trans-Allegheny Interstate Line Company submits this filing in compliance w/ FERC's order accepting and suspending proposed formula rates, subject to conditions, and establishing hearing and Settlement Judge Procedures.
Filed Date: 07/02/2007.
Accession Number: 20070705–0196.
Comment Date: 5 p.m. Eastern Time on Monday, July 23, 2007.

Docket Numbers: ER07–614–002.
Applicants: American Transmission Systems, Incorporated.
Description: American Transmission Systems, Incorporated et al submits a revised Construction Agreement dated 6/29/07, to establish a new 138 kV delivery point w/ Buckeye Power, Inc.
Filed Date: 07/02/2007.
Accession Number: 20070705–0198.
Comment Date: 5 p.m. Eastern Time on Monday, July 23, 2007.

Docket Numbers: ER07–829–002.
Applicants: MidAmerican Energy Company.
Description: MidAmerican Energy Company submits Attachment 1.A market version of Sheet Nos. 1, 2, and 4 of Rate Schedule 201.
Filed Date: 07/05/2007.
Accession Number: 20070706–0050.
Comment Date: 5 p.m. Eastern Time on Thursday, July 26, 2007.

Docket Numbers: ER07–934–001.
Applicants: The Detroit Edison Company.
Description: Detroit Edison Company submits its clean and red-lined copies of Tariff Sheet 28–30 which properly recognize its proposed removal of Schedule 4 from its Tariff.
Filed Date: 07/03/2007.
Accession Number: 20070706–0052.
Comment Date: 5 p.m. Eastern Time on Tuesday, July 24, 2007.

Docket Numbers: ER07–1125–000.
Applicants: Niagara Mohawk Power Corporation.
Description: Niagara Mohawk Power Corporation dba National Grid submits an Interconnection Agreement dated January 13, 1992 w/ Project Orange Associates, LP pursuant to section 205 of the FPA.
Filed Date: 07/02/2007.
Accession Number: 20070705–0190.
Comment Date: 5 p.m. Eastern Time on Monday, July 23, 2007.

Docket Numbers: ER07–1126–000.
Applicants: Niagara Mohawk Power Corporation.
Description: Niagara Mohawk Power Corp dba National Grid submits an amended and restated Interconnection Agreement, dated June 30, 1998 w/ Power City Partners, LP pursuant to Section 205 of the FPA.
Filed Date: 07/02/2007.
Accession Number: 20070705–0193.
Comment Date: 5 p.m. Eastern Time on Monday, July 23, 2007.

Docket Numbers: ER07–1128–000.
Applicants: Vermont Transco LLC.
Description: Vermont Transco LLC submits an updated Exhibit A for the ''1991 Transmission Agreement,'' a rate schedule commonly referred to as the VTA and designated as FERC Rate Schedule 1.
Filed Date: 07/02/2007.
Accession Number: 20070705–0194.
Comment Date: 5 p.m. Eastern Time on Monday, July 23, 2007.

Docket Numbers: ER07–1129–000.
Applicants: PacifiCorp.
Description: PacifiCorp submits revised tariff sheets to the Appendices of FERC Rate Schedule 590, Control Area Services Agreement w/ Deseret Generation & Transmission Cooperative.
Filed Date: 07/03/2007.
Accession Number: 20070705–0191.
Comment Date: 5 p.m. Eastern Time on Tuesday, July 24, 2007.

Docket Numbers: ER07–1130–000.
Applicants: AEP Energy Partners, Inc.
Description: AEP Energy Partners, Inc submits this Notice of Succession to reflect a name change on its market-based rate tariff from AEP Energy Partners, LP to AEP Energy Partners, Inc.
Filed Date: 07/03/2007.
Accession Number: 20070705–0192.
Comment Date: 5 p.m. Eastern Time on Tuesday, July 24, 2007.

Docket Numbers: ER07–1131–000.
Applicants: American Electric Power Service Corp.
Description: AEP Texas Central Company et al. submits a partially executed Restated and Amended Service Agreement for ERCOT Regional Transmission Service with the Transmission Provider et al.
Filed Date: 07/03/2007.
Accession Number: 20070706–0054.
Comment Date: 5 p.m. Eastern Time on Tuesday, July 24, 2007.

Docket Numbers: ER07–1132–000.
Applicants: Carolina Power & Light Company.
Description: Progress Energy Carolinas Inc submits Service Agreement 288 to its OATT, FERC Electric Tariff, Third Revised Volume 3 with and Industrial Power Generation Corporation.
Filed Date: 07/05/2007.
Accession Number: 20070706–0055.
Comment Date: 5 p.m. Eastern Time on Thursday, July 26, 2007.

Docket Numbers: ER07–1133–000.
Applicants: Westar Energy, Inc.
Description: Westar Energy Inc submits Fifth Revised Sheet 1 and 4 of First Revised Rate Schedule 233 an Electric Power Supply Agreement with the City of Robinson, Kansas, effective 1/1/08.
Filed Date: 07/05/2007.
Accession Number: 20070706–0056.
Comment Date: 5 p.m. Eastern Time on Thursday, July 26, 2007.

Take notice that the Commission received the following foreign utility company status filings:
Docket Numbers: FC07–52–000.
Applicants: E.ON U.S. LLC.
Description: FUCO—Notification of Material Change in Facts of E.ON U.S. LLC under FC07–52.
Filed Date: 07/05/2007.
Accession Number: 20070705–5015.
Comment Date: 5 p.m. Eastern Time on Thursday, July 26, 2007.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It

is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at: *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail: *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–13976 Filed 7–18–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP07–398–000, CP07–399–000, CP07–400–000; Docket No. CP07–401–000, CP07–402–000]

Gulf Crossing Pipeline Company, LLC; Gulf South Pipeline Company, LP; Supplemental Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Gulf Crossing Project, Request for Comments on Environmental Issues, and Notice of Public Site Visit

July 12, 2007.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental impact statement (EIS) that will identify and address the environmental impacts that could result from the construction and operation of the Gulf Crossing Project proposed by Gulf Crossing Pipeline Company, LLC (Gulf Crossing) and Gulf South Pipeline Company, L.P (Gulf South). On June 19, 2007 Gulf Crossing and Gulf South filed a formal application which included significant route realignments along the pipeline route.

On April 2, 2007, the FERC issued a ''Notice of Intent to Prepare an Environmental Impact Statement for the Proposed Gulf Crossing Project, Request for Comments on Environmental Issues and Notice of Public Scoping Meetings'' (NOI). The NOI was published in the **Federal Register** and was also mailed to interested parties, including Federal, state and local officials, agency representatives, conservation organizations; Native American groups; local libraries and newspapers; and property owners affected by the proposed facilities.

In order to assist staff with the identification of environmental issues associated with the modified facilities and to comply with the requirements of the National Environmental Policy Act of 1969 (NEPA), a thirty day scoping period has been opened to receive comments on the proposed project, as modified. This NOI is necessary due to route changes along the pipeline as well as a significant change in the pipeline route in Mississippi. Please note that the scoping period for this project will close on August 13, 2007.

Additionally, as part of the scoping process, we will sponsor a public site visit of the proposed Mississippi Loop as described below, to receive comments on the proposed project. Please note that attendees at the site visit must obtain their own transportation for the site visit.

Date and time	Location
July 26, 2007, 9 a.m.	Terry High School Parking Lot, 235 W. Beasley St., Terry, MS 39170.

This notice is being sent to affected landowners; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers; all of which are encouraged to submit comments on the proposed project. Details on how to submit comments are provided in the Public Participation section of this notice.

If you are a landowner receiving this notice, you may be contacted by a Gulf Crossing or Gulf South representative about the acquisition of an easement to construct, operate, and maintain the proposed project facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the FERC, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility on My Land? What Do I Need To Know?'' is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*). This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the FERC's proceedings.

Summary of the Proposed Project

Gulf Crossing proposes to construct, own and operate approximately 353.2 miles of new 42-inch-diameter natural gas transmission pipeline, four (4) new compressor stations, four (4) new metering and regulating (M&R) stations and associated facilities in Grayson, Fannin, Lamar, Delta, Hopkins, Franklin, Titus, Morris, and Cass Counties, Texas; Bryan County Oklahoma; and Caddo, Bossier, Webster, Claiborne, Lincoln, Union, Ouchida, Morehouse, Richland, and Madison Parishes, Louisiana.

In addition, as part of the Gulf Crossing Project, Gulf South proposed to construct, own and operate a 17.8-mile-long 42-inch-diamter pipeline loop (Mississippi Loop) in Hinds, Copiah,

and Simpson Counties Mississippi; as well as installing an additional 30,000 horsepower (hp) of compression at the proposed Harrisville Compressor Station (Docket Number CP07–32–000).

The general location of the proposed pipeline is shown in the figure included as Appendix 1.[1]

Specifically, Gulf South and Gulf Crossing proposes to construct and operate the following facilities:

- Approximately 353.2 miles of 42-inch-diameter pipeline beginning in Sherman, Texas; northeast through Bennington Oklahoma; and southeast to the proposed Gulf South Tallulah Compressor Station near Tallulah, Louisiana;
- The newly proposed, approximately 17.8 mile long, 42-inch-diameter pipeline loop line in Hinds, Copiah, and Simpson Counties, Mississippi that would terminate at the Gulf South Harrisville Compressor Station (proposed in Docket No. CP07–32–000);
- A new 35,641 hp compressor station at Milepost (MP) 0.0 near Sherman, Texas;
- A new 18,940 hp compressor station at MP 72.7 near Paris, Texas;
- A new 20,604 hp compressor station at MP 183 near Mira, Louisiana;
- A new 25,339 hp compressor station at MP 293 near Sterlington, LA;
- An additional 30,000 hp of compression at Gulf South's proposed Harrisville Compressor Station (Docket No. CP07–32–000)
- Four (4) meter and regulation (M&R) stations to interconnect with Enterprise Texas Pipeline L.P. at MP 0.0 in Grayson County, TX, Enogex intrastate pipeline at MP 34.2 in Bryan County, Oklahoma, Crosstex North Texas Pipeline at MP 72.7 in Lamar County, Texas, and Gulf South at MP 350.7 in Madison Parish, Louisiana;
- 4 pig launching/receiving sites, 3 launching only facilities, 3 receiving only facilities and 17 mainline valves.

Gulf Crossing and Gulf South proposes to have the project constructed and operational by October 1, 2008.

Land Requirements for Construction

As proposed, the typical construction right-of-way for the project pipeline would be 100 feet wide. Following construction, Gulf Crossing and Gulf South has proposed to retain a 60-foot-wide permanent right-of-way for operation of the project. Additional, temporary extra workspaces beyond the typical construction right-of-way limits may also be required at certain feature crossings (e.g., roads, railroads, wetlands, or waterbodies), in areas with steep side slopes, or in association with special construction techniques. In residential areas, wetlands, and other sensitive areas, the construction right-of-way width would be reduced as necessary to protect homeowners and environmental resources.

Based on information provided in the application, construction and operation of the renewly proposed Mississippi Loop would affect about 256.5 acres of land. Following construction, about 129.5 acres would be maintained as permanent right-of-way. For the project as a whole; construction and operation of the proposed project facilities would affect about 5,734 acres of land. Following construction, about 2,741 acres would be maintained as permanent right-of-way, including about 42.7 acres of land would be maintained as new aboveground facility sites. The remaining 2,993 acres of temporary workspace (including all temporary construction rights-of-way, extra workspaces, and pipe storage and contractor yards) would be restored and allowed to revert to its former use.

The EIS Process

NEPA requires the Commission to take into account the environmental impacts that could result from the approval of an interstate natural gas pipeline. The FERC will use the EIS to consider the environmental impact that could result if the Gulf Crossing project is authorized under section 7 of the Natural Gas Act.

NEPA also requires us to discover and address concerns the public may have about proposals to be considered by the Commission. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EIS on the important environmental issues. With this NOI, the Commission staff is requesting public comments on the scope of the issues to be addressed in the EIS. All comments received will be considered during preparation of the EIS.

In the EIS we will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- Water resources;
- Wetlands and vegetation;
- Fish and wildlife;
- Threatened and endangered species;
- Land use, recreation, and visual resources;
- Air quality and noise;
- Cultural resources;
- Socioeconomics;
- Reliability and safety; and
- Cumulative environmental impacts.

In the EIS, we will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on affected resources.

Our independent analysis of the issues will be included in a draft EIS. The draft EIS will be mailed to federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; affected landowners; commentors; other interested parties; local libraries and newspapers; and the FERC's official service list for this proceeding. A 45-day comment period will be allotted for review of the draft EIS. We will consider all comments on the draft EIS and revise the document, as necessary, before issuing a final EIS. We will consider all comments on the final EIS before we make our recommendations to the Commission. To ensure that your comments are considered, please follow the instructions in the Public Participation section of this notice.

With this notice, we are asking federal, state, and local governmental agencies with jurisdiction and/or special expertise with respect to environmental issues, to express their interest in becoming cooperating agencies for the preparation of the EIS. These agencies may choose to participate once they have evaluated the proposal relative to their responsibilities.

Currently Identified Environmental Issues

The EIS will discuss impacts that could occur as a result of the construction and operation of the proposed project. We have already identified several issues that we think deserve attention based on a preliminary review of the project site, comments filed in response to the April 2, 2007 NOI, and the facility information provided by Gulf Crossing and Gulf South. This preliminary list of issues may be changed based on your comments and our analysis.

- Potential effects on prime farmland and erodable soils.
- Potential impacts to perennial and intermittent waterbodies, including waterbodies with federal and/or state designations/protections.
- Evaluation of temporary and permanent impacts on wetlands and development of appropriate mitigation.
- Potential impacts to fish and wildlife habitat, including potential

[1] The appendices referenced in this notice are not being printed in the **Federal Register**.

impacts to federally and state-listed threatened and endangered species.

• Potential visual effects of the aboveground facilities on surrounding areas.

• Potential impacts and potential benefits of construction workforce on local housing, infrastructure, public services, and economy.

• Impacts to air quality and noise associated with construction and operation.

• Public safety and hazards associated with the transport of natural gas.

• Alternative alignments for the pipeline route and alternative sites for the compressor stations.

• Potential impacts to Native American lands and cultural resources.

• Land use impacts from pipeline easements.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the proposed project. By becoming a commentor, your concerns will be addressed in the EIS and considered by the Commission. Your comments should focus on the potential environmental effects, reasonable alternatives (including alternative facility sites and pipeline routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please carefully follow these instructions:

• Send an original and two copies of your letter to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.

• Label one copy of your comments for the attention of Gas Branch 3, DG2E.

• Reference Docket No. CP07–398 on the original and both copies.

• Mail your comments so that they will be received in Washington, DC on or before August 13, 2007.

Please note that we are continuing to experience delays in mail deliveries from the U.S. Postal Service. As a result, we will include all comments that we receive within a reasonable time frame in our environmental analysis of this project. The Commission strongly encourages electronic filing of any comments in response to this Notice of Intent. For information on electronically filing comments, please see the instructions on the Commission's Web site at *http://www.ferc.gov.*

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor''. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. An intervenor formally participates in a Commission proceeding by filing a request to intervene. Instructions for becoming an intervenor are included in the User's Guide under the ''e-filing'' link on the Commission's web site. Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Environmental Mailing List

An effort is being made to send this notice to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project. This includes all landowners who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own property within distances defined in the Commission's regulations of certain aboveground facilities.

If you received this notice, you are on the environmental mailing list for this project. If you do not want to send comments at this time, but still want to remain on our mailing list, please return the Information Request (Appendix 2). If you do not return the Information Request, you WILL be removed from the Commission's environmental mailing list. Please note that Landowners who have previously responded to the April 2, 2007 NOI with a request to stay on the mailing list need NOT reply again.

Availability of Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC (3372). Additional information can also be found on the Internet at: *http://www.ferc.gov.* The ''eLibrary link'' on the FERC Web site provides access to documents submitted to and issued by the Commission, such as comments, orders, notices and rulemakings. Once on the FERC Web site, click on the ''eLibrary link,'' select ''General Search'' and in the ''Docket Number'' field enter the project docket number excluding the last three digits (CP07–398). When researching information be sure to select an appropriate date range. In addition, the FERC now offers a free email service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. To register for this service, go to: *http://www.ferc.gov/esubscribenow.htm.*

Public meetings or site visits will be posted on the Commission's calendar located at: *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

For assistance with the FERC Web site or with eSubscription, please contact FERC Online Support at: *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or TTY, contact 1–202–502–8659.

Finally, Gulf Crossing has established an Internet Web site for this project at *http://www.gulfcrossing.com.* You can also request additional information or provide comments directly to Gulf Crossing at 1–713–544–5420.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–13972 Filed 7–18–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RM05–17–002; Docket Nos. RM05–25–002]

Preventing Undue Discrimination and Preference in Transmission Service; Notice of Staff Technical Conference

July 12, 2007.

Take notice that Commission staff will convene a technical conference on July 30, 2007 to consider certain issues relating to findings and requirements established in the Final Rule issued in this proceeding on February 16, 2007.[1]

[1] *Preventing Undue Discrimination and Preference in Transmission Service,* Order No. 890, 72 FR 12266 (March 15, 2007), FERC Stats. & Regs. ¶ 31,241 at PP 1483 and 1557–59 (2007), *reh'g pending.*

In particular, as directed in the June 26, 2007 Order Establishing Technical Conference and Providing Guidance, this technical conference will consider (1) the minimum lead-time for undesignating network resources in order to make firm third-party sales and (2) the eligibility of on-system seller's choice and system sales to be designated as network resources.

The technical conference will convene at 9 a.m. (EDT) at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in the Commission Meeting Room. All interested persons are invited to attend, and registration is not required.

Commission staff is now soliciting nominations for speakers at the technical conference. Persons wishing to nominate themselves as speakers should do so using the following electronic link: *https://www.ferc.gov/whats-new/registration/trans-serv-07-30-speaker-form.asp.* Such nominations must be made before the close of business on Thursday, July 19, 2007, so that an agenda for the technical conference can be drafted and published.

A free Webcast of this event is available through *http://www.ferc.gov.* Anyone with Internet access who desires to view this event can do so by navigating to *http://www.ferc.gov's* Calendar of Events and locating this event in the calendar. The event will contain a link to its Webcast. The Capitol Connection provides technical support for the free Webcasts. It also offers access to this event via television in the DC area and via phone bridge for a fee. If you have any questions, visit *http://www.CapitolConnection.org* or contact Danelle Perkowski or David Reininger at 703–993–3100.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to: *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–208–8659 (TTY), or send a fax to 202–208–2106 with the required accommodations.

For further information about this conference, please contact:

Tom Dautel, Office of Energy Markets and Reliability, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6196, *Thomas.Dautel@ferc.gov.*

W. Mason Emnett, Office of the General Counsel—Energy Markets, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6540, *Mason.Emnett@ferc.gov.*

Kimberly D. Bose,

Secretary.

[FR Doc. E7–13971 Filed 7–18–07; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2007–0269; FRL–8441–6]

Agency Information Collection Activities; Proposed Collection; Comment Request; Transportation Conformity Determinations for Federally Funded and Approved Transportation Plans, Programs and Projects, EPA ICR No. 2130.03, OMB Control No. 2060–0561

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget(OMB). This ICR is scheduled to expire on December 31, 2007. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments of the proposed information collection as described below.

DATES: Comments must be submitted on or before September 17, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2007–0269, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments. Or:
- *Mail:* (1) Air Docket, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Attention Docket ID No. EPA–HQ–OAR–2007–0269, and (2) OMB at Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), 725 17th Street, NW., Washington, DC 20503. Attention: Desk Officer for EPA.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2007–0269. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: Patty Klavon, State Measures and Conformity Group, Transportation and Regional Programs Division, U.S. Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: (734) 214–4476; fax number: (734) 214–4052; e-mail address: *klavon.patty@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2007–0269, which is available for online viewing at *www.regulations.gov,* or in person viewing at the Air Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

Use *www.regulations.gov* to obtain a copy of the supporting statement which provides a detailed discussion of the

need, use, costs, and methodology of the information collection, to submit or view public comments, to access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search'', then key in the docket ID number identified in this document.

B. In What Information Is EPA Particularly Interested?

Pursuant to section 3506(c)(2)(A) of the Paperwork Reduction Act (PRA), EPA specifically solicits comments and information to enable us to:

(i) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(iii) Minimize the burden of the collection of information on those who are to respond.

C. What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

(1) Explain your views as clearly as possible and provide specific examples;

(2) Describe any assumptions that you used and why such assumptions are reasonable;

(3) Provide copies of any technical information and/or data you used that support your views;

(4) If you estimate potential burden or costs, explain how you arrived at the estimate that you provide;

(5) Offer alternative ways to improve the collection activity;

(6) Make sure to submit your comments by the deadline identified under DATES;

(7) To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. To What Information Collection Activity or ICR Does This Apply?

Affected entities: State and local entities potentially affected by this action are metropolitan planning organizations, local transit agencies, state departments of transportation, and state and local air quality agencies. Federal agencies potentially affected by this action include the Federal Highway Administration (FHWA), Federal Transit Administration (FTA) and EPA.

Title: Transportation Conformity Determinations for Federally Funded and Approved Transportation Plans, Programs and Projects.

ICR number: EPA ICR No. 2130.03, OMB Control No. 2060–0561.

ICR status: This ICR is scheduled to expire on December 31, 2007. EPA is soliciting comments on the draft information collection to renew the existing ICR.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR Part 9.

Abstract: Transportation conformity is required under Clean Air Act section 176(c) (42 U.S.C. 7506(c)) to ensure that federally supported transportation activities are consistent with (''conform to'') the purpose of the state air quality implementation plan (SIP). Transportation activities include transportation plans, transportation improvement programs (TIPs), and federally funded or approved highway or transit projects. Conformity to the purpose of the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the relevant national ambient air quality standards (NAAQS or ''standards'').

Transportation conformity applies under EPA's conformity regulations at 40 CFR Part 93, subpart A, to areas that are designated nonattainment, and those redesignated to attainment after 1990 (''maintenance areas'' with plans developed under Clean Air Act section 175A) for the following transportation-related criteria pollutants: ozone, particulate matter ($PM_{2.5}$ and PM_{10}), carbon monoxide (CO), and nitrogen dioxide (NO_2). The EPA published the original transportation conformity rule on November 24, 1993 (58 FR 62188), and subsequently published several revisions. EPA develops the conformity regulations in coordination with FHWA and FTA.

Transportation conformity determinations are required before federal approval or funding is given to certain types of transportation planning documents as well as non-exempt highway and transit projects.[1]

EPA considered the following in renewing the existing ICR:

- Burden estimates for transportation conformity determinations in 8-hour ozone and $PM_{2.5}$ nonattainment and maintenance areas, which made up EPA ICR 2130.02;
- Burden estimates for conformity determinations for CO, NO_2, and PM_{10}, which were previously included in DOT's ICR for Metropolitan and Statewide Transportation Planning (OMB Control Number 2132–0529);[2]
- Efficiencies associated with the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU), which was signed into law on August 10, 2005;
- Burden estimates for hypothetical areas that may be designated nonattainment for the revised 24-hour $PM_{2.5}$ standard, which EPA promulgated on October 17, 2006 (71 FR 61144);
- Differences in conformity resource needs in large and small metropolitan areas and isolated rural areas; and
- Additional burden associated with EPA's adequacy review process for submitted SIP motor vehicle emissions budgets that are to be used in conformity determinations.

This ICR does not include burden associated with the general development of transportation planning and air quality planning documents for meeting other federal requirements.

Burden Statement

The annual burden for this collection of information that all state and local respondents incur is estimated to average 53,818 hours with a projected annual aggregate cost of $2,956,224.

The annual burden for this collection of information that federal agency respondents incur is estimated to average 16,371 hours with a projected annual aggregate cost of $899,259.

Finally, the bottom line burden to all federal, state, and local agency respondents over the 3-year period covered by this ICR is estimated at 210,567 hours, with a cost of approximately $11,566,445.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and

[1] Some projects are exempt from all or certain conformity requirements, see 40 CFR 93.126, 93.127, and 93.128.

[2] EPA, in consultation with DOT, concluded that it would be advantageous to join transportation conformity burden estimates for all pollutants into one ICR.

requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated Number of Respondents: This ICR estimates that approximately 177 Metropolitan Planning Organizations will incur burden associated with transportation conformity requirements.

Frequency of Response: The information collections described in this ICR must be completed before a transportation plan, TIP or project conformity determination is made. Per SAFETEA–LU and DOT's planning regulations, transportation plans and TIPs must be updated at least every four years; therefore, a conformity determination on the transportation plan and TIP in metropolitan areas is required at least every four years. Conformity determinations on projects in metropolitan and isolated rural areas are required on an as-needed basis.

Estimated Total Annual Hour Burden: The ICR estimates a total annual burden to all federal, state and local agency respondents over the three-year period covered by this ICR to be 70,189 hours/year. Total annual burden for state and local agencies alone is 53,818, while the total annual burden for federal agency respondents is 16,371.

Estimated Total Annual Cost: The total annual cost to all federal, state and local agency respondents over the three-year period covered by this ICR is estimated to be approximately $3,876,133/year. The annual cost for all state and local agencies is $2,956,224, while the annual cost portion for federal agency respondents is $899,259.

Changes in the Estimates: There is an increase of 29,063 hours in the total estimated state, local, and federal agency respondent burden compared with that identified in the ICR currently approved by OMB. This increase reflects the following adjustments and program changes:

(1) Program change associated with transfer of DOT ICR (OMB #2132–0529) to EPA ICR 2130.03.

(2) Adjustments associated with the implementation of transportation conformity provisions in SAFETEA–LU.

(3) Reduced burden from the previous ICR, which included substantial start-up burden for areas that had never done transportation conformity prior to $PM_{2.5}$ and 8-hour ozone NAAQS. These areas now have experience with conformity.

(4) Other factors that have been updated since the existing ICR was approved.

III. What Is the Next Step in the Process for This ICR?

EPA will consider any comments we receive and amend the EPA ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

If you have any questions about this ICR or the approval process, please contact the technical person listed under the **FOR FURTHER INFORMATION CONTACT** section.

Dated: July 10, 2007.

Lori Stewart,

Acting Director, Transportation and Regional Programs Division, Office of Transportation and Air Quality.

[FR Doc. E7–14007 Filed 7–18–07; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting Notices

DATE AND TIME: Tuesday, July 24, 2007 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

PERSON TO CONTACT FOR INFORMATION: Mr. Robert Biersack, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 07–3546 Filed 7–17–07; 2:13 pm]

BILLING CODE 6715–07–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 Day–07–0007]

Agency Forms Undergoing Paperwork; Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an e-mail to: *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project

Weekly and Annual Morbidity and Mortality Reports, 0920–0007–Extension—National Center for Health Marketing (NCHM), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention (CDC) is responsible for the collection and dissemination of nationally notifiable diseases' information and for monitoring and reporting the impact of epidemic influenza on mortality, Public Health Service Act (42 U.S.C. 241).

In 1878, Congress authorized the U. S. Marine Hospital Service (later renamed the U.S. Public Health Service) to collect morbidity reports on cholera, smallpox, plague, and yellow fever from U.S. consuls overseas; this information was to be used for instituting quarantine measures to prevent the introduction and spread of these diseases into the United States. In 1879, a specific Congressional appropriation was made for the collection and publication of reports of these notifiable diseases. Congress expanded the authority for weekly reporting and publication in 1893 to include data from state and municipal authorities throughout the United States. To increase the uniformity of the data, Congress enacted a law in 1902 directing the Surgeon General of the Public Health Service (PHS) to provide forms for the collection and compilation of data and for the publication of reports at the national level.

Reports on notifiable diseases were received from very few states and cities

prior to 1900, but gradually more states submitted monthly and annual summaries. In 1912, state and territorial health authorities—in conjunction with PHS—recommended immediate telegraphic reports of five diseases and monthly reporting by letter of 10 additional diseases, but it was not until after 1925 that all states reported regularly. In 1942, the collection, compilation, and publication of morbidity statistics, under the direction of the Division of Sanitary Reports and Statistics, PHS, was transferred to the Division of Public Health Methods, PHS.

A PHS study in 1948 led to a revision of the morbidity reporting procedures, and in 1949 morbidity reporting activities were transferred to the National Office of Vital Statistics. Another committee in PHS presented a revised plan to the Association of State and Territorial Health Officers (ASTHO) at its meeting in Washington, DC, October 1950. ASTHO authorized a Conference of State and Territorial Epidemiologists (CSTE) for the purpose of determining the diseases that should be reported by the states to PHS. Beginning in 1951, national meetings of CSTE were held every two years until 1974, then annually thereafter.

In 1961, responsibility for the collection of data on nationally notifiable diseases and deaths in 122 U.S. cities was transferred from the National Office of Vital Statistics to CDC. For over 40 years the Morbidity and Mortality Weekly Report (MMWR) has consistently served as the CDC premier communication channel for disease outbreaks and trends in health and health behavior. The data collected for publication in the MMWR provides information which CDC and State epidemiologists use to detail and more effectively interrupt outbreaks. Reporting also provides the timely information needed to measure and demonstrate the impact of changed immunization laws or a new therapeutic measure. Users of data include, but are not limited to, congressional offices, state and local health agencies, health care providers, and other health related groups.

The dissemination of public health information is accomplished through the MMWR series of publications. The publications consist of the MMWR, the CDC Surveillance Summaries, the Recommendations and Reports, and the Annual Summary of Notifiable Diseases.

There are no costs to respondents except their time to participate in the survey. The total estimated burden hours are 4,927.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Number of respondents	Number of responses per respondent	Average burden per respondent (in hours)
States	50	52	1
Territories	4	52	1
	1	52	30/60
Cities	2	52	1
Subtotals	57		
City health officers or Vital statistics registrars	122	52	12/60
States	50	1	14
Territories	5	1	14
Cities	2	1	14
Subtotals			
Totals	179		

Dated: July 13, 2007.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E7–13985 Filed 7–18–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2005N–0349]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; FDA Survey of Current Manufacturing Practices in the Food Industry

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; reopening of comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening until September 17, 2007, the comment period for a notice that published in the **Federal Register** of May 8, 2007 (72 FR 26132). In the notice, FDA announced that a proposed collection of information had been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA). FDA is reopening the comment period in light of continued public interest in this collection of information and in response to a request for an extension of the comment period for this notice.

DATES: Fax written comments on the collection of information by September 17, 2007.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–6974, or e-mailed to *baguilar@omb.eop.gov*. All comments should be identified with the OMB control number ''0910–NEW'' and title ''FDA Survey of Current Manufacturing Practices in the Food Industry.'' Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of the Chief Information Officer (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 8, 2007 (72 FR

26132), FDA solicited comments on a proposed collection of information that the agency had submitted to OMB for review and clearance under the PRA. Interested persons were given until June 7, 2007, to submit written comments by fax directly to OMB. As a result of continued public interest, and in response to a request to extend the comment period by 60 days, FDA is reopening the comment period until September 17, 2007, to allow interested persons additional time to submit comments to OMB.

In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

FDA Survey of Current Manufacturing Practices in the Food Industry—(OMB Control Number 0910–NEW)

The authority for FDA to collect the information derives from the FDA Commissioner's authority, as specified in section 903(d)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 393(d)(2)).

FDA's regulations in part 110 (21 CFR part 110) describe the methods, equipment, facilities and controls for producing processed food, hereafter referred to as food current good manufacturing practices (CGMPs). As the minimum sanitary and processing requirements for producing safe and wholesome food, CGMPs are an important part of regulatory control of the nation's food supply. FDA believes that it is necessary to revisit and modernize the food CGMPs. Since the food CGMPs were last revised in 1986, there have been significant changes in food production technology and important advances in the understanding of foodborne illnesses. Accordingly, the agency will rigorously assess the impacts of any modernization policies on food facilities. To assess the impacts of the modernization policy, information is needed to help understand baseline or current industry practice. At present, however, FDA lacks baseline information on the nature of current manufacturing practices that would serve as part of a regulatory impact analysis.

FDA plans to conduct an Internet survey of all domestic FDA-registered facilities that primarily manufacture or process food and all foreign FDA-registered facilities that primarily manufacture or process food, which are located in those countries that are the largest food exporters to the United States: Japan, Canada, China, France, Italy, and Mexico. The Internet survey may be supplemented by extended case study interviews with selected respondents from the survey. The survey and extended case studies will solicit detailed information about six key topics relevant to the food CGMPs modernization effort: Employee training, sanitation and personal hygiene, allergen controls, process controls, post-production processing, and recordkeeping. Additionally, FDA will collect information on establishment characteristics, such as facility size and industry, which are expected to correlate with the presence or absence of various manufacturing practices, such as electronic recordkeeping, ongoing employee training in food safety, and product-to-label conformance procedures. The case study interviews, if conducted, will provide qualitative, indepth information about various factors that influence decisions to implement these types of manufacturing practices, as well as about the circumstances that underlie the cost and effectiveness of such programs. The survey will be sent to every FDA-registered facility in the United States, Japan, Canada, China, France, Italy, and Mexico that primarily manufactures or processes food products and that included an e-mail address with their registration. Participation will be voluntary and the respondent identifiers that would permit an association of specific responses to specific respondents will not be accessible to FDA.

The proposed Internet survey will collect the information from respondents electronically. With a custom-designed online survey system, responses will be entered directly into a computer database, eliminating the need for additional coding and data entry operations. Also, the system will ensure that conditional questions are asked in proper order, freeing the respondent from the need to keep track of the question order and skip patterns. The data quality will also be higher because the instrument will contain built-in edits, prompts, and data validation features.

The Internet survey method was selected due to the following considerations: (1) E-mail addresses of the respondents are available from the FDA Food Facility Registration database and are continuously validated by FDA; (2) the Internet survey method is the least costly to the agency when compared with other modes of collection and generates the timeliest responses; (3) the Internet survey will impose a relatively modest reporting burden on small entities; and (4) the Internet survey method is the only feasible method by which FDA may survey foreign facilities that export food products to the United States.

The Internet survey includes a pledge of confidentiality regarding the contractor's use of the data provided by the respondents. All data will be collected and compiled by Eastern Research Group, Inc. (ERG), an independent consulting firm contracted by FDA. ERG will provide FDA personnel only with a summary of data (aggregated statistical data) compiled in the course of the study. No reports will have information about individual facility's participation or lack of participation, or information that enables FDA to determine individual responses. In keeping with longstanding FDA practice, ERG will not provide FDA with identifiers that would permit the association of specific responses with a given respondent. Responses will not be the property of the Federal Government. The raw data generated by the Food CGMP Survey will not be owned by FDA, will not be an FDA record, and will not be provided, or otherwise made available, to FDA.

The key information to be collected includes responses to questions about the following: (1) Training procedures and practices for food production managers, production supervisors, quality control personnel, sanitation and cleaning supervisors and production line employees on the topics of food safety, basic cleaning, sanitizing, sanitation, personal hygiene, specific product and equipment training and allergen control; (2) pest control and sanitation procedures and practices for food contact surfaces, non-food contact surfaces, production areas and warehouses; (3) allergen control procedures and practices for soybean or soybean-based ingredients, peanuts or peanut-based ingredients, finfish and crustacea, tree nuts, milk and other diary products, eggs, and wheat or wheat-based products; (4) process controls, including written procedures for handling incoming raw materials, approving vendors, the calibration of operating equipment, pathogen control, and a Hazard Analysis and Critical Control Point system; (5) recordkeeping practices; (6) the primary operation characteristics conducted at the facility, such as the type of food manufactured or processed for human consumption; and (7) fresh produce and ready to eat packing practice and post-harvest operations.

In the **Federal Register** of September 14, 2005 (70 FR 54390), FDA published a 60-day notice requesting public comment on the information collection provisions. We received comments from three respondents on the 60-day notice

regarding FDA's survey of current manufacturing practices in the food industry. One of the respondents' comments was received after the 60-day comment period closed and is not addressed.

Respondents were asked to submit comments pertaining to: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology. Comments outside the scope of these four questions are not addressed in this notice.

(Comment 1) One industry respondent wanted assurances from FDA that individual company information was not subject to release under the Freedom of Information Act (FOIA).

(Response) The Internet survey includes a pledge of confidentiality regarding the data provided by the respondent. All data will be collected, compiled, and owned by ERG, an independent consulting firm contracted by FDA. ERG is contractually obligated to retain the raw data and to not provide FDA with access to it. ERG will provide FDA personnel only with anonymous summary and aggregate statistical data compiled during the course of the study; ERG is contractually restricted from providing FDA with raw or other data that has identifiers that would permit the association of specific responses to a given respondent. Data that FDA does not own cannot be requested through FOIA.

(Comment 2) The respondent requests that only one contact be made for each individual firm through the parent company contact listed on the firm's facility registration form and not to each location where the firm has a production facility.

(Response) We recognize the additional burden this places on a firm but because we need current information from each manufacturing plant we do not believe that we have an alternative approach. Not every facility processes the same types of foods with the same preventive controls even when the parent company is the same. We need to get an idea of CGMPs at each facility location. Having a parent company respond could give us inaccurate information.

(Comment 3) The respondent requests that each firm (facility) receive only one solicitation for information.

(Response) Response to this survey is voluntary. For the sake of statistical reliability, we must contact non-responders more than just initially or our survey data result could be subject to a non-response bias. Non-response bias is affected by both the proportion of non-responders and the extent to which non-respondents and respondents differ on key questions being measured in the survey. To reduce the bias, it is necessary to reduce the number of non-responders by contacting them multiple times. It also helps to obtain information about non-responders to assess whether their sociodemographic characteristics differ systematically from survey responders. Survey researchers should always try to followup with individuals who do not consent to participate in a survey and ascertain their reasons for non-response. We do recognize that there should be an upper limit for the number of times a non-responder should be contacted before being dropped. From our experience, data quality will not be improved significantly by more than six contacts, so we will set our upper limit at six contacts.

(Comment 4) One respondent opposes investigating foreign manufacturers.

(Response) We are not investigating foreign manufacturers; we are surveying them to get an idea about their manufacturing practices. Nearly 20% of all imports into the United States are food and food products; imported fresh produce and seafood make up a large percentage of these imports. All food, including imported and domestic food, must follow the same manufacturing regulations, thus information on foreign manufacturing processes is necessary and relevant to help inform us about how to modernize our regulation on CGMPs for food facilities.

At that time of the 60-day notice, approximately 45,000 domestic and 55,000 foreign facilities were registered with FDA. Now approximately 126,000 domestic and 81,000 facilities from Japan, Canada, China, France, Italy, and Mexico are registered with FDA.Recent experience with online surveys has shown that fewer respondents respond than estimated at the time of the 60-day notice. Estimates of public burden have been adjusted to account for the increase in respondents and our estimate of the decrease in response rate.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Activity	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Domestic Facilities					
Screening questions only	17,000	1	17,000	.067	1,139
Completed Survey	44,500	1	44,500	.75	33,375
TOTAL DOMESTIC	61,500		61,500		34,514
Foreign Facilities					
Screening questions only	14,000	1	14,000	.067	938
Completed Survey	26,000	1	26,000	.75	19,500
TOTAL FOREIGN	40,000	1	40,000		20,438
GRAND TOTAL	101,500				54,952

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

These estimates of the number of respondents and the burden hours per response are based on FDA's registration database and FDA and the contractor's experience with previous surveys. The respondents are divided into two groups: Domestic and foreign. We estimate the number of domestic facilities at 126,000 based on information in the registration database. However, we do not expect that all of these firms will participate in the survey. We anticipate that approximately 61,500 facilities will participate, which takes into account typical response rates to these types of surveys and inaccurate contact information that facilities have entered into the registration database (see *http://www.cfsan.fda.gov/furls/ffregacc.html*). Similarly, among the 81,000 foreign facilities in the registration database, we expect that 40,000 foreign facilities will respond.

We estimate that it will take a respondent 4 minutes (.067 hours) to complete the screening questions and 45 minutes (0.75 hours) to complete the entire survey.

Prior to the administration of the survey, the agency plans to conduct a pretest of the final survey to identify and resolve potential problems. The pretest will be conducted with nine participants.

Dated: July 12, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–13951 Filed 7–18–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006N–0037]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Experimental Study of *Trans* Fat Claims on Foods

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Experimental Study of *Trans* Fat Claims on Foods'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of the Chief Information Officer (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 15, 2006 (71 FR 75554), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0533. The approval expires on June 30, 2010. A copy of the supporting statement for this information collection is available on the Internet at *http://www.fda.gov/ohrms/dockets*.

Dated: July 12, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–14010 Filed 7–18–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006N–0036]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Experimental Study of Possible Footnotes and Cueing Schemes to Help Consumers Interpret Quantitative *Trans* Fat Disclosures on the Nutrition Facts Panel

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Experimental Study of Possible Footnotes and Cueing Schemes to Help Consumers Interpret Quantitative *Trans* Fat Disclosures on the Nutrition Facts Panel'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of the Chief Information Officer (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 7, 2007 (72 FR 10220), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0532. The approval expires on June 30, 2010. A copy of the supporting statement for this information collection is available on the Internet at *http://www.fda.gov/ohrms/dockets*.

Dated: July 12, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–14011 Filed 7–18–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2007N–0278]

Agency Information Collection Activities; Proposed Collection; Comment Request; Voluntary Registration of Cosmetic Product Establishments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the**Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the voluntary registration of cosmetic product establishments with FDA.

DATES: Submit written or electronic comments on the collection of information by September 17, 2007.

ADDRESSES: Submit electronic comments on the collection of information to: *http://www.fda.gov/dockets/ecomments*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the

docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of the Chief Information Officer (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857,301–827–4659.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Voluntary Registration of Cosmetic Product Establishments—21 CFR Part 710 (OMB Control Number 0910–0027)—Extension

The Federal Food, Drug, and Cosmetic Act (the act) provides FDA with the responsibility for assuring consumers that cosmetic products in the United States are safe and properly labeled. Cosmetic products that are adulterated under section 601 of the act (21 U.S.C. 361) or misbranded under section 602 of the act (21 U.S.C. 362) may not be distributed in interstate commerce. To assist FDA in carrying out its responsibility to regulate cosmetics, FDA has developed the Voluntary Cosmetic Registration Program (VCRP). In 21 CFR part 710, FDA requests that establishments that manufacture or package cosmetic products register with the agency on Form FDA 2511 entitled ''Registration of Cosmetic Product Establishment.'' The term ''Form FDA 2511'' refers to both the paper and electronic versions of the form. The electronic version of Form FDA 2511 is available on FDA's VCRP Web site at *http://www.cfsan.fda.gov/~dms/cos-regn.html*. FDA's online registration system, intended to make it easier to participate in the VCRP, was made available industry-wide on December 1, 2005. The agency strongly encourages electronic registration of Form FDA 2511 because it is faster and more convenient. A registering facility will receive confirmation of electronic registration, including a registration number, by e-mail, usually within 7 business days. The online system also allows for amendments to past submissions. Submission of the paper version of Form FDA 2511 remains an option as described in *http://www.cfsan.fda.gov/~dms/cos-reg2.html*. However, due to the high volume of online participation, the VCRP is allocating its limited resources primarily to electronic registrations.

Because registration of cosmetic product establishments is not mandatory, voluntary registration provides FDA with the best information available about the locations, business trade names, and types of activity (manufacturing or packaging) of cosmetic product establishments. FDA places the registration information in a computer database and uses the information to generate mailing lists for distributing regulatory information and for inviting firms to participate in workshops on topics in which they may be interested. FDA also uses the information for estimating the size of the cosmetic industry and for conducting onsite establishment inspections. Registration is permanent, although FDA requests that respondents submit an amended Form FDA 2511 if any of the originally submitted information changes.

FDA estimates the burden of this information collection as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Part	Form	No. of Respondents	Annual Frequency per Respondent	Total Annual Responses	Hours per Response	Total Hours
710	FDA 2511	135	1	135	0.2	27

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA bases its estimate on its review of the registrations received over the past 3 fiscal years. The total annual responses (averaged over fiscal years 2004 through 2006) is 9 times the previous total reported in 2004 (for fiscal years 2000 through 2003) due to increased participation by cosmetic companies, because of a renewed industry commitment to the program, and implementation of the online registration system on December 1, 2005. Due to the ease of online registration, FDA estimates that the hours per response have declined from 0.4 hours to 0.2 hours. Thus, the total estimated hour burden for this information collection is 27 hours, which is 4.5 times the previous level reported in 2004.

Dated: July 13, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–14013 Filed 7–18–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006N–0527]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Threshold of Regulation for Substances Used in Food-Contact Articles

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Threshold of Regulation for Substances Used in Food-Contact Articles'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of the Chief Information Officer (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 22, 2007 (72 FR 13499), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0298. The approval expires on June 30, 2010. A copy of the supporting statement for this information collection is available on the Internet at *http://www.fda.gov/ohrms/dockets*.

Dated: July 12, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–14014 Filed 7–18–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006N–0283]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; FDA Survey of Physicians' Perceptions of the Impact of Early Risk Communication About Medical Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by August 20, 2007.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–6974, or e-mailed to *baguilar@omb.eop.gov*. All comments should be identified with the OMB control number ''0910–NEW'' and title, ''FDA Survey of Physicians' Perceptions of the Impact of Early Risk Communication about Medical Products.'' Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of the Chief Information Officer (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

FDA Survey of Physicians' Perceptions of the Impact of Early Risk Communication about Medical Products (OMB Control Number 0910–NEW)

The authority for FDA to collect the information derives from the FDA Commissioner's authority, as specified in section 903(d)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 393(d)(2)).

FDA engages in a number of communication activities to inform health care providers about new risks of regulated medical products, including prescription drugs, biologics, and medical devices (for example, pacemakers, implantable cardiac defibrillators, contact lenses, infusion pumps). More recently, FDA's communication activities have also included the general public. Activities include, but are not limited to, communications in medical journals, through the press (press releases, public health advisories), letters to health care providers sent out in cooperation with product manufacturers, and notifications and information sheets about recalls, withdrawals, and new product safety information on FDA's Internet site.

Extensive publicity regarding serious side effects from certain commonly used prescription drugs, as well as certain implantable medical devices, has spurred public pressure to make risk information available sooner. In opposition to such public pressures, however, at least some prescribers and medical societies have suggested that early disclosure of potential side effects (emerging risks) may have unintended negative effects on patient care. For FDA to plan informed programmatic communication activities we need better empirical data about the impact of disseminating emerging risk information on providers and patient care. In addition, only limited research addresses specific barriers to physicians reporting patient adverse events either to FDA or product manufacturers. Further, we have no data evaluating FDA's efforts to improve reporting.

Given differing perspectives on the value and timing of providing risk information to medical experts and the public at large, FDA believes it is important to assess how well it is communicating with physicians--the health care provider group with primary responsibility for deciding whether to use medical products to address patient problems. This information is critical both to plan programmatic communication activities and to improve the effectiveness of our reporting systems. Therefore, FDA plans to conduct a survey of a nationally representative group of physicians about these issues.

The survey will collect information from respondents through computer-assisted telephone interviews conducted by experienced interviewers. FDA expects to have a final sample of 900 physicians, broken down approximately half and half between primary care practitioners (general practice, family practice, general internal medicine, and pediatricians) and specialists. The physician specialty groups identified for inclusion in the survey are office-based allergists, dermatologists, endocrinologists, nephrologists, certain oncologists, ophthalmologists, certain surgeons, psychiatrists, pulmonologists and rheumatologists. These groups were chosen to provide a reasonable cross-section of specialists who use both drugs and medical devices that might have been the focus of relatively recent publicity concerning emerging risk information. Procedures will be used to ensure production of a sample of physicians that is reasonably representative of the population within the United States. The design of the interview questions will be guided by the results of a series of 6 physician focus groups. The interview will take approximately 15 minutes to administer.

Key information to be collected includes the following topics:

1. The impact on physicians, their patients, and their practices of the disclosure of still uncertain, emerging risks associated with medical products.

2. How physicians currently receive and ideally would like to receive new risk information about medical products (for example, at what level of certainty regarding causality and through what communication channels).

3. How physicians perceive the trustworthiness of FDA and other potential sources of risk information, including product sponsors, medical societies, and the media.

4. What FDA might do to increase the likelihood that respondents will report to FDA or to manufacturers serious patient reactions that might be side effects of using medical products.

In the **Federal Register** of July 31, 2006 (71 FR 43200), FDA published a 60-day notice requesting public comment on the information collection provisions. Comments were received from five public entities consisting of two corporations and three associations. Comments supported FDA's belief in the value of conducting the survey. None of the comments addressed specific survey questions. FDA agrees with the comments concerning the study methodology.

• Questions should be clear and not leading or ambiguous.

• FDA should conduct pre-tests.

• The sample size will be sufficient to provide statistically relevant information for the two stratified segments of physicians and the combination of these segments.

After carefully considering them, FDA determined that other comments would require changes that would reduce the utility of study results by diluting the study's focus, omitting important topic areas, or making the questionnaire excessively long and thereby reducing response rates. These comments included the following:

• Including other health care providers ''who prescribe drugs.''

• Getting more detail about particular source categories.

• Omitting questions about how respondents report adverse events or product problems.

FDA agreed with the value of adding some questions that ask about the inclusion of other information, including benefits, in communications about newly emerging product risks.

FDA also received feedback from experts in the fields of risk communication and health literacy on the study and the proposed questionnaire at an ''Effective Risk Communication'' Think Tank Workshop. FDA revised the survey questionnaire in response to this feedback, the feedback received through the public comments, and eight cognitive interviews conducted in May 2007.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
27 (Pretests)	1	27	.3	8.1
1,000 (Screener)	1	1,000	.025	25.0
900 (Survey)	1	900	.25	225.0
Total				258.1

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

These estimates are based on FDA's and the contractor's experience with previous surveys. The respondents are divided into two groups: Primary care physicians and specialist physicians. We are basing this estimate on 90 percent of the screened physicians being eligible to participate in the survey.

Prior to administering the survey with the entire sample, FDA plans to conduct pretests with up to 27 physicians; these are meant to evaluate the clarity and consistency of the survey questionnaire and interview protocol.

Dated: July 13, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–14015 Filed 7–18–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2007P–0052]

Determination That Brethine (Terbutaline Sulfate) Injection Was 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) is announcing its determination that Brethine (Terbutaline Sulfate) Injection was not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for terbutaline sulfate injection if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: Carol E. Drew, 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 applicants 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 under a new drug application (NDA). ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of an 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 known generally 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 (21 CFR 314.162). Regulations also provide that the agency must make a determination as to 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 (§ 314.161(a)(1) (21 CFR 314.161(a)(1))). FDA may not approve an ANDA that does not refer to a listed drug.

On February 9, 2007, West-ward Pharmaceutical Corp. (West-ward), on behalf of Hikma Farmaceutica (Portugal), S.A., submitted a citizen petition (Docket No. 2007P–0052/CP1) to FDA under 21 CFR 10.30. The petition requests that the agency determine whether Brethine (terbutaline sulfate) injection (NDA 18–571), manufactured by AaiPharma, was withdrawn from sale for reasons of safety or effectiveness. AaiPharma ceased manufacture of Brethine injection and it was moved from the prescription drug product list to the ''Discontinued Drug Product List'' section of the Orange Book in August of 2006.

Brethine injection was first approved in 1981; this approval was for a glass ampoule container closure system. In 2004 AaiPharma received approval of a glass vial container closure system for a Brethine injection formulation that contained 0.055 percent disodium edetate. When Brethine injection was discontinued, an approved generic was chosen as the replacement reference listed drug. The replacement reference listed drug does not contain 0.055 disodium edetate and is based on the original glass ampoule formulation. Therefore, West-ward requests that the agency make a determination that the reformulated version of Brethine injection was not withdrawn for safety or efficacy reasons.

FDA has reviewed its records and, under § 314.161, has determined that Brethine (terbutaline sulfate) injection was not withdrawn from sale for reasons of safety or effectiveness. The petitioner identified no data or other information suggesting that Brethine containing 0.055 disodium edetate was withdrawn for reasons of safety or effectiveness. FDA has independently evaluated relevant literature and data for possible postmarketing adverse events and has found no information that would indicate that this product was withdrawn from sale for reasons of safety or effectiveness. Furthermore we have determined that the change in formulation was not for safety or efficacy reasons. Our files indicate that disodium edetate was added as a protectant against certain oxidation-derived terbutaline impurities and degradants when the manufacturing site and container closure system were changed. Accordingly, the agency will continue to list terbutaline sulfate injection 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 terbutaline sulfate injection may be approved by the agency if all other legal and regulatory requirements for the approval of ANDAs are met. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: July 12, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–13950 Filed 7–18–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2007D–0201]

Draft Guidance for Industry and Food and Drug Administration Staff; Premarket Notification Submissions for Medical Devices That Include Antimicrobial Agents; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled ''Premarket Notification (510(k)) Submissions for Medical Devices That Include Antimicrobial Agents.'' This draft guidance is intended to assist device manufacturers interested in preparing premarket notification (510(k)) submissions for their medical devices that include antimicrobial agents. This guidance recommends testing and labeling for 510(k) submissions for devices that include antimicrobial agents. It is intended as a supplement to other device-specific guidance issued by the Center for Devices and Radiological Health (CDRH).

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the agency considers your comments on this draft guidance before it begins work on the final version of the guidance, submit written or electronic comments on the draft guidance by October 17, 2007.

ADDRESSES: Submit written requests for single copies of the draft guidance document entitled ''Premarket Notification (510(k)) Submissions for Medical Devices That Include Antimicrobial Agents'' to the Division of Small Manufacturers, International, and Consumer Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 240–276–3151. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit written comments concerning this draft guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Michelle Rios, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 240–276–3747.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years there has been increased interest in adding antimicrobial agents to medical devices for specific or limited indications for use, such as reduction or prevention of a device-related infection, or reduction or inhibition of colonization of a medical device. FDA developed this draft guidance to assist device manufacturers in preparing premarket notification (510(k)) submissions for medical devices that include antimicrobial agents.

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized will represent the agency's current thinking on ''Premarket Notification (510(k)) Submissions for Medical Devices That Include Antimicrobial Agents.'' It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by using the Internet. To receive ''Premarket Notification (510(k)) Submissions for Medical Devices That Include Antimicrobial Agents,'' you may either send an e-mail request to *dsmica@fda.hhs.gov* to receive an electronic copy of the document or send a fax request to 240–276–3151 to receive a hard copy. Please use the document number 1557 to identify the guidance you are requesting.

CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturer's assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH Web site may be accessed at *http://www.fda.gov/cdrh*. A search capability for all CDRH guidance documents is available at *http://www.fda.gov/cdrh/guidance.html*. Guidance documents are also available on the Division of Dockets Management Internet site at *http://www.fda.gov/ohrms/dockets*.

IV. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 807 have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 801 have been approved under OMB control number 0910–0485.

V. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**), written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 12, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–13952 Filed 7–18–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2007D–0252]

Draft Guidance for Industry and Food and Drug Administration Staff; Pulse Oximeters—Premarket Notification Submissions [510(k)s]; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled ''Pulse Oximeters—Premarket Notification Submissions [510(k)s].'' The draft guidance describes FDA's recommendations about the content of premarket notification submissions (510(k)s) for pulse oximeter devices.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115 (g)(5)), to ensure that the agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit written or electronic comments on the draft guidance by October 17, 2007.

ADDRESSES: Submit written requests for single copies of the draft guidance document entitled ''Pulse Oximeters—Premarket Notification Submissions [510(k)s]'' to the Division of Small Manufacturers, International, and Consumer Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 240–276–3151. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit written comments concerning this draft guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Neel J. Patel, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 240–276–3700.

SUPPLEMENTARY INFORMATION:

I. Background

A pulse oximeter is a device intended for the non-invasive measurement of arterial blood oxygen saturation and pulse rate. It is a class II device in accordance with 21 CFR 870.2700. The draft guidance describes FDA's recommendations about the accuracy, performance, biocompatibility, safety, and labeling of pulse oximeters. In particular, the draft guidance incorporates the recommendations of the Anesthesiology and Respiratory Therapy Devices Panel (the Panel). At the open public meeting held on May 13, 2005, the Panel made recommendations regarding general issues for pulse oximeters, including reflectance sensor technology and the clinical validation of accuracy when the device is intended for neonatal use. FDA agreed and incorporated these recommendations into the draft guidance. (Transcripts of the May 13, 2005, meeting are available at *http://www.fda.gov/ohrms/dockets/ac/05/transcripts/2005–4141T1.htm*.)

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized will represent the agency's current thinking on ''Pulse Oximeters—Premarket Notification Submissions [510(k)s].'' It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by using the Internet. To receive ''Pulse Oximeters—Premarket Notification Submissions [510(k)s],'' you may either send an e-mail request to *dsmica@fda.hhs.gov* to receive an electronic copy of the document or send a fax request to 240–276–3151 to receive a hard copy. Please use the document number (1605) to identify the guidance you are requesting.

CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturer's assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH Web site may be accessed at *http://www.fda.gov/cdrh*. A search capability for all CDRH guidance documents is available at *http://www.fda.gov/cdrh/guidance.html.* Guidance documents are also available on the Division of Dockets Management Internet site at *http://www.fda.gov/ohrms/dockets*.

IV. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 807, subpart E, have been approved under OMB control number 0910–0120; and the collections of information in 21 CFR part 801 have been approved under OMB control number 0910–0485.

V. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES)**, written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Received comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 3, 2007.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. E7–14012 Filed 7–18–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Mice Genetically Deficient in the Chemoattractant Receptor FPR (Formyl Peptide Receptor)

Description of Invention: The present research tool is a knockout mouse model ($FPR^{-/-}$) that lacks the high affinity N-formylpeptide receptor (FPR), created by targeted gene disruption.

N-formylpeptides derive from bacterial and mitochondrial proteins, and bind to specific receptors on mammalian phagocytes. Since binding induces chemotaxis and activation of phagocytes in vitro, it has been postulated that N-formylpeptide receptor signaling in vivo may be important in antibacterial host defense, although direct proof has been lacking. The inventors have found that $FPR^{-/-}$ mice have no obvious developmental defects and do not develop spontaneous infection when derived in specific pathogen-free conditions. This suggests that, under these conditions, FPR is dispensable. However, when challenged with L. monocytogenes, FPR-deficient mice have accelerated mortality and increased bacterial burden in liver and spleen early after infection, which suggests a role for FPR in host defense, specifically through regulation of innate immunity.

Applications and Modality: New mouse model to study antibacterial host defense.

Market: Research tool useful for innate immunity studies.

Development Status: The technology is a research tool.

Inventors: Philip Murphy and Ji-Liang Gao (NIAID).

Patent Status: HHS Reference No. E–258–2007/0—Research Tool.

Publication: JL Gao, EJ Lee, PM Murphy. Impaired antibacterial host defense in mice lacking the N-formylpeptide receptor. J Exp Med. 1999 Feb 15;189(4):657–662.

Licensing Status: This technology is not patented. The mouse model will be transferred through a Biological Materials License.

Licensing Contact: Peter J. Soukas, J.D.; 301/435–4646; *soukasp@mail.nih.gov.*

Collaborative Research Opportunity: The Laboratory of Molecular Immunology, NIAID, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize FPR knockout mice. Please contact Philip Murphy, M.D. at Tel: 301–496–8616 and/or *pmm@nih.gov* for more information.

Steroid Derivatives as Inhibitors of Human Tyrosyl-DNA Phosphodiesterase (Tdp1)

Description of Technology: Tyrosyl-DNA phosphodiesterase (Tdp1) is an enzyme that repairs topoisomerase I (Top1)-mediated DNA damage induced by chemotherapeutic agents and ubiquitous DNA lesions that interfere with transcription. The current technology are steroid derivatives that human inhibit Tdp1.

Currently, there are various types of Top1 inhibitors used in chemotherapy, e.g., camptothecin. However, Tdp1 inhibitors are expected to be effective in combination therapy with Top1 inhibitors for the treatment of cancers. Combining Tdp1 inhibitors with Top1 inhibitors would allow Tdp1 to potentiate the antiproliferative activity of Top1 inhibitors. In addition to Tdp1's effect on Top1, Tdp1 inhibitors can also exhibit antitumor activity independently, as tumors are shown to

have excess free radicals, and Tdp1 repairs DNA damage by oxygen radicals.

Applications and Modality: It is anticipated that Tdp1 inhibitors in association with Top1 inhibitors can have selective activity toward tumor tissues. Tdp1 inhibitors may exhibit antitumor activity by themselves because tumors have excess free radicals.

Market: 600,000 deaths from cancer related diseases were estimated in 2006. In 2006, cancer drug sales were estimated to be $25 billion.

Development Status: The technology is currently in the pre-clinical stage of development.

Inventors: Yves Pommier *et al.* (NCI).

Relevant Publication: A manuscript directly related to the above technology will be available as soon as it is accepted for publication.

Patent Status: U.S. Provisional Application No. 60/921,980 filed 05 Apr 2007 (HHS Reference No. E–130–2007/0–US–01).

Licensing Status: Available for exclusive and non-exclusive licensing.

Licensing Contact: Adaku Nwachukwu, J.D.; 301/435–5560; *madua@mail.nih.gov.*

Collaborative Research Opportunity: The Center for Cancer Research, National Cancer Institute, Laboratory of Molecular Pharmacology is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize inhibitors of Tyrosyl-DNA phosphodiesterase (Tdp1). Please contact John D. Hewes, Ph.D. at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Dated: July 9, 2007.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E7–13955 Filed 7–18–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552(b)(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Expedited Review of Tornado Survivors PTSD.

Date: July 31, 2007.

Time: 4 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Allan F. Mirsky, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Boulevard, Rm. 6157, MSC 9609, Bethesda, MD 20892–9609, 301–496–2551, *afmirsky@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: July 9, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–3507 Filed 7–18–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, Pathogenesis of NeuroAIDS and Alcohol Use (RFA–AA–07–015).

Date: August 7, 2007.

Time: 1:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Alcohol Abuse and Alcoholism, 5635 Fishers Lane, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Abraham P. Bautista, PhD, Chief, Extramural Project Branch Review, National Institute on Alcohol Abuse & Alcoholism, National Institutes of Health, 5635 Fishers Lane, RM 3039, Rockville, MD 20852, 301–443–9737, *bautistaa@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Cinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: July 9, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–3508 Filed 7–18–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, Review of Specialized and Comprehensive Alcohol Research Centers (RFA–AA–07–002; AA–02–003).

Date: August 2, 2007.

Time: 1:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Alcohol Abuse and Alcoholism, 5635 Fishers Lane RM 3039, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Abraham P. Bautista, PhD, Chief, Extramural Project Branch Review, National Institute on Alcohol Abuse & Alcoholism, National Institutes of Health, 5635 Fishers Lane, RM 3039, Rockville, MD 20852, 301–443–9737, *bautistaa@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: July 9, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–3510 Filed 7–18–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Superfund Basic Research and Training Program.

Date: September 24–27, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Chapel Hill Hotel, One Europa Drive, Chapel Hill, NC 27517.

Contact Person: Janice B. Allen, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Science, P.O. Box 12233, MD EC–30/Room 3170 B, Research Triangle Park, NC 27709, 919/541–7556.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: July 9, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–3511 Filed 7–18–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Dengue Prevention and Management.

Date: August 2, 2007.

Time: 10 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Michelle M Timmerman, PhD, Scientific Review Administrator, Scientific Review Program, National Institutes of Health/NIAID, Room 3258, 6700B Rockledge Drive, MSC–7616, Bethesda, MD 20892–7616, 301–451–4573, *timmermanm@niaid.nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, K23 SEP Review.

Date: August 9, 2007.

Time: 3:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Ellen S. Buczko, PhD, Scientific Review Administrator, Scientific Review Program, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–451–2676, *ebuczko1@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: July 10, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–3513 Filed 7–18–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Exercise, Insulin Action, and Muscle Metabolism.

Date: August 1, 2007.

Time: 10 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ann A. Jerkins, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6154, MSC 7892, Bethesda, MD 20892, 301–435–4514, *jerkinsa@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Renal Pathology—Member Conflicts and Small Business.

Date: August 7, 2007.

Time: 11 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Shirley Hilden, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4222, MSC 7814, Bethesda, MD 20892, (301) 435–1198, *hildens@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: July 9, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–3506 Filed 7–18–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Arthritis, Connective Tissue and Skin Sciences.

Date: July 23, 2007.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.

Contact Person: Harold M. Davidson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4222, MSC 7814, Bethesda, MD 20892, 301–435–1776, *davidsoh@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Visual Systems Small Business—Member Conflict.

Date: July 26, 2007.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jerry L. Taylor, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7846, Bethesda, MD 20892, 301–435–1775, *taylorje@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Program Project: WNT Signaling.

Date: August 7–8, 2007.

Time: 11 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Michael H. Chaitin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7850, Bethesda, MD 20892, 301–435–0910, *chaitinm@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: July 10, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–3512 Filed 7–18–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5117–N–57]

Notice of Submission of Proposed Information Collection to OMB; Public Housing Inventory Removal Application

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.

This collection of information centralizes and standardizes HUD's review and approval of non-funded, noncompetitive requests of Public Housing Authorities (PHAs) to remove public housing property from their inventories via disposition, demolition, voluntary conversion, required conversion, home ownership, or eminent domain proceedings.

DATES: *Comments Due Date*: August 20, 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 (2577–0075) 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: Public Housing Inventory Removal Application.

OMB Approval Number: 2577–0075.

Form Numbers: HUD–52860, HUD–52860–B, HUD–52860–C, HUD–52860–D, HUD–52860–E, HUD–52860–F.

Description of the Need for the Information and Its Proposed Use: This collection of information centralizes and standardizes HUD's review and approval of non -funded, noncompetitive requests of Public Housing Authorities (PHAs) to remove public housing property from their inventories via disposition, demolition, voluntary conversion, required conversion, home ownership, or eminent domain proceedings.

Frequency of Submission: Other, per Transaction.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	851	1		6.08		5,175

Total Estimated Burden Hours: 5,175.

Status: Reinstatement, with change, of previously approved collection for which approval has expired.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: July 12, 2007.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E7–13892 Filed 7–18–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Lake Champlain Sea Lamprey Control Alternatives Workgroup

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a meeting of the Lake Champlain Sea Lamprey Control Alternatives Workgroup (Workgroup). The Workgroup's purpose is to provide, in an advisory capacity, recommendations and advice on research and implementation of sea lamprey control techniques alternative to lampricide that are technically feasible, cost effective, and environmentally safe. The primary objective of the meeting will be to prioritize potential research initiatives that may enhance alternative sea lamprey control techniques. The meeting is open to the public.

DATES: The Workgroup will meet on Wednesday, September 12, 2007, from 5 to 8 p.m.

ADDRESSES: The meeting will be held at the Vermont Fish and Wildlife Department Dead Creek Waterfowl Refuge Headquarters, 966 Route 17 West, Addison, Vermont 05491.

FOR FURTHER INFORMATION CONTACT: Dave Tilton, Designated Federal Officer, Lake Champlain Sea Lamprey Control Alternatives Workgroup, Lake Champlain Fish and Wildlife Resources Office, U.S. Fish and Wildlife Service, 11 Lincoln Street, Essex Junction, Vermont 05452 (U.S. mail); 802–872–0629 (telephone); or *Dave_Tilton@fws.gov* (electronic mail).

SUPPLEMENTARY INFORMATION: We publish this notice under section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.). The Workgroup's specific responsibilities are to provide advice regarding the implementation of sea lamprey control methods alternative to lampricides, to recommend priorities for research to be conducted by cooperating organizations and demonstration projects to be developed and funded by State and Federal agencies, and to assist Federal and State agencies with the coordination of alternative sea lamprey control research to advance the state of the science in Lake Champlain and the Great Lakes.

Dated: June 15, 2007.

Richard O. Bennett,

Acting Regional Director, U.S. Fish and Wildlife Service, Hadley, Massachusetts.

[FR Doc. E7–13980 Filed 7–18–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–050–07–1430–EU; UTU–78474]

Notice of Intent To Amend the Mountain Valley Management Framework Plan; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent and Notice of Realty Action.

SUMMARY: A parcel of public land totaling 4.82 acres in Piute County, Utah is being considered for non-competitive (direct) sale under the provisions of the Federal Land Policy and Management Act of 1976 (FLPMA) at not less than the appraised fair market value. The Bureau of Land Management (BLM) proposes to amend the Mountain Valley Management Framework Plan to identify the 4.82 acre parcel for sale.

DATES: In order to ensure consideration in the environmental analysis of the proposed plan amendment, comments must be received August 20, 2007.

ADDRESSES: Address all comments concerning this Notice to the Associate Field Office Manager, BLM Richfield Field Office, 150 East 900 North, Richfield, Utah 84701.

FOR FURTHER INFORMATION CONTACT: Nancy DeMille, Realty Specialist, at the above address or at (435) 896–1515.

SUPPLEMENTARY INFORMATION: This notice initiates scoping for the amendment of the Mountain Valley management Framework Plan (1982) as amended (MVMFP), in accordance with 43 CFR 1610.2(c). If and when the BLM State Director does or does not approve such an amendment, the public will be notified in accordance with 43 CFR 1610.5–5.

The BLM intends to amend the MVMFP because the following described public land in Piute County, Utah is being considered for non-competitive (direct) sale under the authority of section 203 of the FLPMA of 1976 (43 U.S.C. 1713):

Salt Lake Meridian, Utah

T. 27 S., R. 4 W.,
Sec. 26, Lot 53B

The area described contains 4.82 acres in Piute County. Sale of the lands described would not be in conformance with the current land use plan. The MVMFP does not identify this tract for a FLPMA sale. The proposed plan amendment would serve to identify the 4.82 acre tract for disposal consistent with the sale criteria in section 203 of the FLPMA, in order to allow for the possibility of sale of this parcel. The purpose of the proposed plan amendment, and the consideration of sale of these identified lands is to resolve an inadvertent unauthorized occupancy of the public land, and to protect existing equities in the land, in accordance with 43 CFR 2710.0–6(c)(3)(iii). Should the amendment be approved, the BLM will consider sale of the identified parcel to Audrey G. Roth, current occupant on that parcel. Following a decision to approve the proposed plan amendment, and further procedures in accordance with the FLPMA and its implementing regulations,

conveyance of the identified land would be subject to valid existing rights and encumbrances, including but not limited to, rights-of-way for roads and utilities. Conveyance of any mineral interests pursuant to section 209 of the FLPMA will be analyzed during processing of the sale, should it be proposed.

Public Comments

For a period until August 20, 2007, interested parties and the general public may submit in writing any comments concerning the proposed land use plan amendment, including notification of any encumbrances or other claims relating to the identified public land, to the Associate Field Office Manager, Richfield Field Office, at the above address. In order to ensure consideration in the environmental analysis of the proposed plan amendment, comments must be in writing and postmarked or delivered within 45 days of the initial date of publication of this notice. Comments transmitted by e-mail will not be accepted. Comments, including names and street addresses of respondents, will be available for public review at the BLM Richfield Field Office during regular business hours, except holidays. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask in your comment to withhold your personal identifying information from public review, we cannot guarantee we will be able to do so.

(Authority: 43 CFR 1610.2(c))

Wayne A. Wetzel,

Associate Field Office Manager.

[FR Doc. E7–13994 Filed 7–18–07; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT010–1220–FU]

Notice of Intent To Collect Fees on Public Land in Yellowstone County, Montana Under the Federal Lands Recreation Enhancement Act

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: The Bureau of Land Management (BLM)'s Billings Field Office is proposing to begin collecting fees in 2007 at the Shepherd Ah Nei OHV Area in Yellowstone County, Montana, located in Township 3 N, Range 27 E, Section 1 and Township 3 N, Range 28 E, Section 6.

Under Section 2 (13) of the Federal Lands Recreation Enhancement Act (REA), L. 108–447, the Shepherd Ah Nei OHV Area qualifies as a site wherein visitors can be charged a ''Special Recreation Permit Fee'' authorized under section 3(h).

In accordance with REA, and implementing regulations at 43 CFR Part 2930, visitors participating in OHV use (e.g. ATVs, motorcycles, quads), could purchase a Special Recreation Permit (SRP) to operate their vehicle within the riding area.

Each OHV operating within the recreation area would be required to purchase and display the permit. Permits would expire on December 31 of the issue year, regardless of when the permit was purchased. Opportunity to purchase an individual SRP pass for the day would be available onsite to facilitate less frequent users. BLM provides individual special recreation permits for management of special areas as defined in 43 CFR Part 2932.11. 1–2., and in REA under section 3(h). The America The Beautiful—The National Parks and Federal Recreational Lands Pass, including the Annual, Senior, Access, and Volunteer passes would not be honored and do not apply to the SRP fee. The National Park Passports, Golden Eagle, Golden Age, and Golden Access Passports would also not be honored and do not apply to the SRP fee.

DATES: The public is encouraged to participate in the public comment period that will expire 30 days after the publication of this notice. Effective six months after the publication of this notice, the Bureau of Land Management Billings Field Office will initiate fee collection in the Shepherd Ah Nei OHV Area, unless BLM publishes a **Federal Register** notice to the contrary. The Eastern Montana Resource Advisory Council (RAC) will review consideration for the new fee at least three months prior to the proposed initiation date. Fees will be established by separate supplemental rules pursuant to 43 CFR 8365.1–6. Future adjustments in the fee amount will be made in accordance with the BLM Shepherd Ah Nei Business Plan, and after consultation with the Eastern Montana Resource Advisory Council and other public notice.

ADDRESSES: Mail: Field Manager, Bureau of Land Management, Billings Field Office, 5001 Southgate Drive, Billings, Montana 59101.

FOR FURTHER INFORMATION CONTACT: James M. Sparks, Acting Field Manager, Billings Field Office, 5001 Southgate Drive, Billings, Montana 59101.

SUPPLEMENTARY INFORMATION: The Shepherd Ah Nei OHV Area is a popular OHV recreation area offering significant opportunities for outdoor recreation and has received substantial Federal investment. The BLM's commitment is to find the proper balance between public use and resource protection. It is the BLM's policy to collect fees at all specialized recreation sites, or where the BLM provides facilities, equipment or services, at federal expense, in connection with outdoor use. In an effort to meet increasing demands for services and maintenance of existing facilities, routes and trails, the BLM would implement a fee program for the Shepherd Ah Nei OHV Area. BLM's mission for the Shepherd Ah Nei OHV Fee Collection Project (Project) is to ensure that funding is available to maintain existing facilities and recreational opportunities, to provide for law enforcement presence, to develop additional services, and to protect resources. This mission entails communication with those who will be most directly affected, for example, recreationists, other recreation providers, neighbors, as well as those who will have a stake in solving concerns that may arise throughout the life of the Project, including elected officials, and other agencies.

In January 1999, the BLM and the U.S. Forest Service (FS) initiated the Off-Highway Vehicle Environmental Impact Statement and Proposed Plan Amendment for Montana, North Dakota, and South Dakota (OHV EIS). This EIS considered various ways to minimize the potential for resource damage from cross-country OHV use. The BLM signed a record of decision (ROD) for this EIS and Plan Amendment in June 2003. In December 2004, the REA was signed into law. The REA provides authority for 10 years for the Secretaries of the Interior and Agriculture to establish, modify, charge, and collect recreation fees for use of some Federal recreation lands and waters, and contains specific provisions addressing public involvement in the establishment of recreation fees, including a requirement that Recreation Resource Advisory Committees or Councils have the opportunity to make recommendations regarding establishment of such fees. The REA also directs the Secretaries of the Interior and Agriculture to publish advance notice in the **Federal Register**

whenever new recreation fee areas are established under their respective jurisdictions.

In May 2005, the BLM issued the Decision for the Shepherd AH Nei OHV Travel Management Plan, which established roads, trails and areas as open, closed, or limited with respect to vehicular use in the Shepherd Ah Nei OHV Area. This 2005 decision allows for recreation opportunities, issuing of use permits, and charging of fees for use of the Shepherd Ah Nei OHV Area. The establishment of a permit process, and the collection of user fees were also addressed in the Shepherd Ah Nei OHV Business Plan, prepared pursuant to the REA and BLM recreation fee program policy. This Business Plan, in conjunction with the Travel Management Plan, establishes the rationale for charging recreation fees. In accordance with BLM recreation fee program policy, the Business Plan explains the fee collection process, and outlines how the fees will be used at the Shepherd Ah Nei OHV Area. The BLM has notified and involved the public at each stage of the planning process, including the proposal to collect fees. Fee amounts will be posted on-site and at the Billings Field Office; copies of the Business Plan will be available at the Billings Field Office and the BLM Montana State Office, 5001 Southgate Drive, Billings, Montana 59101.

The BLM welcomes public comments on this proposal. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Authority: 16 U.S.C. 6803(b); 43 CFR 2932.13.

James M. Sparks,

Acting Field Manager, Billings Field Office.

[FR Doc. E7–13995 Filed 7–18–07; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–039–1610–DO–059E]

Notice of Intent To Prepare Resource Management Plans and Associated Environmental Impact Statements for the North Dakota and South Dakota Field Offices, North Dakota and South Dakota

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: The Bureau of Land Management (BLM) North Dakota Field Office (NDFO) and South Dakota Field Office (SDFO) intend to prepare Resource Management Plans with associated Environmental Impact Statements (RMP/EIS) for the NDFO and SDFO planning areas. These RMPs will replace the current North Dakota and South Dakota RMPs.

DATES: This notice initiates the public scoping process. Formal scoping will end 60 days after publication of this notice; however, collaboration with the public will continue throughout the process. Comments on issues and planning criteria can be submitted in writing to the address listed below. All public meetings will be announced through the local news media, newsletters, and the BLM Web site: (*http://www.mt.blm.gov/ndfo/rmp* and *http://www.mt.blm.gov/sdfo/rmp*) at least 15 days prior to the event. The minutes and list of attendees for each meeting will be available to the public and open for 30 days to any participant who wishes to clarify the views they expressed.

ADDRESSES: Written comments should be sent or faxed to: John Hartley, BLM RMP Project Manager, BLM North Dakota Field Office, 99 23rd Avenue West, Suite A, Dickinson, ND 58601; Fax—(701) 227–7701; or BLM South Dakota Field Office, 310 Roundup Street, Belle Fourche, SD 57717; Fax—(605) 892–7015. Documents pertinent to this proposal may be examined at either the NDFO or SDFO. Respondents' comments, including their names and street addresses, will be available for public review at the NDFO and SDFO during regular business hours from 7:45 a.m. to 4:30 p.m., Monday through Friday, except holidays, and may be published as part of the RMP/EIS. 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. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: For further information and/or to have your name added to our mailing list, contact John Hartley, North Dakota Field Office, at (701) 227–7700.

SUPPLEMENTARY INFORMATION: The BLM's North Dakota (ND) RMP/EIS incorporates a planning area administered by the NDFO located in Dickinson, ND. The land area to be covered under the ND RMP/EIS is approximately 58,500 surface acres of public lands and approximately 4.1 million subsurface acres of federal minerals in North Dakota. The bulk of this mineral acreage is federal coal reserve only. Additional acres are federal oil and gas reserves only; and the remaining acres are made up of all minerals, coal and oil and gas only, and other combinations. The focus of the NDFO has been mineral management on split estate lands (fee surface/federal minerals).

The BLM's South Dakota (SD) RMP/EIS incorporates a planning area administered by the SDFO located in Belle Fourche, SD. The land area to be covered under the SD RMP/EIS is approximately 278,000 subsurface acres of BLM-administered public land located in the western part of the state in Brule, Butte, Custer, Fall River, Haakon, Harding, Jackson, Lawrence, Lyman, Meade, Pennington, Perkins, and Stanley Counties. There are also approximately 1.6 million subsurface acres of federal minerals in South Dakota.

The RMP/EIS revisions to be prepared for the public lands administered by the NDFO and SDFO will identify goals, objectives, standards, and guidelines for management of a variety of resources and values. The scope of the RMP/EISs will be comprehensive. The plans will specify actions, constraints, and general management practices necessary to achieve desired conditions. The plans will also identify any areas requiring special management such as Areas of Critical Environmental Concern. Certain existing standards and guidelines and other BLM plans/plan amendments will be incorporated into the RMP/EISs.

The plans will fulfill the needs and obligations set forth by the National Environmental Policy Act (NEPA), the Federal Land Policy and Management Act (FLPMA), the National Energy Policy Act of 2005, and all other related acts, laws, and regulations associated with land management planning and BLM management policies. The BLM will work collaboratively with the public, local and State governments, and Tribal governments to identify the management decisions that are best suited to local, regional, and national needs and concerns. The public scoping process will identify planning issues and develop planning criteria, including evaluation of the existing RMPs in the context of the needs and interests of the public.

The BLM's decision to begin a new planning effort for the public lands in the NDFO and SDFO is based on public and agency need for revised management guidance to address changing issues. Each RMP/EIS will describe and analyze a range of alternatives, including the No Action alternative (continued management) and a number of action alternatives that will describe options for addressing the major issues. Preliminary issues and management concerns have been identified by BLM personnel, other agencies, and individuals and user groups. The major issues that will be addressed in the development of both RMPs/EISs include the following:

1. Energy development—the significant amount of oil and gas and coal leasing, exploration, and development throughout North Dakota and increasing oil and gas leasing interest in South Dakota;
2. Wildland-Urban Interface—increase in recreational demand for BLM public lands and increasing development adjoining BLM public lands;
3. Management of vegetation;
4. Management of wildlife;
5. Conservation and recovery of special status species;
6. Travel management and access to public lands;
7. Availability and management of public lands for commercial uses; and
8. Land tenure adjustments.

After gathering public comments on what issues the plans should address, the suggested issues will be placed in one of three categories:

1. Issues to be resolved in the plans;
2. Issues to be resolved through policy or administrative action; or
3. Issues that are beyond the scope of the plans.

Rationale will be provided for each issue placed in categories two or three. In addition to determining these major issues, the BLM will address a number of management questions and concerns in the plans. The public is encouraged to help identify these questions and concerns during the scoping phase.

The BLM will use an interdisciplinary approach to consider the variety of resource issues and concerns identified. Disciplines involved in the planning process will include specialists with expertise in minerals and geology, forestry, range, fire and fuels, outdoor recreation, archaeology, paleontology, wildlife and fisheries, lands and realty, hydrology, soils, sociology, environmental justice, and economics.

The following planning criteria have been proposed to guide development of the plans, avoid unnecessary data collection and analyses, and to ensure the plan is tailored to the issues. Other criteria may be identified during the public scoping process. After gathering comments on planning criteria, the BLM will finalize the criteria and provide feedback to the public on the criteria to be used throughout the planning process.

- The RMPs/EISs will recognize valid existing rights.
- Planning decisions will only apply to surface lands and subsurface lands managed by the BLM.
- The ND RMP/EIS will incorporate by reference the EIS Coal Lease ND RMP/Amendment (October 1990); Big Horn Sheep ND RMP Environmental Assessment (EA)/Amendment (July 1991); Standards for Rangeland Health and Guidelines for Livestock Grazing Management for Montana, North Dakota, and South Dakota (August 1997); Off-Highway Vehicle EIS and Plan Amendment for Montana and the Dakotas (June 2003); and the Fire/Fuels Management Plan EA/Plan Amendment for Montana and the Dakotas (September 2003).
- The SD RMP/EIS will incorporate by reference the Oil and Gas RMP/EIS Amendment Miles City District Final EIS (February 1994); Standards for Rangeland Health and Guidelines for Livestock Grazing Management for Montana, North Dakota and South Dakota (August 1997); Off-Highway Vehicle EIS and Plan Amendment for Montana and the Dakotas (June 2003); and the Fire/Fuels Management Plan EA/Plan Amendment for Montana and the Dakotas (September 2003).
- Decisions in the plans will strive to be compatible with the existing plans and policies of affected local, state, and federal agencies as long as the decisions are consistent with the purposes, policies, and programs of federal law, and with regulations applicable to public lands.
- The RMPs/EISs will recognize states' responsibilities and authorities to manage wildlife. The BLM will consult with the ND Game and Fish Department and the SD Department of Game, Fish and Parks, as necessary.
- The BLM and cooperating agencies/governments will jointly develop alternatives for resolution of resource management issues.
- The State Historic Preservation Offices will be consulted and involved throughout the RMP/EIS process.
- Each RMP/EIS will emphasize the protection and enhancement of the planning areas' biodiversity while, at the same time, provide the public with opportunities for compatible activities on public lands.
- Lands acquired by the BLM will be managed in the manner the RMPs/EISs prescribe for adjacent public land, subject to any constraints associated with the acquisition.
- The RMPs/EISs will provide management direction for lands returned to BLM management through revocation of withdrawals. The plans will also address lands acquired through other means.
- Lands already identified for disposal will be reviewed to ensure disposal is in the best interest of the public.
- The National Sage Grouse Strategy requires that impacts to sagebrush habitat and sagebrush-dependent wildlife species (including sage grouse) be analyzed and considered in these RMPs/EISs due to the presence of sage grouse/sagebrush habitats in the planning area.
- Forest management strategies will be consistent with the Healthy Forests Restoration Act and the Tribal Forest Protection Act, where appropriate.
- Fire management strategies will be consistent with the: 2001 Federal Wildland Fire Policy, National Fire Plan; Fire/Fuels Management Plan for Montana and Dakotas; Prescribed Fire Planning and Implementation Procedures Reference Guide, and other relevant policies.
- Geographic Information System (GIS) and metadata information will meet Federal Geographic Data Committee (FGDC) standards, as required by E.O. 12906 of April 11, 1994.
- All proposed management actions will be based upon best available scientific information, research and technology, as well as existing inventory and monitoring information.
- The RMPs/EISs will include adaptive management criteria and protocol to deal with future issues.

• The RMPs/EISs will incorporate Best Management Practices for surface disturbing activities associated with BLM-authorized activities on federal oil and gas leases.

Gene R. Terland,

State Director, Montana State Office.

[FR Doc. E7–13993 Filed 7–18–07; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Air Act

Notice is hereby given that on July 10, 2007, a proposed Consent Decree in *United States* v. *Casper's Electronics, Inc.*, Civil Action No. 1:06-cv-03542 (N.D. Illinois), was lodged with the United States District Court for the Northern District of Illinois Eastern Division. The proposed Consent Decree resolves the United States' claim under the Clean Air Act, 42 U.S.C. 7401 *et seq.*, relating to the Defendant's manufacture and sale of oxygen sensor simulators, an automobile emission control defeat device. The Consent Decree requires the Defendant: to pay $74,383 to the United States in civil penalties; to cease the manufacture or sale of oxygen sensor simulators; to issue a recall for oxygen sensor simulators that it sold; and to destroy all oxygen sensor simulators that it possesses or obtains through the recall.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ess.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Casper's Electronics, Inc.*, D.J. Ref. 90–5–2–1–08630.

The proposed Consent Decree may be examined at the Office of the United States Attorney, 219 S. Dearborn St., 5th Floor, Chicago, Illinois 60604. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html*. A copy of the proposed Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation no. (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $7.75 (25 cents per page reproduction cost) payable to the ''U.S. Treasury'' or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Karen Dworkin,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 07–3494 Filed 7–18–07; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on June 25, 2007, a proposed Consent Decree in *U.S.* v. *CHEMCENTRAL Corporation, et. al.,* Case No. 2:07–cv–12681 (DML), was lodged with the United States District Court in the Eastern District of Michigan. The Consent Decree is with: CHEMCENTRAL Corporation; Reclamation Company, Inc.; American Laboratories, Inc.; Estate of Morris I. Sheikh; Maha Sheikh; BorgWarner Inc. (formerly known as Borg-Warner Automotive, Inc.); General Motors Corporation; Ford Motor Company; Kelsey Hayes Company (dba TRW Automotive); and SPX Corporation (collectively, the ''Defendants''). The Consent Decree resolves claims of the United States, on behalf of the United States Environmental Protection Agency (''EPA''), under the Comprehensive, Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9601 *et seq.*, in connection with the Reclamation Oil Company Superfund Site in Detroit, Michigan. Under the Consent Decree, the Defendants will pay $3,574,112.37 toward EPA's past costs.

For a period of thirty (30) days from the date of this publication, the Department of Justice will receive comments relating to the Consent Decree. Comments should be addressed to the Acting Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. box 7611, U.S. Department of Justice, Washington, DC 20044. Comments should refer to *U.S.* v. *CHEMCENTRAL Corporation, et al.,* Case No. 2:07–cv–12681 (DML), D.J. Ref. No. 90–11–2–08019.

The Consent Decree may be examined at the Office of the United States Attorney, Eastern District of Michigan, 211 Fort Street, Suite 2001, Detroit, MI 48225, and at the United States Environmental Protection Agency, Region 5, 77 W. Jackson Blvd., Chicago, IL 60604. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent__Decrees.html*. A copy of the Agreement may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044, or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax number (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $6.00 (25 cents per page reproduction cost) payable to the United States Treasury.

William D. Brighton,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 07–3492 Filed 7–18–07; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on July 9, 2007, a proposed RD/RA Consent Decree (''Consent Decree'') in *United States and State of Utah* v. *Kennecott Utah Copper Corporation*, Civil Action No. 2:07cv00485 was lodged with the United States District Court for the District of Utah.

The Consent Decree resolves claims by the United States and the State of Utah against Kennecott Utah Copper Corporation (''KUCC'') under Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 106 and 107, for past response costs incurred at the groundwater Operable Unit 2 portion of the Kennecott South Zone Site, in Salt Lake County, Utah. The Consent Decree will require KUCC to perform response actions at the Kennecott South Zone Site consistent with the National Contingency Plan, 40 CFR par 300 (as amended) and will require KUCC to pay the United States $5,007,200.16 in past response costs and also pay the United States' future response costs. The

Consent Decree includes convenants not to sue by the United States: (1) Pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a), and Section 7003 of RCRA, 42 U.S.C. 6973, relating to the Operable Unit 2 portion of the Kennecott South Zone Site or the activities KUCC completes under the Consent Decree; and (b) pursuant to Section 107 of CERCLA, 42 U.S.C. 9607, for all past costs that the United States incurred at or in connection with the Kennecott South Zone Site or Kennecott North Zone Site, including but not limited to the OU2 Site, through November 15, 2005.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States and State of Utah* v. *Kennecott Utah Copper Corporation*, D.J. Ref.90–11–2–07195/3. Commenters may request an opportunity for a public meeting in the vicinity of West Jordan, Utah, in accordance with Section 7003(d) of RCRA, 42 U.S.C. 6973(d).

The Consent Decree may be examined at the Office of the United States Attorney, 185 South State Street, Suite 400, Salt Lake City, Utah 84111 and at U.S. EPA Region 8, 1595 Wynkoop Street, Denver, CO 80202–1129. During the public comment period, the Consent Decree, may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent__Decrees.html*. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*, fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy of the consent decree and all appendices from the Consent Decree Library, please enclose a check in the amount of $69.00 payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address. In requesting a copy exclusive of exhibits, please enclose a check in the amount of $25.25 payable to the U.S. Treasury.

Maureen Katz,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 07–3495 Filed 7–18–07; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

Under 42 U.S.C. 9622(d)(2)(B) and 28 CFR 50.7, notice is hereby given that on July 3, 2007, a proposed consent decree in *United States* v. *Rexmet Corporation,* Civil Action No. 07–cv–2754, was lodged with the United States District Court for the Eastern District of Pennsylvania.

In this action the United States is seeking injunctive relief and recovery of response costs incurred by the United States pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. 9601 *et seq.,* in connection with the J.W. Rex Facility (located at Valley Forge Road & 8th Street, Lansdale, PA 19446) at the North Penn Area Six Superfund Site (''Site''), which consists of a contaminated groundwater plume and a number of separate parcels of property located within and adjacent to the Borough of Lansdale, Montgomery County, Pennsylvania. The proposed consent decree will resolve the United States' claims against Rexmet Corporation (''Settling Defendant'') in connection with the Site. Under the terms of the proposed consent decree, Settling Defendant will (1) implement the EPA-selected groundwater remedy at the J.W. Rex Facility, and (2) pay the United States $250,000.00 plus interest (in two payments) in partial reimbursement of the United States' past response costs. Settling Defendant will receive a covenant not to sue by the United States with regard to the Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and submitted either by email to *pubcomment-ees.enrd@usdoj.gov* or by U.S. mail to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. Comments should reference *United States* v. *Rexmet Corporation,* D.J. Ref. 90–11–2–06024/16.

The proposed consent decree may be examined at the Office of the United States Attorney, 615 Chestnut Street, Suite 1250, Philadelphia, PA 19106, and at U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103. During the public comment period, the proposed consent decree may also be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the proposed consent decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $18.25 (25 cents per page reproduction cost). Checks should be made payable to the U.S. Treasury.

Robert Brook,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 07–3493 Filed 7–18–07; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Digital Body Development System

Notice is hereby given that, on June 14, 2007, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Digital Body Development System (''DBDS'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Riviera Tool Company, Grand Rapids, MI has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and DBDS intends to file additional written notifications disclosing al changes in membership.

On March 19, 2007, DBDS filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on May 7, 2007 (72 FR 25781).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 07–3514 Filed 7–18–07; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of *June 25 through July 6, 2007.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. The country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (i.e., conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W–61,590; Stover Industries, Inc., Point Pleasant, WV: May 25, 2006.

The following certifications have been issued. The requirements of section 222(a)(2)(B) (shift in production) of the Trade Act have been met.

TA–W–61,560; Meritor Heavy Vehicle Systems LLC, Commercial Vehicle Systems Division, Heath, OH: May 15, 2006.

The following certifications have been issued. The requirements of section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) of the Trade Act have been met.

None.

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–61,651; Springs Global US, Inc., Sardis Plant, On-Site Leased Workers From Diverso Integated, Sardis, MS: February 17, 2007.

TA–W–61,655; Westell, Inc., Aurora, IL: June 7, 2006.

TA–W–61,679; Hartmann Conco, Inc., Rock Hill, SC: May 27, 2007.

TA–W–61,685; Ford Motor Company, Cleveland Casting, Powertrain Division, Brook Park, OH: June 13, 2006.

TA–W–61,691; Toshiba America Consumer Products, LLC, Manufacturing Division, On-Site Lased Workers from Holland Employment, Lebanon, TN: March 19, 2007.

TA–W–61,695; Standard Forged Products, LLC, Axle Forging Division, A Subsidiary of Trinity Industries, Johnstown, PA: June 8, 2006.

TA–W–61,732; Henry S Wolkins Company, Taunton, MA: June 21, 2006.

TA–W–61,533; Seaside, Inc., Warren, ME: May 10, 2006.

TA–W–61,546; Sportable Scoreboards, Inc., Murray, KY: May 18, 2006.

TA–W–61,548; CS Tool Engineering, Cedar Springs, MI: May 18, 2006.

TA–W–61,557; Alcoa Auto and Truck Structures, Auburn, IN: June 2, 2007.

TA–W–61,561; R-Tis-Tic Molds, Inc., St. Clair, MI: May 16, 2006.

TA–W–61,580; Comau, Inc., A Subsidiary of Comau, S.P.A., Southfield, MI: May 24, 2006.

TA–W–61,602; EGS Electrical Group, Lexington, OH: May 30, 2006.

TA–W–61,607; Kirk Lumber Company, Suffolk, VA: May 30, 2006.

TA–W–61,631; Interconnect Technologies, Division of Litton Systems, Inc., Springfield, MO: June 1, 2006.

TA–W–61,646; Gip's Manufacturing Co., Hartwell, GA: June 7, 2006.

The following certifications have been issued. The requirements of section 222(a)(2)(B) (shift in production) and section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–61,288; Honeywell International, Environmental and Combustion Controls, ECC, Golden Valley, MN: April 10, 2006.

TA–W–61,441; Reitter and Schefenacker USA LP, Lighting Division, On-Site Leased Workers of Kelly Services and Hamilton-Ryker, Selmer, TN: April 2, 2006.

TA–W–61,494; Vanity Fair Brands LP, Cutting Department, Monroeville, AL: May 7, 2006.

TA–W–61,494A; Vanity Fair Brands LP, Dyeing & Finishing Department, Monroeville, AL: May 7, 2006.

TA–W–61,494B; Vanity Fair Brands, Distribution, Monroeville, AL: May 7, 2006.

TA–W–61,494C; Vanity Fair Brands, Administration, Monroeville, AL: May 7, 2006.

TA–W–61,569; Dura Automotive Systems, Inc., Control Systems Division, Milan, TN: May 11, 2006.

TA–W–61,604; Bendix Commercial Vehicle Systems, LLC, Air Compressor Line, Frankfort, KY: May 31, 2006.

TA–W–61,632; Lear Idea Center, Seating Systems Division, Madison, MI: May 29, 2006.

TA–W–61,648; Energy Conversion Systems Holding LLC, On-Site Leased Workers of MM Temps, Inc., Kane, PA: June 7, 2006.

TA–W–61,657; Cardone Industries, Plant 17, Philadelphia, PA: June 1, 2006.

TA–W–61,680; Deerfield Specialty Papers, Inc., Augusta, GA: June 13, 2006.

TA–W–61,686; Cummins Filtration, Inc., A Subsidiary of Cummins, On-Site Workers from Manpower, Mau, Augusta, Waynesboro, GA: June 14, 2006.

TA–W–61,697; Gildan Activewear Malone, Inc., Bombay, NY: June 6, 2006.

TA–W–61,713; YKK Snap Fasteners America, Inc., Centerville, TN: June 8, 2006.

TA–W–61,582; Xyratex International, Inc., On-Site Leased Workers of R&D Technical Services, Scotts Valley, CA: May 23, 2006.

TA–W–61,593; Teradyne, Inc., Agoura, CA: May 29, 2006.

TA–W–61,650; Mount Vernon Mills, Inc., McCormick Division, McCormick, SC: July 13, 2007.

TA–W–61,658; NSI International, Inc., Farmingdale, NY: June 6, 2006.

The following certifications have been issued. The requirements of section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) and section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–61,442; Connor Manufacturing Services, Portland, OR: May 3, 2006.

TA–W–61,566; BorgWarner Diversified Transmission Products, Inc., TTS Division, Muncie, IN: May 22, 2006.

TA–W–61,611; Danice Manufacturing, South Lyon, MI: May 23, 2006.

TA–W–61,661; Collins and Aikman, Plastics Division, Athens, TN: June 8, 2006.

TA–W–61,716; Clayton Marcus Company, Inc., Plant #9, A Subsidiary of LA-Z-Boy, Inc., Hickory, NC: February 26, 2007.

TA–W–61,719; VCST Machined Products LLC, A Subsidiary of VCST Powertrain Components, Clinton Township, MI: June 12, 2006.

TA–W–61,766; Comtec Manufacturing, Inc., On-Site Leased Workers from Spherion of DuBois, St. Mary's, ME: June 28, 2006.

The following certifications have been issued. The requirements of section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) and section 246(a)(3)(A)(ii) of the Trade Act have been met.

None.

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

The Department has determined that criterion (1) of section 246 has not been met. The firm does not have a significant number of workers 50 years of age or older.

TA–W–61,590; Stover Industries, Inc., Point Pleasant, WV.

The Department has determined that criterion (2) of section 246 has not been met. Workers at the firm possess skills that are easily transferable.

TA–W–61,560; Meritor Heavy Vehicle Systems LLC, Commercial Vehicle Systems Division, Heath, OH.

The Department has determined that criterion (3) of section 246 has not been met. Competition conditions within the workers' industry are not adverse.

None.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.A.) and (a)(2)(B)(II.A.) (employment decline) have not been met.

TA–W–61,508; Victor Products, Division Dana Corporation, Robinson, IL.

TA–W–61,535; Paslin Company, Warren, MI.

TA–W–61,572; Meggitt Defense Systems Caswell, Minneapolis, MN.

TA–W–61,573; MTD Southwest, Inc., Chandler, AZ.

TA–W–61,604A; Bendix Commercial Vehicle Systems, LLC, Air Disc Brakes Line, Frankfort, KY.

TA–W–61,653; Aviza Technology, Scotts Valley, CA.

The investigation revealed that criteria (a)(2)(A)(I.B.) (Sales or production, or both, did not decline) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–61,619; Amkor Technology, NC A5 Factory, Norrisville, NC.

TA–W–61619A; Amkor Technology, NC A5 Factory, Morrisville, NC.

TA–W–61,674; EGS Electrical Group, Sola/Hevi Duty Division, Celina, TN.

TA–W–61,681; Shakespeare Composite Structures, Newberry, SC.

TA–W–61,692; Sirenza Microdevices, Inc., Broomfield, CO.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–60,985; Collins and Aikman, Havre de Grace, MD.

TA–W–61,370; Federal Mogul Corporation, Dumas, AR.

TA–W–61,541; South Indiana Lumber Co., Inc., Liberty, KY.

TA–W–61,551; Tech-Pak, Inc., Hudson, NC.

TA–W–61,552; The Hershey Company, Oakdale Plant, Oakdale, CA.

TA–W–61,596; Lancaster Preferred Partners, Lancaster, PA.

TA–W–61,599; Patrick Industries, Inc., Door Division, Woodburn, OR.

TA–W–61,642; Hutchinson Technology, Inc., Hutchinson, MN.

TA–W–61,701; Hoosier Magnetics, Inc., Indiana Plant, Washington, IN.

TA–W–61,721; Oregon Cutting Systems Group, A Wholly Owned Subsidiary of Blount, Inc., Clackamas, OR.

TA–W–61,526; Henkel Corporation, Henkel Technologies Division, On-Site Lease Workers of Staffing Plus, Olean, NY.

TA–W–61,609; Eagle Ottawa Newaygo Farms, Inc., Walkersville, MI.

TA–W–61,660; Multi-Fineline Electronix, Inc., Anaheim, CA.

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–61,147; Eastman Kodak Co., Consumer Digital Imaging—Adanced Development Div., Rochester, NY.

TA–W–61,344; Three-I Industries, Workers Performing Inspection and Warehousing for Auto, Monroe, LA.

TA–W–61,654; Nortel Networks Corp., Global Services, Richardson, TX.

TA–W–61,711; Amerock, Distribution Center, Rockford, IL.

The investigation revealed that criteria of section 222(b)(2) has not been met. The workers' firm (or subdivision) is not a supplier to or a downstream producer for a firm whose workers were certified eligible to apply for TAA.

TA–W–61,559; Thunder Bay Manufacturing Corp., Alpena, MI.

I hereby certify that the aforementioned determinations were issued during the period of June 25 through July 6, 2007. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: July 12, 2007.

Ralph DiBattista,

Director, Division of Trade Adjustment Assistance.

[FR Doc. E7–13977 Filed 7–18–07; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Arts Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that four meetings of the Arts Advisory Panel to the National Council on the Arts will be held at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 as follows (ending times are approximate):

Dance (application review) July 30–August 3, 2007 in Room 716. This meeting, from 9 a.m. to 6 p.m. on July 30th–August 2nd, and from 9 a.m. to 3 p.m. on August 3rd, will be closed.

Music (application review): July 31–August 3, 2007 in Room 714. This meeting, from 9 a.m. to 6:30 p.m. on July 31st–August 2nd, and from 9 a.m. to 4:15 p.m. on August 3rd, will be closed.

Museum (application review): August 7–10, 2007 in Room 716. This meeting, from 9 a.m. to 5:30 p.m. on August 7th–9th, and from 9 a.m. to 3 p.m. on August 10th, will be closed.

Literature (application review): August 15–17, 2007 in Room 730. A portion of this meeting, from 12 p.m. to 1 p.m. on August 17th, will be open to the public for a policy discussion. The remainder of the meeting, from 9 a.m. to 6 p.m. on August 15–16th, and from 9 a.m. to 12 p.m. and 1 p.m. to 4:30 p.m. on August 17th, will be closed.

The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of February 21, 2007, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels that are open to the public, and if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman. If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDY-TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to these meetings can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC., 20506, or call 202/682–5691.

Dated: July 16, 2007.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. E7–13990 Filed 7–18–07; 8:45 am]

BILLING CODE 7537–01–P

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Act Meeting

Board Votes To Close July 10, 2007, Meeting

In person and by telephone vote on July 10, 2007, a majority of the members contacted and voting, the Board of Governors voted to close to public observation a meeting held in Washington, DC, via teleconference. The Board determined that prior public notice was not possible.

ITEMS CONSIDERED:

1. Strategic Issues.
2. Labor Negotiations Update.
3. Rate Case Update.
4. Financial Update.
5. Personnel Matters and Compensation Issues.
6. Governors' Executive Session—Discussion of prior agenda items and Board Governance.

General Counsel Certification:

The General Counsel of the United States Postal Service has certified that the meeting was properly closed under the Government in the Sunshine Act.

CONTACT PERSON FOR MORE INFORMATION: Requests for information about the meeting should be addressed to the Secretary of the Board, Wendy A. Hocking, at (202) 268–4800.

Wendy A. Hocking,

Secretary.

[FR Doc. 07–3549 Filed 7–17–07; 3:22 pm]

BILLING CODE 7710–12–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review, Request for Comments

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) is forwarding an Information Collection Request (ICR) to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB) for the following collection of information: 3220–0149, Withholding Certificate for Railroad Retirement Monthly Annuity Payments. Review and approval by OIRA ensures that we impose appropriate paperwork burdens.

The RRB invites comments on the proposed collection of information to determine (1) the practical utility of the collection; (2) the accuracy of the estimated burden of the collection; (3) ways to enhance the quality, utility and clarity of the information that is the subject of collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology. Comments to RRB or OIRA must contain the OMB control number of the ICR. For proper consideration of your comments, it is best if RRB and OIRA receive them within 30 days of publication date.

The Internal Revenue Code requires all payers of tax liable private pensions to U.S. citizens to: (1) Notify each recipient at least concurrent with initial withholding that the payer is, in fact, withholding benefits for tax liability and that the recipient has the option of electing not to have the payer withhold, or to withhold at a specific rate; (2) withhold benefits for tax purposes (in the absence of the recipient's election not to withhold benefits); and (3) notify all beneficiaries, at least annually, that they have the option of changing their withholding status or elect not to have benefits withheld.

The Railroad Retirement Board provides Form RRB–W4P, Withholding Certificate for Railroad Retirement Payments, to its annuitants to exercise their withholding options. Completion of the form is required to obtain or retain a benefit. One response is requested of each respondent.

No changes are being proposed to the current version of Form RRB W–4P used by the RRB. The RRB estimates that 25,000 annuitants utilize Form RRB W–4P annually. The completion time for Form RRB W–4P varies depending on individual circumstances. The estimated average(s) for Form RRB W–4P is 39 minutes for recordkeeping, 24 minutes for learning about the law or the form, and 59 minutes for preparing the form.

Our ICR describes the information we seek to collect from the public. If a respondent fails to complete the form(s), the RRB may be unable to pay them benefits. One response is required from a respondent.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (72 FR 14628 on April 27, 2007) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Withholding Certificate for Railroad Retirement Monthly Annuity Payments.

OMB Control Number: 3220–0149.

Form(s) submitted: RRB–W–4P, Withholding Certificate for Railroad Retirement Monthly Annuity Payments.

Type of request: Reinstatement with change of a previously approved collection.

Affected public: Individuals or households.

Abstract: Under Public Law 98–76, railroad retirement beneficiaries' Tier II, dual vested and supplemental benefits are subject to income tax under private pension rules. Under Public Law 99–514, the non-social security equivalent benefit portion of Tier 1 is also taxable under private pension rules. The collection obtains the information needed by the Railroad Retirement Board to implement the income tax withholding provisions.

Changes Proposed: The RRB proposes no changes to Form RRB–W–4P.

The Burden Estimate for the ICR is as follows:

Estimated annual number of respondents: 25,000.

Total annual responses: 25,000.

Total annual reporting hours: 1.

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Charles Mierzwa, the agency clearance officer (312–751–3363) or *Charles.Mierzwa@rrb.gov.*

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or *Ronald.Hodapp@rrb.gov* and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Charles Mierzwa,

Clearance Officer.

[FR Doc. E7–13982 Filed 7–18–07; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 19b–5 and Form PILOT, SEC File No. 270–448, OMB Control No. 3235–0507.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 19b–5 (17 CFR 240.19b–5) provides a temporary exemption from the rule-filing requirements of section 19(b) of the Securities Exchange Act of 1934 (17 U.S.C. 78a *et seq.*) (''Act'') to self-regulatory organizations (''SROs'') wishing to establish and operate pilot trading systems. Rule 19b–5 permits an SRO to develop a pilot trading system and to begin operation of such system shortly after submitting an initial report on Form PILOT to the Commission. During operation of the pilot trading system, the SRO must submit quarterly reports of the system's operation to the Commission, as well as timely amendments describing any material changes to the system. After two years of operating such pilot trading system under the exemption afforded by Rule 19b–5, the SRO must submit a rule filing pursuant to section 19(b)(2) of the Act in order to obtain permanent approval of the pilot trading system from the Commission.

The collection of information is designed to allow the Commission to maintain an accurate record of all new pilot trading systems operated by SROs and to determine whether an SRO has properly availed itself of the exemption afforded by Rule 19b–5.

The respondents to the collection of information are SROs, as defined by the Act, including national securities exchanges and national securities associations.

Six respondents file an average total of 6 initial reports (for a 144 hour estimated annual burden), 24 quarterly reports (for a 72 hour estimated annual burden), and 12 amendments per year (for a 36 hour estimated annual burden), with an estimated total annual response burden of 252 hours. At an average hourly cost of $51.71, the aggregate related cost of compliance with Rule 19b–5 for all respondents is $13,030 per year (252 burden hours multiplied by $51.71/hour = $13,030).

Although Rule 19b–5 does not in itself impose recordkeeping burdens on SROs, it relies on existing requirements imposed by Rule 17a–1 under the Act to require SROs to retain all the rules and procedures relating to each pilot trading system operating pursuant to Rule 19b–5 and to make such records available for Commission inspection for a period of not less than five years, the first two years in an easily accessible place.

Compliance with Rule 19b–5 is mandatory. Information received in response to Rule 19b–5 shall be available only for examination by the Commission, other agencies of the federal government, state securities authorities and SROs.

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

Comments should be directed to (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an e-mail to: *David_Rostker@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, c/o Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312 or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted within 30 days of this notice.

Dated: July 12, 2007.

Nancy M. Morris,

Secretary.

[FR Doc. E7–13961 Filed 7–18–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request; Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Form 15, OMB Control No. 3235–0167, SEC File No. 270–170.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget the request for extension of the previously approved collection of information discussed below.

Form 15 (17 CFR 249.232) is a certification of termination of a class of security under Section 12(g) or notice of suspension of duty to file reports pursuant to Sections 13 and 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). All information is provided to the public for review. We estimate that approximately 3,000 issuers file Form 15 annually and it takes approximately 1.5 hours per response to prepare for a total of 4,500 annual burden hours.

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

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to *David_Rostker@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: July 12, 2007.

Nancy M. Morris,

Secretary.

[FR Doc. E7–13962 Filed 7–18–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Form BD/Rule 15b1–1, SEC File No. 270–19, OMB Control No. 3235–0012.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Form BD (17 CFR 249.501) under the Securities Exchange Act of 1934 (17 U.S.C. 78a *et seq.*) is the application form used by firms to apply to the Commission for registration as a broker-dealer. Form BD also is used by firms other than banks and registered broker-dealers to apply to the Commission for registration as a municipal securities dealer or a government securities broker-dealer. In addition, Form BD is used to change information contained in a previous Form BD filing that becomes inaccurate.

The total annual burden imposed by Form BD is approximately 6,808 hours, based on approximately 18,174 responses (335 initial filings + 17,839 amendments). Each initial filing requires approximately 2.75 hours to complete and each amendment requires approximately 20 minutes to complete. There is no annual cost burden.

The Commission uses the information disclosed by applicants in Form BD: (1) To determine whether the applicant meets the standards for registration set forth in the provisions of the Exchange Act; (2) to develop a central information resource where members of the public may obtain relevant, up-to-date information about broker-dealers, municipal securities dealers and government securities broker-dealers, and where the Commission, other regulators and SROs may obtain information for investigatory purposes in connection with securities litigation; and (3) to develop statistical information about broker-dealers, municipal securities dealers and government securities broker-dealers. Without the information disclosed in Form BD, the Commission could not effectively implement policy objectives

of the Exchange Act with respect to its investor protection function.

Completing and filing Form BD is mandatory in order to engage in broker-dealer activity. Compliance with Rule 15b1–1 does not involve the collection of confidential information. Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

General comments regarding the estimated burden hours should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to: *David_Rostker@omb.eop.gov* and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria VA 22312 or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: July 12, 2007.

Nancy M. Morris,

Secretary.

[FR Doc. E7–13963 Filed 7–18–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request; Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Regulation 12B, OMB Control No. 3235–0062, SEC File No. 270–70.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget the request for extension of the previously approved collection of information discussed below.

Regulation 12B (17 CFR 240.12b–1–12b–37) includes rules governing all registration statements pursuant to Sections 12(b) and 12(g) (U.S.C. 78l(b) and 78l(g)) of the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act''), including all amendments to such statements and reports. The purpose of the regulation is set forth guidelines for the uniform preparation of Exchange Act documents. All information is provided to the public for review. The information required is filed on occasion and is mandatory. Regulation 12B is assigned one burden hour for administrative convenience because the regulation simply prescribes the disclosure that must appear in other filings under the federal securities laws.

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

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to *David_Rostker@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: July 12, 2007.

Nancy M. Morris,

Secretary.

[FR Doc. E7–13964 Filed 7–18–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Regulation S–AM, SEC File No. 270–548, OMB Control No. 3235–0609.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget request[s] for extension of the previously approved collection[s] of information discussed below.

Regulation S–AM: Limitation on Affiliate Marketing

Regulation S–AM implements the requirements of Section 214 of the Fair and Accurate Credit Transactions Act of 2003 (Pub. L. 108–159) (''FACT Act'') as applied to brokers, dealers, and investment companies, as well as investment advisers and transfer agents that are registered with the Commission (collectively, ''Covered Persons''). As directed by Section 214 of the FACT Act, before a receiving affiliate may make marketing solicitations based on the communication of certain consumer financial information from a Covered Person, the Covered Person must provide a notice to each affected individual informing the individual of his or her right to prohibit such marketing. The regulation potentially applies to all of the approximately 22,106 Covered Persons registered with the Commission, although only approximately 15,474 of them have one or more corporate affiliates, and the regulation would require only approximately 2,211 of them to provide consumers with notice and an opt-out opportunity.

The Commission has estimated that each of the approximately 15,474 Covered Persons having one or more affiliates would require an average one-time burden of 1 hour to review affiliate marketing practices, for a total of 15,474 hours, at a total staff cost of approximately $3,791,130. Approximately 2,211 Covered Persons would be required to provide notice and opt-out and would incur an average first-year burden of 6 hours in doing so, for a total estimated first-year burden of 13,266 hours, at a total staff cost of approximately $2,510,590.50. With regard to continuing notice burdens, each of the approximately 2,211 Covered Persons required to provide notice and opt-out would incur a one-time first-year burden of 2 hours to develop notices for new consumers and an annual burden of 2 hours to deliver the notices and record any opt-outs, at a total staff cost of approximately $1,673,727. Averaged across the first three years for which compliance would be required, the total average yearly burden would be approximately 12,528 hours and $7,975,447.50 in staff costs.

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

Comments should be directed to (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs,

Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an e-mail to: *David_Rostker@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312, or by sending an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: July 12, 2007.

Nancy M. Morris,

Secretary.

[FR Doc. E7–13965 Filed 7–18–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 15a–6, SEC File No. 270–0329, OMB Control No. 3235–0371.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 15a–6 (17 CFR 240.15a–6) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) provides, among other things, an exemption from broker-dealer registration for foreign broker-dealers that effect trades with or for U.S. institutional investors through a U.S. registered broker-dealer, provided that the U.S. broker-dealer obtains certain information about, and consents to service of process from, the personnel of the foreign broker-dealer involved in such transactions, and maintains certain records in connection therewith.

These requirements are intended to ensure (a) that the U.S. broker-dealer will receive notice of the identity of, and has reviewed the background of, foreign personnel who will contact U.S. institutional investors, (b) that the foreign broker-dealer and its personnel effectively may be served with process in the event enforcement action is necessary, and (c) that the Commission has ready access to information concerning these persons and their U.S. securities activities.

In general, the records to be maintained under Rule 15a–6 must be kept for the applicable time periods as set forth in Rule 17a–4 (17 CFR 240.17a–4) under the Exchange Act or, with respect to the consents to service of process, for a period of not less than six years after the applicable person ceases engaging in U.S. securities activities. Reliance on the exemption set forth in Rule 15a–6 is voluntary, but if a foreign broker-dealer elects to rely on such exemption, the collection of information described therein is mandatory. The collection does not involve confidential information. Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

It is estimated that approximately 2,000 respondents will incur an average burden of three hours per year to comply with this rule, for a total burden of 6,000 hours. At an average cost per hour of approximately $100, the resultant total cost of compliance for the respondents is $600,000 per year (2,000 entities × 3 hours/entity × $100/hour = $600,000).

General comments regarding the estimated burden hours should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to: *David_Rostker@omb.eop.gov* and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria VA 22312 or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: July 12, 2007.

Nancy M. Morris,

Secretary.

[FR Doc. E7–13966 Filed 7–18–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56055; File No. SR–ISE–2007–52]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change as Modified by Amendment No. 1 Thereto Relating to Fee Waivers

July 12, 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 June 27, 2007, the International Securities Exchange, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. On July 11, 2007, the Exchange filed Amendment No. 1 to the proposed rule change. ISE has designated this proposal as one establishing or changing a due, fee, or other charge imposed by ISE under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

ISE proposes to amend its Schedule of Fees to extend two fee waivers. The text of the proposed rule change is available at the Commission's Public Reference Room, at the Exchange, and on its Web site at *http://www.ise.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to extend two fee waivers. First, ISE currently waives most customer transaction fees, with such waiver scheduled to expire on June 30, 2007.[5] In order to remain competitive in the marketplace, the Exchange proposes to extend this waiver through June 30, 2008.

Second, ISE currently has a pilot program that: (1) Caps and waives execution and comparison fees for transactions in options on the NASDAQ–100 Index Tracking Stock® (''QQQQ'')[6] and the iShares Russell 2000® Index Fund (''IWM'')[7] when a member transacts a certain number of QQQQ and IWM option contracts; and (2) reduces and waives the facilitation execution and comparison fees when a member transacts a certain number of contracts through the Exchange's Facilitation Mechanism.

The Exchange's fee discount program applies to ISE Market Maker orders and Firm Proprietary orders in QQQQ and IWM options. The Exchange's current transaction fees for these order types are as follows: for ISE Market Maker orders, the transaction fees range from $.21 to $.12 per contract, depending on the Exchange's trading volume, plus a comparison fee of $.03 per contract; and for Firm Proprietary orders, the transaction fee is $.15 per contract, plus a comparison fee of $.03 per contract.

Under the QQQQ pilot program, when a member's average daily volume (''A.D.V.'') in QQQQ options reaches 10,000 contracts, the member's execution fee for the next 2,000 QQQQ option contracts is reduced by $.10 per contract. Further, when a member's monthly A.D.V. in QQQQ options reaches 12,000 contracts, the Exchange waives the entire execution fee and the comparison fee for each QQQQ option contract traded thereafter. Under the IWM pilot program, when a member's A.D.V. in IWM options reaches 8,000 contracts, the member's execution fee for the next 2,000 IWM option contracts is reduced by $.10 per contract. Further, when a member's monthly A.D.V. in IWM options reaches 12,000 contracts, the Exchange waives the entire execution fee and the comparison fee for each IWM option contract traded thereafter.

The structure of the reduction and waiver of the facilitation execution fee and the comparison fee is based on the structure of the reduction and waiver of the QQQQ and IWM execution and comparison fees noted above. That is, when a member's monthly A.D.V. in the Facilitation Mechanism reaches 15,000 contracts, the member's facilitation execution fee for the next 5,000 contracts transacted in the Facilitation Mechanism are reduced by $.10 per contract. Further, when a member's monthly A.D.V. in the Facilitation Mechanism reaches 20,000 contracts, the Exchange waives the entire facilitation execution fee and the comparison fee for each contract transacted in the Facilitation Mechanism thereafter.

The Exchange notes that the current pilot program is set to expire on June 30, 2007. The Exchange now proposes to extend the pilot program for another year, until June 30, 2008. ISE seeks to extend this pilot program for competitive reasons. This pilot program was initiated and extended in an attempt to increase the Exchange's market share in QQQQ and IWM options and to also encourage members to use the Exchange's Facilitation Mechanism.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(4) of the Act[8] that an exchange have an equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. In particular, these fees would extend current waivers, thus effectively maintaining low fees.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has been designated as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act[9] and Rule 19b–4(f)(2)[10] thereunder, because it establishes or changes a due, fee, or other charge imposed by the Exchange. Accordingly, the proposal took effect upon filing with the Commission. At any time within 60 days of the filing of such proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[11]

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–ISE–2007–52 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–ISE–2007–52. This file number should be included on the subject line if e-mail is used. To help the

[5] *See* Securities Exchange Act Release No. 53954 (June 7, 2006), 71 FR 34651 (June 15, 2006) (SR–ISE–2006–29).

[6] The Exchange instituted this pilot program in November 2003 and has since extended it on numerous occasions. *See* Securities Exchange Act Release Nos. 49147 (January 29, 2004), 69 FR 5629 (February 5, 2004) (SR–ISE–2003–32); 49853 (June 14, 2004), 69 FR 35087 (June 23, 2004) (SR–ISE–2004–15); 50900 (December 21, 2004), 69 FR 78075 (December 29, 2004) (SR–ISE–2004–36); 52934 (December 9, 2005), 70 FR 74859 (December 16, 2005) (SR–ISE–2005–53); 54841 (November 30, 2006), 71 FR 71006 (December 6, 2006) (SR–ISE–2006–69).

[7] *See* Securities Exchange Act Release No. 55973 (June 28, 2007), 72 FR 37063 (July 6, 2007) (SR–ISE–2007–39).

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 240.19b–4(f)(2).

[11] For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on July 11, 2007, the date on which ISE filed Amendment No. 1. *See* 15 U.S.C. 78s(b)(3)(C).

Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the 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–ISE–2007–52 and should be submitted on or before August 9, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Nancy M. Morris,

Secretary.

[FR Doc. E7–13959 Filed 7–18–07; 8:45 am]

BILLING CODE 8010–01–P

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56067; File No. SR–NSX–2007–08]

Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Effective Period for Rule 2.12 Regarding Third-Party Routing Services in Respect of Orders Entered Into NSX BLADE

July 13, 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 June 29, 2007, the National Stock Exchange, Inc. (''NSX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by NSX. The Exchange has filed the proposal as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to extend the effective period for Rule 2.12, which describes the terms under which the Exchange provides routing services procured from a third party with respect to orders entered into its new state of the art trading system, NSX BLADE. The text of the proposed rule change is available at NSX, the Commission's Public Reference Room, and *http://www.nsx.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, NSX 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. NSX 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 is proposing to amend Exchange Rules 2.11 and 2.12 to extend the effective period for Rule 2.12 (relating to the Exchange's use of a third party to provide outbound routing of orders from the Exchange to other trading centers (''Routing Services'')) through September 30, 2007, and to delay the effectiveness of Rule 2.11 (relating to the outbound routing function of the Exchange's affiliate, NSX Securities, LLC (''NSX Securities'')) until October 1, 2007.

Rule 2.11 provides for certain terms and conditions under which NSX Securities, an affiliate of the Exchange, will provide Routing Services. Rule 2.11 was approved by the Commission in connection with the approval of the Exchange's new trading rules relating to NSX BLADE on August 31, 2006.[5] The Exchange filed and received approval for the addition of Rule 2.12, which provides for terms and conditions of the Exchange's use of a third party to provide Routing Services.[6] The Exchange subsequently filed and received approval to extend the effective period for Rule 2.12.[7]

Rule 2.12 currently provides that it is effective through June 30, 2007, with Rule 2.11 becoming effective on July 1, 2007. In connection with the rule filing adding Rule 2.12,[8] the Exchange requested this finite period of effectiveness so that the Exchange could offer routing services through NSX BLADE while NSX Securities completed its registration process as a broker-dealer with the National Association of Securities Dealers, Inc. (and thus became available to provide routing services),[9] and while the Exchange evaluated its options for providing routing services to ETP Holders.

In the instant rule filing, the Exchange is proposing to extend the effectiveness of Rule 2.12 through September 30, 2007, and to delay the effectiveness of Rule 2.11 until October 1, 2007, in order to allow the Exchange more time to evaluate its options for providing routing services to ETP Holders. The ability to route orders entered into NSX BLADE to away markets for execution at the best available prices is a key feature of NSX's new system.

The Exchange intends to provide routing services in accordance with Rule 2.12 until September 30, 2007, unless the Exchange, with the Commission's approval, amends Rule 2.12 before such date. During such time period, the Exchange intends to evaluate its options for providing routing services. At the conclusion of such time period, the Exchange may decide to (i) continue the approach provided for in Rule 2.12 on a permanent basis, and not use NSX Securities as the outbound router (by filing a proposed rule change

[5] *See* Securities Exchange Act Release No. 54391 (August 31, 2006), 71 FR 52836 (September 7, 2006) (SR–NSX–2006–08).

[6] *See* Securities Exchange Act Release No. 54808 (November 21, 2006), 71 FR 69163 (November 29, 2006) (SR–NSX–2006–15).

[7] *See* Securities Exchange Act Release No. 55624 (April 12, 2007), 72 FR 19732 (April 19, 2007) (SR–NSX–2007–04).

[8] *Id.*

[9] In January 2007, NSX Securities' application for registration as a broker-dealer was approved by the National Association of Securities Dealers, Inc. To date, the Exchange has not used NSX Securities for routing services.

to delete Rule 2.11 and renumbering Rule 2.12); (ii) use the Exchange's original approach of NSX Securities as an outbound router and discontinue the approach provided for in Rule 2.12 (by filing a proposed rule change to delete Rule 2.12); or (iii) file a proposed rule change to allow ETP Holders to use either NSX Securities or the approach provided for in proposed Rule 2.12 for outbound routing.

2. Statutory Basis

NSX believes the proposed rule change is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(5) of the Act,[11] in particular, which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing 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 30 days after the date of this filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[12] and Rule 19b–4(f)(6) thereunder.[13]

A proposed rule change filed under 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[14] However, Rule 19b–4(f)(6)(iii)[15] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would permit the Exchange to immediately update the effective dates for NSX Rules 2.11 and 2.12. For this reason, the Commission designates the proposed rule change to be operative upon filing with the Commission.[16]

At any time within 60 days of the filing of such proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

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–NSX–2007–08 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–NSX–2007–08. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of NSX. 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–NSX–2007–08 and should be submitted on or before August 9, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Nancy M. Morris,

Secretary.

[FR Doc. E7–13957 Filed 7–18–07; 8:45 am]

BILLING CODE 8010–01–P

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. NSX has satisfied the five-day pre-filing notice requirement.

[15] *Id.*

[16] For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56065; File No. SR–NYSE–2007–60]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Charge Member Organizations a Routing Fee for Orders Routed to Other Markets for Execution

July 13, 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 June 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, II, and III below, which Items have been substantially prepared by the NYSE. The NYSE has designated this

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

proposal as one establishing or changing a due, fee, or other charge imposed by the NYSE under Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to charge its member organizations a fee of $0.0025 per share in equity transactions and $0.0030 per share in transactions in exchange traded fund (''ETF'') securities where those orders are executed in another market on the Exchange's behalf by Archipelago Securities LLC (''Arca Securities'') as a routing broker. The text of the proposed rule change is available on the NYSE's Web site (*http://www.nyse.com*), at the principal office of the NYSE, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to charge its member organizations a fee of $0.0025 per share in equity transactions (the ''Equity Routing Fee'') and $0.0030 per share in ETF transactions (the ''ETF Routing Fee,'' and, together with the Equity Routing Fee, the ''Routing Fees'') where those orders are executed in another market on the Exchange's behalf by Arca Securities as a routing broker.

The Exchange proposes to set the Routing Fees at the same level as linkage order fees (''Linkage Order Fees'') that the Exchange has been charging for transactions routed away to other markets pursuant to the ''Plan for the Purpose of Creating and Operating an Intermarket Communications Linkage'' (the ''Linkage Plan''). The Linkage Plan expired by its terms on June 30, 2007, and the Exchange will now route all orders it is required to send to other markets by utilizing Arca Securities as a routing broker. This filing clarifies that, once the Linkage Plan is no longer in effect, Entering Firms will continue to be charged a Routing Fee in the same amount as the predecessor Linkage Order Fee for orders routed to other markets. Arca Securities will be billed by the destination markets for orders entered on the Exchange by Entering Firms but routed to other markets for execution. The Exchange will assume responsibility for fees paid by Arca Securities to other markets in its capacity as the Exchange's Routing Broker. The Exchange proposes to bill each Entering Firm the applicable Routing Fee in order to recover these expenses.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6[5] of the Act[6] in general and furthers the objectives of Section 6(b)(4)[7] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. The fee is intended to permit the Exchange to recover fees billed to Arca Securities by other markets for orders executed in other markets.

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 purpose of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(2)[9] thereunder because it involves a member fee imposed by the Exchange. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2007–60 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2007–60. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the NYSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78a.

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(2).

you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2007–60 and should be submitted on or before August 9, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Nancy M. Morris,

Secretary.

[FR Doc. E7–13960 Filed 7–18–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56048; File No. SR–NYSEArca–2007–62]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the One Week Option Series Pilot Program

July 11, 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 July 3, 2007, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Exchange has designated this proposal as non-controversial under Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend its rules to extend the One Week Option Series pilot program (''Pilot Program'') for an additional one-year period, through July 12, 2008. 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 IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On July 12, 2005, the Commission approved the Pilot Program,[5] which allows NYSE Arca to list and trade One Week Option Series. Under the terms of the Pilot Program, the Exchange can select up to five options classes on which One Week Option Series may be opened on any One Week Option Opening Date. The Exchange is also allowed to list One Week Option Series on any option class that is selected by other securities exchanges that employ a similar Pilot Program under their respective rules.

The Pilot Program currently expires on July 12, 2007.[6] The purpose of this proposal is to extend the Pilot Program for one year, through July 12, 2008. The Exchange believes that the Pilot Program provides investors with a flexible and valuable tool to manage risk exposure, minimize capital outlays, and be more responsive to the timing of events affecting the securities that underlie option contracts. While NYSE Arca has not listed any One Week Option Series during the Pilot Program, there has been investor interest in trading short-term options at the Chicago Board Options Exchange. In order to have the ability to respond to customer interest if warranted, the Exchange proposes the continuation of the Pilot Program at NYSE Arca.

In the original proposal to establish the Pilot Program, the Exchange stated that if it were to propose an extension or an expansion of the program, the Exchange would submit, along with any filing proposing such amendments to the program, a Pilot Program report (''Report''). The Report would provide an analysis of the Pilot Program covering the entire period during which the Pilot Program was in effect. Since the Exchange did not have any One Week Option Series listed during the preceding year of the Pilot Program, there is no data available to compile such a report at this time. Therefore, there is no Report associated with the program included with this proposal to extend the pilot Program.

The Exchange represents that it has the necessary system capacity needed to support any additional option series listed under the Pilot Program.

2. Statutory Basis

The Exchange believes that the One Week Option Series can stimulate customer interest in options and provide a flexible and valuable tool to manage risk exposure, minimize capital outlays, and be more responsive to the timing of events affecting the securities that underlie option contracts. For these reasons, the Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act[7] in general, and furthers the objectives of Section 6(b)(5) of the Act[8] in particular, in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, 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.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated the proposed rule change as one that: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 34–52013 (July 12, 2005), 70 FR 41471 (July 19, 2005) (File No. SR–PCX–2005–32).

[6] *See* Securities Exchange Act Release No. 34–54052 (June 27, 2006), 71 FR 38679 (July 7, 2006) (File No. SR–NYSEArca–2006–29).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. Therefore, the foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and subparagraph (f)(6) of Rule 19b–4 thereunder.[10] The Exchange has asked the Commission to waive the operative delay to permit the Pilot Program extension to become operative prior to the 30th day after filing.[11]

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the benefits of the Pilot Program to continue without interruption.[12] Therefore, the Commission designates the proposal operative upon filing.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business before doing so.

[12] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] As set forth in the Exchange's original filing proposing the Pilot Program, if the Exchange were to propose an extension, an expansion, or permanent approval of the Pilot Program, the Exchange would submit, along with any filing proposing such amendments to the program, a report that would provide an analysis of the Pilot Program covering the entire period during which the Pilot Program was in effect. The report would include, at a minimum: (1) Data and written analysis on the open interest and trading volume in the classes for which One Week Option Series were opened; (2) an assessment of the appropriateness of the option classes selected for the Pilot Program; (3) an assessment of the impact of the Pilot Program on the capacity of the Exchange, OPRA, and market data vendors (to the extent data from market data vendors is available); (4) any capacity problems or other problems that arose during the operation of the Pilot Program and how the Exchange addressed such problems; (5) any complaints that the Exchange received during the operation of the Pilot Program and how the Exchange addressed them; and (6) any additional information that would assist in assessing the operation of the Pilot Program. The report must be submitted to the Commission at least sixty (60) days prior to the expiration date of the Pilot Program. *See* Form 19b–4 for File No. SR–PCX–2005–32, filed March 7, 2005.

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.shtm*l); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–NYSEArca–2007–62 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–2007–62. 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 Commissions Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the 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–2007–62 and should be submitted on or before August 9, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Nancy M. Morris,

Secretary.

[FR Doc. E7–13958 Filed 7–18–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56073; File No. SR–NYSEArca–2007–53]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to Listing and Trading Options on Commodity Pool Units

July 13, 2007.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4[2] thereunder, notice is hereby given that on June 12, 2007, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and is approving the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend certain Exchange rules to permit the listing and trading of options on securities interest issued by trust issued receipts (''TIRs''), partnership units (''Partnership Units''), commodity based funds or trusts, and other entities (referred collectively herein as ''Commodity Pool Units''). The Exchange also proposes to make minor technical changes to the numbering of certain rules. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nysearca.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 NYSE Arca included statements concerning the purpose of and basis for

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE Arca has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The NYSE Arca states that the proposed rule change is based on rule changes made by the American Stock Exchange LLC (''Amex'') pursuant to SR–Amex–2006–110.[3]

The purpose of this proposed rule change is to enable the listing and trading on the Exchange of options on Commodity Pool Units that trade, directly or indirectly, in commodity futures products. Commodity Pool Units may hold or trade in one or more types of investments that may include any combination of securities, commodity futures contracts, options on commodity futures contracts, swaps and forward contracts. The shares of the Commodity Pool Units are securities registered with the Commission and the offer and sale of those shares are subject to the Commission's regulatory oversight. The investments held, directly or indirectly, within the Commodity Pool Units are subject to the Commodity Exchange Act (''CEA'') due to their status as a ''commodity pool.''[4] Therefore, the trading of the assets and/or investment (*e.g.*, futures and options on futures) held within the Commodity Pool Units is regulated by the Commodity Futures Trading Commission (''CFTC'').[5]

Currently, NYSE Arca Rule 5.3 provides that securities deemed appropriate for options trading shall include shares or other securities (''Units'') that are principally traded on a national securities exchange or through the facilities of a national securities association and reported as a NMS security, and that (i) represent interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities that hold portfolios of securities comprising or otherwise based on or representing investments in indexes or portfolios of securities (or that hold securities in one or more other registered investment companies that themselves hold such portfolios of securities); or (ii) represent interests in a trust that holds a specified non-U.S. currency deposited with the trust when aggregated in some specified minimum number may be surrendered to the trust by the beneficial owner to receive the specified non-U.S. currency and pays the beneficial owner to receive the specified non-U.S. currency and pays the beneficial owner interest and other distributions on deposited non-U.S. currency, if any, declared and paid by the trust.

The Exchange proposes to amend Rule 5.3(g) to expand the type of options to include the listing and trading of options based on Commodity Pool Units that may hold or invest, directly or indirectly, in commodity futures products, including, but not limited to, commodity futures contracts, options on commodity futures contracts, swaps and forward contracts. As part of this revision to Rule 5.3(g), the Exchange proposes to add paragraph (1)(C) requiring for Commodity Pool Units that a comprehensive surveillance sharing agreement be in place with the marketplace or marketplaces with last sale reporting that represent(s) the highest volume in such commodity futures contracts and/or options on commodity futures contracts on the specified commodities or non-U.S. currency, which are utilized by the national securities exchange where the underlying Commodity Pool Units are listed and traded.[6]

As set forth in the proposed changes to Rule 5.3, Commodity Pool Units must be traded on a national securities exchange or through the facilities of a national securities association and must be an ''NMS stock'' as defined under Rule 600 of Regulation NMS. In addition, Commodity Pool Units must meet either: (i) The criteria and guidelines under Rule 5.3; or (ii) be available for creation or redemption each business day from or through the issuing trust, investment company, commodity pool or other issuer in cash or in kind at a price related to net asset value. In addition, the issuing trust, investment company, commodity pools or other issuer is obligated to issue Units in a specified aggregate number even if some or all of the investment assets required to be deposited have not been received by the issuing trust, investment company, commodity pool or other issuer, subject to the condition that the person obligated to deposit the investment assets has undertaken to deliver the investment assets as soon as possible and such undertaking is secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the issuer of Units which underlie the option as described in the Units' prospectus.

Under the applicable continued listing criteria presently contained in NYSE Arca Rule 5.6,[7] the Exchange shall not open for trading an additional series of option contracts on Units that were initially approved for options trading pursuant to Rule 5.3 if such Units either: (i) Cease to be an ''NMS stock'' as provided in Rule 5.4 (an ''NMS stock'' is defined in Rule 600 of Regulation NMS of the Act); or (ii) are halted from trading in their primary market.

In addition, the Exchange shall consider the suspension of opening transactions in any series of options of the class covering Units in the following circumstances: (1) Following the initial 12-month period beginning upon the commencement of trading in the Units on a national securities exchange or through the facilities of a national securities association and are defined as an ''NMS stock'' under Rule 600 of Regulation NMS, there are fewer than 50 record and/or beneficial holders of such Units for 30 or more consecutive trading days; or (2) the value of the index or portfolio of securities, non-U.S. currency, or portfolio of commodities including commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options on physical commodities on which the Units are based is no longer calculated or available.

The Exchange is also proposing to amend the Commentary to its Rule 11.3 to require members to establish, maintain and enforce written policies and procedures to prevent the misuse of

[3] *See* Exchange Act Release No. 55547 (March 28, 2007), 72 FR 16388 (April 4, 2007) (approval order for SR–Amex–2006–110).

[4] The term ''[commodity] pool means any investment trust, syndicate or similar form of enterprise operated for the purpose of trading commodity interests.'' 17 CFR 4.10(d)(1). A commodity interest is ''(1) Any contract for the purchase or sale of a commodity for future delivery; and (2) Any contract, agreement or transaction subject to Commission regulation under section 4c or 19 of the [Commodity Exchange] Act.'' 17 CFR 4.10(a).

[5] The manager or operator of a ''commodity pool'' is required to register, unless applicable exclusions apply, as a commodity pool operator (''CPO'') and as a commodity trading advisor (''CTA'') with the CFTC and become a member of the National Futures Association (''NFA'').

[6] For a list of the current members and affiliate members of ISG, *see http://www.isgportal.com.* The Exchange notes that not all of the underlying securities may trade on exchanges that are members or affiliate members of the ISG. In addition, the Exchange has surveillance information sharing agreements in place with the ICE Futures, Board of Trade of Kansas City, Missouri, Inc., The London Metal Exchange Limited, and New York Mercantile Exchange, Inc. (''NYMEX'').

[7] Pursuant to a technical change proposed in this filing, existing NYSE Arca Rule 5.6 will be re-numbered as Rule 5.4.

material, nonpublic information it might have or receive in a related security, option or derivative or in the applicable related commodity, commodity futures, or options on commodity futures or any other related commodity derivatives.

The Exchange is further proposing to amend Rule 6.39 to require that Market-Makers for options in Commodity Pool Units file with the Exchange upon request a list identifying all accounts for, among other things, physical commodities, physical commodity options, commodity futures contracts, options on commodity futures contracts, any other derivatives based on such commodity in which the Market-Maker may have directly or indirectly engaged in trading activities or over which he exercises investment discretion. The Exchange is proposing to add the phrase ''for options on'' in two places in Rule 6.39(a) to clarify that Rule 6.39(a) governs Market-Makers in options on Units (versus Market-Markets in the Unit underlying the option). In addition, the proposed revision to Rule 6.39 further requires that no Market-Maker shall engage in trading in, among other things, physical commodities, physical commodity options, commodity futures contracts, options on commodity futures contracts, any other derivatives based on such commodity in an account which has not been reported in a manner prescribed by the Exchange. The Exchange is proposing to add the phrase ''trading in'' to the last sentence of Rule 6.39(a) to clarify the conduct governed by the rule.

In addition, the Exchange proposes to amend Rule 9.17 to require Market-Makers to make available to the Exchange such books and records or other information pertaining to transactions in the applicable physical commodity, physical commodity options, commodity futures contracts, options on commodity futures contracts, or any other derivatives on such commodity, as may be requested by the Exchange.

The Exchange represents that it has an adequate surveillance program in place for options based on Commodity Pool Units. The Exchange may obtain trading information via the Intermarket Surveillance Group (''ISG'') from other exchanges who are members or affiliates of the ISG and has entered into numerous comprehensive surveillance-sharing agreements with various commodity futures exchanges worldwide.[8] Prior to listing and trading options on Commodity Pool Units, the Exchange represents that it would either have the ability to obtain specific trading information via ISG or through a comprehensive surveillance sharing agreement with the primary exchange or exchanges where the particular commodity futures and/or options on commodity futures are traded.

The addition of Commodity Pool Units would not have any effect on the rules pertaining to position and exercise limits.[9] The Exchange also represents that the margin requirements for options on Commodity Pools Units would be evaluated for each product the Exchange anticipates listing. Any new margin rules deemed necessary will be filed separately with the Commission.

This proposal is necessary to enable the Exchange to list and trade options on an expanding range of Commodity Pool Units that the Commission has previously approved for trading.[10]

The Exchange believes that it is reasonable to expect that other types of Commodity Pool Units will be introduced for trading in the near future. The proposed amendment to the Exchange's listing criteria for options on Commodity TIRs and Partnership Units is necessary to ensure that the Exchange will be able to list options on Commodity Pool Units that have been recently launched as well as any other similar Commodity Pool Units that may be listed and traded in the future.

As part of this filing, the Exchange proposes correcting a typographical error in existing Rule 5.6(l).[11] When the exchange originally proposed this rule, the word ''not'' was inadvertently omitted from the first sentence of the rule text. The Exchange now proposes to correct this omission.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of section 6(b) of the Act [12] in general, and furthers the objectives of section 6(b)(5),[13] of the Act in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange states that no written comments were solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2007–53 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–2007–53. 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

[8] *See* footnote 6, *supra*.

[9] *See* NYSE Arca Rules 6.6 and 6.8.

[10] *See* Exchange Act Release Nos. 53105 (January 11, 2006), 71 FR 3129 (January 19, 2006) (approving the listing and trading of the DB Commodity Index Tracking Fund); 53582 (March 31, 2006), 71 FR 17510 (April 6, 2006) (approving the listing and trading of Units of the United States Oil Fund, L.P.); and 54450 (September 14, 2006), 71 FR 51245 (September 21, 2006) (approving the listing and trading of the PowerShares DB G10 Currency Harvest Fund).

[11] Rule 5.6(l) will be renumbered as Rule 5.4(l) as part of this proposal.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the 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–2007–53 and should be submitted on or August 9, 2007.

IV. Commission Findings and Accelerated Approval

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[14] and, in particular, the requirements of section 6 of the Act.[15] Specifically, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act,[16] which requires, among other things, that the rules of a national securities exchange be designed 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.

Surveillance

The Commission notes that Exchange has represented that it has an adequate surveillance program in place for options based on Commodity Pool Units. The Exchange may obtain trading information via the Intermarket Surveillance Group (''ISG'') from other exchanges who are members or affiliates of the ISG and has entered into numerous comprehensive surveillance sharing agreements with various commodity futures exchanges worldwide. Prior to listing and trading options on Commodity Pool Units, the Exchange represented that it will either have the ability to obtain specific trading information via ISG or through a comprehensive surveillance sharing agreement with the exchange or exchanges where the particular commodity futures and/or options on commodity futures are traded. In addition, the Exchange represented that the addition of Commodity Pool Unit options will not have any effect on the rules pertaining to position and exercise limits[17] or margin.

Listing and Trading of Options on Commodity Pool Units

The Commission notes that, pursuant to the proposed rule change, a Commodity Pool Unit will be subject to the provisions of NYSE Arca Rule 5.3 and 5.4, as applicable. These provisions include requirements regarding initial and continued listing standards, the creation/redemption process for Commodity Pool Units, and trading halts. All Commodity Pool Units must be traded through a national securities exchange or through the facilities of a national securities association, and must be ''NMS stock'' as defined under Rule 600 of Regulation NMS.[18]

The Commission believes that this proposal is necessary to enable the Exchange to list and trade options on an expanding range of Commodity Pool Units currently approved for trading and that it is reasonable to expect other types of Commodity Pool Units to be introduced for trading in the future. This proposal would help ensure that the Exchange will be able to list options on Commodity Pool Units that have been recently launched as well as any other similar Commodity Pool Units that may be listed and traded in the future[19] thereby offering investors greater option choices.

The Commission finds good cause, pursuant to section 19(b)(2) of the Act,[20] for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of notice in the **Federal Register**. The Commission notes that the proposal is consistent with the Exchange's listing and trading standards in NYSE Arca Rules 5.3 and 5.4 and the Commission has recently approved a similar proposal, after publishing it for a full comment period and receiving no comments.[21] The Commission does not believe that the proposed rule change, as amended, raises novel regulatory issues. Consequently, the Commission believes that it is appropriate to permit investors to benefit from the flexibility afforded by trading these products as soon as possible.

Accordingly, the Commission finds that there is good cause, consistent with section 6(b)(5) of the Act,[22] to approve the proposal, as amended, on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[23] that the proposed rule change (SR–NYSEArca–2007–53), as amended, be, and is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[24]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–13998 Filed 7–18–07; 8:45 am]

BILLING CODE 8010–01–P

[14] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78f.

[16] 15 U.S.C. 78f(b)(5).

[17] *See* NYSE Arca Rules 6.8 and 6.9.

[18] 17 CFR 242.600(b)(47).

[19] 17 CFR 240.19b–4(e).

[20] 15 U.S.C. 78s(b)(2).

[21] *See* Securities Exchange Act Release Nos. 55547 (March 28, 2007), 72 FR 16388 (April 4, 2007) (SR–Amex–2006–110) (approval order); and 55187 (January 29, 2007), 72 FR 5467 (February 6, 2007) (SR–Amex–2006–110) (proposing release).

[22] 15 U.S.C. 78s(b)(5).

[23] 15 U.S.C. 78s(b)(2).

[24] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 5869]

Notice of Receipt of Application for a Presidential Permit for Pipeline Facilities To Be Constructed, Operated, and Maintained on the Borders of the United States

AGENCY: Department of State.

The Department of State has received an application from Eagle Operating Inc. (''Eagle'') for a Presidential permit, pursuant to Executive Order 13337 of April 30, 2004, to construct, connect, operate, and maintain a 3-inch diameter water pipeline at the U.S.-Canadian border, at Burke County, North Dakota, for the purpose of transporting water produced in association with crude oil and natural gas production in Saskatchewan, Canada to a disposal facility located in Burke County, North Dakota. Eagle seeks this authorization in connection with its Lakeview Pipeline Expansion Project (''Lakeview''). According to Eagle's application, the new pipeline is designed to transport salt water produced in association with crude oil and natural gas production from Eagle's Florence South Horizontal 5–1–1–1 W2M well (''Florence Well''), and other wells to be drilled in the area, located in the Province of Saskatchewan, Canada, to Eagle's disposal facility at its Schmidt Estate Well #1–36SWD located in Burke County, North Dakota.

Eagle is a corporation organized under the laws of the State of North Dakota. Eagle's business address is P.O. Box 853, Kenmare, North Dakota 58746. According to the application, Eagle operates approximately 193 oil and gas wells located in the State of North

Dakota. As part of these operations, Eagle is the operator of approximately 13 wells utilized for the disposal of salt water produced in association with oil and gas production in the State of North Dakota. Eagle is also the owner of oil and gas leasehold interests located in the Province of Saskatchewan, Canada, including the Florence Well. The Florence Well was completed as a producer of oil and gas on or about August 10, 2006. The Florence Well is operated by Colonia Energy Corp. (''Colonia''). Colonia owns 45 percent of the well and Eagle owns 55 percent of the well. Eagle has asserted in its application that if this application for Presidential permit is approved and the expansion of its existing pipeline is ultimately built, it is likely that Colonia will participate in the line and ownership in the pipeline will be identical to that of the Florence Well (45 percent Colonia and 55 percent Eagle).

According to the description in Eagle's application, the proposed new border crossing would consist of approximately five-hundred (500) feet of 3-inch diameter pipeline on the U.S. side of the international boundary, which would be buried below ground level. The proposed new section of pipe will run from the international boundary to connect to the existing 2-inch diameter pipe connected to the Schmidt Estate #1–36 Well. The new pipeline would become part of the Lakeview Pipeline System.

As required by E.O. 13337, the Department of State is circulating this application to concerned federal agencies for comment. In accordance with Section 102(C) of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(C)) and implementing regulations promulgated by the Council on Environmental Quality (40 CFR parts 1500–1508) and the Department of State (22 CFR part 161), including in particular 22 CFR 161.7(c)(1), the Department of State intends to prepare an environmental assessment (EA) to determine if there are any potential significant impacts and to address alternatives to the proposed action.

DATES: The Department of State welcomes public comment and invites those who are interested in submitting comments relative to this proposal to provide such comments, in duplicate, on or before September 17, 2007 to Jeff Izzo, International Energy Commodity Policy, Room 4843, Department of State, Washington, DC 20520, or e-mail to *izzojr@state.gov.* The application and related documents that are part of the record to be considered by the Department of State in connection with this application are available for inspection in the Office of International Energy and Commodity Policy during normal business hours.

FOR FURTHER INFORMATION CONTACT: Jeff Izzo, Office of International Energy and Commodity Policy (EEB/ESC/IEC/EPC), Room 4843, Department of State, Washington, DC 20520, telephone 202–647–1291, facsimile 202–647–4037, e-mail *izzojr@state.gov.*

Stephen J. Gallogly,

Director, Office of International Energy and Commodities Policy, Department of State.

[FR Doc. E7–14008 Filed 7–18–07; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Seeking OMB Approval

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 26, 2007, vol. 72, no. 57, pages 14162–14163. The FAA has initiated customer service surveys throughout the agency, requiring that every element have contact with their customers to assure that their needs are being met and that service is improved.

DATES: Please submit comments by August 20, 2007.

FOR FURTHER INFORMATION CONTACT: Clara Mauney at *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Federal Aviation Administration, Flight Standards Customer Satisfaction Survey.

Type of Request: Revision of a currently approved collection.

OMB Control Number: 2120–0568.

Form(s): There are no FAA forms associated with this collection.

Affected Public: An estimated 5,000 Respondents.

Frequency: This information is collected on occasion.

Estimated Average per Response: Approximately 10 minutes per response.

Estimated Annual Burden Hours: An estimated 542 hours annually.

Abstract: The FAA has initiated customer service surveys throughout the agency, requiring that every element have contact with their customers to assure that their needs are being met and that service is improved.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Nathan Lesser, Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and 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.

Issued in Washington, DC, on July 12, 2007.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 07–3504 Filed 7–18–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on Surplus Property Release at Golden Triangle Regional Airport, Columbus, MS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on land release request.

SUMMARY: Under the provisions of Title 49, U.S.C. Section 47153(c), notice is being given that the FAA is considering a request from the Golden Triangle Regional Airport Authority to waive the requirement that A 2.73± acre parcel of surplus property, located at the Golden Triangle Regional Airport, be used for aeronautical purposes.

DATES: Comments must be received on or before August 20, 2007.

ADDRESSES: Comments on this notice may be mailed or delivered in triplicate

to the FAA at the following address: Jackson Airports District Office, 100 West Cross Street, Suite B, Jackson, MS 39208–2307.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Michael P. Hainsey, Executive Director, Golden Triangle Regional Airport Authority, Columbus, MS, at the following address: 2080 Airport Road, Columbus, MS 39701.

FOR FURTHER INFORMATION CONTACT: David Shumate, Program Manager, Jackson Airports District Office, 100 West Cross Street, Suite B, Jackson, MS 39208–2307, (601) 664–9882. The land release request may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA is reviewing a request by Golden Triangle Regional Airport Authority to release 2.73 acres of surplus property at the Golden Triangle Regional Airport. The Lowndes County Industrial Development Authority will acquire the property for fair market value. A power substation will be constructed on the property.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHUR INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the Golden Triangle Regional Airport, Columbus, Mississippi.

Issued in Jackson, Mississippi, on July 12, 2007.

Rans D. Black,

Manager, Jackson Airports District Office, Southern Region.

[FR Doc. 07–3505 Filed 7–18–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2007–25]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received.

SUMMARY: This notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before August 8, 2007.

ADDRESSES: You may send comments identified by Docket Number FAA–2007–28418 using any of the following methods:

- *DOT Docket Web site:* Go to: *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide rulemaking Web site:* Go to: *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Docket:* To read background documents or comments received, go to: *http://dms.dot.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: We will post all comments we receive, without change, to: *http://dms.dot.gov*, including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT: Tyneka Thomas (202) 267–7626 or Frances Shaver (202) 267–9681, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on July 12, 2007.

Pamela Hamilton-Powell,

Director, Office of Rulemaking.

Petitions for Exemption

Docket No.: FAA–2007–28418.

Petitioner: Gregg Stockman.

Section of 14 CFR Affected: 14 CFR 61.31(e).

Description of Relief Sought: Gregg Stockman seeks relief from § 61.31(e) to the extent necessary to allow him to use certain fixed gear airplanes to provide complex airplane training.

[FR Doc. E7–13936 Filed 7–18–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2007–26]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received.

SUMMARY: This notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before August 8, 2007.

ADDRESSES: You may send comments identified by Docket Number FAA–2007–28589 using any of the following methods:

- *DOT Docket Web site:* Go to: *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide rulemaking Web site:* Go to: *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in

Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

• *Docket:* To read background documents or comments received, go to: *http://dms.dot.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: We will post all comments we receive, without change, to: *http://dms.dot.gov*, including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT: Tyneka Thomas (202) 267–7626 or Frances Shaver (202) 267–9681, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on July 12, 2007.

Pamela Hamilton-Powell,

Director, Office of Rulemaking.

Petitions for Exemption

Docket No.: FAA–2007–28589.

Petitioner: Insitu, Inc.

Section of 14 CFR Affected: 14 CFR 103.1, 103.13, and 103.21.

Description of Relief Sought: Insitu, Inc. (Insitu), seeks relief from §§ 103.1, 103.13, 103.21, to the extent necessary to permit Insitu to operate its Insight (also known as ScanEagle) ultralight unmanned vehicle for commercial purposes within Class G Airspace over sparsely populated terrain and maritime areas.

[FR Doc. E7–13937 Filed 7–18–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Appointment of Representatives of the Uniform Carrier Registration Agreement Board of Directors

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice.

SUMMARY: This document announces the reappointment of the five State representatives of the Board of Directors which governs the Uniform Carrier Registration Agreement (UCRA) as authorized by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU). This notice also announces the replacement of one Board who retired. The UCRA governs the collection and distribution of registration, financial responsibility information and fees paid by for-hire and private motor carriers, brokers, freight forwarders, and leasing companies. The UCRA replaced the Single State Registration System (SSRS), which was repealed January 1, 2007.

DATES: The appointment of the five State representative Board members is effective beginning on June 1, 2007. The appointment of the director Board member became effective February 26, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. James Davis, Federal Motor Carrier Safety Administration, Office of Safety Programs (MC–ES), (202) 366–6406, 1200 New Jersey Avenue, SE., Washington, DC 20590. Office hours are from 8 a.m. to 5 p.m., ET, Monday through Friday except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Section 4305 of SAFETEA–LU [Pub. L. 109–59, 119 Stat. 1144, August 10, 2005] created, under Title 49 U.S. Code, a new section 14504a titled ''Unified Carrier Registration System plan and agreement.''Under the UCR Agreement, motor carriers, motor private carriers, brokers, freight forwarders, and leasing companies provide registration and financial responsibility information and pay certain fees. The Unified Carrier Registration Plan Board of Directors must issue rules and regulations to govern the UCR Agreement.

Title 49 U.S.C. 14504a(a)(9) defines the Unified Carrier Registration Plan as the organization of State, Federal, and industry representatives responsible for developing, implementing, and administering the UCR Agreement. Section 14504a(d)(1)(B) directed the Secretary to establish a Unified Carrier Registration Plan Board of Directors made up of 15 members representing FMCSA, State government, and the motor carrier industry. The Board also must recommend initial annual fees to be assessed against carriers, leasing companies, brokers, and freight forwarders under the UCR Agreement.

Section 14504a(d) stipulates that the Unified Carrier Registration Plan Board of Directors must consist of representatives from the following groups:

U.S. Department of Transportation (the Department): One individual, either the FMCSA Deputy Administrator or such other Presidential appointee from the Department, must represent the Department.

Federal Motor Carrier Safety Administration: One director must be selected from each of the FMCSA service areas (as defined by FMCSA on January 1, 2005) from among the chief administrative officers of the State agencies responsible for administering the UCR Agreement.

State Agencies: The five directors selected to represent State agencies must be from among the professional staffs of State agencies responsible for overseeing the administration of the UCR Agreement and must be nominated by the National Conference of State Transportation Specialists (NCSTS), a non-profit organization founded in 1959 and consisting of State agencies involved in transportation safety, insurance and consumer protection.

Motor Carrier Industry: Five directors must represent the motor carrier industry.

Board of Directors

Today's publication serves as public notice of the reappointment of the State representatives of the UCRA Board of Directors. The five members reappointed to the Board are as follows:

Avelino A. Gutierrez, Staff Counsel for the New Mexico Public Regulation Commission (NMPRC). Mr. Gutierrez has been with the NMPRC for over 15 years and his main area of expertise has been in the transportation field. From June 2003 to June 2004, Mr. Gutierrez served as President of the NCSTS.

Barbara Hague, Special Projects Coordinator within the Missouri Department of Transportation Motor Carrier Services (MODOT). Ms. Hague has 35 years of experience in State transportation regulation supervising the operating authority application, licensing, insurance, and tariff requirements for intrastate and interstate carriers, and has implemented

a paperless office system for operating authority transactions with MODOT.

Dave Lazarides, Director of Processing and Information in the Transportation Bureau of the Illinois Commerce Commission and program manager of the Commercial Vehicle Information Systems and Network (CVISN) for the State of Illinois. Mr. Lazarides played a major role in the design of the SSRS software which has been adopted by 25 other States. He also serves as a consultant to States regarding electronic commerce initiatives and serves as chairman of the Electronic Commerce Committee for the NCSTS.

William Leonard, Director of the Freight Compliance and Safety Bureau, New York Department of Transportation (NYDOT). Mr. Leonard's office is responsible for both New York's Motor Carrier Safety Assistance Program and SSRS. The NYDOT is also responsible for the issuance of operating authority to for-hire intrastate motor carriers in the State of New York.

Terry Willert, Chief of the Colorado Public Utility Commission (COPUC) Transportation section. Mr. Willert currently serves as the NCSTS Treasurer and the Chair of its Strategic Planning Committee. He has been with the COPUC Transportation Section for 22 years as an investigator and as Chief. COPUC is responsible for administering the SSRS, permitting, insurance tracking, and safety of for-hire motor carriers in Colorado.

Today's notice also serves as public notice of the replacement of Mr. Anthony D. Portanova, Deputy Commissioner, Connecticut Department of Motor Vehicles, who retired from his State position on December 31, 2006 and is therefore no longer eligible for UCR Board membership. Mr. Portanova occupied the position from FMCSA's Eastern Service Center. Mr. Charles ''Buddy'' Covert, Director, Transportation Administration Division, Public Service Commission of West Virginia will serve as his replacement.

Board Member Term Limits

The five State representatives who are listed in this notice as members of the Board nominated by the NCSTS will serve a term of three years, expiring on May 31, 2010.

Mr. Charles ''Buddy'' Covert will complete the remainder of Mr. Portanova's initial 2-year appointment which began on June 1, 2006, expiring on May 31, 2008.

Issued on: July 10, 2007.

William A. Quade,

Acting Associate Administrator for Enforcement and Program Delivery.

[FR Doc. E7–13946 Filed 7–18–07; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Vehicle Theft Prevention Standard; Hyundia-Kia America Technical Center, Inc.

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the petition of Hyundai-Kia Motors Corporation (Hyundai) in accordance with 543.9(c)(2) of 49 CFR Part 543, *Exemption from the Theft Prevention Standard,* for the Hyundai Azera vehicle line beginning with model year (MY) 2008. This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard.

DATES: The exemption granted by this notice is effective beginning with model year (MY) 2008.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Office of International Vehicle, Fuel Economy and Consumer Standards, NHTSA, 1200 New Jersey Avenue, SE., NVS–131, Room W43–302 (4th Floor), Washington, DC 20590. Ms. Proctor's telephone number is (202) 366–4807. Her fax number is (202) 493–0073.

SUPPLEMENTARY INFORMATION: In a petition dated March 2, 2007, Hyundai-Kia America Technical Center, Inc., on behalf of Hyundai-Kia Motors (Hyundai) requested an exemption from the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541) for the Hyundai Azera vehicle line beginning with MY 2008. The petition requested an exemption from parts-marking pursuant to 49 CFR Part 543, *Exemption from Vehicle Theft Prevention Standard,* based on the installation of an antitheft device as standard equipment for an entire vehicle line.

Under § 543.5(a), a manufacturer may petition NHTSA to grant an exemption for one of its vehicle lines per year. Hyundai has petitioned the agency to grant an exemption for its Azera vehicle line beginning with MY 2008. In its petition, Hyundai provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the Azera vehicle line. Hyundai will install its passive antitheft device as standard equipment on the vehicle line. Features of the antitheft device will include a passive immobilizer consisting of an EMS (engine control unit), SMARTRA (immobilizer unit), an antenna coil and transponder ignition keys. Additionally, the Hyundai Azera will have a standard alarm system which will monitor all the doors, the trunk and the hood of the vehicle. The audible and visual alarms are activated when an unauthorized person attempts to enter or move the vehicle by unauthorized means. Hyundai's submission is considered a complete petition as required by 49 CFR 543.7, in that it meets the general requirements contained in § 543.5 and the specific content requirements of § 543.6.

The antitheft device to be installed on the MY 2008 Hyundai is a transponder-based electronic immobilizer system. Hyundai stated that the EMS carries out the check of the ignition key by a special encryption algorithm which runs in the transponder and in the EMS in parallel. The engine can only be started if the results of the ignition key check and algorithm are equal.

Hyundai stated that the device is automatically activated by removing the key from the ignition switch and locking the vehicle door. In order to arm the device, the key must be removed from the ignition switch, all of the doors and hood must be closed and the driver's door must be locked with the ignition key or all doors must be locked with the keyless entry. When the device is armed, the visual (flashing hazard lamps) and audible (horn sound) alarm system will be triggered if unauthorized entry is attempted through the doors, trunk or the hood. Hyundai stated that the alarm will be operated in three cycles (30 seconds on and 10 seconds off) and if the alarm shuts down, the device will remain armed. The device is disarmed when the driver's door is unlocked with the transponder key or keyless entry.

Hyundai further stated that since its antitheft device has been installed as standard equipment on the Azera line since MY 2006 and that it is the first vehicle line that comprises both an immobilizer and an alarm system as standard equipment for the U.S. market, there is currently no available theft rate data for Hyundai vehicle lines that have

been installed with similar devices. However, by supplemental letter dated May 16, 2007, Hyundai submitted further data to support its belief that its device will be at least as effective as comparable devices installed on other vehicle lines previously granted exemptions by the agency.

Hyundai further stated that it believes that the GM Pass-Key and Ford Securilock devices contain components that are functionally and operationally similar to its device. Hyundai also stated that the theft data from the National Crime Information Center (NCIC) show a clear reduction in vehicle thefts after the introduction of the GM and Ford devices. Therefore, Hyundai believes that its device will be at least as effective as those GM and Ford devices that have been installed on lines previously granted exemptions by the agency. Hyundai provided theft rate data for the Chevrolet Camaro and Pontiac Firebird vehicle lines showing a substantial reduction in theft rates comparing the lines between pre- and post-introduction of the Pass-Key device. Hyundai also provided ''percent reduction'' data for theft rates between pre- and post-production years for the Ford Taurus and Mustang, and Oldsmobile Toronado and Buick Riviera vehicle lines normalized to the three-year average of the Camaro and Firebird pre-introduction data. Hyundai stated that the data shows a dramatic reduction of theft rates due to the introduction of devices substantially similar to the Hyundai immobilizer device. Specifically, the Taurus, Mustang, Riviera and Toronado vehicle lines showed a 63, 70, 80 and 58 percent theft rate reductions respectively, between pre- and post-introduction of immobilizer devices as standard equipment on these vehicle lines.

In addressing the specific content requirements of 543.6, Hyundai provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, Hyundai conducted tests based on its own specified standards. Hyundai also provided a detailed list of the tests conducted and believes that the device is reliable and durable since the device complied with its specified requirements for each test.

Based on the evidence submitted by Hyundai, the agency believes that the antitheft device for the Azera vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541). Based on the information Hyundai provided about its device, the agency concludes that the device will provide the five types of performance listed in § 543.6(a)(3): promoting activation; attracting attention to the efforts of unauthorized persons to enter or operate a vehicle by means other than a key; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

As required by 49 U.S.C. 33106 and 49 CFR Part 543.6(a)(4) and (5), the agency finds that Hyundai has provided adequate reasons for its belief that the antitheft device, will reduce and deter theft.

For the foregoing reasons, the agency hereby grants in full Hyundai's petition for exemption for the Azera vehicle line from the parts-marking requirements of 49 CFR Part 541. The agency notes that 49 CFR Part 541, Appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR Part 543.7(f) contains publication requirements incident to the disposition of all Part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the Theft Prevention Standard.

If Hyundai decides not to use the exemption for this line, it must formally notify the agency. If such a decision is made, the line must be fully marked according to the requirements under 49 CFR Parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Hyundai wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the anti-theft device on which the line's exemption is based. Further, Part 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The agency wishes to minimize the administrative burden that Part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis*. Therefore, NHTSA suggests that if the manufacturer contemplates making any changes, the effects of which might be characterized as *de minimis*, it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: July 12, 2007.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E7–13948 Filed 7–18–07; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35012]

Wisconsin & Southern Railroad Co.—Lease and Operation Exemption—Soo Line Railroad Company d/b/a Canadian Pacific Railway

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10502, the Board is granting a petition for exemption from the prior approval requirements of 49 U.S.C. 10902 for Wisconsin & Southern Railroad Co., a Class II rail carrier, to lease and operate 4.8 miles of railroad in Milwaukee, WI, owned by Soo Line Railroad Company d/b/a Canadian Pacific Railway (CPR). The subject trackage, known as the Glendale Line, extends southerly from the north line of Hampton Avenue at CPR milepost 93.2 on the Watertown Subdivision to CPR milepost 88.4, which end point is approximately 500 feet south of the southerly street line of State Street, and includes a portion of CPR's Glendale Yard known as the ''B'' yard.

DATES: The exemption will be effective on July 27, 2007. Petitions to stay must be filed by July 23, 2007. Petitions to reopen must be filed by August 6, 2007.

ADDRESSES: An original and 10 copies of all pleadings referring to STB Finance Docket No. 35012 must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, one copy of all pleadings must be served on petitioner's representative: John D. Heffner, PLLC, 1920 N Street, NW., Suite 800, Washington, DC 20007.

FOR FURTHER INFORMATION CONTACT: Julia Farr, (202) 245–0359. [Assistance for the hearing impaired is available through

the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, e-mail, or call: ASAP Document Solutions, 9332 Annapolis Rd., Suite 103, Lanham, MD 20706; e-mail: *asapdc@verizon.net*; telephone: (202) 306–4004. [Assistance for the hearing impaired is available through FIRS at 1–800–877–8339].

Board decisions and notices are available on our Web site at: *http://www.stb.dot.gov*.

Decided: July 13, 2007.

By the Board, Chairman Nottingham, Vice Chairman Buttrey, and Commissioner Mulvey.

Vernon A. Williams,

Secretary.

[FR Doc. E7–13999 Filed 7–18–07; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

July 12, 2007.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before August 20, 2007 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1056.

Type of Review: Revision.

Title: REG–209020–86 (formerly INTL–61–86) NPRM & Temporary Foreign Tax Credit; Notification and Adjustment Due to Foreign Tax Redeterminations

Description: Section 905(c) requires that a taxpayer notify the Internal Revenue Service of a change in the taxpayer's foreign income tax liability that may affect its foreign tax credit. New 1.905–4T provides rules concerning the time, manner, and contents of such notification. Should the taxpayer fail to notify the IRS, penalties under section 6689 may be imposed. Respondents are U.S. taxpayers that claim a foreign tax credit under section 901, 902, or 960.

Respondents: Individuals or Households.

Estimated Total Burden Hours: 54,000 hours.

OMB Number: 1545–0757.

Type of Review: Extension.

Title: LR–209–76 (Final) Special Lien for Estate Taxes Deferred Under Section 6166 or 6166A.

Description: Section 632A permits the executor of a decedent's estate to elect a lien on section 6166 property in favor of the United States in lieu of a bond or personal liability if an election under section 6166 was made and the executor files an agreement under section 6323A(c).

Respondents: Individuals or households.

Estimated Total Burden Hours: 8,650 hours.

OMB Number: 1545–0026.

Type of Review: Extension.

Title: Return by a U.S. Transferor of Property to a Foreign Corporation.

Form: 926.

Description: U.S. persons file Form 926 to report the transfer of property to a foreign corporation and to report information required by section 367. The IRS uses Form 926 to determine if the gain, if any, must be recognized by the U.S. person.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 9,419 hours.

OMB Number: 1545–0490.

Type of Review: Revision.

Title: (1) Application for Reward for Original Information; (2) Solicitud de Recompensa por Informacion Original (Spanish Version).

Form: 211/211 (SP).

Description: Forms 211/211 (SP) are the official application forms used by persons requesting rewards for submitting information concerning alleged violations of the tax laws by other persons. Such rewards are authorized by IRC 7623. The data is used to determine and pay rewards to those persons who voluntarily submit information.

Respondents: Individuals and households.

Estimated Total Burden Hours: 2,800 hours.

OMB Number: 1545–1156.

Type of Review: Extension.

Title: Records (26 CFR 1.6001–1).

Description: Internal Revenue Code section 6001 requires, in part, that every person liable for tax, or for the collection of that tax, keep such records and comply with such rules and regulations as the Secretary may from time to time prescribe. These records are needed to ensure proper compliance with the Code.

Respondents: Individuals and households.

Estimated Total Burden Hours: 1 hours.

OMB Number: 1545–2057.

Type of Review: Extension.

Title: Form 13614–T, Telephone Excise Tax Refund.

Form: 13614–T.

Description: Form 13614–T, is part of a series of forms related to the Form 13614. The Form 13614–T will be used as the Intake Sheet for individuals who potentially qualify to file a Form 1040EZ–T, Request for Refund of Federal Telephone Excise Tax, to receive their refund.

Respondents: Individuals and households.

Estimated Total Burden Hours: 81,917 hours.

OMB Number: 1545–0015.

Type of Review: Extension.

Title: United States Estate (and Generation-Skipping Transfer) Tax Return.

Form: 706.

Description: Form 706 is used by executors to report and compute the Federal Estate Tax imposed by IRC section 2001 and the Federal GST tax imposed by IRC section 2601. IRS uses the information to enforce these taxes and to verify that the tax has been properly computed.

Respondents: Individuals and households.

Estimated Total Burden Hours: 2,028,430 hours.

OMB Number: 1545–1072.

Type of Review: Extension.

Title: INTL–952–86 (NPRM and Temporary) Allocation and Apportionment of Interest Expense and Certain Other Expenses.

Description: Section 864(e) of the Internal Revenue Code provides rules concerning the allocation and apportionment of interest and certain other expenses to foreign source income for purposes of computing the foreign tax credit limitation. The regulations provide for the affirmative election of either the modified gross income method or the asset method of apportionment in the case of a controlled foreign corporation.

Respondents: Individuals and households.

Estimated Total Burden Hours: 3,750 hours.

OMB Number: 1545–1883.
Type of Review: Extension.
Title: Announcement 2004–38, Election of Alternative Deficit Reduction Contribution.
Description: This announcement describes the election that must be made in order for certain employers to take advantage of the alternative deficit reduction contribution described in section 102 of H.R. 3108.
Respondents: Businesses or other for-profit institutions.
Estimated Total Burden Hours: 800 hours.

OMB Number: 1545–0747.
Type of Review: Extension.
Title: IRA Contribution Information.
Form: 5498.
Description: IRC section 408 (i) requires trustees or issuers of individual retirement arrangements to make such reports to the Internal Revenue Service regarding accounts, contracts, or annuities as is required by regulations. Regulations section 1.408–5 establishes the filing dates and the content of Form 5498 and the information required to be included in annual reports to participants. Section 408(o)(4)(B) requires the taxpayer to use the fair market value of the account in certain computations.
Respondents: Businesses or other for-profits.
Estimated Total Burden Hours: 16,241,629 hours.

OMB Number: 1545–0806.
Type of Review: Extension.
Title: EE–12–78 (Final) Non-Bank Trustees.
Description: IRC section 408(a)(2) permits an institution other than a bank to be the trustee of an individual retirement account (IRA). To do so, an application needs to be filed and various requirements need to be met. IRS uses the information to determine whether an institution qualifies to be a non-bank trustee.
Respondents: Businesses and other for-profit institutions.
Estimated Total Burden Hours: 13 hours.

OMB Number: 1545–1155.
Type of Review: Extension.
Title: PS–74–89 (TD 8282) Final Election of Reduced Research Credit.
Description: These regulations prescribe the procedure for making the election described in section 280C(c)(3) of the Internal Revenue Code. Taxpayers making this election must reduce their section 41(a) research credit, but are not required to reduce their deductions for qualified research expenses, as required in paragraphs (1) and (2) of section 280C(c).
Respondents: Businesses or other for-profit institutions.
Estimated Total Burden Hours: 50 hour.

OMB Number: 1545–0112.
Type of Review: Revision.
Title: Interest Income.
Form: 1099–INT.
Description: This form is used for reporting interest income paid, as required by sections 6049 and 6041 of the Internal Revenue Code. It is used to verify that payees are correctly reporting their income.
Respondents: Businesses or other for-profit institutions.
Estimated Total Burden Hours: 63,223,463 hour.

OMB Number: 1545–2043.
Type of Review: Extension.
Title: Form 8879–B, IRS e-file Signature Authorization for Form 1065–B.
Form: 8879–B.
Description: Tax year 2006 is the first year that filers of Form 1065–B (electing large partnerships) can file electronically. Form 8879–B is used when a personal identification number (PIN) will be used to electronically sign the electronic tax return, and, if applicable, consent to an electric funds withdrawal.
Respondents: Businesses or other for-profit institutions.
Estimated Total Burden Hours: 258 hour.
Clearance Officer: Glenn P. Kirkland (202) 622–3428, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Robert Dahl,
Treasury PRA Clearance Officer.
[FR Doc. E7–13967 Filed 7–18–07; 8:45 am]
BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

July 12, 2007.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.
Dates: Written comments should be received on or before August 20, 2007 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–2063.
Type of Review: Extension.
Title: Notice 2007–19 (NOT–103443–07) Statute of Limitations on Assessment Concerning Certain Individuals Filing Income Tax Returns with the USVI.
Description: This notice provides interim guidance, pending the issuance of regulations, concerning the statute of limitations on assessment for the U.S. income tax liability. If any, of U.S. citizens or resident aliens claiming to be bona fide residents of the U.S. Virgin Islands (USVI). In addition, notice provides new information reporting rules for certain taxpayers claiming to be bona fide residents of the USVI.
Respondents: Individuals or Households.
Estimated Total Burden Hours: 42,500 hours.

OMB Number: 1545–1597.
Type of Review: Extension.
Title: Revenue Procedure 2000–12, Application Procedures for Qualified Intermediary Status Under Section 1441; Final Qualified Intermediary Withholding Agreement.
Description: Revenue Procedure 2000–12 describes application procedures for becoming a qualified intermediary and the requisite agreement that a qualified intermediary must execute with the IRS. The information will be used by the IRS to ensure compliance with the U.S. withholding system under the 1441 regulations (especially proper entitlement to treaty benefits).
Respondents: Businesses and other or-profits.
Estimated Total Burden Hours: 301,108 hours.

OMB Number: 1545–1600.
Type of Review: Extension.
Title: REG–251703–96 (Final) Residence of Trusts and Estates–7701.
Description: Section 1161 of the Taxpayer Relief Act of 1997, Pub. L. No. 105–34, 111 Stat. 788 (1997), provides that a trust that was in existence on August 20, 1996 (other than a trust treated as owned by the grantor under subpart E of part I of subchapter J of chapter 1 of the Internal Revenue Code of 1986) and that was treated as a United States person on August 19,

1996, may elect to continue to be treated as a United States person notwithstanding § 7701(a)(30)(E) of the Code. The election will require the Internal Revenue Service to collect information. This regulation provides the procedure and requirements for making the election to remain a domestic trust.

Respondents: Individuals or households.

Estimated Total Burden Hours: 114 hours.

OMB Number: 1545–1331.

Type of Review: Extension.

Title: PS–55–89 (Final) General Asset Accounts Under the Accelerated Cost Recovery System.

Description: The regulations describe the time and manner of making the election described in IRC Section 168(i)(4). Basic information regarding this election is necessary to monitor compliance with the rules in the IRC Section 168.

Respondents: Businesses and other for-profits.

Estimated Total Burden Hours: 250 hours.

OMB Number: 1545–0190.

Type of Review: Revision.

Title: (MA)—Real Estate Lending and Appraisals—12 CFR 34.

Description: The information collections are required by statute to regulate real estate lending and holding by national banks. These regulations are required by statute and are used by the OCC to ensure the safe and sound operation of national banks and bank compliance. National banks are the affected public.

Respondents: Businesses and other for-profits.

Estimated Total Burden Hours: 102,650 hours.

OMB Number: 1545–0105.

Type of Review: Extension.

Title: CRA Sunshine.

Description: These information collections are required under section 711 of the Gramm-Leach-Bliley Act, Public Law No. 106–102. This section requires certain agreements that are in fulfillment of the Community Reinvestment Act of 1977 to be disclosed to the public and the appropriate Federal banking agencies. This section also institutes an annual reporting requirement to the agencies concerning these agreements. These requirements apply to insured depository institutions and their affiliates, as well as nongovernmental entities or persons that enter into covered agreements with such entities.

Respondents: Businesses and other for-profits.

Estimated Total Burden Hours: 1,416 hours.

OMB Number: 1545–1413.

Type of Review: Extension.

Title: IA–30–95 (Final) Reporting on Nonpayroll Withheld Tax Liabilities

Description: These regulations concern the Secretary's authority to require a return of tax under section 6011 and provide for the requirement of a return by persons deducting and withholding income tax from ''Nonpayroll'' payments.

Respondents: Businesses and other for-profits.

Estimated Total Burden Hours: 1 hours.

OMB Number: 1545–1265.

Type of Review: Extension.

Title: IA–120–86 (Final) Capitalization of Interest.

Description: The regulations require taxpayers to maintain contemporaneous written records of estimates, to file a ruling request to segregate activities in applying the interest capitalization rules, and to request the consent of the Commissioner to change their methods of accounting for the capitalization of interest.

Respondents: Individuals and households.

Estimated Total Burden Hours: 116,767 hours.

OMB Number: 1545–2062.

Type of Review: Extension.

Title: Reconciliation of Schedule M–3 Taxable Income with Tax Return Taxable Income for Mixed Groups.

Form: 8962.

Description: The Form 8916 reconciles taxable income per the Schedule M–3 for the Forms 1120, 1120–L, or 1120–PC with the taxable income on mixed groups filing Form 1120, 1120–L, or 1120–PC. This is necessary because certain special adjustments are required to match taxable income of mixed groups as reported on the Schedule M–3 with taxable income they report on Forms 1120, 1120–L, or 1120–PC.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 3,385 hours.

OMB Number: 1545–1893.

Type of Review: Extension.

Title: REG–150562–03 (NPRM) section 1045 Application to Partnerships.

Description: The collection of information is in § 1.1045–1(b)(4)(ii). Any partner who recognizes all or a part of the partner's distributive share of partnership section 1045 gain must notify the partnership of the amount of the partnership section 1045 gain that is recognized. This information will be used by the partnership to make necessary adjustments to the basis of the replacement qualified small business stock.

Respondents: Individuals or households.

Estimated Total Burden Hours: 1,000 hours.

OMB Number: 1545–0796.

Type of Review: Extension.

Title: Office of Chief Counsel-Application.

Form: 6524.

Description: The Chief Counsel Application form provides data we deem critical for evaluating an attorney applicant's qualifications such as LSAT score, bar admission status, type of work preference, law school, class standing. OF–306 does not provide this information.

Respondents: Individuals or households.

Estimated Total Burden Hours: 900 hours.

OMB Number: 1545–1153.

Type of Review: Extension.

Title: PS–73–89 (TD 8370) (Final) Excise Tax on Chemicals That Deplete the Ozone Layer and on Products Containing Such Chemicals.

Description: Section 4681 imposes a tax on ozone-depleting chemicals sold or used by a manufacturer or importer thereof and imported taxable products sold or used by an importer thereof. A floor stocks tax is also imposed. This regulation provides reporting and recordkeeping rules.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 75,142 hour.

OMB Number: 1545–0814.

Type of Review: Extension.

Title: EE–44–78 (Final) Cooperative Hospital Service Organizations.

Description: This regulation establishes the rules for cooperative hospital service organizations which seek tax-exempt status under section 501(e) of the Internal Revenue Code. Such an organization must keep records in order to show its cooperative nature and to establish compliance with other requirements in section 501(c).

Respondents: Not-for-profit institutions.

Estimated Total Burden Hours: 1 hour.

OMB Number: 1545–0997.

Type of Review: Extension.

Title: Proceeds From Real Estate Transactions.

Form: 1099–S.

Description: Form 1099–S is used by the real estate reporting person to report

proceeds from a real estate transaction to the IRS.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 510,465 hours.

Clearance Officer: Glenn P. Kirkland, (202) 622–3428, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Robert Dahl,

Treasury PRA Clearance Officer.

[FR Doc. E7–13996 Filed 7–18–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

July 13, 2007.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before August 20, 2007 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1189.

Type of Review: Extension.

Title: Dollar Election Under Section 985.

Form: 8819.

Description: Form 8819 is filed by U.S. and foreign businesses to elect the U.S. dollar as their functional currency or as the functional currency of their controlled entities. The IRS uses Form 8819 to determine if the election is properly made.

Respondents: Businesses and other for-profits.

Estimated Total Burden Hours: 3,320 hours.

OMB Number: 1545–2056.

Type of Review: Revision.

Title: REG–147144–06 Section 1.367(a)–8 Revisions.

Description: These temporary and proposed regulations under IRC section 367(a) provide rules for taxpayers to avoid recognizing gain under a gain recognition agreement (GRA) if a new GRA and notice statement are filed. The regulations also provide a rule under which a taxpayer may reduce the basis in certain stock to meet one of the requirements for terminating a GRA. These regulations also revise an existing rule to facilitate electronic filing. The revision requires that information that a taxpayer currently would write on the face of its Federal income tax return shall instead be attached as a separate schedule to its return.

Respondents: Businesses and other for-profits.

Estimated Total Burden Hours: 240 hours.

OMB Number: 1545–0199.

Type of Review: Extension.

Title: REG–251703–96 (Final), Residence of Trusts and Estates–7701.

Form: 5306–A.

Description: This form is used by banks, credit unions, insurance companies, and trade or professional associations to apply for approval of a Simplified Employee Pension Plan or Savings Incentive Match Plan to be used by more than one employer. The data collected is used to determine if the prototype plan submitted is an approved plan.

Respondents: Businesses and other for-profits.

Estimated Total Burden Hours: 94,400 hours.

OMB Number: 1545–1892.

Type of Review: Extension.

Title: REG–153841–02 (Final), Election Out of GST Deemed Allocations.

Description: The collection of information in this proposed regulation is in sections 26.2632–1(b)(2)(ii), 26.2632–1(b)(2)(iii), and 26.2632–1(b)(2). This information is required by the IRS for taxpayers who elect to have the automatic allocation rules not apply to the current transfer and/or to future transfers to the trust or to terminate such election. This information is also required by the IRS for taxpayers who elect to treat trusts described in section 2632(c)(3)(B)(i) through (vi) as GST trusts or to terminate such election.

Respondents: Individuals or households.

Estimated Total Burden Hours: 12,500 hours.

OMB Number: 1545–0191.

Type of Review: Extension.

Title: Investment Interest Expense Deduction.

Form: 4952.

Description: Form 4952 is used by taxpayers who paid or accrued interest on money borrowed to purchase or carry investment property. The form is used to compute the allowable deduction for interest on investment indebtedness and the information obtained is necessary to verify the amount actually deducted.

Respondents: Individuals or households.

Estimated Total Burden Hours: 205,596 hours.

OMB Number: 1545–2059.

Type of Review: Extension.

Title: TD 9312 (Temp), Deduction for qualified film and television production costs.

Description: This temporary regulation provides rules for electing to claim a deduction for certain costs of producing of a qualifying film or television production, and for substantiating that the production qualifies for the deduction. The temporary regulation provides the time and manner for a taxpayer to submit certain information to make the election and to claim this deduction.

Respondents: Businesses and other for-profits.

Estimated Total Burden Hours: 1,500 hours.

OMB Number: 1545–0035.

Type of Review: Extension.

Title: Employer's Annual Tax Return for Agricultural Employees.

Form: 943, 943–PR, 943–A, 943A–PR.

Description: Agricultural employers must prepare and file Form 943 and Form 943–PR (Puerto Rico only) to report and pay FICA taxes and (943 only) income tax voluntarily withheld. Agricultural employers may attach Forms 943–A and 943–A–PR to Forms 943 and 943–PR to show their tax liabilities for semiweekly periods. The information is used to verify that the correct tax has been paid.

Respondents: Businesses and other for-profits.

Estimated Total Burden Hours: 8,972,974 hours.

OMB Number: 1545–2060.

Type of Review: Revision.

Title: Notice 2007–46—Credit for New Medium-Duty and Heavy-Duty Hybrid Motor Vehicles.

Description: This notice sets forth a process that allows taxpayers who purchase medium-duty and heavy-duty hybrid vehicles to rely on the domestic manufacturer's (or, in the case of a foreign manufacturer, its domestic distributor's) certification that both a particular make, model, and year of vehicle qualifies as a qualified hybrid motor vehicle under section 30B(3) and (d), and the amount of the credit allowable with respect to the vehicle.

Respondents: Businesses and other for-profits.

Estimated Total Burden Hours: 280 hours.

OMB Number: 1545–1112.

Type of Review: Extension.

Title: IA–96–88 (Final) Certain Elections Under the Technical and Miscellaneous Revenue Act of 1988 and the Redesignation of Certain Other Temporary Elections Regulations.

Description: These regulations establish various elections with respect to which immediate interim guidance on the time and manner of making the elections is necessary. These regulations enable taxpayers to take advantage of the benefits of various Code provisions.

Respondents: Individuals or households.

Estimated Total Burden Hours: 6,712 hours.

OMB Number: 1545–0807.

Type of Review: Extension.

Title: LR 2013 (TD 7533) Final, Disc Rules on Procedure and Administration; Rules on Export Trade Corporations, and EE–155–78 (TD 7896), Final, Income from Trade Shows.

Description: Section 1.6071–1(b) requires that when a taxpayer files a late return for a short period, proof of unusual circumstances for late filing must be given to the District Director. Section 1.6072(b),(c),(d), and (e) of the IRC deals with the filing dates of certain corporate returns. Regulation section 1.6072–2 provides additional information concerning these filing dates. The information is used to insure timely filing of corporate income tax returns.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 3,104 hours.

OMB Number: 1545–0715.

Type of Review: Extension.

Title: Proceeds From Broker and Barter Exchange Transactions.

Form: 1099–B.

Description: Form 1099–B is used by brokers and barter exchanges to report proceeds from transactions to the Internal Revenue Service. The form will be used by IRS to verify compliance with the reporting rules and to verify that the recipient has included the proper amount of income on his or her return.

Respondents: Individuals or households.

Estimated Total Burden Hours: 39,988,038 hours.

OMB Number: 1545–0597.

Type of Review: Extension.

Title: Form W–2, 1098, or 1099 Not Received, or Incorrect or Lost.

Form: 4598.

Description: Employers and/or payers are required to furnish Forms W–2, 1098, or 1099 to employees and other payees. This two part form is necessary for the resolution of taxpayers complaints concerning the non-receipt of, incorrect or lost Forms W–2, 1098, or 1099.

Respondents: Individuals or households.

Estimated Total Burden Hours: 212,500 hours.

OMB Number: 1545–1622.

Type of Review: Extension.

Title: Interest Computation Under the Look-Back Method for Property Depreciated Under the Income Forecast Method.

Form: 8866.

Description: Taxpayers depreciating property under the income forecast method and placed in service after September 13, 1995, must use Form 8866 to compute and report interest due or to be refunded under IRC 167(g)(2). The IRS uses Form 8866 to determine if the interest has been figured correctly.

Respondents: Individuals or households.

Estimated Total Burden Hours: 44,121 hours.

OMB Number: 1545–0798.

Type of Review: Extension.

Title: 26 CFR 31.6001–1 Records in general; 26 CFR 31.6001–2 Additional Records under FICA; 26 CFR 31.6001–3, Additional records under Railroad Retirement Tax Act; 26 CFR 31.6001–5 Additional records.

Description: IRC section 6001 requires, in part, that every person liable for tax, or for the collection of that tax keep such records and comply with such rules and regulations as the Secretary may from time to time prescribe. 26 CFR 31.6001 has special application to employment taxes. These records are needed to ensure compliance with the Code.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 30,273,950 hours.

Clearance Officer: Glenn P. Kirkland, (202) 622–3428, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Robert Dahl,

Treasury PRA Clearance Officer.

[FR Doc. E7–13997 Filed 7–18–07; 8:45 am]

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Federal Register

Thursday,
July 19, 2007

Part II

Securities and Exchange Commission

17 CFR Parts 210, 228, 229 et al.
Smaller Reporting Company Regulatory Relief and Simplification; Proposed Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210, 228, 229, 230, 239, 240, 249, 260, and 269

[Release Nos. 33–8819; 34–56013; 39–2447; File No. S7–15–07]

RIN 3235–AJ86

Smaller Reporting Company Regulatory Relief and Simplification

AGENCY: Securities and Exchange Commission.

ACTION: Proposed amendments.

SUMMARY: The Securities and Exchange Commission is proposing rule amendments relating to our disclosure and reporting requirements for smaller companies under the Securities Act of 1933 and the Securities Exchange Act of 1934. We propose to extend the benefits of our current optional disclosure and reporting requirements for smaller companies to a much larger group of companies. The proposals would allow companies with a public float of less than $75 million to qualify for the smaller company requirements, up from $25 million for most companies today. The proposals also would combine for most purposes the ''small business issuer'' and ''non-accelerated filer'' categories of smaller companies into a single category of ''smaller reporting companies.'' In addition, the proposals would maintain the current disclosure requirements for smaller companies contained in Regulation S–B, but integrate them into Regulation S–K. We also are soliciting suggestions for additional ways in which we could better scale our disclosure and reporting requirements to the needs of smaller reporting companies and their investors.

DATES: Comments should be received on or before September 17, 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.shtml*);
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number S7–15–07 on the subject line; or
- Use the Federal Rulemaking 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 S7–15–07. 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.shtml*). Comments are also available for public inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. 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: Gerald J. Laporte, Chief, Kevin M. O'Neill, Special Counsel, or Johanna Vega Losert, Attorney-Advisor, Office of Small Business Policy, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–3628, (202) 551–3460.

SUPPLEMENTARY INFORMATION: We propose amendments to Regulation S–K,[1] and rules and forms under the Securities Act of 1933,[2] Securities Exchange Act of 1934,[3] and Trust Indenture Act of 1939.[4] In Regulation S–K, we propose to amend Items 10, 101, 201, 301, 302, 303, 305, 401, 402, 404, 407, 503, 504, 512, 601, 701, and 1118.[5] We propose to add a new Item 310 to Regulation S–K. We propose to amend Securities Act Rules 110, 138, 139, 158, 175, 405, 415, 428, 430B, 430C, 455, and 502.[6] Further, we propose to repeal Regulation S–B[7] and eliminate the forms associated with it, which include Forms SB–1, SB–2, 10–SB, 10–QSB, and 10–KSB.[8] We propose to amend Securities Act Forms 0–1, S–1, S–3, S–4, S–8, S–11, 1–A, and F–X.[9] We also propose to amend Exchange Act Rules 0–2, 0–12, 3b–6, 10A–1, 10A–3, 12b–2, 12b–23, 12b–25, 12h–3, 13a–10, 13a–13, 13a–14, 13a–16, 13a–20, 14a–3, 14a–5, 14a–8, 14c–3, 14d–3, 15d–10, 15d–13, 15d–14, 15d–20, and 15d–21[10] and Exchange Act Forms 0–1, 8–A, 8–K, 10, 10–Q, 10–K, 11–K, 20–F, and SE.[11] We also propose to amend Schedules 14A and 14C.[12] Under Regulation S–X,[13] we propose to amend Rules 210.3–01, 210.3–10, 210.3–12, 210.3–14, 210.4–01, and 210.10–01.[14] Finally, we propose to amend Trust Indenture Act Rules 0–11, 4d–9, 10a–5,[15] and § 269.0–1 of the Trust Indenture Act Forms.[16]

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[1] 17 CFR 229.10–229.1123.

[2] 15 U.S.C. 77a *et seq.*

[3] 15 U.S.C. 78a *et seq.*

[4] 15 U.S.C. 77aaa *et seq.*

[5] 17 CFR 229.10, 229.101, 229.201, 229.301, 229.302, 229.303, 229.305, 229.401, 229.402, 229.404, 229.407, 229.503, 229.504, 229.512, 229.601, 229.701, and 229.1118.

[6] 17 CFR 230.110, 230.138, 230.139, 230.158, 230.175, 230.405, 230.415, 230.428, 230.430B, 230.430C, 230.455, and 230.502.

[7] 17 CFR 228.10–228.703.

[8] 17 CFR 239.9, 239.10, 249.210b, 249.308b, and 249.310b.

[9] 17 CFR 239.0–1, 239.11, 239.13, 239.25, 239.16b, 239.18, 239.90, and 239.42.

[10] 17 CFR 240.0–2, 240.0–12, 240.3b–6, 240.10A–1, 240.10A–3, 240.12b–2, 240.12b–23, 240.12b–25, 240.12h–3, 240.13a–10, 240.13a–13, 240.13a–14, 240.13a–16, 240.13a–20, 240.14a–3, 240.14a–5, 240.14a–8, 240.14c–3, 240.14d–3, 240.15d–10, 240.15d–13, 240.15d–14, 240.15d–20, and 240.15d–21.

[11] 17 CFR 249.0–1, 249.208a, 249.210, 249.308, 249.308a, 239.310, 249.311, 249.220f, and 249.444.

[12] 17 CFR 240.14a–101 and 240.14c–101.

[13] 17 CFR 210.3–01–210.12–29.

[14] 17 CFR 210.3–01, 210.3–10, 210.3–12, 210.3–14, 210.4–01, and 210.10–01.

[15] 17 CFR 260.0–11, 260.4d–9, and 260.10a–5.

[16] 17 CFR 269.0–1.

I. Background

Since the federal securities laws were first enacted, the Commission has made special efforts not to subject smaller companies and their investors to unduly burdensome federal securities regulation.[17] This special concern for small business in part reflects recognition of the special role that small business historically has played as a driver of economic activity, innovation, and job creation in the United States. In March 2005, we chartered the Advisory Committee on Smaller Public Companies and asked that panel to assess the current regulatory system for smaller companies under the federal securities laws and to recommend changes to that system.[18] The major proposals we are making in this release stem from the Advisory Committee's recommendations.

Our rules currently include two major categories of smaller companies—''small business issuers'' and ''non-accelerated filers''—for purposes of scaling our disclosure and reporting requirements to the needs of smaller companies and their investors. These two categories of smaller companies are defined as follows:

- ''Small business issuers'' essentially are companies with both a public float and revenues of less than $25 million. Of the 11,898 companies that filed annual reports under the Exchange Act in 2006, 3,749 had a public float of less than $25 million.[19]
- ''Non-accelerated filers'' are companies that do not qualify as ''large accelerated filers'' or ''accelerated filers'' under our rules.[20] Non-accelerated filers essentially are companies with a public float of less than $75 million. Of the 11,898 companies that filed annual reports under the Exchange Act in 2006, 4,976 had a public float of less than $75 million.[21]

The scaled disclosure and reporting requirements available to these smaller companies apply to companies filing registration statements covering offerings of securities under the Securities Act and companies required to file annual and other reports under Exchange Act Sections 13 and 15(d).[22]

''Small business issuers'' are eligible to make required disclosures based on the requirements in Regulation S–B,[23] which sets forth disclosure standards for small business issuers that must file documents with the Commission under the Securities Act, Exchange Act, or Trust Indenture Act. In most cases, small business issuers may make disclosures based on Regulation S–B only if they use one of the forms we have designated with the letters ''SB''—Form 10–SB, Form 10–QSB, Form 10–KSB, Form SB–1, and Form SB–2. One of the most important provisions of Regulation S–B is Item 310, which governs the form, content, and preparation of financial statements for companies that provide disclosure pursuant to Regulation S–B. The requirements in Item 310 of Regulation S–B are less detailed than the requirements in Regulation S–X, the regulation that governs the financial statements of most companies that do not rely on Regulation S–B. Regulation S–B also contains a number of disclosure requirements that are scaled to the characteristics of smaller companies, including requirements on executive compensation, related person transactions, and management's discussion and analysis of financial condition and results or plan of operation.[24]

Smaller companies qualifying as ''non-accelerated filers'' may file their annual reports no later than 90 days after fiscal year end and their quarterly reports no later than 45 days after the end of each fiscal quarter.[25] This contrasts with the 60-day and 75-day deadlines for the annual reports of large accelerated filers and accelerated filers, respectively, and the 40-day deadline for quarterly reports of those larger companies. Non-accelerated filers also are treated differently with regard to the compliance dates applicable to the internal control over financial reporting provisions in Section 404 of the Sarbanes-Oxley Act of 2002.[26]

Our proposals have three primary objectives, each of which is consistent with investor protection:

- Expanding eligibility for our scaled disclosure and reporting requirements for smaller companies by making those requirements available to most companies with a public float of less than $75 million;
- Simplifying our rules for smaller companies by combining the two categories of small business issuers and non-accelerated filers into one category called ''smaller reporting companies;'' and
- Simplifying and improving our disclosure and reporting rules for smaller companies by maintaining the Regulation S–B disclosure requirements for smaller companies but integrating them into the disclosure requirements in Regulation S–K.

The Advisory Committee on Smaller Public Companies addressed these objectives in the following recommendations:

- *Recommendation II.P.1:* Establish a new system of scaled or proportional securities regulation for smaller public companies using the following six determinants to define a ''smaller public company'':
  - The total market capitalization of the company;
  - A measurement metric that facilitates scaling of regulation;
  - A measurement metric that is self-calibrating;
  - A standardized measurement and methodology for computing market capitalization;
  - A date for determining total market capitalization; and
  - Clear and firm transition rules, *i.e.*, small to large and large to small.

  Develop specific scaled or proportional regulation for companies under the system if they qualify as ''microcap companies'' because their equity market capitalization places them in the lowest 1% of total U.S. equity market capitalization or as ''smallcap companies'' because their equity market capitalization places them in the next

[17] See SEC Advisory Committee on Smaller Public Companies, Final Report 20–21 (2006) (''Advisory Committee Final Report''), available at *http://www.sec.gov/info/smallbus/acspc.shtml*.

[18] See Advisory Committee Final Report 1, App. B (Advisory Committee Charter).

[19] Of these 11,898 filers, 3,395 filed a Form 10–KSB, the annual report filed by small business issuers. We determined that there were an additional 354 filers with a public float of less than $25 million that did not file a Form 10–KSB because they opted to use Form 10-K, the form prescribed for most larger companies, instead. We have not attempted to provide information on companies with revenues of less than $25 million because, as discussed below, we propose to eliminate the revenue test for purposes of the primary determination of whether smaller companies qualify for scaled regulation under our disclosure requirements.

[20] The terms ''large accelerated filer'' and ''accelerated filer'' are defined in Exchange Act Rule 12b–2 (17 CFR 240.12b–2).

[21] Statistics are based on 2006 data from the Commission's computerized filing system and Thomson Financial (Datastream). Datastream data includes all registered public firms trading on the New York Stock Exchange, the American Stock Exchange, the Nasdaq, the Over-the-Counter Bulletin Board, and the Pink Sheets and excludes closed end funds, exchange traded funds, American depository receipts, and direct foreign listings.

[22] 15 U.S.C. 78m and 15 U.S.C. 78o(d).

[23] The term ''small business issuer'' is defined in Item 10(a)(1) of Regulation S–B (17 CFR 228.10(a)(1)), among other places. The Commission adopted Regulation S–B in 1992. See Release No. 33–6949 (July 30, 1992) [57 FR 36442].

[24] For a more complete survey of the disclosure requirements for small business issuers in Regulation S–B, see Section II.B.2 below.

[25] See Release No. 33–8644 (Dec. 21, 2005) [70 FR 76626].

[26] Pub. L. No. 107–204, 116 Stat. 745 (July 30, 2002); see also Release No. 33–8760 (Dec. 15, 2006) [71 FR 76580].

lowest 1% to 5% of total U.S. equity market capitalization, with the result that all companies comprising the lowest 6% would be considered for scaled or proportional regulation;[27]

- *Recommendation IV.P.1:* Incorporate the scaled disclosure accommodations currently available to small business issuers under Regulation S–B into Regulation S–K, make them available to all microcap companies, and cease prescribing separate specialized disclosure forms for smaller companies;[28] and
- *Recommendation IV.P.2:* Incorporate the primary scaled financial statement accommodations currently available to small business issuers under Regulation S–B into Regulation S–K or Regulation S–X and make them available to all microcap and smallcap companies.[29]

It has been maintained that regulation and disclosure standards are proportional when compliance requirements are flexible enough to be modified and scaled according to the size, resources, operations, and financial complexities of the reporting company without sacrificing investor protection.[30] We believe that our proposals meet this standard. We also believe these proposals maintain investor protection while providing greater capital formation opportunities for smaller reporting companies and encouraging more robust smaller company participation in the United States capital markets.

II. Explanation of Proposals

The proposals that we publish for comment today would simplify, and increase significantly the number of companies eligible for our scaled disclosure and reporting rules for smaller reporting companies, consistent with investor protection. Our proposals largely would implement several of the recommendations of our Advisory Committee on Smaller Public Companies in these areas.

A. Expanding Eligibility for Smaller Company Scaled Regulation

The proposals would expand the availability of our disclosure and reporting requirements for smaller companies to most companies with a public float of less than $75 million.[31] We are proposing a new term—''smaller reporting company''—to replace the term ''small business issuer'' and proposing to make available to these ''smaller reporting companies''[32] the disclosure and reporting standards that we make available to small business issuers and most non-accelerated filers.[33] Our proposals would provide further regulatory simplification and relief for smaller reporting companies by integrating into Regulation S–K the salient ''small business issuer'' disclosure requirements currently found in Regulation S–B. Finally, our proposals would eliminate all ''SB'' forms associated with Regulation S–B.

1. Quantitative Standards in the Proposed Definition of ''Smaller Reporting Company''

a. Proposed Standard

The smaller reporting company definition would include a public float eligibility ceiling of $75 million for most companies. Other companies, for example, companies that do not have a public float as defined or are unable to calculate it, would be eligible for scaled treatment if their revenues are below $50 million annually.[34] At present, 3,395 reporting companies use our current scaled disclosure and reporting requirements for smaller companies.[35] If the proposals are adopted, a total of 4,976 companies would be eligible to use the scaled disclosure item requirements. The 4,976 eligible companies represent 42% of the 11,898 companies that filed annual reports under the Exchange Act in 2006.[36]

The term ''smaller reporting company'' would replace the term ''small business issuer,'' which defines the companies eligible currently to use the Regulation S–B disclosure requirements.[37] The proposed definition of smaller reporting company also would include most non-accelerated filers, which generally are those filers with a public float of less than $75 million.[38] Non-accelerated filers are the companies currently eligible to use different compliance dates applicable to internal control over financial reporting and different periodic report deadlines. By using the same term to refer to both current groups of companies, we would effectively combine the two groups of scaled requirements into a single group—companies with a public float of less than $75 million, or revenues below $50 million if their public float cannot be calculated. As proposed, the $75 million and $50 million ceilings would be adjusted for inflation on September 1, 2012, and every fifth year thereafter, to reflect any changes in the value of the Personal Consumption Expenditures Chain-Type Price Index (PCECTP Index) (or any successor index thereto), as published by the Department of Commerce, from December 31, 2006.[39]

We propose to set the initial ceiling for smaller reporting companies at $75 million in public float because we now have several rules using the $75 million public float metric to distinguish smaller companies. In addition to the use of this public float metric in the definition of accelerated filer, the $75 million public float requirement is used to determine expanded eligibility in Form S–3 and Form F–3.[40] Further, issuers are required to provide their public float on the cover page of their Exchange Act annual reports.

Our proposed definition of ''smaller reporting company'' does not include a revenue test for most companies. While our current definition of ''small business issuer'' includes a revenue standard, the classification of an issuer as a large accelerated filer, an accelerated filer, or (by default) a non-accelerated filer does not involve a revenue standard. We chose not to propose a revenue standard to qualify for ''smaller reporting company'' status for most companies to provide greater simplicity, consistency, and certainty.

While our proposed definition of ''smaller reporting company'' does not generally apply a revenue standard,

[27] See Advisory Committee Final Report 14–22.

[28] See Advisory Committee Final Report 60–64.

[29] See Advisory Committee Final Report 65–68.

[30] See generally C. Steven Bradford, *Does Size Matter? An Economic Analysis of Small Business Exemptions from Regulation*, 8 J. Small & Emerging Bus. L. 1, 2 (1999) (providing an economic analysis of costs and benefits associated with small business exemptions

[31] See proposed Item 10(f)(1) of Regulation S–K. We propose to continue to exclude investment companies and asset-backed issuers from eligibility for scaled reporting and disclosure regulation.

[32] The definition would replace the almost identical definitions of the term ''small business issuer'' in Securities Act Rule 405 and Exchange Act Rule 12b–2. We also would insert the new definition as a new paragraph in Item 10(f) of Regulation S–K.

[33] Under our proposals, we would continue to use the term ''non-accelerated filer'' to refer to companies that are not subject to our accelerated filing requirements for their annual and quarterly reports under the Exchange Act and are currently eligible to use different compliance dates applicable to internal control over financial reporting and different periodic report deadlines.

[34] See proposed Item 10(f)(1) of Regulation S–K.

[35] See footnote 19 above.

[36] See footnote 21 above.

[37] See Item 10(a)(1) of Regulation S–B, Securities Act Rule 405, and Exchange Act Rule 12b–2.

[38] Although the term ''non-accelerated filer'' is not defined in our rules, we allude to it in Exchange Act Rule 12b–2 and have used it throughout several releases to refer to an Exchange Act reporting company that does not meet the Exchange Act Rule 12b–2 definitions of either an ''accelerated filer'' or a ''large accelerated filer.'' See Release No. 33–8760 n.15 (Dec. 15, 2006) [71 FR 76580].

[39] Each adjustment would be rounded to the nearest multiple of $5,000,000. We propose to use the PCECTP Index because it is a widely used and broad indicator of inflation in the U.S. economy.

[40] 17 CFR 239.33 and 239.13.

where an issuer has no common equity public float or market price, we propose a revenue test.[41] If an issuer has no common equity public float or market price and it has reported annual revenues of less than $50 million in the most recently completed fiscal year for which audited financial statements are available, then it would qualify initially for scaled regulation as a smaller reporting company for the fiscal year in which it files a registration statement under the Securities Act or Exchange Act with the Commission as a smaller reporting company.[42]

As proposed, the determination date for calculating a company's public float to establish eligibility for smaller reporting company status would be the same date used to determine accelerated filer status today—the last business day of a company's second fiscal quarter.[43] The public float of a reporting company would be calculated by using the price at which the shares of its common equity were last sold or the average of the bid and asked prices of such shares in the principal market for the shares as of the last business day of the company's second fiscal quarter, multiplied by the number of outstanding shares held by non-affiliates.[44]

With regard to a Securities Act registration statement for an initial public offering of common equity securities, however, a company would calculate its public float as of a date within 30 days of the date it files the initial registration statement. These companies would compute public float by multiplying the aggregate worldwide number of such shares held by non-affiliates before the offering plus the number of such shares included in the registration statement by the estimated public offering price of the shares.[45] The proposed method of calculating public float with regard to a Securities Act registration statement for an initial public offering would operate consistently with the following example:

- Company X has 50,000,000 shares of common stock outstanding;
- Company X has 25,000,000 shares of common stock outstanding that are held by non-affiliates;
- Company X files a Securities Act registration statement for its initial public offering—in that registration statement, Company X registers 7,000,000 shares of common stock to be sold at an estimated offering price of $10 per share; and
- For purposes of the smaller reporting company definition, Company X's ''public float'' would be $320,000,000 ((25,000,000 shares + 7,000,000 shares) × $10 per share).

Currently, Regulation S–B requires a company preparing an initial public offering of securities to calculate its public float for purposes of determining small business issuer status on the basis of the total number of equity shares outstanding before the offering and the estimated public offering price of the securities. Our proposed change to this rule is intended to more accurately reflect the company's public float by requiring companies to include the number of shares registered to be offered to the public in calculating the public float.

With regard to a company's initial registration statement under the Exchange Act covering a class of securities, the company would calculate its public float as of a date within a 30-day window of the registration statement being filed. Because such an Exchange Act registration statement would not directly affect the issuer's public float, if an issuer that files such an Exchange Act registration statement does not have a public float or its public float cannot be calculated because there is no market price for the issuer's equity securities, the issuer's eligibility for the scaled disclosure and reporting would be based on its revenue.

b. Comparison of the Proposed Standard to the Advisory Committee's Recommendation

The proposal to broaden the number of smaller companies eligible for our scaled disclosure and reporting requirements is consistent with, but not identical to, the Advisory Committee recommendation. The Advisory Committee recommended that we make the majority of our smaller company requirements available to companies whose equity market capitalization places them in the lowest 1% of total U.S. market capitalization, which it called ''microcap companies.'' The Advisory Committee indicated that, based on the information it relied upon, the ceiling for that category was $128 million in market capitalization.[46] We have chosen to propose using public float rather than market capitalization to set the ceiling for several reasons:

- The Commission has consistently used public float in this context,[47] rather than market capitalization;
- Each reporting company already is required to disclose its public float on the cover page of its annual report on Form 10–K or Form 10–KSB;
- The use of market capitalization would require us to establish new standards for reporting companies to calculate that information and a new obligation for those companies to disclose that information; and
- The overlap between reporting companies with $128 million in market capitalization and reporting companies with $75 million in public float is approximately 98%.[48]

We have not proposed a standard based on a company's ranking within a specified percentage of total U.S. market capitalization because we believe that such a standard may make the smaller reporting company system unduly complicated and create confusion among both smaller companies and their investors. Our proposal to adjust the $75 million public float and $50 million in revenue ceilings every five years to account for inflation, however, responds to the Advisory Committee's concern that our regulatory metrics should be adjusted in a timely manner to reflect changes in our economy.

The Advisory Committee received numerous comments to the effect that the $25 million public float and revenue standards in Regulation S–B are too low and should be increased to permit a broader range of smaller companies to be eligible for its benefits, particularly in light of the increased costs associated with Exchange Act reporting obligations.[49] A group responding to the Advisory Committee's request for comments on its proposed agenda noted that the $25 million standards resulted in Regulation S–B being available only

[41] An issuer may have no public float or market price because it has no significant public equity outstanding or no public market for its equity. For example, a company with only debt publicly outstanding would use the revenue test.

[42] The issuer would refer to its most recently audited financial statements available at the time it files with the Commission as a smaller reporting company.

[43] See proposed Item 10(f)(1)(i) of Regulation S–K.

[44] *Id.*

[45] See proposed Item 10(f)(1)(ii) of Regulation S–K.

[46] The Advisory Committee relied on data derived from Center for Research in Security Prices (CRSP) for 9,428 New York and American Stock Exchange companies as of March 31, 2005 and from Nasdaq for NASDAQ Stock Market and Over-the-Counter Bulletin Board firms as of June 10, 2005. See Advisory Committee Final Report, at 15 n.36.

[47] In our adopting release for public securities offering reform, we provided the historical background for the use of public float as a measure for determining Form S–3 or F–3 eligibility. See Release No. 33–8591, at 26 n.50 (July 19, 2005) [70 FR 148].

[48] This estimate was calculated from data obtained from Thomson Financial (Datastream).

[49] See Advisory Committee Final Report 64 n.132.

to the very smallest public companies.[50] This group also expressed the view to the Advisory Committee that, for Regulation S–B to have any meaningful benefit to new and smaller public companies, the threshold needed to be raised to $100 million in both revenue and market capitalization. Another commentator has argued that the standard should be less concerned with market capitalization and more concerned with revenue, which in part indicates the ability of small companies to shoulder the burdens of regulation.[51] The Advisory Committee rejected a revenue-based metric in determining general eligibility for scaling, however, stating that market capitalization should be the primary metric for determining eligibility for scaling regulations and that including revenues would introduce unnecessary additional complexity.[52]

The Advisory Committee recommended that we extend eligibility for scaled disclosure to two tiers of companies—what the Advisory Committee called ''microcap companies'' and ''smallcap companies.'' More specifically, the Committee recommended that we develop scaled or proportional regulation for companies that qualify as ''microcap companies'' because their equity market capitalization places them in the lowest 1% of total U.S. market capitalization and ''smallcap companies'' because their equity market capitalization places them in the next lowest 1% to 5% of total U.S. equity market capitalization, with the result being that all companies comprising the lowest 6% would be eligible for scaled or proportional regulation.[53] Based on the statistics relied upon by the Advisory Committee, companies with less than $787 million in market capitalization would have been included in the lowest 6% of market capitalization as of March 31, 2005.[54] Our proposals do not extend the scaled disclosure regime or develop another scaled disclosure regime for companies between $75 million and $787 million in market capitalization at this time. We solicit comment below on the appropriateness of scaled disclosure requirements for companies with a public float greater than $75 million.

2. Exclusions From the Definition of ''Smaller Reporting Company''

The current definition of ''small business issuer'' excludes companies that are not organized in the United States or Canada, investment companies, and asset-backed issuers.[55] Under the proposed amendments, all foreign companies that meet the criteria would be able to qualify as smaller reporting companies. Foreign companies could, therefore, take advantage of the scaled standards available to domestic smaller reporting companies if they otherwise qualify for that status and file a form that permits disclosure based on the standards for smaller reporting companies, such as Forms S–1, S–3, S–4, and Forms 10–Q and 10–K. In this regard, the forms available only to ''foreign private issuers,'' such as Form F–1,[56] Form F–3,[57] Form F–4,[58] and Form 20–F,[59] would not permit disclosure based on the standards for smaller reporting companies.[60] Foreign private issuers who qualify for smaller reporting company status could choose whether to use the domestic forms and be able to provide disclosure based on these standards or to use the ''F'' forms and comply with the disclosure requirements of those forms.

We propose to continue to exclude investment companies and asset-backed issuers from eligibility for scaled reporting and disclosure regulation. Investment companies are subject to separate disclosure and reporting requirements.[61] Asset-backed issuers have a separate disclosure system that applies to them and do not use Regulation S–K for their disclosure requirements.[62]

Request for Comments

- Should the definition of smaller reporting company include tests based on both public float and revenue? Should the definition contain only a revenue test, rather than the proposed public float test? If the definition contained a revenue test, should the standard be $50 million, $75 million, $100 million, or some other amount? Please explain in detail and provide a reasoned basis for your views.
- Is a public float of less than $75 million the appropriate standard for defining a ''smaller reporting company?'' Should the public float standard be $50 million, $150 million, or some other amount? Please explain in detail and provide a reasoned basis for your views.
- Is it appropriate to compute public float for an initial public offering by a smaller reporting company by multiplying the aggregate worldwide number of such shares held by non-affiliates before the offering plus the number of shares included in the registration statement by the estimated public offering price of the shares? Is it appropriate to permit the calculation of public float on any date within 30 days of a filing?
- Is it appropriate to require companies to estimate the public offering price of the securities before filing an initial registration statement that would qualify them for smaller reporting company status, as has been required in the past under Regulation S–B and as we propose to continue to require? For purposes of calculating the estimated public offering price per share, should we require issuers to rely on the high, low, or mid-point of the price range for the securities?
- Is there an alternative standard that would more accurately calculate a company's public float before it files its initial Securities Act registration statement with the Commission to determine smaller reporting company eligibility? Please provide details and reasoned support for your position.
- Should the definition of smaller reporting company be based on market capitalization, as suggested by the Advisory Committee, rather than public float? If so, should the market capitalization standard be $150 million, $125 million, $100 million, or some other level? Please discuss the benefits and burdens of your suggested standard and provide reasoned support for your position.
- Should a system of scaled or proportional regulation be made available to companies in the lowest 1% of total U.S. market capitalization (less

[50] See Letter from Subcommittee on Smaller Public Companies, Securities Law Committee, Society of Corporate Secretaries & Governance Professionals (June 7, 2005) (on file in Commission Rulemaking File No. 256–23), available at *http://www.sec.gov/info/smallbus/acspc.shtml.*

[51] Paul Rose, *Balancing Public Market Benefits and Burdens for Smaller Companies Post Sarbanes-Oxley*, 41 Willamette L. Rev. 707, 740 (2005).

[52] The Advisory Committee did recommend that we adopt a revenue ceiling for companies to be eligible for certain scaled regulations under Section 404 of the Sarbanes-Oxley Act. See Advisory Committee Final Report 43.

[53] See Advisory Committee Final Report 14–19.

[54] *Id.*

[55] See Item 10(a)(1)(ii) through (iii) of Regulation S–B.

[56] 17 CFR 239.31.

[57] 17 CFR 239.33.

[58] 17 CFR 239.34.

[59] 17 CFR 249.220f.

[60] The term ''foreign private issuer'' is defined in Securities Act Rule 405 and Exchange Act Rule 12b–2.

[61] See, *e.g.*, Form N–1A (17 CFR 239.15A; 274.11A), N–2 (17 CFR 239.14; 274.11a–1), and N–3 (17 CFR 239.17a; 274.11b), the registration forms used by management investment companies to register under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*), and to register their securities under the Securities Act. Business development companies, which are a category of investment companies that are not required to register under the Investment Company Act, register their securities under the Securities Act on Form N–2.

[62] See Regulation AB (17 CFR 229.1100 through 229.1123).

than $128 million as of March 31, 2005) or the lowest 6% of total U.S. market capitalization ($787 million as of March 31, 2005), as suggested by the Advisory Committee? Please provide reasoned support for your position.

• Is the $50 million revenue threshold an appropriate level for companies without a public float or market price, or should the test be $75 million or $25 million in revenue or some other standard?

• Should any public float and/or revenue ceilings be indexed to adjust for inflation? Should any ceilings be indexed using a different index than the PCECTP Index, the one we propose to use? Please provide details and reasoned support for your position.

• Should the Commission allow asset-backed issuers and investment companies, including business development companies, or business development companies only, to qualify as smaller reporting companies?

• Is it appropriate to permit all non-U.S. companies to qualify for smaller reporting company status?

• Are there companies reporting as small business issuers that have only public debt outstanding and have little or no publicly-held common equity? Are there companies with one or more classes of public debt outstanding but no significant amount of outstanding common equity held by non-affiliates that should qualify as smaller reporting companies? If so, should we permit such companies to qualify as smaller reporting companies on the basis of a revenue test? Does the proposed revenue test meet the needs of smaller companies?

• What benefits would flow to investors if the Commission adopted these proposals? For example, would the possible cost savings for the company provide a net benefit to shareholders? Please provide details and reasoned support for your position.

• If adopted, would these proposals have any negative effect on investors? For example, would investors in companies that have a public float of between $25 million and $75 million be harmed if a company chose to provide the disclosure required of a smaller reporting company rather than the disclosure currently required under Regulation S–K? If so, please describe the negative effect in detail, providing data and support where possible.

B. Integrating Requirements of Current Regulation S–B Into Regulation S–K

1. Policy Objectives of Proposal

We have maintained a separate registration, reporting, and qualification system for small business issuers under the Securities Act, Exchange Act, and Trust Indenture Act since 1992.[63] The centerpiece of this system, Regulation S–B, followed the model of Regulation S–K. When adopting Regulation S–B, we incorporated some concepts from Form S–18, which was a simplified registration form for smaller companies under the Securities Act that we replaced with Forms SB–1 and SB–2.[64]

Regulation S–B was designed to provide small business issuers with a single source for their SEC disclosure requirements. Our objectives in adopting a disclosure system for smaller companies were to reduce compliance costs while maintaining adequate investor protection, to improve the ability of start-ups and other small businesses to obtain financing through the public capital markets, and to encourage those companies to provide their investors with the benefits of trading in those markets.[65]

We propose to integrate the substantive provisions of Regulation S–B into Regulation S–K for a number of reasons. We believe integration will simplify regulation for small business and lower costs. The current dual system scheme is complex, and we believe this complexity may deter smaller companies from taking advantage of scaled regulation. We also are aware of anecdotal reports that securities lawyers recommend against using the Regulation S–B system because it results in increased legal costs. The Advisory Committee, in recommending that we integrate the scaled disclosure requirements available to small business issuers into Regulation S–K and make them available to microcap companies, heard testimony that Regulation S–B was not used for two principal reasons. The first reason is that lawyers assert that they cannot use prior examples of filings involving companies that are not relying on Regulation S–B. The second reason is that the lawyers must maintain expertise in two different disclosure systems.[66] Maintaining two separate but largely similar systems also results in increased burdens on the Commission staff.

Request for Comments

• Assuming we should revise Regulation S–B, should we do so in some way other than integrating its substantive provisions into Regulation S–K? Please be as specific as possible with your comments.

• Might integrating our two disclosure systems make it more difficult to maintain scaled securities regulation for smaller companies? How should we maintain scaled regulation over time? Please provide opposing or supporting views and clearly explain the bases for your views.

• Will this proposal simplify the disclosure obligations of smaller companies? Please provide details to support your view.

• If these proposals are adopted, would smaller companies experience lower costs for legal assistance and other services?

• If adopted, would these proposals have any effect on investors, either positive or negative? Please provide a detailed explanation of your views, with supporting data if possible.

2. Specific Integration Proposals

a. Financial Statements

We propose to add a new Item 310 (Financial Statements of Smaller Reporting Companies) to Regulation S–K to set forth the alternative requirements on form and content of financial statements for smaller companies that now appear in Item 310 of Regulation S–B. Item 310 of Regulation S–B constitutes perhaps the most significant example of scaling for smaller companies in all of Regulation S–B, as it bases the requirements on form, content, and preparation of financial statements for smaller companies solely on generally accepted accounting principles (''GAAP''). It does not require smaller companies to conform their financial statements to the Commission's Regulation S–X.[67] Item 310 of Regulation S–B allows smaller companies to provide an audited balance sheet for the latest fiscal year only and audited statements of income, cash flows, and changes in stockholders' equity for each of the latest two fiscal years only, rather than an audited balance sheet for the latest two fiscal years and audited statements of income, cash flows, and changes in stockholders' equity for each of the latest three fiscal years, as required in Regulation S–X. Item 310 of Regulation S–B also differs from Regulation S–X in its requirements for historical and pro forma financial statements for significant acquired businesses, the maximum age of

[63] See Release No. 33–6949 (Jul. 30, 1992) [57 FR 36442].

[64] See Release No. 33–6949 (Jul. 30, 1992) [57 FR 36442] and Release No. 33–6924 (Mar. 20, 1992) [57 FR 9768].

[65] See Release No. 33–6924.

[66] See Advisory Committee Final Report 64.

[67] See Rule 1.01 of Regulation S–X (17 CFR 210.1–01).

financial statements, and limited partnerships.[68]

We propose one substantive change in Item 310 that would differentiate it from the current Item 310 in Regulation S–B. Currently, in Note 2 preceding the Item, foreign private issuers are permitted to prepare and present financial statements in accordance with Item 17 of Form 20–F. Item 17 of Form 20–F allows an issuer to provide alternative financial statements prepared according to a comprehensive body of accounting principles other than those generally accepted in the United States if certain conditions are met. Regulation S–B currently is available only to U.S. and Canadian issuers, so permitting non-U.S. GAAP for Canadian foreign private issuers was a modest adjustment in terms of the number of companies eligible to use this adjustment. Because we propose to expand the definition of smaller reporting company to include all foreign companies, we do not feel that non-U.S. GAAP financial statements would be appropriate for a larger number of issuers. Therefore, we propose that foreign issuers who elect to use Item 310 disclosure for smaller reporting companies be required to present financial statements pursuant to U.S. GAAP. Currently, all financial statements in registration statements that may be used by domestic issuers, other than Canadian small business issuers using Forms SB–1 and SB–2, are required to conform to U.S. GAAP.[69]

Request for Comments

- Should the Commission incorporate the requirements on form and content of financial statements of smaller companies now in Item 310 of Regulation S–B into Regulation S–X, as proposed? Should the Commission modify proposed Item 310 in any way?
- Is it appropriate to require U.S. GAAP for foreign private issuers and other foreign issuers who take advantage of the smaller reporting company requirements? Or is the option of filing a registration statement on Form 20–F an acceptable alternative? What effect, if any, will this have on foreign private issuers?
- The Advisory Committee believed that a second year of audited balance sheet data would provide investors with a basis for comparison with the current period, without substantially increasing audit costs.[70] Should we consider following the Advisory Committee recommendation to require smaller reporting companies to provide two years of audited balance sheet data in annual reports and registration statements?

b. Proposed Changes to Other Regulation S–K Disclosure Items

As a general rule, we propose to integrate the individual Regulation S–B disclosure items (other than Item 310 as discussed immediately above) into Regulation S–K. To do this, we propose to add a new paragraph to each item of Regulation S–K that will contain separate disclosure standards for smaller reporting companies, to the extent that a particular item permits such disclosure.[71] To ease navigation, each new paragraph would have a heading reading ''Smaller reporting companies,'' so readers can easily find the requirements tailored for smaller reporting companies. At this time, we do not propose any major substantive changes to the items that we are moving from Regulation S–B into Regulation S–K. Where the disclosure standards of identically numbered items in Regulation S–B and Regulation S–K are substantially the same for smaller reporting companies and larger companies, we propose no change to the existing Regulation S–K disclosure items.[72] We discuss our proposed treatment of specific Regulation S–K disclosure items below.

Item 101 (Description of Business). We propose to add a new paragraph (h) to Item 101 of Regulation S–K to set forth the alternative disclosure standards for smaller companies that appear now in Item 101 of Regulation S–B. Under Item 101 of Regulation S–B, smaller companies are required to provide a description of their business that is less detailed than the description that larger companies provide and to disclose business development activities for only three years, instead of the five-year disclosure required of larger companies by Item 101 of Regulation S–K.

Item 201 (Market Price of and Dividends on Registrant's Common Equity and Related Stockholder Matters). We propose only a minor change in wording to this item because Instruction 6 to paragraph (e) of Item 201 of Regulation S–K currently contains a provision permitting smaller companies to use the alternative disclosure standards of Regulation S–B when preparing documents under Regulation S–K. Therefore, no substantive change is necessary. We propose to replace the reference to a ''small business issuer'' with a reference to a ''smaller reporting company'' and add a heading to Instruction 6.

Items 301 (Selected Financial Data) and 302 (Supplementary Financial Information). Regulation S–B currently does not require smaller companies to disclose Item 301 (Selected Financial Data) or Item 302 (Supplementary Financial Information) data. We therefore propose to add a new paragraph (c) to Items 301 and 302 in Regulation S–K, providing that smaller reporting companies are not required to present the information required by these items.

Item 303 (Management's Discussion and Analysis of Financial Condition and Results of Operations). We propose to add a new paragraph (d) to Item 303 of Regulation S–K to reflect the alternative disclosure standards for smaller companies now in Item 303 of Regulation S–B. Regulation S–B provides more streamlined disclosure requirements for a smaller company's management to present its discussion and analysis of the company's financial condition and results of operations. It requires only two years of analysis if the company is presenting only two years of financial statements instead of the three years of analysis required of larger companies as required in Regulation S–

[68] The requirements of Item 310 of Regulation S–B were consistent with the requirements of Form S–18, which governed the form and content of financial statements of smaller companies choosing to use that form before Regulation S–B was adopted in 1992. See Release No. 33–6949 (Jul. 30, 1992) [57 FR 36442].

[69] As noted previously, foreign private issuers may use the forms and disclosure standards available only for such issuers.

[70] See Advisory Committee Final Report 65–66.

[71] We propose to add the new paragraphs at the end of items in Regulation S–K as they exist today. If we add additional paragraphs to items of Regulation S–K in the future, we may or may not move the smaller reporting company paragraph to the end of the item at that time.

[72] We propose no changes to the following items of Regulation S–K because the disclosure standards are currently substantially the same: Item 102 (Description of Property), Item 103 (Legal Proceedings), Item 202 (Description of Registrant's Securities), Item 304 (Changes In and Disagreements with Accountant on Accounting and Financial Disclosure), Item 307 (Disclosure Controls and Procedures), Item 308 (Internal Control Over Financial Reporting), Item 308T (Internal Control Over Financial Reporting), Item 401 (Directors, Executive Officers, Promoters and Control Persons), Item 403 (Security Ownership of Certain Beneficial Owners and Management), Item 405 (Compliance with Section 16(a) of the Exchange Act), Item 406 (Code of Ethics), Item 501(Forepart of Registration Statement and Outside From Cover Page of Prospectus), Item 502 (Inside Front and Outside Back Cover Pages of Prospectus), Item 505 (Determination of Offering Price), Item 506 (Dilution), Item 507 (Selling Security Holders), Item 508 (Plan of Distribution), Item 509 (Interest of Named Experts and Counsel), Item 510 (Disclosure of Commission Position on Indemnification for Securities Act Liabilities), Item 511 (Other Expenses of Issuance and Distribution), Item 701 (Recent Sales of Unregistered Securities; Use of Proceeds from Registered Securities), Item 702 (Indemnification of Directors and Officers), and Item 703 (Purchases of Equity Securities by the Issuer and Affiliated Purchasers).

X. Further, Regulation S–B does not require smaller companies to provide tabular disclosure of contractual obligations, as required for companies reporting under Item 303(a)(5) of Regulation S–K.[73]

Item 305 (Quantitative and Qualitative Disclosures about Market Risk). Regulation S–B currently does not require smaller companies to disclose Item 305 (Quantitative and Qualitative Disclosures about Market Risk) information. We therefore propose to add a new paragraph (e) to Item 305 of Regulation S–K providing that smaller reporting companies are not required to respond to this item.

Item 402 (Executive Compensation). We propose to add a new paragraph (*l*) to Item 402 of Regulation S–K to add the alternative standards for smaller reporting companies for disclosure of compensation of executives and directors now in Item 402 of Regulation S–B. Under Item 402 of Regulation S–B, a smaller company is allowed to provide executive compensation disclosure for only three officers, rather than the five required under Item 402 of Regulation S–K, and Summary Compensation Table disclosure for only two years, rather than the three years required under Regulation S–K. A smaller company does not need to provide a Compensation Discussion and Analysis, is required to provide only three of the seven tables prescribed by Item 402 of Regulation S–K, and is required to provide alternative narrative disclosures. In the Director Compensation Table, a smaller company need not include footnote disclosure of the grant date fair value of equity awards, given that no corresponding Grants of Plan-Based Award Table disclosure for named executive officers of smaller companies is required.[74]

Item 404 (Transactions with Related Persons, Promoters and Certain Control Persons). We propose to add a new paragraph (d) to Item 404 of Regulation S–K to add the alternative standards for disclosure of related person transactions now available to smaller companies in Item 404 of Regulation S–B. A smaller reporting company would not be required to disclose policies and procedures for approving related person transactions, which is required of other companies under paragraph (b). Item 404 of Regulation S–B requires disclosure regarding transactions where the amount exceeds the lesser of 1% of a smaller company's total assets or $120,000. Companies using Regulation S–K are required to disclose information only about transactions above $120,000 in amount. As such, for smaller companies with an asset level such that 1% of its assets would equal a dollar amount lower than $120,000, related person disclosure under Item 404 is more rigorous than for larger companies. Further, smaller companies are required to disclose additional specific information about underwriting discounts and commissions and corporate parents. We propose, however, to change the calculation of total assets for smaller reporting companies from 1% percent of their total assets based on the average of total assets at year end for the last *three* completed fiscal years to the last *two* completed fiscal years. This standard is more consistent with the two years of financial statements required of smaller reporting companies in the filings containing these disclosures.

Item 407 (Corporate Governance). We propose to add a new paragraph (g) to Item 407 of Regulation S–K to add the corporate governance disclosure standards now available to smaller companies in Item 407 of Regulation S–B. Smaller reporting companies would not be required to provide Compensation Committee Interlock and Insider Participation disclosure or a Compensation Committee Report. In addition, smaller reporting companies would not be required to provide an Audit Committee Report until the first annual report after their initial registration statement is filed with the Commission.

Item 503 (Prospectus Summary, Risk Factors, and Ratio of Earnings to Fixed Charges). We propose to add a new paragraph (e) to Item 503 of Regulation S–K to add the alternative standards for disclosure now available to smaller companies in Item 503 of Regulation S–B. Item 503 of Regulation S–B does not require smaller companies to provide the information required by paragraph (d) of Item 503 regarding the ratio of earnings to fixed charges when a registrant issues debt, or the ratio of combined fixed charges and preference dividends to earnings when a registrant issues preference equity securities.

Item 504 (Use of Proceeds). We propose no change to the primary text of Item 504 of Regulation S–K because the disclosure standards of Regulation S–K and Regulation S–B currently are substantially the same. We propose a minor change to the instructions to the item, however, to clarify that new Item 310 of Regulation S–K, rather than Regulation S–X, will govern whether financial statements of businesses proposed to be acquired are to be included in the filings of smaller reporting companies relying on Item 310 of Regulation S–K rather than Regulation S–X. We recognize that the instructions to Item 504 in Regulation S–K are more specific than and more than twice as long as those in Item 504 of Regulation S–B. We do not propose to substitute the shorter instructions of Regulation S–B for smaller reporting companies complying with Item 504, because we do not regard the longer instructions as necessarily more burdensome or not scaled to the needs of smaller companies.

Item 512 (Undertakings). We propose to add a new paragraph (m) to Item 512 of Regulation S–K to add the alternative standards for disclosure now available to smaller companies in Item 512 of Regulation S–B. Item 512 of Regulation S–B does not require smaller companies to provide the information about asset-backed securities, foreign private issuers, and trust indenture offerings now required by Regulation S–K.

Item 601 (Exhibits). We propose to add a new paragraph (c) to Item 601 of Regulation S–K to incorporate the standards currently in Item 601 of Regulation S–B. The paragraph would clarify that a smaller reporting company is not required to provide Exhibit 12 (Statements re Computation of Ratios) unless it discloses one of the ratios discussed in the requirement upon the registration of debt or preference equity securities. The paragraph also would clarify that, for purposes of Exhibit 7 (Correspondence from an Independent Accountant Regarding Non-Reliance on a Previously Issued Audit Report or Completed Interim Review), new Item 310 of Regulation S–K, rather than Regulation S–X, may govern the form, content, and preparation of financial statements provided by a smaller reporting company. Our proposal also would revise Item 601 of Regulation S–K to delete references to several ''SB'' forms and to Regulation S–B, all of which would be deleted from our rules and regulations.

Request for Comments

- Would a different format in the proposed integrated Regulation S–K more clearly identify the provisions that are different for smaller reporting companies?
- Is the proposed Item 101 (Description of Business) requirement adequate for most smaller reporting companies? Please be as specific as possible and provide details to support your position.
- Should the Commission consider requiring smaller reporting companies

[73] 17 CFR 229.303(a)(5).

[74] See Release No. 8732A (Aug. 8, 2006) [71 FR 53158] and Release No. 33–8765 (Dec. 22, 2006) [71 FR 78338].

to provide tabular disclosure of contractual obligations required in paragraph (5) of Regulation S–K Item 303? Would this disclosure provide meaningful information for investors or would it be overly burdensome for smaller reporting companies?

• Should smaller reporting companies be required to fully comply with any other items of Regulation S–K to which we do not propose to subject them?

• Are there any other provisions in current Regulation S–B that should be carried over for smaller reporting companies into Regulation S–K that we have not proposed to be carried over?

• Conversely, are any of the current Regulation S–B items that we propose to carry over inappropriate for the larger group of companies we propose to define as smaller reporting companies?

c. A La Carte Approach

We propose to allow a company that qualifies as a smaller reporting company to choose, on an item-by-item or ''a la carte'' basis, to comply with either the scaled disclosure requirements made available in Regulation S–K for smaller reporting companies or the disclosure requirements for other companies in Regulation S–K, when the requirements for other companies are more rigorous.[75] A smaller reporting company would have the option to take advantage of the smaller reporting company requirements for one, some, all or none of the items, at its election, in any one filing, in such cases. We would require, however, that a smaller reporting company provide its financial statements on the basis of either Item 310 of Regulation S–K or Regulation S–X for an entire fiscal year, and not be permitted to switch back and forth from one to the other in different filings within a single fiscal year. If this approach is adopted, we would expect that our staff, in reviewing filings of smaller reporting companies, would be instructed to evaluate item-by-item compliance only with the Regulation S–K requirements applicable to smaller reporting companies, and not with the requirements applicable to larger companies, even if the company whose filing is being reviewed chooses to comply with the larger company requirements.[76] The staff also would continue to seek clarity in disclosure provided by smaller reporting companies.

Our objective in proposing the ''a la carte'' approach is to provide maximum flexibility for smaller reporting companies without disadvantaging investors. While establishing a baseline of required disclosure, we want to encourage smaller reporting companies to determine for themselves the proper balance and mix of disclosure for their investors within the boundaries of the law, given the costs of compliance and the market demand for information.

We propose to add a check box to the cover page of all filings in which smaller reporting companies may take advantage of the alternative disclosure requirements. The check box would require smaller reporting companies to indicate that they are eligible for ''Smaller Reporting Company'' status. Investors and others reviewing the filing would be able to tell from the check box that the disclosing company is eligible to comply with the scaled disclosure available to smaller reporting companies.

In proposing to require smaller reporting to companies to check a box identifying themselves as such on the cover page of their filings, we are attempting to strike the appropriate balance among investor protection, transparency, and the legitimate needs of smaller companies. We are aware that, as discussed by the Advisory Committee, a major reason our current Regulation S–B system has not worked as well as intended is that it requires filing on ''SB'' forms that may not have achieved an optimal level of market acceptance.[77] By requiring a company to check a box on the front of its filings, we are trying to address the legitimate needs of investors who may want to know if a company is eligible to comply with standards scaled for smaller companies. We are attempting, however, to avoid unduly stigmatizing smaller companies. We believe that, if we have scaled our disclosure and reporting requirements to properly reflect the characteristics of smaller companies, investors will be adequately protected by our rules and should not be unduly concerned that a company may be providing information under a different, scaled standard.

Request for Comments

• Should the Commission adopt the a la carte approach, allowing smaller reporting companies to take advantage of the adjusted disclosure requirements available to them on an item-by-item basis?

• Have smaller companies filing on ''SB'' forms not achieved greater market acceptance because investors believe that the disclosure required by Regulation S–K is valuable? Please provide a detailed explanation and a reasoned basis for your view.

• Does the proposal to scale disclosure for smaller reporting companies strike the proper balance between imposing proportional costs and burdens on smaller reporting companies while adequately protecting investors?

• Should the Commission adopt an approach requiring smaller reporting companies to comply with all disclosure requirements for larger companies if they elect to comply with any of those requirements? Should we require smaller reporting companies that choose to no longer follow the disclosure requirements for larger companies to separately disclose that change?

• Is the Commission creating a situation in which newly eligible companies could selectively choose not to disclose information that may be beneficial to investors?

• Does requiring smaller reporting companies to check a box indicating their ''Smaller Reporting Company'' status on the cover page of filings unduly penalize or stigmatize smaller reporting companies? Is a check box necessary for investor protection? Is another alternative preferable to a check box?

• Should the proposal require a smaller reporting company to check the box only if it is choosing to comply with at least one item in Regulation S–K scaled for smaller reporting companies, rather than requiring all eligible companies to check the box even if they choose not to comply with any scaled items?

• What should be the impact on a smaller reporting company that attempts to satisfy the disclosure requirements of larger companies but fails to satisfy those requirements? Please provide details to support your views.

• Instead of a check box indicating the size of the company, would it be preferable to have check boxes or some other form of identification indicating what smaller reporting company items the company has relied upon in preparing its filing?

• How would the a la carte approach affect the ability of investors to compare disclosures of smaller reporting companies?

d. Eliminating ''SB'' Forms

We anticipate that the elimination of forms associated with Regulation S–B (Forms 10–SB, 10–QSB, 10–KSB, SB–1,

[75] As proposed, Item 404 would be the only disclosure requirement in Regulation S–K that would be more rigorous for smaller reporting companies than for other companies.

[76] These proposals would have no effect on the legal requirements and liabilities that would continue to apply to all disclosures made by issuers.

[77] See Advisory Committee Final Report 63–64.

and SB–2) will result in regulatory simplification by mainstreaming smaller reporting company filers into the Regulation S–K framework. We anticipate that legal practitioners, accountants, and other individuals preparing disclosure forms will appreciate the convenience of referring to only one set of disclosure requirements.

The Advisory Committee noted that elimination of the ''SB'' forms would reduce the complexity of federal securities regulations. The Advisory Committee recognized that the drawbacks associated with Regulation S–B included a lack of acceptance of ''SB'' filers in the marketplace.[78] Also, North American Securities Administrators Association officials representing state securities regulators have commented that small businesses issuing securities were especially vulnerable to loss of investor confidence if some issuers ''poisoned the well'' with material misstatements.[79]

The elimination of the forms associated with Regulation S–B would result in most smaller reporting companies using Securities Act Form S–1 to offer securities to the public. Since 2005, an issuer using Form S–1 that is subject to the requirement to file reports pursuant to Section 13 or Section 15(d) of the Exchange Act may be permitted to incorporate by reference its previously filed Exchange Act reports if it has filed an annual report for its most recently completed fiscal year, has filed all reports and other materials required to be filed by Sections 13(a), 14, or 15(d) of the Exchange Act during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and makes available all incorporated materials on its Web site.[80] We believe that this ability to incorporate previously filed reports by reference would result in some cost savings and efficiencies in preparing registration statements for smaller reporting companies.

It is our intention that the integration of the disclosure standards of Regulation S–B into Regulation S–K will mitigate the reported lack of market acceptance associated with smaller filers. As one commentator has explained, it is not enough to establish that small business should at times be treated separately from larger business; the manner in which the distinction is made is equally important, ''for a misguided partition may be worse than no partition at all.''[81] We expect that adoption of our proposal to eliminate the forms associated with Regulation S–B will further our goals of eliminating unwarranted negative perceptions of the smaller reporting company disclosure regime.

Request for Comments

- Is it appropriate to eliminate all ''SB'' forms associated with Regulation S–B?
- Should we maintain some or all of the ''SB'' forms, even if we integrate the provisions of Regulation S–B into Regulation S–K?
- If adopted, would elimination of the ''SB'' forms provide significant benefits to legal practitioners, accountants, and other individuals preparing disclosure for smaller companies? Would there be any impact on investors? Please provide details to support your views.

e. Transition To and From Smaller Reporting Company Status

As discussed above, we propose to significantly expand eligibility for smaller company-scaled regulation by combining our two current smaller company regulatory categories, ''small business issuer'' and ''non-accelerated filer,'' into a new category called ''smaller reporting company.'' These companies would have their own eligibility standards and rules for transitioning up to a category of larger companies once a company exceeds the limitations for the smaller reporting company designation. In addition, each category of larger companies has rules for transitioning down to a smaller company category. This ordinarily would occur if the company drops below the ceiling marking the boundary between the smaller and larger company categories.

Currently, a small business issuer that exceeds the $25 million revenue and $25 million public float standards for that status at the end of two consecutive fiscal years must transition out of small business issuer status, effective immediately for filings covering events and completed fiscal periods in the next fiscal year. A non-accelerated filer ceases to qualify for that status and must transition to accelerated filer status in the next fiscal year after its public float first rises above $75 million as of the last business day of its most recently completed second fiscal quarter.[82] For smaller reporting companies, we propose to follow the transition model currently used to determine ''accelerated filer'' status. Under our proposal, smaller reporting companies would lose eligibility to claim that status in the first fiscal year following a fiscal year in which the smaller reporting company's public float rises above $75 million as of the last business day of the second fiscal quarter.[83]

We also propose to follow the accelerated filer model in establishing rules for companies to transition to smaller reporting company status. Under our current rules, a reporting company may transition to small business issuer status in the next fiscal year if its public float and revenue fall below $25 million at the end of two consecutive fiscal years.[84] An accelerated filer may transition to non-accelerated filer status in the next fiscal year if its public float falls below $50 million as of the last business day of the company's second fiscal quarter. We propose that a reporting company that does not file reports claiming smaller reporting company status be required to transition to that status in the next fiscal year if its public float falls below $50 million as of the last business day of the company's second fiscal quarter.[85]

Where an issuer does not have a public float or no public market for its common equity securities exists and it has less than $50 million in revenue, we propose to allow it to use the scaled disclosure item requirements until it exceeds $50 million in annual revenue. Once an issuer fails to qualify for smaller reporting status under the revenue test, it would remain unqualified unless its annual revenues fall below $40 million during the previous fiscal year.

The determination as to whether a company qualifies for smaller reporting company treatment would be made at the beginning of a fiscal year on the basis of the information in a quarterly report on Form 10–Q or an initial registration statement under the Securities Act or Exchange Act, whichever is the first to be filed during that year. If an issuer that qualified on the basis of revenue develops a public

[78] *Id.*

[79] U.S. General Accounting Office, Small Business: Efforts to Facilitate Equity Capital Formation 190 (2000).

[80] See Release No. 33–8591 (Jul. 19, 2005) [70 FR 44722].

[81] See Larry T. Garvin, *Small Business and the False Dichotomies of Contract Law,* 40 Wake Forest L. Rev. 295, 373 (2005).

[82] Exchange Act Rule 12b–2 (paragraph (3)(i) of the definition of ''accelerated filer'') provides: The determination at the end of the issuer's fiscal year for whether a non-accelerated filer becomes an accelerated filer, or whether a non-accelerated filer or accelerated filer becomes a large accelerated filer, governs the deadlines for the annual report to be filed for that fiscal year, the quarterly and annual reports to be filed for the subsequent fiscal year and all annual and quarterly reports to be filed thereafter while the issuer remains an accelerated filer or large accelerated filer.

[83] See proposed Item 10(f) of Regulation S–K.

[84] See Item 10 of Regulation S–B.

[85] See proposed Item 10(f) of Regulation S–K.

float or its public float increases during the year, the issuer would remain a smaller reporting company for the entire fiscal year.

Our purpose in proposing these transition rules is to provide both predictability and flexibility to smaller companies, while at the same time assuring that investors have access to the appropriate level of disclosure. We do not wish to have the rules under which a smaller company is reporting change too frequently. It also is our intention to provide smaller reporting companies with the ability to take advantage of scaled regulation in the appropriate circumstances.

Request for Comments

- Should the transition rules to and from smaller reporting company status be more similar to the current transition rules for small business issuer status?
- Should we provide a two-year test period, rather than a single determination date, for transitioning from smaller reporting company status, as is the case for transitioning from small business issuer status today?
- Should the Commission consider a threshold other than $50 million in public float to transition into smaller reporting company status? Should we set the public float level for transitioning into smaller reporting company status at $40 million, $60 million, $75 million, or some other level?
- Is there a better way for smaller reporting companies to transition to or from that status? Please be as specific as possible and provide details with your comments.

f. Eliminating Transitional Small Business Issuer Format

As part of the adoption of Regulation S–B, and later additional small business initiatives, the Commission developed a transitional registration statement, Form SB–1, and annual report, Form 10–KSB, allowing disclosure based on Model A or B found in Regulation A.[86] The Commission allowed the question-and-answer format for small business issuers to make an easy transition from a non-reporting company to a reporting company under the Securities Act or Exchange Act. A small business issuer may use this transitional disclosure format until it:

- Registers more than $10 million under the Securities Act in any continuous 12-month period, other than on a Form S–8;
- Elects to graduate to a non-transitional disclosure system; or
- Is no longer a small business issuer.

The number of companies that registered on Form SB–1 and followed the transitional disclosure format within Form 10–KSB has declined over time. During the past five years, the Commission has received only 56 Form SB–1 registration statements.[87] The number of companies that file their Form 10–KSB using the transitional disclosure format is also small. For the calendar years 2000 to 2005, two small business issuers out of 56 filed a Form 10–KSB using the transitional disclosure format.

Because the transitional disclosure format is not commonly understood and infrequently used, we propose to eliminate this disclosure option. Accordingly, smaller reporting companies no longer would have the option to use Form SB–1 and the transitional format version of Form 10–KSB. Instead, they would use Form S–1 and 10–K. Our proposal would remove all references to transitional filer status, including removing paragraph 4 of General Instruction D in Form S–4, the Note to Small Business Issuers in Rules 14a–3 and 14c–3, and General Instructions G in Schedule 14A. We are not proposing to alter the disclosure format permitted in Regulation A offerings on Form 1–A.

Request for Comments

- Should the Commission maintain the transitional disclosure format option? If so, please indicate the reasons why the option should be maintained.

g. Other Proposals

We also are soliciting suggestions for additional ways in which we could better scale our disclosure and reporting requirements to the needs of smaller companies and their investors. All suggestions that ease the burdens of smaller companies without compromising investor protection are welcome.

We also propose several minor and technical amendments to our rules and forms to conform them to the regulatory changes we propose today. Most of these amendments are deletions of references to Regulation S–B or a small business issuer rule and substitutions of references to Regulation S–K. In a few instances, we propose to amend rules to reflect the Commission's current address of 100 F Street, NE., Washington, DC 20549.

Request for Comments

- Are there additional ways in which we could better scale our disclosure and reporting requirements to the needs of smaller reporting companies and their investors, while continuing to take investor protection into account? Please be as specific as possible and provide detailed support for your suggestions.

III. General Request for Comments

We request and encourage any interested person to submit comments on any aspect of our proposals and any of the matters that might have an impact on the proposed amendments. We request comment from investors and companies that may be affected by the proposals. We also request comment from service professionals, such as law and accounting firms, and facilitators of capital formation, such as underwriters and placement agents, and other regulatory bodies, such as state securities regulators. We are especially interested in comments from service professionals that regularly work with smaller reporting companies. With respect to any comments, we note that they are of greatest assistance to our rulemaking initiatives if accompanied by supporting data and analysis of the issues addressed and by alternatives to our proposals where appropriate.

IV. Paperwork Reduction Act

A. Background

The proposed amendments contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995.[88] We are submitting a request for approval of the proposed amendments to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act and its implementing regulations.[89] The titles of the collections of information are:[90]

(1) ''Regulation S–B'' (OMB Control No. 3235–0417);

(2) ''Regulation S–K'' (OMB Control No. 3235–0071);

[86] The transitional registration statement and annual report on Form 10–KSB allow some small business issuers to provide alternative disclosure. The Commission also allowed some small business issuers to provide Regulation A model disclosure on Form SB–1 to raise up to $10 million of securities in a continuous 12-month period. See Release No. 33–6949; see also Release No. 33–6996 (Apr. 28, 1993) [58 FR 26509].

[87] We calculated the number of Forms SB–1 filed by adding those received from 2002 through 2006.

[88] 44 U.S.C. 3501 *et seq.*

[89] 44 U.S.C. 3507(d); 5 CFR 1320.11.

[90] The paperwork burden from Regulation S–K and S–B is imposed through the forms that are subject to the requirements in those regulations and is reflected in the analysis of those forms. To avoid a Paperwork Reduction Act inventory reflecting duplicative burdens and for administrative convenience, we assign a one-hour burden to Regulations S–K and S–B.

(3) ''Regulation C'' (OMB Control No. 3235–0074);
(4) ''Form SB–1'' (OMB Control No. 3235–0423);
(5) ''Form SB–2'' (OMB Control No. 3235–0418);
(6) ''Form S–1'' (OMB Control No. 3235–0065);
(7) ''Form S–3'' (OMB Control No. 3235–0073);
(8) ''Form S–4'' (OMB Control No. 3235–0324);
(9) ''Form S–8'' (OMB Control No. 3235–0066);
(10) ''Form S–11'' (OMB Control No. 3235–0067);
(11) ''Form 1–A'' (OMB Control No. 3235–0286);
(12) ''Form 10'' (OMB Control No. 3235–0064);
(13) ''Form 10–SB'' (OMB Control No. 3235–0419);
(14) ''Form 10–K'' (OMB Control No. 3235–0063);
(15) ''Form 10–KSB'' (OMB Control No. 3235–0420);
(16) ''Form 8–K'' (OMB Control No. 3235–0060);
(17) ''Form 8–A'' (OMB Control No. 3235–0056);
(18) ''Form 10–Q'' (OMB Control No. 3235–0070);
(19) ''Form 10–QSB'' (OMB Control No. 3235–0416);
(20) ''Form 11–K'' (OMB Control No. 3235–0082); and
(21) ''Form SE'' (OMB Control No. 3235–0327).

We adopted all of the existing regulations and forms pursuant to the Securities Act, the Exchange Act, and the Trust Indenture Act. These regulations and forms set forth the disclosure requirements for annual, periodic, and current reports and registration statements that are prepared by issuers to provide investors information to make informed investment decisions in registered offerings of securities and in secondary market transactions.

Our proposed amendments to existing forms and regulations and the proposed elimination of Regulation S–B, Form SB–1, Form SB–2, Form 10–SB, Form 10–KSB, and Form 10–QSB are intended to:

- Make proportional and scaled disclosure options available to a larger number of smaller companies;
- Promote regulatory simplification; and
- Integrate current Regulation S–B disclosure requirements for smaller companies into disclosure requirements of Regulation S–K.

These proposed amendments are intended to result in regulatory simplification for a greater number of entities that would be eligible for scaled disclosure item requirements. These proposals should not increase the disclosure requirements for any registrant, but will require some registrants to file different forms than they currently use. These proposals do not affect any disclosure requirements for any company with a public float over $75 million.

The hours and costs associated with preparing disclosure, filing information required by forms, and retaining records constitute reporting and cost burdens imposed by collection of information requirements. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information requirement unless it displays a currently valid control number.

The information collections related to annual, periodic, and current reports and registration statements would be mandatory for larger reporting companies; some of the requirements, however, would be voluntary for smaller reporting companies.

B. Summary of Information Collections

Our proposals would amend the forms listed above as collections of information but focus primarily on the forms discussed below.

The proposals would increase existing collection of information total burden estimates for reports on Form 10–K and Form 10–Q as well as registration statements on Form 10, Form S–1, and Form S–11 for the following reasons:

- The elimination of Form 10–KSB would cause an increase in the number of companies that are required to file an annual report on Form 10–K; [91]
- The elimination of Form 10–QSB would cause an increase in the number of companies that are required to file quarterly reports on Form 10–Q; [92]
- The elimination of Form SB–1 would cause an increase in the number of registration statements filed on Form S–1; [93]
- The elimination of Form SB–2 would cause an increase in the number of registration statements filed on Form S–1; [94] and
- The elimination of Form SB–2 would cause real estate companies that had previously used that form to use Form S–11 instead, thereby increasing the number of registration statements filed on Form S–11.[95]

At the same time, the proposals would decrease existing collection of information total burden estimates for annual reports on Form 10–KSB, quarterly reports on Form 10–QSB, and registration statements on Form 10–SB, Form SB–1, and Form SB–2 by:

- Eliminating Form SB–1, Form SB–2, Form 10–SB, Form 10–KSB, and Form 10–QSB and integrating the disclosure requirements of Regulation S–B into Regulation S–K, thereby simplifying the disclosure requirements by combining them into one regulation.

In addition, the proposals may decrease existing collection of information total burden estimates, or not affect them at all, for some reports filed on Form 10–K and Form 10–Q and some registration statements on Form 10, Form S–1, and Form S–11, depending on the company's particular circumstances, by:

- Replacing the definition of small business issuer with a broader category of smaller reporting companies comprised of most non-accelerated filers with a public float between $25 million and $75 million, and providing these smaller reporting companies with the option of scaled disclosure;
- Allowing smaller reporting companies to provide a three-year discussion of their business development (Item 101), rather than five years as required of larger companies;
- Allowing smaller reporting companies to provide more streamlined disclosure for management's discussion and analysis of financial condition and results of operations (Item 303) by requiring two years of analysis if the company is presenting only two years of financial statements rather than three years as required of larger companies. Further, smaller reporting companies would not have to provide tabular disclosure of contractual obligations as required for larger companies under Item 303(a)(5);
- Allowing smaller reporting companies to provide an audited balance sheet for the most recent fiscal year and audited statements of income, cash flows, and changes in stockholders' equity for each of the latest two fiscal years rather than an audited balance sheet for the latest two fiscal years and

[91] We estimate that approximately 3,504 small business issuers would file their annual reports on Form 10–K, rather than Form 10–KSB.

[92] We estimate that approximately 11,299 reports on Form 10–QSB that were filed in the last fiscal year would be filed on Form 10–Q.

[93] We estimate that approximately 24 registration statements in the last fiscal year were filed on Form SB–1 and would be required to be filed on Form S–1.

[94] We estimate that approximately 1,028 registration statements were filed on Form SB–2 in the last fiscal year and that the number of Form S–1 registration statements would increase by the same number.

[95] We estimate that approximately 15 registration statements were filed on Form SB–2 in the last fiscal year covering real estate transactions that would be required to be registered on Form S–11 if these proposals were adopted.

audited statements of income, cash flows and changes in stockholders' equity for each of the latest three fiscal years as required by Regulation S–X for larger companies;

• Allowing smaller reporting companies to provide information about the chief executive officer and two other highly compensated executive officers (Item 402), rather than information about the chief executive officer, chief financial officer, and three other highly compensated executive officers as required for larger companies and to provide only a summary compensation table, an outstanding equity awards table, and a director compensation table, rather than the seven tables required for larger companies. Furthermore, a smaller reporting company would not be required to provide a Compensation Discussion and Analysis, as required of larger companies; and

• Allowing smaller reporting companies to disclose related person transactions that exceed the lower of 1% of their total assets or $120,000 in amount. In this instance, a smaller reporting company for which 1% of its assets is less than $120,000 may have a more rigorous disclosure burden than a larger registrant if it chose to provide the scaled disclosure available to smaller reporting companies. Smaller reporting companies also would provide the related person disclosure for two years rather than the three years required for larger companies. A smaller reporting company would not be required to disclose its policies and procedures for approving related person transactions.

C. Paperwork Reduction Act Burden Estimates

For purposes of the Paperwork Reduction Act, we believe that if these proposals were adopted, the burden changes would be insignificant for companies that currently meet the small business issuer definition.

We estimate that the total increase in burden hours for Form 10–K, Form 10–Q, Form 10, Form S–1, and Form S–11 would be 6,151,112 and that the total increase in cost would be $933,954,800. These increases are offset by the total decrease in burden hours for Form 10–KSB, Form 10–QSB, Form 10–SB, Form SB–1, and Form SB–2 of 6,149,012 burden hours and a total decrease in cost of $927,927,800. The net difference between the increase and decrease is an increase of 2,100 burden hours and a cost of $6,027,000. The reason for the net difference is that small real estate companies, which are currently eligible to use Form SB–2, would be required to use Form S–11 if these proposals are adopted. Form S–11 is a form tailored to the real estate industry that requires more internal burden hours and increased professional costs. The net increase of 2,100 burden hours and costs of $6,027,000 is outweighed by the possible decrease of 356,390 burden hours and costs of $47,479,000, as discussed in detail below.

Our methodologies for deriving the burden hour and cost estimates presented below represent the average burdens for all issuers, both large and small. For Exchange Act annual reports and quarterly reports on Form 10–K and 10–Q, we estimate that 75% of the burden of preparation is carried by the company internally and that 25% of the burden is carried by outside professionals retained by the issuer at an average cost of $400 per hour.[96]

For purposes of the Paperwork Reduction Act, we estimate that over a three-year period[97] the annual increased incremental disclosure burden imposed by the proposed revisions would average 4,457,088 hours per Form 10–K, 7,387 hours per Form 10, 1,155,209 hours per Form 10–Q, 138,765 hours per Form S–1, and 7,413.75 hours per Form S–11. The plain English requirements would apply to these disclosure statements and is factored into the incremental burden of preparing these forms.

These estimates were based on the following assumptions:

Form 10–K

• The elimination of Form 10–KSB would cause the number of Form 10–Ks filed to increase. We estimate there were approximately 3,504 Form 10–KSBs filed in the last fiscal year so there would be a corresponding increase of 3,504 Form 10–Ks filed.

• We estimate that an increase of 3,504 Form 10–Ks filed would result in an increase in the compliance burden by an estimated 4,457,088 hours (3,504 companies × 1,272 internal hours per company) and an annual cost increase of $594,278,400 ($169,600 cost per response × 3,504 annual responses) with respect to the current Form 10–K.[98]

Form 10–Q

• The elimination of Form 10–QSB would cause the number of Form 10–Qs to increase. We estimate that there were approximately 11,299 Form 10–QSBs filed last fiscal year so there would be a corresponding increase of 11,299 more Form 10–Qs filed.

• We estimate that an increase of 11,299 to the number of Form 10–Qs filed would result in an increase in the compliance burden by 1,155,209 hours (11,299 responses by companies × 102.24 internal hours per response) and an annual cost increase of $154,027,968 (34.08 professional hours × $400 per hour = $13,632 cost per response × 11,299 responses annually) with respect to the current Form 10–Q.

Form 10

• The elimination of Form 10–SB would cause the number of Form 10s to increase. We estimate that approximately 166 Form 10–SBs were filed in the last fiscal year so there would be a corresponding increase of 166 Form 10s.

• We estimate that an increase of 166 to the number of Form 10s filed would result in an increase in the compliance burden by 7,387 hours (166 responses by companies × 44.5 internal hours per response) and an annual cost increase of $8,864,000 (133.5 professional hours × $400 per hour = $53,400 cost per response × 166 responses annually) with respect to the current Form 10.

Form S–1

• The elimination of Form SB–1 would cause the number of Form S–1s to increase. We estimate there were approximately 17 Form SB–1s filed in the last fiscal year so there would be a corresponding increase of 17 Form S–1s filed.

• We estimate that 17 more Form S–1s would increase the compliance burden by 3,009 hours (17 company responses × 177 internal hours per response) and increase the annual cost by $3,610,800 (531 professional hours × $400 per hour = $212,400 cost per response × 17 responses annually).

• The elimination of Form SB–2 would cause the number of Form S–1s to increase. We estimate that there were approximately 870 Form SB–2s filed in the last fiscal year so there would be a corresponding increase of 870 more Form S–1s filed.

• We estimate that 870 more Form S–1s would result in an increase in the compliance burden by 138,765 hours (870 company responses × 159.5 internal hours per response) and an annual cost of $166,518,000 (478.5

[96] In connection with other recent rulemakings, we have had discussions with several private law firms to estimate an hourly rate of $400 as the average cost of outside professionals that assist issuers in preparing disclosure and conducting registered offerings.

[97] We calculated an annual average over a three-year period because OMB approval of Paperwork Reduction Act submissions cover a three year period.

[98] Our current PRA inventory for completing a Form 10–KSB is 1,272 burden hours and a cost of $169,600 (424 professional hours × $400/hour) per report.

professional hours × $400 per hour = $191,400 cost per response × 870 responses annually) increase to the current Form S–1.

Form S–11

• The elimination of Form SB–2 would also cause the number of Form S–11s to increase. We estimate there were approximately 15 Form SB–2s filed by real estate companies in the last fiscal year so that there would be a corresponding increase of 15 Form S–11s filed.

• We estimate that 15 more Form S–11s would result in an increase in the compliance burden by 7,414 hours (15 company responses × 494.25 internal hours per response) and an annual cost of $8,898,000 (1,483 professional hours × $400 per hour = $593,200 cost per response × 15 responses annually) increase in the current Form S–11.

The annual decrease in incremental disclosure burden resulting from the proposed revisions would average 4,457,000 hours per Form 10–KSB, 7,387 hours per Form 10–SB, 1,540,458 hours per Form 10–QSB, 3,009 hours per Form SB–1, and 141,158 hours per Form SB–2. The annual decrease in incremental cost burden resulting from the proposed revisions would average $594,278,000 per Form 10–KSB, $8,864,000 per Form 10–SB, $151,786,000 per Form 10–QSB, $3,610,800 per Form SB–1, and $169,389,000 per Form SB–2. The plain English requirements would apply to these disclosure statements and is factored into the incremental burden of preparing these forms.

These estimates were based on the following assumptions:

Form 10–KSB

• We estimate that the elimination of 3,504 Form 10–KSBs filed would result in a decrease in the compliance burden by 4,457,088 hours (3,504 responses by companies × 1,272 internal hours per response) and an annual cost decrease of $594,278,400 (424 professional hours × $400 per hour = $169,600 cost per response × 3,504 responses annually).

Form 10–QSB

• We estimate that the elimination of 11,299 Form 10–QSBs filed would result in a decrease in the compliance burden by 1,155,209 hours (11,299 responses by companies × 102.24 internal hours per response) and an annual cost decrease of $154,027,968 (34.08 professional hours × $400 per hour = $13,632 cost per response × 11,299 filings annually).

Form 10–SB

• We estimate that the elimination of 166 Form 10–SBs filed would result in a decrease in the compliance burden by 7,387 hours (166 responses by companies × 44.5 internal hours per response) and an annual cost decrease of $8,864,000 (133.5 professional hours × $400 per hour = $53,400 cost per response × 166 responses annually).

Form SB–1

• We estimate that the elimination of 17 Form SB–1s would result in a decrease in the compliance burden by 3,009 hours (17 company responses × 177 internal hours per response) and an annual cost decrease of $3,610,800 (531 professional hours × $400 per hour = $212,400 cost per response × 17 responses annually).

Form SB–2

• We estimate the elimination of 885 Form SB–2s would result in a decrease in the compliance burden by 141,157.5 hours (885 company responses × 159.5 internal hours) and an annual cost decrease of $169,389,000 (478.5 professional hours × $400 per hour = $191,400 cost per response × 885 responses annually).

Additionally, we estimate that approximately 1,581 companies would become newly eligible to use scaled disclosure for smaller reporting companies or have a new opportunity to assess whether they should avail themselves of scaled regulation under the restructured regime and could experience significant burden and cost savings if these proposals are adopted.[99] We estimate that if these smaller reporting companies use all of the scaled smaller reporting company requirements, they would save 713,031 burden hours and an aggregate cost of $95,018,100.[100] We do not expect all of the 1,581 companies, however, to use all of the scaled disclosure available to smaller reporting companies.

While we are unsure how many of the 1,581 smaller reporting companies would use the scaled disclosure requirements, for purposes of this analysis, we estimate that approximately 50% of these companies would use the proposed scaled disclosure available to smaller reporting companies. As a result, we estimate that these 790 smaller reporting companies could save 356,390 internal burden hours and costs of $47,479,000 as indicated in the table below showing our estimates if 50% of the companies used the scaled disclosure in preparing their Form 10–K.[101]

Totals

The tables below illustrate the incremental annual compliance burden in the collection of information in hours and cost for Exchange Act periodic reports, Exchange Act registration statements, and Securities Act registration statements.

Calculation of Paperwork Reduction Act Burden Estimates for Exchange Act Reports, Exchange Act Registration Statements, and Securities Act Registration Statements

[99] We estimate that 1,227 companies would be newly eligible to use the scaled disclosure available to smaller reporting companies in addition to another 354 companies that currently are eligible for scaled disclosure but do not use it, resulting in a total of 1,581 companies. Approximately 1,227 companies have a public float between $25 and $75 million, in addition to approximately 354 companies with a public float below $25 million that currently use the ''SK'' forms rather than the ''SB'' forms.

[100] A smaller reporting company generally may choose to comply with one, some, all, or none of the scaled disclosure requirements available for smaller reporting companies under our proposals. If a smaller reporting company used all scaled disclosure available, it would decrease the compliance burden by up to 713,031 hours (1,581 responses by companies using regular Regulation S–K disclosure × 1,723 internal hours per company = 2,724,063 hours minus 1,581 responses by companies using scaled disclosure × 1,272 internal hours per company = 2,011,032 hours for smaller reporting companies) and decrease the annual cost by up to $95,018,100 (574.25 professional hours × $400 per hour = $229,700 cost per response using the regular Regulation S–K disclosure × 1,581 annual responses minus 424 professional hours × $400 per hour = $169,600 cost per response × 1,581 annual responses).

[101] This estimate of a decrease in the compliance burden by 356,290 hours is based upon 790 responses by companies using regular Regulation S–K disclosure × 1,723 internal hours per company = 1,361,170 hours minus 790 responses by companies × 1,272 internal hours per company = 1,004,880 hours for smaller reporting companies and a decrease in the annual cost by $47,479,000 (574.25 professional hours × $400 per hour = $229,700 cost per response using regular Regulation S–K disclosure × 790 responses minus 424 professional hours × $400 per hour = $169,600 cost per response using the scaled disclosure × 790 annual responses).

TABLE 1.—DECREASES

Form	Annual responses	Burden hours	Annual costs
10–KSB	3,504	4,457,000	$594,278,000
10–QSB	11,299	1,540,458	151,786,000
10–SB	166	7,387	8,864,000
SB–1	17	3,009	3,610,800
SB–2	885	141,158	169,389,000
Total		6,149,012	927,927,800

TABLE 2.—INCREASES

Form	Current annual responses	Increased annual responses	Proposed annual responses	Current burden Hours	Increase in burden hours	Proposed burden hours	Current professional costs	Increase in professional costs	Proposed professional costs
10–K	8,602	3,504	12,106	14,819,096	4,457,088	19,276,184	$1,975,879,000	$594,278,000	$2,570,157,000
10–Q	20,264	11,299	31,563	2,918,263	1,540,458	4,458,721	291,826,000	151,786,000	443,612,000
1Q	72	166	238	4,338	7,387	11,725	5,206,000	8,864,000	14,070,000
S–1	528	887	1,415	155,232	138,765	293,997	186,278,000	170,128,800	356,406,800
S–11	60	15	75	29,655	7,414	37,069	35,586,000	8,898,000	44,484,000
Total					6,151,112			933,954,800	

TABLE 3.—DECREASES FOR NEWLY ELIGIBLE COMPANIES

Companies between $25 million and $75 million	Current burden hours under standard regulation S–K	Proposed burden hours using scaled disclosure	Decrease in burden hours using scaled disclosure	Current professional costs under standard regulation S–K	Proposed professional costs using scaled disclosure	Decrease in professional costs using scaled disclosure
790	1,361,170	1,004,880	356,290	$181,463,000	$133,984,000	$47,479,000

D. Request for Comment

We request comment in order to (a) evaluate whether the collections of information are necessary for the proper performance of our functions, including whether the information will have practical utility; (b) evaluate the accuracy of our estimate of the burden of collections of information; (c) determine whether there are ways to enhance the quality, utility, and clarity of the information to be collected; and (d) evaluate whether there are ways to minimize the burden of the collections of information on those who respond, including through the use of automated collection techniques or other forms of information technology.[102]

Any member of the public may direct to us any comments concerning the accuracy of these burden estimates and any suggestions for reducing these burdens. Persons submitting comments on the collection of information requirements should direct the comments to the Office of Management and Budget, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, DC 20503, and should send a copy to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090, with reference to File No. S7–15–07. Requests for materials submitted to OMB by the Commission with regard to these collections of information should be in writing, refer to File No. S7–15–07, and be submitted to the Securities and Exchange Commission, Records Management, 6432 General Green Way, Alexandria, VA 22312. Because OMB is required to make a decision concerning the collection of information requirements between 30 and 60 days after publication of this release, your comments are best assured of having their full effect if OMB receives them within 30 days of publication.

V. Cost-Benefit Analysis

A. Background

We are proposing to eliminate our ''SB'' forms and integrate Regulation S–B item requirements into amended Regulation S–K. We propose to amend all relevant rules and forms under the Securities Act, the Exchange Act, and the Trust Indenture Act to replace the existing definition of ''small business issuer'' with the new definition of a ''smaller reporting company.'' The ''smaller reporting company'' would replace the current ''small business issuer'' eligibility standards to allow a broader range of public companies to provide disclosure based on the scaled disclosure requirements. The proposed new definition for smaller reporting company would include companies with a public float of less than $75 million and would therefore provide a significant increase from the $25 million levels for public float and revenue under the current ''small business issuer'' definition.

B. Summary of Proposals

As noted above, our proposals would eliminate the separate disclosure framework of Regulation S–B by integrating those requirements into Regulation S–K. The proposed new definition for ''smaller reporting company'' would expand the number of filers that would qualify to provide disclosure under the more scaled item requirements of the current Regulation S–B framework. As proposed, smaller reporting companies and non-accelerated filers would both be subject to Regulation S–K, but smaller reporting companies would have the option to provide disclosure on an item-by-item basis according to the scaled item requirements of amended Regulation S–K.

[102] Comments are requested pursuant to 44 U.S.C. 3506(c)(2)(B).

New Definition of Smaller Reporting Company in Regulation S–K

Under the proposals, the newly defined term ''smaller reporting company'' would include previously excluded companies with public float levels of between $25 and $75 million. Additionally, companies that do not have a public float as defined, or are unable to calculate it, would be eligible for scaled disclosure if their revenues are below $50 million annually. A smaller reporting company would have the option to prepare disclosure based on the scaled disclosure item requirements of amended Regulation S–K. The proposed amendments to Regulation S–K would foster regulatory flexibility because eligible filers would be able to choose the level of disclosure to provide on an item-by-item basis. We believe providing disclosure choice is consistent with a principles-based approach, which encourages filers to provide more meaningful and relevant disclosure that is specific to the needs of the company and its investors.

Description of Business

Under the proposal, companies with public float levels of less than $75 million would be able to elect to provide disclosure regarding the development of their business for three years rather than the current requirement applicable to companies between $25 million and $75 million in public float to disclose the general development of the business for the past five years.

Financial Information

As part of our proposals to reduce costs associated with regulatory compliance, we are proposing to simplify financial statement disclosure requirements for smaller reporting companies.

As proposed, the current financial statement requirements in Item 310 of Regulation S–B would be available to smaller reporting companies. As proposed, Item 310 of Regulation S–K would permit smaller reporting companies to provide an audited balance sheet for the last fiscal year and audited statements of income, cash flows, and changes in stockholders' equity for each of the latest two fiscal years. In addition, the expanded category of smaller reporting companies (companies with public float levels between $25 and $75 million) would no longer be required to provide an audited balance sheet for the latest two fiscal years and audited statements of income, cash flows, and changes in stockholders' equity for each of the latest three fiscal years as required by Regulation S–X. Other simplified aspects under proposed Item 310 of Regulation S–K would include:

- The historical and pro forma financial statements for significant acquired businesses;
- The maximum age of financial statements; and
- Limited partnerships financial statement disclosure of general partners.

Executive Compensation

As proposed to be amended, Item 402 of Regulation S–K would require smaller reporting companies to provide:

- Disclosure about the chief executive officer and two other highly compensated executive officers only, rather than the information for the Chief Executive Officer, Chief Financial Officer and three other executive officers required of larger registrants; and
- Only three of the seven tables (Summary Compensation, Outstanding Equity Awards, and Director Compensation) required of larger reporting companies.

Transactions With Related Persons, Promoters, and Certain Control Persons

Under the proposals, smaller reporting companies would be able to use the scaled disclosure requirements for transactions with related persons currently in Item 404 of Regulation S–B. Unlike Item 404 of Regulation S–K, Item 404 of Regulation S–B does not require disclosure regarding the company's policies and procedures for approving related person transactions. Smaller reporting companies would be required, however, to report transactions occurring within the last two years, whereas Item 404 of Regulation S–K requires disclosure for the last fiscal year, unless the information is included in a Securities Act or Exchange Act registration statement, where information as to the last three fiscal years is required.

C. Benefits

As discussed above, our proposals would promote regulatory simplification by eliminating all ''SB'' forms and consolidating the Regulation S–B disclosure item requirements into Regulation S–K. The integrated Regulation S–K regime would enable a larger category of public companies to have more flexibility in tailoring disclosure standards to fit the realities of their company. The proposed increased public float standards in the definition of smaller reporting company would provide more companies the flexibility to choose between scaled item requirements such as financial statement information and executive compensation disclosure.

Eliminating the ''SB'' forms would mitigate the perceived notion that smaller companies are currently reporting under a completely different disclosure framework. Integrating smaller reporting companies into the Regulation S–K framework and importing Regulation S–B disclosure standards into Regulation S–K would provide regulatory flexibility and reduce compliance costs for companies. We believe that these proposals will benefit the capital markets by encouraging private companies to consider offerings that are registered under the Securities Act or to enter the Exchange Act reporting system.

As proposed, an integrated disclosure system for all companies filing forms using Regulation S–K would promote efficiency because practitioners and investors would refer to one disclosure framework. Filers and their practitioners would have one consolidated regulation to find all relevant disclosure item requirements, which would reduce complexity and improve regulatory efficiencies.

The disclosure requirements will not change for current small business issuers that have filed under Regulation S–B. We nonetheless believe that the benefits of increased flexibility and efficiency and mitigating the perceived notion that small business issuers are reporting under a different framework are important to small business issuers.

As discussed earlier in this release, we estimate that approximately 1,581 companies would have a new opportunity to use the restructured scaled disclosure requirements for smaller reporting companies and could experience significant burden and cost savings if these proposals are adopted.[103] If all 1,581 smaller reporting companies provided scaled disclosure, they could save 713,031 burden hours and costs of $95,018,100, using the assumptions from our Paperwork Reduction Analysis.[104] However, we do not expect all of the 1,581 companies to use all of the scaled disclosure available to smaller reporting companies.

For purposes of the Paperwork Reduction Analysis, we assumed that approximately 50% of the 1,581 companies (or 790 companies) would use the scaled disclosure requirements. We estimate that these 790 smaller reporting companies could save 356,390 internal burden hours and costs in the

[103] See footnote 100 above.

[104] *Id.*

amount of $47,479,000 by using the scaled disclosure requirements.[105]

We believe investors would benefit from the proposed scaled and proportional disclosure amendments to Regulation S–K because the proposals would allow issuers to make disclosure based on the size, business operations, and financial condition of the smaller reporting company. Allowing smaller reporting companies to choose scaled disclosure on an item-by-item basis allows companies to tailor their disclosure to meet their own needs.

Finally, another benefit to smaller reporting companies is that by using Registration Statement Form S–1 a company may be permitted to incorporate by reference its previously filed periodic reports. We believe that this would result in some minor cost savings and efficiencies in preparing registration statements for smaller reporting companies.

D. Costs

In our view, the proposed elimination of the ''SB'' forms and the proposed consolidation of the Regulation S–B disclosure standards into Regulation S–K would not increase significantly the costs of complying with the Commission's rules. For current ''SB'' filers, we estimate the net difference of reporting under Regulation S–K would be an increase of 2,100 burden hours and a cost of $6,027,000.[106] The reason for the net difference is that small real estate companies, which are currently eligible to use Form SB–2, would be required to use Form S–11 if these proposals are adopted. Form S–11 is a form tailored to the real estate industry and requires more internal burden hours and increased professional costs.

As proposed, we are not creating new rules or item requirements that would increase burdens or impose new requirements other than requiring foreign private issuers that elect to file reports as smaller reporting companies to provide financial statements according to U.S. GAAP. We believe that combining disclosure standards into one centralized source in amended Regulation S–K would streamline and simplify the disclosure burdens associated with the registration process for many filers. Under the proposed amendments, our intention is to provide regulatory relief to a broader category of filers consistent with investor protection. We anticipate that companies would be able to reduce costs associated with the preparation of disclosure.

We recognize that some of the 1,581 companies may choose to avail themselves of the scaled disclosure requirements when they have complied with standard Regulation S–K previously. These companies may be providing less information to the marketplace. But more information is not necessarily better if the cost to provide the information is greater than the benefit. These companies would be providing scaled disclosure to fit the characteristics of their company while balancing the burdens of providing information with their benefits.

Request for Comments

We solicit comments, especially quantitative data, to assist in our assessment of the benefits and costs of scaled disclosure resulting from:

- Expanding the category of filers that may be eligible for ''smaller reporting company'' status by increasing the public float threshold to a level of less than $75 million in public float;
- Eliminating all forms associated with Regulation S–B;
- Allowing smaller reporting companies to provide disclosure based on the scaled item requirements of amended Regulation S–K, which would include Items 101, 303, 310, 402, 404, and any others that would be amended based on the current scaled standards set forth in Regulation S–B;
- Indexing the public float threshold for ''smaller reporting company'' eligibility to provide for periodic adjustments based on inflation; and
- Making the scaled disclosure requirements in current Regulation S–B Items 101, 303, 310, 402, and 404 available to more companies eligible for ''smaller reporting company'' status.

Additionally, we request comments on the following:

- Do members of the public have comments, especially quantitative data, to assist our assessment of the benefits and costs of scaled disclosure resulting from our proposed amendments?
- Are there costs or benefits to our proposals that we have not identified?
- Some companies with a public float between $25 million and $75 million may choose to use the scaled disclosure to provide less information to investors than they have in the past. Would this loss of information have a negative or positive effect on investors? Would it affect the cost of capital?
- It may be more difficult under the current proposal for a smaller reporting company that filed as a Regulation S–K filer in the past to differentiate itself from other smaller companies. Would the lack of differentiation affect investors and, if so, what impact will it have? Would it affect the cost of capital?
- Would any reporting companies that would newly qualify for scaled disclosure requirements incur increased costs as a result of adoption of our proposed amended and scaled item requirements of Regulation S–K?

VI. Consideration of Impact on the Economy, Burden on Competition and Promotion of Efficiency, Competition and Capital Formation

Section 23(a)(2) of the Exchange Act requires us to consider the impact that any new rule would have on competition.[107] Section 23(a)(2) also prohibits us from adopting any rule that would impose a burden on competition not necessary or appropriate to carry out the purposes of the Exchange Act.

Securities Act Section 2(b) and Exchange Act Section 3(f) require us to consider or determine, when engaged in rulemaking, whether an action is necessary or appropriate in the public interest and whether the action will promote efficiency, competition, and capital formation.

The proposed amendments to Regulation S–K are intended to result in regulatory simplification and efficiency by removing the duplicative sections of Regulation S–B and consolidating the scaled item requirements of Regulation S–B, such as financial statement information and executive compensation, into amended Regulation S–K. As proposed, amended Regulation S–K would consolidate into a single framework the disclosure requirements applicable to all filers that are subject to the reporting requirements of Sections 13 and 15 of the Exchange Act and companies filing registration statements under the Securities Act. To comply with disclosure item requirements, practitioners and companies would no longer need to refer to two disclosure frameworks. Practitioners and companies would benefit from the ease of reference that a single disclosure framework would provide.

It is intended that the proposed amendments would promote capital formation for smaller reporting companies and improve their ability to compete with larger companies for capital. For example, we believe capital formation would be improved by providing more flexibility to smaller reporting companies to tailor their disclosure to their investors' needs. In addition, the costs to raise capital could be reduced to the extent compliance costs would be reduced as a result of the

[105] *See* footnote 101 above.

[106] See Section C. Paperwork Reduction Act Burden Estimates.

[107] 15 U.S.C. 78w(a)(2).

proposed scaled disclosure requirements. If smaller reporting companies allocate the capital they raise and save as a result of our proposed scaled disclosure requirements to business development in an effective manner, these companies could be more competitive.

The proposed amendments to Regulation S–K are intended to make the scaled disclosure requirements of the current Regulation S–B regime available to a broader category of filers on an optional basis. More companies would be able to take advantage of more scaled disclosure item requirements such as those contained currently in Item 310 and Item 402 of Regulation S–B. Smaller reporting companies that avail themselves of the scaled disclosure requirements would provide tailored disclosure that may better meet the needs of their investors. The proposed amendments to Regulation S–K are intended to provide more disclosure choice without adding additional requirements.

We request comment on whether the proposals, if adopted, would promote efficiency, competition and capital formation or have an impact or burden on competition. Commenters are requested to provide empirical data and other factual support for their view, if possible.

VII. Initial Regulatory Flexibility Act Analysis

This Initial Regulatory Flexibility Analysis has been prepared in accordance with 5 U.S.C. 603. The following analysis relates to proposed revisions to the rules and forms under the Securities Act and Exchange Act, which would include a new definition of smaller reporting company under Regulation S–K. The new definition would expand the group of smaller companies that qualify to provide disclosure in accordance with the scaled requirements of the current Regulation S–B disclosure framework.

As proposed, a smaller reporting company would be defined as a company that meets all of the following criteria: is not an investment company, an asset-backed issuer, or the majority-owned subsidiary of a parent that was not a smaller reporting company and that had a public float of less than $75 million as of the last business day of its most recently completed second fiscal quarter, and in the case of an issuer whose public float was zero because the issuer had no significant equity outstanding or no market price for its equity, had annual revenues of less than $50 million during its most recently completed fiscal year for which audited financial statements are available on the date of the filing that establishes whether or not the issuer is a smaller reporting company for any fiscal year.

The proposed revisions also would eliminate the separate disclosure regime of Regulation S–B by removing all related ''SB'' forms and merging the Regulation S–B item requirements into Regulation S–K. The proposed revisions to Regulation S–K include revising item requirements to offer smaller reporting companies optional disclosure alternatives that are designed to provide flexibility, cost efficiencies and regulatory simplification. The revisions would result in greater uniformity of rules and regulations and compliance simplification for filers.

A. Reasons for and Objectives of the Proposed Action

1. The Advisory Committee on Smaller Public Companies Recommended Scaled Federal Securities Regulation for Smaller Companies

In March 2005, the Commission chartered the Advisory Committee on Smaller Public Companies to assess the current regulatory system for smaller companies under the federal securities laws and to make recommendations for changes to improve regulatory conditions for smaller companies. The Commission directed the Advisory Committee on Smaller Public Companies to consider the impact that the Sarbanes-Oxley Act of 2002 [108] and several other areas, including the disclosure and reporting requirements applicable to smaller companies under the federal securities laws.

In 2005, the Advisory Committee received numerous comments stating that the $25 million eligibility thresholds in the Regulation S–B definition of small business issuer are too low. The comments also indicated that the $25 million thresholds for public float and revenue in the current definition for small business issuer should be increased to permit a much larger group of smaller public companies to qualify for the scaled disclosure benefits of Regulation S–B, particularly in light of the increased costs associated with reporting obligations under the Exchange Act since passage of the Sarbanes-Oxley Act.

The Advisory Committee made three recommendations in this area, which included expanding the definition of smaller public company, incorporating Regulation S–B into Regulation S–K, and incorporating Item 310 of Regulation S–B into Regulation S–K to make the scaled financial statement accommodations available to a much larger group of smaller companies.

2. Expanding Eligibility for Smaller Company Scaled Regulation Under Amended Regulation S–K

To make the scaled requirements of the Regulation S–B disclosure framework applicable to many more companies, the Advisory Committee recommended revising the definition of ''small business issuer'' to include a company with a higher public float threshold than the $25 million ceiling currently required in the small business issuer definition found in Item 10 of Regulation S–B.

Although the Advisory Committee did not recommend that we use a public float threshold, increased to $75 million, as we propose today, the proposed $75 million public float threshold is based on the reference to that number in the accelerated filer definition set forth in Rule 12b–2 of the Exchange Act. To maintain uniformity with current regulation, we believe setting a public float threshold based on the current levels established for non-accelerated filers is practical and avoids regulatory complexity.

3. Integrating Substantive Requirements of Regulation S–B Into Regulation S–K

The overall goal of the rule proposals is to integrate the most substantive provisions of Regulation S–B into Regulation S–K and make these scaled disclosure requirements available to more companies as smaller reporting companies. We believe that the proposals would:

- Further the goals of regulatory simplification by eliminating the current Regulation S–B framework as a separate stand-alone disclosure standard for the smallest reporting companies;
- Update the public float threshold and eliminate the revenue threshold restriction in the current ''small business issuer'' definition to accommodate many more companies that are contemplating an offering registered under the Securities Act or entry into the Exchange Act reporting system;
- Streamline and modernize forms under the Securities Act and the Exchange Act by eliminating all of the ''SB'' forms; and
- Provide regulatory flexibility by permitting smaller reporting companies to provide financial statement information in accordance with Item 310 of Regulation S–K instead of Regulation S–X.

[108] Pub. L. No. 107–204, 116 Stat. 745 (2002).

B. Legal Basis

We are proposing the amendments pursuant to Sections 6, 7, 10 and 19(a) of the Securities Act, Sections 12, 13, 14(a), 15(d), and 23(a) of the Exchange Act, and Section 319(a) of the Trust Indenture Act, as amended.

C. Small Entities Subject to the Rule

The proposals would affect small entities, the securities of which are registered under Section 12 of the Exchange Act or that are required to file reports under Section 15(d) of the Exchange Act. The proposals also would affect small entities that file, or have filed, a registration statement that has not yet become effective under the Securities Act and that has not been withdrawn. Securities Act Rule 157 [109] and Exchange Act Rule 0–10(a) [110] define an issuer to be a ''small entity'' for purposes of the Regulatory Flexibility Act if it had total assets of $5 million or less on the last day of its most recent fiscal year. We believe the proposals would affect some small entities. We estimate that there are approximately 1,100 issuers that may be considered small entities.[111]

D. Reporting, Recordkeeping, and Other Compliance Requirements

As proposed, integrating Regulation S–B requirements into Regulation S–K and rescinding all of the ''SB'' forms would shift the location of disclosure requirements and would require that smaller reporting companies adapt to new formats in preparing their disclosure for Form S–1. The proposed amendments to Regulation S–K would include a new definition for smaller reporting company, which would broaden the category of filers preparing disclosure to comply with the scaled item requirements of amended Regulation S–K. Companies with public floats between $25 and $75 million would be included in the class of filers that is eligible to provide disclosure based on the scaled requirements of proposed revisions to amended Regulation S–K. Under the proposals, the scope and presentation of information disclosed based on the item requirements of amended Regulation S–K would differ in a number of significant ways from the current Regulation S–K disclosure framework. Under amended Regulation S–K, smaller reporting companies would:

- Provide three years rather than five years of business development activities and not be required to provide segment disclosure under amended Item 101 of Regulation S–K;
- Not be required to provide disclosure required by Items 301 and 302 relating to selected financial data and supplementary financial information;
- Provide more streamlined disclosure for management's discussion and analysis of financial condition and results of operation found in Item 303 by requiring only two years of analysis if the company is presenting only two years of financial statements instead of the three years currently required of larger companies;
- Provide an audited balance sheet as of the end of the last fiscal year and audited statements of income, cash flows and changes in stockholders' equity for each of the last two fiscal years in new Item 310 instead of an audited balance sheet as of the end of the last two fiscal years and audited statement of income, cash flows and changes in stockholders' equity for each of the last three fiscal years as required by Regulation S–X;
- Under Item 402, limit the named executive officers for whom disclosure will be required to a smaller group, consisting of the principal executive officer and the other two highest paid executive officers, require that the Summary Compensation Table disclose the two most recent fiscal years, require an Outstanding Equity Awards at Fiscal Year-End Table, and require the Director Compensation Table;
- Under Item 402, smaller reporting companies would not be required to provide a Compensation Discussion and Analysis or a Compensation Committee Report; information regarding two additional executive officers; the third fiscal year of Summary Compensation Table disclosure; or the supplementary Grants of Plan-Based Awards Table, the Option Exercises and Stock Vested Table, the Pension Benefits Table, and the Nonqualified Deferred Compensation Table and the separate Potential Payments Upon Termination or Change-in-Control narrative section; and
- Under Item 404, a smaller reporting company would be required to describe any transaction where the amount involved exceeds the lesser of $120,000 or 1% of the average of the smaller reporting company's total assets at the year-end for the last two completed fiscal years, and in which any related person had or will have a direct or indirect material interest. A smaller reporting company need not provide disclosure relating to policies and procedures for reviewing related person transactions.

The proposed amendments to Regulation S–K would not increase the disclosure requirements for former small business issuers and could substantially decrease the disclosure required for issuers with public float levels between $25 million and $75 million.

Proposed amended Item 404 of Regulation S–K is the only example where it is possible that the disclosure required for smaller reporting companies could be more extensive than for standard Regulation S–K filers. Item 404 would contain a provision that would require disclosure of transactions with related persons that exceed the lesser of $120,000 or 1% of the average of the smaller reporting company's total assets at the fiscal year end for the last two completed fiscal years. This requirement may be more burdensome to a smaller reporting company if 1% of total assets are less than $120,000. We believe transactions involving related persons are important to disclose, especially for smaller reporting companies, which may generally have lower materiality thresholds. While larger companies are bound by the higher $120,000 threshold, we believe this difference is important for the protection of investors. This disclosure issue would only affect smaller reporting companies that have related person transactions.

E. Overlapping or Conflicting Federal Rules

We do not believe any current federal rules duplicate, overlap or conflict with the proposed amendments.

F. Significant Alternatives

The Regulatory Flexibility Act directs us to consider significant alternatives that would accomplish the stated objectives, while minimizing any significant adverse impact on small entities. In connection with the proposals, we considered the following alternatives:

(a) Establishing different compliance or reporting requirements which take into account the resources available to smaller entities;

(b) The clarification, consolidation or simplification of disclosure for small entities;

(c) Use of performance standards rather than design standards; and

(d) Exempting smaller entities from coverage of the disclosure requirements or any part thereof.

[109] 17 CFR 230.157.

[110] 17 CFR 240.0–10(a).

[111] The estimated number of reporting small entities is based on 2007 data including the Commission's internal computerized filing system and Thomson Financial's Worldscope database. This represents an update from the number of reporting small entities estimated in prior rulemakings.

As proposed, our amendments are intended to maintain current disclosure standards for small entities while further expanding the scope of eligibility for companies that would elect to comply with the scaled disclosure item requirements currently set forth in Regulation S–B. Our proposals do not exempt smaller entities from coverage of the disclosure requirements; but rather, they would provide a greater number of smaller reporting companies the choice to provide scaled disclosure as set forth in the proposed smaller reporting company amendments to Regulation S–K.

As amended, a new definition for smaller reporting company would eliminate the current $25 million revenue threshold and increase the public float threshold requirement up to $75 million from the $25 million level currently set forth in the small business issuer definition of Regulation S–B.

We considered alternatives such as including a revenue cap in the new definition of smaller reporting company but currently believe that only requiring less than $75 million in public float was preferable, given its ease of reference and uniformity with current rules under the Securities Act and the Exchange Act.

As proposed, we would consolidate, clarify and simplify disclosure requirement compliance by integrating Regulation S–B into Regulation S–K. The proposed amendments would include a new definition of smaller reporting company, which would greatly expand the number of small entities that would qualify to provide disclosure based on the scaled disclosure item requirements of the current Regulation S–B framework. We considered maintaining the Regulation S–B framework and making it available to many more companies, but believe a single disclosure framework would be more efficient. The proposed amendments also would eliminate all ''SB'' forms, which would result in regulatory simplification for smaller entities by requiring that all registrants rely on one set of forms, such as Forms S–1, S–3, 10–K and 10–Q, for example. These forms would include scaled item requirements for smaller reporting companies under proposed amended Regulation S–K.

Finally, we considered the use of performance rather than design standards and concluded that it would be inconsistent with the purposes of the Securities Act and Exchange Act and investor protection to specify different requirements other than those set forth in the item requirements of Regulation S–B and Regulation S–K.

Request for Comments

- Are there any other significant alternatives we should consider in our final regulatory flexibility analysis?

G. Solicitation of Comments

We encourage the submission of written comments with respect to any aspect of this initial regulatory flexibility analysis, especially empirical data on the impact on small businesses. In particular, we request comment on: (1) The number of small entities that would be affected by the proposed amendments of Form 10–K, Form 10–Q, Form 10, Form S–1, and Form S–11 as well as the elimination of Regulation S–B and Form 10–KSB, Form 10–QSB, Form 10–SB, Form SB–1, and Form SB–2; and (2) whether these amendments would increase the reporting, recordkeeping and other compliance requirements for small businesses. Such written comments will be considered in the preparation of the final regulatory flexibility analysis if the proposed amendments are adopted.

VIII. Small Business Regulatory Enforcement Fairness Act

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996 [112] a rule is ''major'' if it has resulted, or is likely to result in:

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers or individual industries; or
- Significant adverse effects on competition, investment or innovation.

We request comment on whether our proposals would be a ''major rule'' for purposes of the Small Business Regulatory Enforcement Fairness Act. We solicit comment and empirical data on (a) the potential effect on the U.S. economy on an annual basis; (b) any potential increase in costs or prices for consumers or individual industries; and (c) any potential effect on competition, investment or innovation.

IX. Statutory Basis and Text of Proposal

We are proposing rule amendments pursuant to Sections 6, 7, 10, and 19(a) of the Securities Act, as amended, Sections 12, 13, 14(a), 15(d), and 23(a) of the Exchange Act, as amended, and Section 319(a) of the Trust Indenture Act, as amended.

[112] Pub. L. No. 104–121, Title II, 110 Stat. 857 (1996).

List of Subjects

17 CFR Part 228

Reporting and recordkeeping requirements, Securities, Small businesses.

17 CFR Parts 210, 229, 230, 239, 240, 249, 260, and 269

Reporting and recordkeeping requirements, Securities.

In accordance with the foregoing, under the authority of 15 U.S.C. 19(a) Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, INVESTMENT ADVISERS ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

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

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77z–2, 77z–3, 77aa(25), 77aa(26), 78c, 78j–1, 78*l*, 78m, 78n, 78o(d), 78q, 78u–5, 78w(a), 78*ll*, 78mm, 80a–8, 80a–20, 80a–29, 80a–30, 80a–31, 80a–37(a), 80b–3, 80b–11, 7202 and 7262, unless otherwise noted.

2. Amend § 210.3–01 by revising paragraphs (b), the introductory text of paragraph (c) and (f) to read as follows:

§ 210.3–01 Consolidated balance sheets.

* * * * *

(b) If the filing, other than a filing on Form 10–K or Form 10, is made within 45 days after the end of the registrant's fiscal year and audited financial statements for the most recent fiscal year are not available, the balance sheets may be as of the end of the two preceding fiscal years and the filing shall include an additional balance sheet as of an interim date at least as current as the end of the registrant's third fiscal quarter of the most recently completed fiscal year.

(c) The instruction in paragraph (b) of this section is also applicable to filings, other than on Form 10–K or Form 10, made after 45 days but within the number of days of the end of the registrant's fiscal year specified in paragraph (i) of this section: *Provided*, That the following conditions are met:

* * * * *

(f) Any interim balance sheet provided in accordance with the requirements of this section may be unaudited and need not be presented in greater detail than is required by

§ 210.10–01. Notwithstanding the requirements of this section, the most recent interim balance sheet included in a filing shall be at least as current as the most recent balance sheet filed with the Commission on Form 10–Q.

* * * * *

3. Amend § 210.3–10 by revising paragraphs (h)(3) and (h)(4) to read as follows:

§ 210.3–10 Financial statements of guarantors and issuers of guaranteed securities registered or being registered.

* * * * *

(h) * * *

(1) * * *

(3) *Annual report* refers to an annual report on Form 10–K or Form 20–F (§ 249.310 or 249.220f of this chapter).

(4) *Quarterly report* refers to a quarterly report on Form 10–Q (§ 249.308a of this chapter).

* * * * *

4. Amend § 210.3–12 by revising paragraphs (a) and (d) to read as follows:

§ 210.3–12 Age of financial statements at effective date of registration statement or at mailing date of proxy statement.

(a) If the financial statements in a filing are as of a date the number of days specified in paragraph (g) of this section or more prior to the date the filing is expected to become effective or proposed mailing date in the case of a proxy statement, the financial statements shall be updated, except as specified in the following paragraphs, with a balance sheet as of an interim date within the number of days specified in paragraph (g) of this section and with statements of income and cash flows for the interim period between the end of the most recent fiscal year and the date of the interim balance sheet provided and for the corresponding period of the preceding fiscal year. Such interim financial statements may be unaudited and need not be presented in greater detail than is required by § 210.10–01. Notwithstanding the above requirements, the most recent interim financial statements shall be at least as current as the most recent financial statements filed with the Commission on Form 10–Q.

* * * * *

(d) The age of the registrant's most recent audited financial statements included in a registration statement filed under the Securities Act of 1933 or filed on Form 10 (17 CFR 249.210) under the Securities Exchange Act of 1934 shall not be more than one year and 45 days old at the date the registration statement becomes effective if the registration statement relates to the security of an issuer that was not subject, immediately prior to the time of filing the registration statement, to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934.

* * * * *

5. Amend § 210.3–14 by removing the authority citations following the section and revising paragraph (b) to read as follows:

§ 210.3–14 Special instructions for real estate operations to be acquired.

* * * * *

(b) Information required by this section is not required to be included in a filing on Form 10–K.

6. Amend § 210.4–01 by revising paragraphs (a)(3)(i)(A) and (a)(3)(i)(B) to read as follows:

§ 210.4–01 Form, order, and terminology.

(a) * * *

(3)(i) * * *

(A) The first interim or annual reporting period of the registrant's first fiscal year beginning on or after June 15, 2005, provided the registrant does not file as a smaller reporting company; and

(B) The first interim or annual reporting period of the registrant's first fiscal year beginning on or after December 15, 2005, provided the registrant files as a smaller reporting company.

* * * * *

7. Amend § 210.10–01 by revising paragraphs (b)(6) and the introductory text of paragraph (c) to read as follows:

§ 210.10–01 Interim financial statements.

* * * * *

(b) * * *

(6) In addition to meeting the reporting requirements specified by existing standards for accounting changes, the registrant shall state the date of any material accounting change and the reasons for making it. In addition, for filings on Form 10–Q, a letter from the registrant's independent accountant shall be filed as an exhibit (in accordance with the provisions of Item 601 of Regulation S–K, 17 CFR 229.601) in the first Form 10–Q subsequent to the date of an accounting change indicating whether or not the change is to an alternative principle which in the accountant's judgment is preferable under the circumstances; except that no letter from the accountant need be filed when the change is made in response to a standard adopted by the Financial Accounting Standards Board which requires such change.

* * * * *

(c) *Periods to be covered.* The periods for which interim financial statements are to be provided in registration statements are prescribed elsewhere in this Regulation (see §§ 210.3–01 and 3–02). For filings on Form 10–Q, financial statements shall be provided as set forth in this paragraph (c):

* * * * *

8. Part 228 is removed and reserved.

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S–K

9. The authority citation for part 229 continues to read in part as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77z–2, 77z–3, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77nnn, 77sss, 78c, 78i, 78j, 78*l*, 78m, 78n, 78o, 78u–5, 78w, 78*ll*, 78mm, 80a–8, 80a–9, 80a–20, 80a–29, 80a–30, 80a–31(c), 80a–37, 80a–38(a), 80a–39, 80b–11, and 7201 *et seq.*; 18 U.S.C. 1350, unless otherwise noted.

* * * * *

10. Amend § 229.10 by adding paragraph (f) to read as follows:

§ 229.10 (Item 10) General.

* * * * *

(f) *Smaller reporting companies.* The requirements of this part apply to smaller reporting companies. Where an item of this part sets forth requirements for smaller reporting companies that are different from the requirements applicable to other companies, a smaller reporting company may comply with either the requirement applicable to smaller reporting companies or the requirement applicable to other companies:

(1) *Definition of smaller reporting company.* As used in this part, the term *smaller reporting company* means an issuer that is not an investment company, an asset-backed issuer (as defined in § 229.1101), or a majority-owned subsidiary of a parent that is not a smaller reporting company and that:

(i) Had a public float of less than $75 million as of the last business day of its most recently completed second fiscal quarter, computed by multiplying the aggregate worldwide number of shares of its voting and non-voting common equity held by non-affiliates by the price at which the common equity was last sold, or the average of the bid and asked prices of common equity, in the principal market for the common equity; or

(ii) In the case of an initial registration statement under the Securities Act for shares of its common equity, had a public float of less than $75 million as of a date within 30 days of the date of

the filing of the registration statement, computed by multiplying the aggregate worldwide number of such shares held by non-affiliates before the registration plus the number of such shares included in the registration statement by the estimated public offering price of the shares; or

(iii) In the case of an issuer whose public float as calculated under paragraph (i) or (ii) of this definition was zero because the issuer had no significant public common equity outstanding or no market price for its common equity existed, had annual revenues of less than $50 million during the most recently completed fiscal year for which audited financial statements are available on the date of the filing that establishes whether or not the issuer is a smaller reporting company for any fiscal year.

(2) *Determination*: Whether or not an issuer is a smaller reporting company is determined for an entire fiscal year on the basis of the information in a quarterly report on Form 10–Q or an initial registration statement under the Securities Act or the Exchange Act, whichever is the first to be filed that year. Once an issuer fails to qualify for smaller reporting company status, it will remain unqualified unless it determines that its public float, as calculated in accordance with paragraph (f)(1) of this definition was less than $50 million as of the last business day of its second fiscal quarter or, if that calculation results in zero because the issuer had no significant public equity outstanding or no market price for its equity existed, if the issuer had annual revenues of less than $40 million during its previous fiscal year. An issuer making this determination becomes a smaller reporting company for the purpose of filings for the next fiscal year.

* * * * *

11. Amend § 229.101 by:

a. Revising (a)(2) introductory text, (a)(2)(i), (a)(2)(ii), and (a)(2)(iii) introductory text; and

b. Adding paragraph (h) before the Instructions to Item 101.

The revision and addition read as follows:

§ 229.101 (Item 101) Description of business.

* * * * *

(a)(1) * * *

(2) Registrants:

(i) Filing a registration statement on Form S–1 (§ 239.11 of this chapter) under the Securities Act or on Form 10 (§ 249.210 of this chapter) under the Exchange Act:

(ii) Not subject to the reporting requirements of section 13(a) or 15(d) of the Exchange Act immediately prior to the filing of such registration statement; and

(iii) That (including predecessors) have not received revenue from operations during each of the 3 fiscal years immediately prior to the filing of registration statement, shall provide the following information:

* * * * *

(h) *Smaller reporting companies.* A smaller reporting company, as defined by § 229.10(f)(1), may satisfy its obligations under this item by describing the development of its business during the last three years. If the smaller reporting company has not been in business for three years, give the same information for predecessor(s) of the smaller reporting company if there are any. This business development description should include:

(1) Form and year of organization;

(2) Any bankruptcy, receivership or similar proceeding; and

(3) Any material reclassification, merger, consolidation, or purchase or sale of a significant amount of assets not in the ordinary course of business.

(4) *Business of the smaller reporting company.* Briefly describe the business and include, to the extent material to an understanding of the smaller reporting company:

(i) Principal products or services and their markets;

(ii) Distribution methods of the products or services;

(iii) Status of any publicly announced new product or service;

(iv) Competitive business conditions and the smaller reporting company's competitive position in the industry and methods of competition;

(v) Sources and availability of raw materials and the names of principal suppliers;

(vi) Dependence on one or a few major customers;

(vii) Patents, trademarks, licenses, franchises, concessions, royalty agreements or labor contracts, including duration;

(viii) Need for any government approval of principal products or services. If government approval is necessary and the small reporting company has not yet received that approval, discuss the status of the approval within the government approval process;

(ix) Effect of existing or probable governmental regulations on the business;

(x) Estimate of the amount spent during each of the last two fiscal years on research and development activities, and if applicable, the extent to which the cost of such activities are borne directly by customers;

(xi) Costs and effects of compliance with environmental laws (federal, state and local); and

(xii) Number of total employees and number of full time employees.

(5) *Reports to security holders.* Disclose the following in any registration statement you file under the Securities Act of 1933:

(i) If you are not required to deliver an annual report to security holders, whether you will voluntarily send an annual report and whether the report will include audited financial statements;

(ii) Whether you file reports with the Securities and Exchange Commission. If you are a reporting company, identify the reports and other information you file with the Commission; and

(iii) That the public may read and copy any materials you file with the Commission at the SEC's Public Reference Room at 100 F Street, NE., Washington, DC 20549. State that the public may obtain information on the operation of the Public Reference Room by calling the Commission at 1–800–SEC–0330. State that the Commission maintains an Internet site that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the Commission and state the address of that site (*http://www.sec.gov*). You are encouraged to give your Internet address, if available.

(6) *Canadian issuers.* Provide the information required by Items 101(f)(2) and 101(g) of Regulation S–K (§ 229.101(f)(2) and (g)).

* * * * *

12. Amend § 229.201 by:

a. Revising paragraph (a)(2); and

b. Revising Instruction 6. to Item 201(e).

The revision and addition read as follows:

§ 229.201 (Item 201) Market price of and dividends on the registrant's common equity and related stockholder matters.

(a) * * *

(2) If the information called for by this paragraph (a) is being presented in a registration statement on Form S–1 (§ 239.11 of this chapter) under the Securities Act or on Form 10 (§ 249.210 of this chapter) under the Exchange Act relating to a class of common equity for which at the time of filing there is no established United States public trading market, indicate the amount(s) of common equity:

(i) That is subject to outstanding options or warrants to purchase, or securities convertible into, common equity of the registrant;

(ii) That could be sold pursuant to § 230.144 of this chapter or that the registrant has agreed to register under the Securities Act for sale by security holders; or

(iii) That is being, or has been publicly proposed to be, publicly offered by the registrant (unless such common equity is being offered pursuant to an employee benefit plan or dividend reinvestment plan), the offering of which could have a material effect on the market price of the registrant's common equity.

* * * * *

Instructions to Item 201(e):

* * * * *

(6) *Smaller reporting companies.* A registrant that qualifies as a smaller reporting company, as defined by § 229.10(f)(1), is not required to provide the information required by paragraph (e) of this Item.

* * * * *

13. Amend § 229.301 by removing the authority citation following the section and adding paragraph (c) before the Instruction to Item 301 to read as follows:

§ 229.301 (Item 301) Selected financial data.

* * * * *

(c) *Smaller reporting companies.* A registrant that qualifies as a smaller reporting company, as defined by § 229.10(f)(1), is not required to provide the information required by this Item.

* * * * *

14. Amend § 229.302 by adding paragraph (c) to read as follows:

§ 229.302 (Item 302) Supplementary financial information.

* * * * *

(c) *Smaller reporting companies.* A registrant that qualifies as a smaller reporting company, as defined by § 229.10(f)(1), is not required to provide the information required by this Item.

15. Amend § 229.303 by adding paragraph (d) to read as follows:

§ 229.303 (Item 303) Management's discussion and analysis of financial condition and results of operations.

* * * * *

(d) *Smaller reporting companies.* A smaller reporting company, as defined by § 229.10(f)(1), may provide the information required in paragraph (a)(3)(iv) for the last two most recent fiscal years of the registrant if it provides financial information on net sales and revenues and on income from continuing operations for only two years. A smaller reporting company is not required to provide the information required by paragraph (a)(5) of this Item.

16. Amend § 229.305 by revising paragraph (e) to read as follows:

§ 229.305 (Item 305) Quantitative and qualitative disclosures about market risk.

* * * * *

(e) *Smaller reporting companies.* A smaller reporting company, as defined by § 229.10(f)(1), is not required to provide the information required by this Item.

* * * * *

17. Add § 229.310 to read as follows:

§ 229.310 (Item 310) Financial statements for smaller reporting companies.

Note 1 to § 229.310: Financial statements of a smaller reporting company, as defined by § 229.10(f)(1), its predecessors or any businesses to which the smaller reporting company is a successor shall be prepared in accordance with generally accepted accounting principles in the United States.

Note 2 to § 229.310: Regulation S–X (17 CFR 210.1–01 through 210.12–29) Form and Content of and Requirements for Financial Statements shall not apply to the preparation of such financial statements, except that the report and qualifications of the independent accountant shall comply with the requirements of Article 2 of Regulation S–X (17 CFR 210.2–01), Item 8.A of Form 20–F (17 CFR 249.220f) and Article 210.3–20 of Regulation S–X (17 CFR 210.3–20) shall apply to financial statements of foreign private issuers, the description of accounting policies shall comply with Article 4–08(n) of Regulation S–X (17 CFR 210.4–08(n)), and smaller reporting companies engaged in oil and gas producing activities shall follow the financial accounting and reporting standards specified in Article 4–10 of Regulation S–X (17 CFR 210.4–10) with respect to such activities. To the extent that Article 11–01 (17 CFR 210.11–01) (Pro Forma Presentation Requirements) offers enhanced guidelines for the preparation, presentation and disclosure of pro forma financial information, smaller reporting companies may wish to consider these items.

Note 3 to § 229.310: Financial statements for a subsidiary of a smaller reporting company that issues securities guaranteed by the smaller reporting company or guarantees securities issued by the smaller reporting company must be presented as required by Rule 3–10 of Regulation S–X (17 CFR 210.3–10), except that the periods presented are those required by paragraph (a) of this Item.

Note 4 to § 229.310: Financial statements for a smaller reporting company's affiliates whose securities constitute a substantial portion of the collateral for any class of securities registered or being registered must be presented as required by Rule 3–16 of Regulation S–X (17 CFR 210.3–16), except that the periods presented are those required by paragraph (a) of this Item.

Note 5 to § 229.310: The Commission, where consistent with the protection of investors, may permit the omission of one or more of the financial statements or the substitution of appropriate statements of comparable character. The Commission by informal written notice may require the filing of other financial statements where necessary or appropriate.

Note 6 to § 229.310: Rule 4–01(a)(3) of Regulation S–X, 17 CFR 210.4–01(a)(3), shall apply to the preparation of financial statements of smaller reporting companies.

(a) *Annual financial statements.* Smaller reporting companies shall file an audited balance sheet as of the end of the most recent fiscal year, or as of a date within 135 days if the issuers existed for a period less than one fiscal year, and audited statements of income, cash flows and changes in stockholders' equity for each of the two fiscal years preceding the date of such audited balance sheet (or such shorter period as the registrant has been in business).

(b) *Interim financial statements.* Interim financial statements may be unaudited; however, prior to filing, interim financial statements included in quarterly reports on Form 10–Q (17 CFR 229.310) must be reviewed by an independent public accountant using professional standards and procedures for conducting such reviews, as established by generally accepted auditing standards, as may be modified or supplemented by the Commission. If, in any filing, the issuer states that interim financial statements have been reviewed by an independent public accountant, a report of the accountant on the review must be filed with the interim financial statements. Interim financial statements shall include a balance sheet as of the end of the issuer's most recent fiscal quarter and income statements and statements of cash flows for the interim period up to the date of such balance sheet and the comparable period of the preceding fiscal year.

(1) *Condensed format.* Interim financial statements may be condensed as follows:

(i) Balance sheets should include separate captions for each balance sheet component presented in the annual financial statements which represents 10% or more of total assets. Cash and retained earnings should be presented regardless of relative significance to total assets. Registrants which present a classified balance sheet in their annual financial statements should present totals for current assets and current liabilities.

(ii) Income statements should include net sales or gross revenue, each cost and expense category presented in the annual financial statements which exceeds 20% of sales or gross revenues,

provision for income taxes, discontinued operations, extraordinary items and cumulative effects of changes in accounting principles or practices. (Financial institutions should substitute net interest income for sales for purposes of determining items to be disclosed.) Dividends per share should be presented.

(iii) Cash flow statements should include cash flows from operating, investing and financing activities as well as cash at the beginning and end of each period and the increase or decrease in such balance.

(iv) Additional line items may be presented to facilitate the usefulness of the interim financial statements including their comparability with annual financial statements.

(2) *Disclosure required and additional instructions as to content.*—

(i) *Footnotes.* Footnote and other disclosures should be provided as needed for fair presentation and to ensure that the financial statements are not misleading.

(ii) *Material subsequent events and contingencies.* Disclosure must be provided of material subsequent events and material contingencies notwithstanding disclosure in the annual financial statements.

(iii) *Significant equity investees.* Sales, gross profit, net income (loss) from continuing operations and net income must be disclosed for equity investees which constitute 20% or more of a registrant's consolidated assets, equity or income from continuing operations.

(iv) *Significant dispositions and purchase business combinations.* If a significant disposition or purchase business combination has occurred during the most recent interim period and the transaction required the filing of a Form 8–K (§ 249.308 of this chapter), pro forma data must be presented which reflects revenue, income from continuing operations, net income and income per share for the current interim period and the corresponding interim period of the preceding fiscal year as though the transaction occurred at the beginning of the periods.

(v) *Material accounting changes.* Disclosure must be provided of the date and reasons for any material accounting change. The registrant's independent accountant must provide a letter in the first Form 10–Q (§ 249.308a of this Chapter) filed subsequent to the change indicating whether or not the change is to a preferable method. Disclosure must be provided of any retroactive change to prior period financial statements, including the effect of any such change on income and income per share.

(vi) *Development stage companies.* A registrant in the development stage must provide cumulative financial information from inception.

Instruction 1 to Item 310(b): Where Item 310 is applicable to a Form 10–Q and the interim period is more than one quarter, income statements must also be provided for the most recent interim quarter and the comparable quarter of the preceding fiscal year.

Instruction 2 to Item 310(b): Interim financial statements must include all adjustments which in the opinion of management are necessary in order to make the financial statements not misleading. An affirmative statement that the financial statements have been so adjusted must be included with the interim financial statements.

(c) *Financial statements of businesses acquired or to be acquired.* (1) If a business combination accounted for as a ''purchase'' has occurred or is probable, financial statements of the business acquired or to be acquired shall be furnished for the periods specified in paragraph (c)(3) of this Item.

(i) The term ''purchase'' encompasses the purchase of an interest in a business accounted for by the equity method.

(ii) Acquisitions of a group of related businesses that are probable or that have occurred subsequent to the latest fiscal year end for which audited financial statements of the issuer have been filed shall be treated as if they are a single business combination for purposes of this Item. The required financial statements of related businesses may be presented on a combined basis for any periods they are under common control or management. A group of businesses are deemed to be related if:

(A) They are under common control or management;

(B) The acquisition of one business is conditional on the acquisition of each other business; or

(C) Each acquisition is conditioned on a single common event.

(iii) Annual financial statements required by this paragraph (c) shall be audited. The form and content of the financial statements shall be in accordance with paragraphs (a) and (b) of this Item.

(2) The periods for which financial statements are to be presented are determined by comparison of the most recent annual financial statements of the business acquired or to be acquired and the smaller reporting company's most recent annual financial statements filed at or prior to the date of acquisition to evaluate each of the following conditions:

(i) Compare the smaller reporting company's investments in and advances to the acquiree to the total consolidated assets of the smaller reporting company as of the end of the most recently completed fiscal year.

(ii) Compare the smaller reporting company's proportionate share of the total assets (after intercompany eliminations) of the acquiree to the total consolidated assets of the smaller reporting company as of the end of the most recently completed fiscal year.

(iii) Compare the smaller reporting company's equity in the income from continuing operations before income taxes, extraordinary items and cumulative effect of a change in accounting principles of the acquiree to such consolidated income of the smaller reporting company for the most recently completed fiscal year.

Computational note to paragraph (c)(2): For purposes of making the prescribed income test the following guidance should be applied: If income of the smaller reporting company and its subsidiaries consolidated for the most recent fiscal year is at least 10 percent lower than the average of the income for the last five fiscal years, such average income should be substituted for purposes of the computation. Any loss years should be omitted for purposes of computing average income.

(3)(i) If none of the conditions specified in paragraph (c)(2) of this Item exceeds 20%, financial statements are not required. If any of the conditions exceed 20%, but none exceeds 40%, financial statements shall be furnished for the most recent fiscal year and any interim periods specified in paragraph (b) of this Item. If any of the conditions exceed 40%, financial statements shall be furnished for the two most recent fiscal years and any interim periods specified in paragraph (b) of this Item.

(ii) The separate audited balance sheet of the acquired business is not required when the smaller reporting company's most recent audited balance sheet filed is for a date after the acquisition was consummated.

(iii) If the aggregate impact of individually insignificant businesses acquired since the date of the most recent audited balance sheet filed for the registrant exceeds 50%, financial statements covering at least the substantial majority of the businesses acquired shall be furnished. Such financial statements shall be for the most recent fiscal year and any interim periods specified in paragraph (b) of this Item.

(iv) Registration statements not subject to the provisions of § 230.419 of this chapter (Regulation C) and proxy statements need not include separate financial statements of the acquired or

to be acquired business if it does not meet or exceed any of the conditions specified in paragraph (c)(2) of this Item at the 50 percent level, and either:

(A) The consummation of the acquisition has not yet occurred; or

(B) The effective date of the registration statement, or mailing date in the case of a proxy statement, is no more than 74 days after consummation of the business combination, and the financial statements have not been filed previously by the registrant.

(v) An issuer that omits from its initial registration statement financial statements of a recently consummated business combination pursuant to paragraph (c)(3)(iv) of this Item shall furnish those financial statements and any pro forma information specified by paragraph (d) of this Item under cover of Form 8–K (§ 249.308 of this chapter) no later than 75 days after consummation of the acquisition.

(4) If the smaller reporting company made a significant business acquisition subsequent to the latest fiscal year end and filed a report on Form 8–K, which included audited financial statements of such acquired business for the periods required by paragraph (c)(3) of this Item and the pro forma financial information required by paragraph (d) of this Item, the determination of significance may be made by using pro forma amounts for the latest fiscal year in the report on Form 8–K rather than by using the historical amounts of the registrant. The tests may not be made by ''annualizing'' data.

(d) *Pro forma financial information.* (1) Pro forma information showing the effects of the acquisition shall be furnished if financial statements of a business acquired or to be acquired are presented.

(2) Pro forma statements should be condensed, in columnar form showing pro forma adjustments and results and should include the following:

(i) If the transaction was consummated during the most recent fiscal year or subsequent interim period, pro forma statements of income reflecting the combined operations of the entities for the latest fiscal year and interim period, if any; or

(ii) If consummation of the transaction has occurred or is probable after the date of the most recent balance sheet required by paragraph (a) or (b) of this Item, a pro forma balance sheet giving effect to the combination as of the date of the most recent balance sheet. For a purchase, pro forma statements of income reflecting the combined operations of the entities for the latest fiscal year and interim period, if any, are required.

(e) *Real estate operations acquired or to be acquired.* If, during the period for which income statements are required, the smaller reporting company has acquired one or more properties which in the aggregate are significant, or since the date of the latest balance sheet required by paragraph (a) or (b) of this Item, has acquired or proposes to acquire one or more properties which in the aggregate are significant, the following shall be furnished with respect to such properties:

(1) Audited income statements (not including earnings per unit) for the two most recent years, which shall exclude items not comparable to the proposed future operations of the property such as mortgage interest, leasehold rental, depreciation, corporate expenses and federal and state income taxes; *Provided, however,* that such audited statements need be presented for only the most recent fiscal year if:

(i) The property is not acquired from a related party;

(ii) Material factors considered by the smaller reporting company in assessing the property are described with specificity in the registration statement with regard to the property, including source of revenue (including, but not limited to, competition in the rental market, comparative rents, occupancy rates) and expenses (including but not limited to, utilities, *ad valorem* tax rates, maintenance expenses, and capital improvements anticipated); and

(iii) The smaller reporting company indicates that, after reasonable inquiry, it is not aware of any material factors relating to the specific property other than those discussed in response to paragraph (e)(1)(ii) of this Item that would cause the reported financial information not to be necessarily indicative of future operating results.

(2) If the property will be operated by the smaller reporting company, a statement shall be furnished showing the estimated taxable operating results of the smaller reporting company based on the most recent twelve-month period including such adjustments as can be factually supported. If the property will be acquired subject to a net lease, the estimated taxable operating results shall be based on the rent to be paid for the first year of the lease. In either case, the estimated amount of cash to be made available by operations shall be shown. Disclosure must be provided of the principal assumptions which have been made in preparing the statements of estimated taxable operating results and cash to be made available by operations.

(3) If appropriate under the circumstances, a table should be provided which shows, for a limited number of years, the estimated cash distribution per unit indicating the portion reportable as taxable income and the portion representing a return of capital with an explanation of annual variations, if any. If taxable net income per unit will be greater than the cash available for distribution per unit, that fact and approximate year of occurrence shall be stated, if significant.

(f) *Limited partnerships.* (1) Smaller reporting companies which are limited partnerships must provide the balance sheets of the general partners as described in paragraphs (f)(2) through (f)(4) of this Item.

(2) Where a general partner is a corporation, the audited balance sheet of the corporation as of the end of its most recently completed fiscal year must be filed. Receivables, other than trade receivables, from affiliates of the general partner should be deducted from shareholders' equity of the general partner. Where an affiliate has committed itself to increase or maintain the general partner's capital, the audited balance sheet of such affiliate must also be presented.

(3) Where a general partner is a partnership, there shall be filed an audited balance sheet of such partnership as of the end of its most recently completed fiscal year.

(4) Where the general partner is a natural person, there shall be filed, as supplemental information, a balance sheet of such natural person as of a recent date. Such balance sheet need not be audited. The assets and liabilities should be carried at estimated fair market value, with provisions for estimated income taxes on unrealized gains. The net worth of such general partner(s), based on such balance sheet(s), singly or in the aggregate, shall be disclosed in the registration statement.

(g) *Age of financial statements.* At the date of filing, financial statements included in filings other than filings on Form 10–K must be not less current than financial statements, which would be required in Forms 10–K and 10–Q if such reports were required to be filed. If required financial statements are as of a date 135 days or more prior to the date a registration statement becomes effective or proxy material is expected to be mailed, the financial statements shall be updated to include financial statements for an interim period ending within 135 days of the effective or expected mailing date. Interim financial statements should be prepared and presented in accordance with paragraph (b) of this Item:

(1) When the anticipated effective or mailing date falls within 45 days after

the end of the fiscal year, the filing may include financial statements only as current as the end of the third fiscal quarter; *Provided, however,* that if the audited financial statements for the recently completed fiscal year are available or become available prior to effectiveness or mailing, they must be included in the filing; and

(2) If the effective date or anticipated mailing date falls after 45 days but within 90 days of the end of the smaller reporting company's fiscal year, the smaller reporting company is not required to provide the audited financial statements for such year end provided that the following conditions are met:

(i) If the smaller reporting company is a reporting company, all reports due must have been filed;

(ii) For the most recent fiscal year for which audited financial statements are not yet available, the smaller reporting company reasonably and in good faith expects to report income from continuing operations before taxes; and

(iii) For at least one of the two fiscal years immediately preceding the most recent fiscal year the smaller reporting company reported income from continuing operations before taxes.

18. Amend § 229.401 by revising Instruction 3 to paragraph (b) to read as follows:

§ 229.401 (Item 401) Directors, executive officers, promoters and control persons.

* * * * *

(b) * * *

Instructions to Paragraph (b) of Item 401:

* * * * *

3. The information regarding executive officers called for by this Item need not be furnished in proxy or information statements prepared in accordance with Schedule 14A under the Exchange Act (§ 240.14a–101 of this Chapter) by those registrants relying on General Instruction G of Form 10–K under the Exchange Act (§ 249.310 of this Chapter); *Provided,* that such information is furnished in a separate item captioned ''Executive officers of the registrant'' and included in Part I of the registrant's annual report on Form 10–K.

* * * * *

19. Amend § 229.402 by adding paragraph (l) before the Instruction to Item 402 to read as follows:

§ 229.402 (Item 402) Executive compensation.

* * * * *

(l) *Smaller reporting companies.* A registrant that qualifies as a ''smaller reporting company,'' as defined by § 229.10(f)(1), is required to:

(1) Provide information only with respect to the following persons (the ''named executive officers'') in lieu of the persons determined under paragraphs (a)(3)(i)–(iii) of this Item substituting the Instruction to Items 402(*l*)(1)(i)—(iii) for Instruction 2 to Item 402(a)(3), and substituting paragraph (*l*)(1)(iv) for paragraph (a)(4):

(i) All individuals serving as the smaller reporting company's principal executive officer or acting in a similar capacity during the last completed fiscal year (''PEO''), regardless of compensation level;

(ii) The smaller reporting company's two most highly compensated executive officers other than the PEO who were serving as executive officers at the end of the last completed fiscal year; and

(iii) Up to two additional individuals for whom disclosure would have been provided pursuant to paragraph (*l*)(1)(ii) of this Item but for the fact that the individual was not serving as an executive officer of the smaller reporting company at the end of the last completed fiscal year.

Instruction to Items 402(l)(1)(i)–(iii).

Determination of most highly compensated executive officers. The determination as to which executive officers are most highly compensated shall be made by reference to total compensation for the last completed fiscal year (as required to be disclosed pursuant to paragraph (c)(2)(x) of this Item) reduced by the amount required to be disclosed pursuant to paragraph (c)(2)(viii) of this Item, *provided, however,* that no disclosure need be provided for any executive officer, other than the PEO, whose total compensation, as so reduced, does not exceed $100,000.

(iv) If the PEO served in that capacity during any part of a fiscal year with respect to which information is required, information should be provided as to all of his or her compensation for the full fiscal year. If a named executive officer (other than the PEO) served as an executive officer of the smaller reporting company (whether or not in the same position) during any part of the fiscal year with respect to which information is required, information shall be provided as to all compensation of that individual for the full fiscal year.

(2) Provide the information required by paragraph (c) of this Item only for each of the registrant's last two completed fiscal years, without providing the information required by paragraph (c)(2)(viii)(A), without applying Instructions 1 and 3 to paragraph (c)(2)(viii), and substituting:

(i) The following for Instruction 2 to Item 402(c)(2)(iii) and (iv): Registrants shall include in the salary column (column (c)) or bonus column (column (d)) any amount of salary or bonus forgone at the election of a named executive officer under which stock, equity-based or other forms of non-cash compensation instead have been received by the named executive officer. However, the receipt of any such form of non-cash compensation instead of salary or bonus must be disclosed in a footnote added to the salary or bonus column and, where applicable, referring to the narrative disclosure to the Summary Compensation Table (required by paragraph (*l*)(3) of this Item) where the material terms of the stock, option or non-equity incentive plan award elected by the named executive officer are reported.

(ii) The following for Item 402(c)(2)(ix)(G): The dollar value of any dividends or other earnings paid on stock or option awards, when those amounts were not factored into the grant date fair value for the stock or option award;

(iii) The following for Instruction 2 to Item 402(c)(2)(ix): Benefits paid pursuant to defined benefit and actuarial plans are not reportable as All Other Compensation in column (i) unless accelerated pursuant to a change in control; information concerning these plans is reportable pursuant to paragraph (*l*)(5)(i) of this Item.

(iv) The following for Instructions 3 and 4 to Item 402(c)(2)(ix): Reimbursements of taxes owed with respect to perquisites or other personal benefits must be included in the columns as tax reimbursements (paragraph (c)(2)(ix)(B) of this Item) even if the associated perquisites or other personal benefits are not required to be included because the aggregate amount of such compensation is less than $10,000. Perquisites and other personal benefits shall be valued on the basis of the aggregate incremental cost to the registrant.

(3) Provide a narrative description of any material factors necessary to an understanding of the information disclosed in the Table required by paragraph (c) of this Item. Examples of such factors may include, in given cases, among other things:

(i) The material terms of each named executive officer's employment agreement or arrangement, whether written or unwritten;

(ii) If at any time during the last fiscal year, any outstanding option or other equity-based award was repriced or

otherwise materially modified (such as by extension of exercise periods, the change of vesting or forfeiture conditions, the change or elimination of applicable performance criteria, or the change of the bases upon which returns are determined), a description of each such repricing or other material modification;

(iii) The waiver or modification of any specified performance target, goal or condition to payout with respect to any amount included in non-stock incentive plan compensation or payouts reported in column (g) to the Summary Compensation Table required by paragraph (c) of this Item, stating whether the waiver or modification applied to one or more specified named executive officers or to all compensation subject to the target, goal or condition;

(iv) The material terms of each grant, including but not limited to the date of exercisability, any conditions to exercisability, any tandem feature, any reload feature, any tax-reimbursement feature, and any provision that could cause the exercise price to be lowered;

(v) The material terms of any non-equity incentive plan award made to a named executive officer during the last completed fiscal year, including a general description of the formula or criteria to be applied in determining the amounts payable and vesting schedule;

(vi) The method of calculating earnings on nonqualified deferred compensation plans including nonqualified defined contribution plans; and

(vii) An identification to the extent material of any item included under All Other Compensation (column (i)) in the Summary Compensation Table. Identification of an item shall not be considered material if it does not exceed the greater of $25,000 or 10% of all items included in the specified category in question set forth in paragraph (c)(2)(ix) of this Item. All items of compensation are required to be included in the Summary Compensation Table without regard to whether such items are required to be identified.

Instruction to Item 402(l)(3).

The disclosure required by paragraph (*l*)(3)(ii) of this Item would not apply to any repricing that occurs through a pre-existing formula or mechanism in the plan or award that results in the periodic adjustment of the option or SAR exercise or base price, an antidilution provision in a plan or award, or a recapitalization or similar transaction equally affecting all holders of the class of securities underlying the options or SARs.

(4) Provide this information required by paragraph (f) of this Item;

(5) Provide a narrative description of the following to the extent material:

(i) The material terms of each plan that provides for the payment of retirement benefits, or benefits that will be paid primarily following retirement, including but not limited to tax-qualified defined benefit plans, supplemental executive retirement plans, tax-qualified defined contribution plans and nonqualified defined contribution plans.

(ii) The material terms of each contract, agreement, plan or arrangement, whether written or unwritten, that provides for payment(s) to a named executive officer at, following, or in connection with the resignation, retirement or other termination of a named executive officer, or a change in control of the registrant or a change in the named executive officer's responsibilities following a change in control, with respect to each named executive officer.

(6) Provide the information required by paragraph (k) of this Item, without providing the information required by paragraph (k)(2)(vi)(A), without applying Instructions 2 and 3 to Item 402(k)(2)(vii), and by substituting:

(i) The following for Item 402(k)(2)(i): The name of each director unless such director is also a named executive officer under paragraph (a) of this Item and his or her compensation for service as a director is fully reflected in the Summary Compensation Table pursuant to paragraph (c) of this Item and otherwise as required pursuant to paragraphs (f), (*l*)(3) and (*l*)(5) of this Item (column (a));

(ii) The following for the Instruction to Item 402(k)(2)(iii) and (iv): For each director, disclose by footnote to the appropriate column, the aggregate number of stock awards and the aggregate number of option awards outstanding at fiscal year end; and

(iii) The following for the Instruction to Item 402(k): In addition to Instruction 1 to paragraph (k)(2)(vii) of this Item, the following apply equally to paragraph (k) of this Item: Instructions 2 and 4 to paragraph (c) of this Item; the Instructions to paragraphs (c)(2)(iii) and (iv) of this Item, modifying Instruction 2 to paragraphs (c)(2)(iii) and (iv) as provided by paragraph (*l*)(2)(i) of this Item; the Instruction to paragraphs (c)(2)(v) and (vi) of this Item; the Instructions to paragraph (c)(2)(vii) of this Item; Instruction 2 to paragraph (c)(2)(viii) of this Item; the Instructions to paragraph (c)(2)(ix) of this Item, modifying Instruction 2 to paragraph (c)(2)(ix) as provided by paragraph (*l*)(2)(iii) of this Item and modifying Instructions 3 and 4 to paragraph (c)(2)(ix) as provided by paragraph (*l*)(2)(iv) of this Item; and paragraph (*l*)(3)(vii) of this Item. These Instructions apply to the columns in the Director Compensation Table that are analogous to the columns in the Summary Compensation Table to which they refer and to disclosures under paragraph (k) of this Item that correspond to analogous disclosures provided for in paragraph (c) of this Item to which they refer. Further, each Item reported pursuant to paragraph (k)(2)(vii) of this Item must be identified and quantified in a footnote if it is deemed material in accordance with paragraph (*l*)(3)(vii) of this Item.

* * * * *

20. Amend § 229.404 by revising the introductory text of paragraph (c)(1) and adding paragraph (d) before the Instructions to Item 404 to read as follows:

§ 229.404 (Item 404) Transactions with related persons, promoters and certain control persons.

* * * * *

(c) *Promoters and certain control persons.* (1) Registrants that are filing a registration statement on Form S–1 under the Securities Act (§ 239.11 of this chapter) or on Form 10 under the Exchange Act (§ 249.210 of this chapter) and that had a promoter at any time during the past five fiscal years shall:

* * * * *

(d) *Smaller reporting companies.* A registrant that qualifies as a ''smaller reporting company,'' as defined by § 229.10(f)(1), will be deemed to comply with this Item if it provides:

(i) The information required by paragraph (a) of this Item for the period specified there and, in addition, for the fiscal year preceding the smaller reporting company's last fiscal year, for a transaction in which the amount involved exceeds the lesser of $120,000 or one percent of the average of the smaller reporting company's total assets at year end for the last two completed fiscal years; and

(ii) A list of all parents of the smaller reporting company showing the basis of control and as to each parent, the percentage of voting securities owned or other basis of control by its immediate parent, if any.

Instruction to Item 404(d).

Include the information for any material underwriting discounts and commissions upon the sale of securities by the smaller reporting company where any of the persons specified in paragraph (a) was or is to be a principal underwriter or is a controlling person or

member of a firm that was or is to be a principal underwriter.

* * * * *

21. Amend § 229.407 by revising paragraph (d)(4)(i)(B) and adding paragraph (g) before the Instructions to Item 407 to read as follows:

§ 229.407 (Item 407) Corporate governance.

* * * * *

(d) * * *

(4)(i) * * *

(B) The registrant is filing an annual report on Form 10–K (17 CFR 249.310) or a proxy statement or information statement pursuant to the Exchange Act (15 U.S.C. 78a *et seq.*) if action is to be taken with respect to the election of directors; and

* * * * *

(g) *Smaller reporting companies.* A registrant that qualifies as a ''smaller reporting company,'' as defined by § 229.10(f)(1), is not required to provide:

(1) The disclosure required in paragraph (d)(5) of this Item in its first annual report filed pursuant to section 13(a) or 15(d) of the Exchange Act (15 U.S.C. 78m (a) or 78o(d)) following the effective date of its first registration statement filed under the Securities Act (15 U.S.C. 77a *et seq.*) or Exchange Act (15 U.S.C. 78a *et seq.*); and

(2) Need not provide the disclosures required by paragraphs (g)(4) and (g)(5) of this Item.

* * * * *

22. Amend § 229.503 by adding paragraph (e) before the Instruction to Item 503 to read as follows:

§ 229.503 (Item 503) Prospectus summary, risk factors, and ratio of earnings to fixed charges.

* * * * *

(e) *Smaller reporting companies.* A smaller reporting company need not comply with paragraph (d) of this Item.

* * * * *

23. Amend § 229.504 by revising Instruction 6 to read as follows:

§ 229.504 (Item 504) Use of proceeds.

* * * * *

Instructions to Item 504.

* * * * *

6. Where the registrant indicates that the proceeds may, or will, be used to finance acquisitions of other businesses, the identity of such businesses, if known, or, if not known, the nature of the businesses to be sought, the status of any negotiations with respect to the acquisition, and a brief description of such business shall be included. Where, however, pro forma financial statements reflecting such acquisition are not required by Regulation S–X (17 CFR 210.01 through 210.12–29) (or by § 229.310 in the case of a smaller reporting company, as defined in § 229.10(f)(1)), to be included, in the registration statement, the possible terms of any transaction, the identification of the parties thereto or the nature of the business sought need not be disclosed, to the extent that the registrant reasonably determines that public disclosure of such information would jeopardize the acquisition. Where Regulation S–X or § 229.310, as applicable, would require financial statements of the business to be acquired to be included, the description of the business to be acquired shall be more detailed.

* * * * *

24. Amend § 229.512 by adding paragraph (m) to read as follows:

§ 229.512 (Item 512) Undertakings.

* * * * *

(m) *Smaller reporting companies.* A smaller reporting company is not required to provide information under paragraphs (a)(1)(iii)(C), (a)(4), (e), (j), (k), and (*l*) of this Item.

25. Amend § 229.601 by:

a. Revising paragraph (a)(4); the Exhibit Table; and paragraphs (b)(4)(ii), (b)(4)(v), (b)(7), (b)(10)(iii)(C)(*6*), (b)(13)(i), (b)(15), (b)(19), and (b)(22); and

b. Adding paragraph (c) to read as follows:

§ 229.601 (Item 601) Exhibits.

(a) * * *

(4) If a material contract or plan of acquisition, reorganization, arrangement, liquidation or succession is executed or becomes effective during the reporting period reflected by a Form 10–Q or Form 10–K, it shall be filed as an exhibit to the Form 10–Q or Form 10–K filed for the corresponding period. Any amendment or modification to a previously filed exhibit to a Form 10, 10–K or 10–Q document shall be filed as an exhibit to a Form 10–Q and Form 10–K. Such amendment or modification need not be filed where such previously filed exhibit would not be currently required.

* * * * *

Exhibit Table

* * * * *

EXHIBIT TABLE

	Securities Act forms								Exchange Act forms			
	S–1	S–3	S–4 [1]	S–8	S–11	F–1	F–3	F–4 [1]	10	8–K [2]	10–Q	10–K
(1) Underwriting agreement	X	X	X	.....	X	X	X	X	.....	X	.....	.....
(2) Plan of acquisition, reorganization, arrangement, liquidation or succession	X	X	X	.....	X	X	X	X	X	X	X	X
(3) (i) Articles of incorporation	X	.....	X	.....	X	X	.....	X	X	X	X	X
(ii) Bylaws	X	.....	X	.....	X	X	.....	X	X	X	X	X
(4) Instruments defining the rights of security holders, including indentures	X	X	X	X	X	X	X	X	X	X	X	X
(5) Opinion re legality	X	X	X	X	X	X	X	X	.....	.....	.....	.....
(6) [Reserved]	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
(7) Correspondence from an independent accountant regarding non-reliance on a previously issued audit report or completed interim review	.....	.....	.....	.....	.....	.....	.....	.....	.....	X	.....	.....
(8) Opinion re tax matters	X	X	X	.....	X	X	X	X	.....	.....	.....	.....
(9) Voting trust agreement	X	.....	X	.....	X	X	.....	X	X	.....	.....	X
(10) Material contracts	X	.....	X	.....	X	X	.....	X	X	.....	X	X
(11) Statement re computation of per share earnings	X	.....	X	.....	X	X	.....	X	X	.....	X	X
(12) Statements re computation of ratios	X	X	X	.....	X	X	.....	X	X	.....	.....	X

EXHIBIT TABLE—Continued

	Securities Act forms								Exchange Act forms			
	S–1	S–3	S–4 [1]	S–8	S–11	F–1	F–3	F–4 [1]	10	8–K [2]	10–Q	10–K
(13) Annual report to security holders, Form 10–Q or quarterly report to security holders [3]	.....	.....	X	.....	.....	.....	.....	.....	.....	.....	.....	X
(14) Code of Ethics	.....	.....	.....	.....	.....	.....	.....	.....	.....	X	.....	X
(15) Letter re unaudited interim financial information	X	X	X	X	X	X	X	X	.....	.....	X	.....
(16) Letter re change in certifying accountant [4]	X	.....	X	.....	X	.....	.....	.....	X	X	.....	X
(17) Correspondence on departure of director	.....	.....	.....	.....	.....	.....	.....	.....	.....	X	.....	.....
(18) Letter re change in accounting principles	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	X	X
(19) Report furnished to security holders	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	X	.....
(20) Other documents or statements to security holders	.....	.....	.....	.....	.....	.....	.....	.....	.....	X	.....	.....
(21) Subsidiaries of the registrant	X	.....	X	.....	X	X	.....	X	X	.....	.....	X
(22) Published report regarding matters submitted to vote of security holders	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	X	X
(23) Consents of experts and counsel	X	X	X	X	X	X	X	X	.....	X[5]	X[5]	X[5]
(24) Power of attorney	X	X	X	X	X	X	X	X	X	X	X	X
(25) Statement of eligibility of trustee	X	X	X	.....	.....	X	X	X	.....	.....	.....	.....
(27) through (30) [Reserved]	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
(31) Rule 13a–14(a)/15d–14(a) Certifications	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	X	X
(32) Section 1350 Certifications [6]	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	X	X
(33) through (98) [Reserved]	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
(99) Additional exhibits	X	X	X	X	X	X	X	X	X	X	X	X

[1] An exhibit need not be provided about a company if: (1) With respect to such company an election has been made under Form S–4 or F–4 to provide information about such company at a level prescribed by Forms S–3 or F–3 and (2) the form, the level of which has been elected under Forms S–4 or F–4, would not require such company to provide such exhibit if it were registering a primary offering.

[2] A Form 8–K exhibit is required only if relevant to the subject matter reported on the Form 8–K report. For example, if the Form 8–K pertains to the departure of a director, only the exhibit described in paragraph (b)(17) of this section need be filed. A required exhibit may be incorporated by reference from a previous filing.

[3] Where incorporated by reference into the text of the prospectus and delivered to security holders along with the prospectus as permitted by the registration statement; or, in the case of the Form 10–K, where the annual report to security holders is incorporated by reference into the text of the Form 10–K.

[4] If required pursuant to Item 304 of Regulation S–K.

[5] Where the opinion of the expert or counsel has been incorporated by reference into a previously filed Securities Act registration statement.

[6] Pursuant to §§ 240.13–13(b)(3) and 240.15d–13(b)(3) of this chapter, asset-backed issuers are not required to file reports on Form 10–Q.

* * * * *

(b) * * *

(4) * * *

(ii) Except as set forth in paragraph (b)(4)(iii) of this Item for filings on Forms S–1, S–4, S–11, N–14, and F–4 under the Securities Act (§ 239.11, 239.25, 239.18, 239.23 and 239.34 of this chapter) and Forms 10 and 10–K under the Exchange Act (§ 249.210 and 249.310 of this chapter) all instruments defining the rights of holders of long-term debt of the registrant and its consolidated subsidiaries and for any of its unconsolidated subsidiaries for which financial statements are required to be filed.

* * * * *

(v) With respect to Forms 8–K and 10–Q under the Exchange Act which are filed and which disclose, in the text of the Form 10–Q, the interim financial statements, or the footnotes thereto the creation of a new class of securities or indebtedness or the modification of existing rights of security holders, file all instruments defining the rights of holders of these securities or indebtedness. However, there need not be filed any instrument with respect to long-term debt not being registered which meets the exclusion set forth in paragraph (b)(4)(iii)(A) of this Item.

* * * * *

(7) *Correspondence from an independent accountant regarding non-reliance on a previously issued audit report or completed interim review.* Any written notice from the registrant's current or previously engaged independent accountant that the independent accountant is withdrawing a previously issued audit report or that a previously issued audit report or completed interim review, covering one or more years or interim periods for which the registrant is required to provide financial statements under Regulation S–X (part 210 of this chapter), or Item 310 if the registrant is a smaller reporting company, should no longer be relied upon. In addition, any letter, pursuant to Item 4.02(c) of Form 8–K (§ 249.308 of this chapter), from the independent accountant to the Commission stating whether the independent accountant agrees with the statements made by the registrant describing the events giving rise to the notice.

* * * * *

(10) * * *

(iii) * * *

(C) * * *

(6) Any compensatory plan, contract, or arrangement if the registrant is a wholly owned subsidiary of a company that has a class of securities registered pursuant to section 12 or files reports pursuant to section 15(d) of the Exchange Act and is filing a report on Form 10–K or registering debt instruments or preferred stock which are not voting securities on Form S–2.

* * * * *

(13) *Annual report to security holders, Form 10–Q or quarterly report to security holders.*

(i) The registrant's annual report to security holders for its last fiscal year, its Form 10–Q (if specifically incorporated by reference in the prospectus) or its quarterly report to security holders, if all or a portion thereof is incorporated by reference in the filing. Such report, except for those portions thereof which are expressly incorporated by reference in the filing, is to be furnished for the information of the Commission and is not to be deemed ''filed'' as part of the filing. If the financial statements in the report have been incorporated by reference in the filing, the accountant's certificate shall be manually signed in one copy. *See* Rule 411(b) (§ 230.411(b) of this chapter).

* * * * *

(15) *Letter re unaudited interim financial information.* A letter, where applicable, from the independent accountant which acknowledges awareness of the use in a registration statement of a report on unaudited interim financial information which pursuant to Rule 436(c) under the Securities Act (§ 230.436(c) of this chapter) is not considered a part of a registration statement prepared or certified by an accountant or a report prepared or certified by an accountant within the meaning of sections 7 and 11 of that Act. Such letter may be filed with the registration statement, an amendment thereto, or a report on Form 10–Q which is incorporated by reference into the registration statement.

* * * * *

(19) *Report furnished to security holders.* If the registrant makes available to its security holders or otherwise publishes, within the period prescribed for filing the report, a document or statement containing information meeting some or all of the requirements of Part I of Form 10–Q, the information called for may be incorporated by reference to such published document or statement, provided copies thereof are included as an exhibit to the registration statement or to Part I of the Form 10–Q report.

* * * * *

(22) *Published report regarding matters submitted to vote of security holders.* Published reports containing all of the information called for by Item 4 of Part II of Form 10–Q or Item 4 of Part I of Form 10–K which is referred to therein in lieu of providing disclosure in Form 10–Q or 10–K, which are required to be filed as exhibits by Rule 12b–23(a)(3) under the Exchange Act (§ 240.12b–23(a)(3) of this chapter).

* * * * *

(c) *Smaller reporting companies.* A smaller reporting company need not provide the disclosure required in paragraph (b)(12) of this Item, Statements re computation of ratios. Correspondence from an independent accountant under paragraph (b)(7) concerning financial statements of a smaller reporting company shall be made using the financial disclosure required in § 229.310.

26. Amend § 229.701 by revising paragraph (e) to read as follows:

§ 229.701 (Item 701) Recent sales of unregistered securities; use of proceeds from registered securities.

* * * * *

(e) *Terms of conversion or exercise.* If the information called for by this paragraph (e) is being presented on Form 8–K, Form 10–Q, or Form 10–K under the Exchange Act (§ 249.308, § 249.308(a), and § 240.310) of this chapter, and where the securities sold by the registrant are convertible or exchangeable into equity securities, or are warrants or options representing equity securities, disclose the terms of conversion or exercise of the securities.

* * * * *

27. Amend § 229.1118 by revising paragraph (b)(2) to read as follows:

§ 229.1118 (Item 1118) Reports and additional information.

* * * * *

(b) * * *

(2) State that the public may read and copy any materials filed with the Commission at the Commission's Public Reference Room at 100 F Street, NE., Washington, DC 20549. State that the public may obtain information on the operation of the Public Reference Room by calling the Securities and Exchange Commission at 1–800-SEC–0330. State that the Commission maintains an Internet site that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the Commission and state the address of that site (*http://www.sec.gov*).

* * * * *

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

28. The authority citation for part 230 continues to read in part as follows:

Authority: 15 U.S.C. 77b, 77c, 77d, 77f, 77g, 77h, 77j, 77r, 77s, 77z–3, 77sss, 78c, 78d, 78j, 78*l*, 78m, 78n, 78o, 78t, 78w, 78*ll*, 78mm, 80a–8, 80a–24, 80a–28, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

29. Amend § 230.110 by revising paragraph (a) to read as follows:

§ 230.110 Business hours of the Commission.

(a) *General.* The principal office of the Commission, at 100 F Street, NE., Washington, DC 20549, is open each day, except Saturdays, Sundays, and Federal holidays, from 9 a.m. to 5:30 p.m., Eastern Standard Time or Eastern Daylight Saving Time, whichever is currently in effect, *provided that* hours for the filing of documents pursuant to the Act or the rules and regulations thereunder are as set forth in paragraphs (b), (c) and (d) of this section.

* * * * *

30. Amend § 230.138 by revising paragraph (a)(2)(i) to read as follows:

§ 230.138 Publications or distributions of research reports by brokers or dealers about securities other than those they are distributing.

(a) * * *

(2) * * *

(i) Is required to file reports, and has filed all periodic reports required during the preceding 12 months (or such shorter time that the issuer was required to file such reports) on Forms 10–K (§ 249.310 of this chapter), 10–Q (§ 249.308a of this chapter), and 20–F (§ 249.220f of this chapter) pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)); or

* * * * *

31. Amend § 230.139 by revising paragraph (a)(1)(i)(A)(2) to read as follows:

§ 230.139 Publications or distributions of research reports by brokers or dealers distributing securities.

(a) * * *

(1) * * *

(i) * * *

(A) * * *

(2) As of the date of reliance on this section, has filed all periodic reports required during the preceding 12 months on Forms 10–K (§ 249.310 of this chapter), 10–Q (§ 249.308a of this chapter), and 20–F (§ 249.220f of this chapter) pursuant to section 13 or section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)); or

* * * * *

32. Amend § 230.158 by revising paragraphs (a)(1)(i), (a)(2)(i), and (b)(2) to read as follows.

§ 230.158 Definitions of certain terms in the last paragraph of section 11(a).

(a) * * *

(1) * * *

(i) In Item 8 of Form 10–K (§ 239.310 of this chapter), part I, Item 1 of Form 10–Q (§ 240.308a of this chapter), or

Rule 14a–3(b) (§ 240.14a–3(b) of this chapter) under the Securities Exchange Act of 1934;

* * * * *

(2) * * *

(i) On Form 10–K, Form 10–Q, Form 8–K (§ 249.308 of this chapter), or in the annual report to security holders pursuant to Rule 14a–3 under the Securities Exchange Act of 1934 (§ 240.14a–3 of this chapter); or

* * * * *

(b) * * *

(2) Has filed its report or reports on Form 10–K, Form 10–Q, Form 8–K, Form 20–F, Form 40–F, or Form 6–K, or has supplied to the Commission copies of the annual report sent to security holders pursuant to Rule 14a–3(c) under the Securities Exchange Act of 1934 (§ 240.14a–3(c) of this chapter), containing such information.

* * * * *

33. Amend § 230.175 by revising paragraphs (b)(1) introductory text, (b)(1)(i), and (b)(2) to read as follows:

§ 230.175 Liability for certain statements by issuers.

* * * * *

(b) * * *

(1) A forward-looking statement (as defined in paragraph (c) of this section) made in a document filed with the Commission, in Part I of a quarterly report on Form 10–Q, § 249.308a of this chapter, or in an annual report to shareholders meeting the requirements of Rule 14a–3(b) and (c) or 14c–3(a) and (b) under the Securities Exchange Act of 1934 (§ 240.14a–3 of this chapter), a statement reaffirming such forward-looking statement subsequent to the date the document was filed or the annual report was made publicly available, or a forward-looking statement made prior to the date the document was filed or the date the annual report was publicly available if such statement is reaffirmed in a filed document, in Part I of a quarterly report on Form 10–Q, or in an annual report made publicly available within a reasonable time after the making of such forward-looking statement; *Provided*, that

(i) At the time such statements are made or reaffirmed, either the issuer is subject to the reporting requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934 and has complied with the requirements of Rule 13a–1 or 15d–1 (§ 239.13a–1 or 239.15d–1 of this chapter) thereunder, if applicable, to file its most recent annual report on Form 10–K, Form 20–F, or Form 40–F; or if the issuer is not subject to the reporting requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, the statements are made in a registration statement filed under the Act, offering statement or solicitation of interest written document or broadcast script under Regulation A or pursuant to sections 12(b) or (g) of the Securities Exchange Act of 1934; and

* * * * *

(2) Information which is disclosed in a document filed with the Commission, in Part I of a quarterly report on Form 10–Q (§ 249.308a of this chapter) or in an annual report to shareholders meeting the requirements of Rules 14a–3 (b) and (c) or 14c–3 (a) and (b) under the Securities Exchange Act of 1934 (§§ 240.14a–3(b) and (c) or 240.14a–3(a) and (b) of this chapter) and which relates to:

(i) The effects of changing prices on the business enterprise, presented voluntarily or pursuant to Item 303 of Regulation S–K (§ 229.303 of this chapter) ''Management's Discussion and Analysis of Financial Condition and Results of Operations, or Item 5 of Form 20–F, Operating and Financial Review and Prospects, (§ 249.220f of this chapter)'' or Item 302 of Regulation S–K (§ 229.302 of this chapter), ''Supplementary financial information,'' or Rule 3–20(c) of Regulation S–X (§ 210.3–20(c) of this chapter); or

(ii) The value of proved oil and gas reserves (such as a standardized measure of discounted future net cash flows relating to proved oil and gas reserves as set forth in paragraphs 30–34 of Statement of Financial Accounting Standards No. 69) presented voluntarily or pursuant to Item 302 of Regulation S–K (§ 229.302 of this chapter).

* * * * *

34. Amend § 230.405 by removing the definition of *small business issuer* and adding the definition of *smaller reporting company* in alphabetical order to read as follows:

§ 230.405 Definitions of terms.

* * * * *

Smaller reporting company: As used in this part, the term *smaller reporting company* means an issuer that is not an investment company, an asset-backed issuer (as defined in § 229.1101 of this chapter), or a majority-owned subsidiary of a parent that is not a smaller reporting company and that:

(1) Had a public float of less than $75 million as of the last business day of its most recently completed second fiscal quarter, computed by multiplying the aggregate worldwide number of shares of its voting and non-voting common equity held by non-affiliates by the price at which the common equity was last sold, or the average of the bid and asked prices of common equity, in the principal market for the common equity; or

(2) In the case of an initial registration statement under the Securities Act for shares of its common equity, had a public float of less than $75 million as of a date within 30 days of the date of the filing of the registration statement, computed by multiplying the aggregate worldwide number of such shares held by non-affiliates before the registration plus the number of such shares included in the registration statement by the estimated public offering price of the shares; or

(3) In the case of an issuer whose public float as calculated under paragraph (1) or (2) of this definition was zero because the issuer had no significant public common equity outstanding or no market price for its common equity existed, had annual revenues of less than $50 million during the most recently completed fiscal year for which audited financial statements are available on the date of the filing that establishes whether or not the issuer is a smaller reporting company for any fiscal year; or

(4) *Determination:* Whether or not an issuer is a smaller reporting company is determined for an entire fiscal year on the basis of the information in a quarterly report on Form 10–Q or an initial registration statement under the Securities Act or Exchange Act, whichever is the first to be filed during that year. Once an issuer fails to qualify for smaller reporting company status, it will remain unqualified unless it determines that its public float, as calculated in accordance with paragraph (1) of this definition was less than $50 million as of the last business day of its second fiscal quarter or, if that calculation results in zero because the issuer had no significant public equity outstanding or no market price for its equity existed, if the issuer had annual revenues of less than $40 million during its previous fiscal year. An issuer making this determination becomes a smaller reporting company for the purpose of filings for the next fiscal year.

* * * * *

35. Amend § 230.415 by revising paragraph (a)(3) to read as follows:

§ 230.415 Delayed or continuous offerings and sale of securities.

(a) * * *

(3) The registrant furnishes the undertakings required by Item 512(a) of Regulation S–K (§ 229.512(a) of this chapter), except that a registrant that is an investment company filing on Form

N–2 must furnish the undertakings required by Item 34.4 of Form N–2 (§ 239.14 and § 274.11a–1 of this chapter).

* * * * *

36. Amend § 230.428 by revising paragraphs (b)(2)(ii), (b)(2)(iii), (b)(2)(iv), and (b)(4) to read as follows:

§ 230.428 Documents constituting a section 10(a) prospectus for Form S–8 registration statement; requirements relating to offerings of securities registered on Form S–8.

* * * * *

(b) * * *

(2) * * *

(ii) The registrant's annual report on Form 10–K (§ 249.310 of this chapter), 20–F (§ 249.220f of this chapter) or, in the case of registrants described in General Instruction A.(2) of Form 40–F (§ 249.240f of this chapter), for its latest fiscal year;

(iii) The latest prospectus filed pursuant to Rule 424(b) (§ 230.424(b) of this chapter) under the Act that contains audited financial statements for the registrant's latest fiscal year, *Provided* that the financial statements are not incorporated by reference from another filing, and *Provided* further that such prospectus contains substantially the information required by Rule 14a–3(b) (§ 240.14a–3(b) of this chapter) or the registration statement was on Form S–1 (§ 239.11 of this chapter) or F–1 (§ 239.31 of this chapter); or

(iv) The registrant's effective Exchange Act registration statement on Form 10 (§ 249.210 of this chapter), 20–F or, in the case of registrants described in General Instruction A.(2) of Form 40–F, containing audited financial statements for the registrant's latest fiscal year.

* * * * *

(4) Where interests in a plan are registered, the registrant shall deliver or cause to be delivered promptly, without charge, to each employee to whom information is required to be delivered, upon written or oral request, a copy of the then latest annual report of the plan filed pursuant to section 15(d) of the Exchange Act, whether on Form 11–K (§ 249.311 of this chapter) or included as part of the registrant's annual report on Form 10–K.

* * * * *

37. Amend § 230.430B by revising the introductory text of paragraphs (f)(4), (f)(4)(ii), and (i) to read as follows:

§ 230.430B Prospectus in a registration statement after effective date.

* * * * *

(f) * * *

(4) Except for an effective date resulting from the filing of a form of prospectus filed for purposes of including information required by section 10(a)(3) of the Act or pursuant to Item 512(a)(1)(ii) of Regulation S–K (§ 229.512(a)(1)(ii) of this chapter), the date a form of prospectus is deemed part of and included in the registration statement pursuant to this paragraph shall not be an effective date established pursuant to paragraph (f)(2) of this section as to:

* * * * *

(ii) Any person signing any report or document incorporated by reference into the registration statement, except for such a report or document incorporated by reference for purposes of including information required by section 10(a)(3) of the Act or pursuant to Item 512(a)(1)(ii) of Regulation S–K (such person except for such reports being deemed not to be a person who signed the registration statement within the meaning of section 11(a) of the Act).

* * * * *

(i) Issuers relying on this section shall furnish the undertakings required by Item 512(a) of Regulation S–K.

* * * * *

38. Amend § 230.430C by revising paragraph (d) to read as follows:

§ 230.430C Prospectus in a registration statement pertaining to an offering other than pursuant to Rule 430A or Rule 430B after the effective date.

* * * * *

(d) Issuers subject to paragraph (a) of this section shall furnish the undertakings required by Item 512(a) of Regulation S–K (§ 229.512(a) of this chapter) or Item 34.4 of Form N–2 (§§ 239.14 and 274.11a–1 of this chapter), as applicable.

* * * * *

39. Revise § 230.455 to read as follows:

§ 230.455 Place of filing.

All registration statements and other papers filed with the Commission shall be filed at its principal office. Such material may be filed by delivery to the Commission through the mails or otherwise; provided, however, that only registration statements and post-effective amendments thereto filed pursuant to Rule 462(b) (§ 230.462(b)) and Rule 110(d) (§ 230.110(d)) may be filed by means of facsimile transmission.

40. Amend § 230.502 by revising paragraphs (b)(2)(i)(B)(*1*), (b)(2)(i)(B)(*2*), (b)(2)(ii)(A), (b)(2)(ii)(B), and (b)(2)(iii) to read as follows:

§ 230.502 General conditions to be met.

* * * * *

(b) * * *

(2) * * *

(i) * * *

(B) *Financial statement information—(1) Offerings up to $2,000,000.* The information required in Item 310 of Regulation S–K (§ 229.310 of this chapter), except that only the issuer's balance sheet, which shall be dated within 120 days of the start of the offering, must be audited.

(*2*) *Offerings up to $7,500,000.* The financial statement information required in Form S–1 (§ 239.10 of this chapter) for smaller reporting companies. If an issuer, other than a limited partnership, cannot obtain audited financial statements without unreasonable effort or expense, then only the issuer's balance sheet, which shall be dated within 120 days of the start of the offering, must be audited. If the issuer is a limited partnership and cannot obtain the required financial statements without unreasonable effort or expense, it may furnish financial statements that have been prepared on the basis of Federal income tax requirements and examined and reported on in accordance with generally accepted auditing standards by an independent public or certified accountant.

* * * * *

(ii) * * *

(A) The issuer's annual report to shareholders for the most recent fiscal year, if such annual report meets the requirements of § 240.14a–3 or § 240.14c–3 under the Exchange Act, the definitive proxy statement filed in connection with that annual report, and if requested by the purchaser in writing, a copy of the issuer's most recent Form 10–K (17 CFR 249.310) under the Exchange Act.

(B) The information contained in an annual report on Form 10–K (§ 249.310 of this chapter) under the Exchange Act or in a registration statement on Form S–1 (§ 239.11 of this chapter) or S–11 (§ 239.18 of this chapter) under the Act or on Form 10 (§ 249.210 of this chapter) under the Exchange Act, whichever filing is the most recent required to be filed.

* * * * *

(iii) Exhibits required to be filed with the Commission as part of a registration statement or report, other than an annual report to shareholders or parts of that report incorporated by reference in a Form 10–K report, need not be furnished to each purchaser that is not an accredited investor if the contents of material exhibits are identified and such exhibits are made available to a

purchaser, upon his written request, a reasonable time prior to his purchase.

* * * * *

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

41. The authority citation for part 239 continues to read in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77z–2, 77z–3, 77sss, 78c, 78*l*, 78m, 78n, 78o(d), 78u–5, 78w(a), 78*ll*, 78mm, 80a–2(a), 80a–3, 80a–8, 80a–9, 80a–10, 80a–13, 80a–24, 80a–26, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

42. Amend § 239.0–1 by revising paragraph (b) to read as follows:

§ 239.0–1 Availability of forms.

* * * * *

(b) Any person may obtain a copy of any form prescribed for use in this part by written request to the Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549. Any persons may inspect the forms at this address and at the Commission's regional offices. (*See* § 200.11 of this chapter for the addresses of the SEC regional offices.)

43. By removing and reserving §§ 239.9 and 239.10 and removing Forms SB–1 and Form SB–2.

Note: The text of Forms SB–1 and SB–2 does not appear in the Code of Federal Regulations.

44. Amend Form S–1 (referenced in § 239.11) by:

a. Adding to the cover page, above the calculation of the registration fee table, check boxes requesting the registrant to indicate whether it is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company; and

b. Revising Items 11(e), 11A, and 12(a)(1) in Part I.

The revisions and addition read as follows:

Note: The text of Form S–1 does not and this amendment will not appear in the Code of Federal Regulations.

* * * * *

Form S–1

Registration Statement Under the Securities Act of 1933

* * * * *

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of ''large accelerated filer,'' ''accelerated filer'' and ''smaller reporting company'' in Rule 12b–2 of the Exchange Act. (Check one):

Large accelerated filer ☐
Non-accelerated filer ☐
Accelerated filer ☐
Smaller reporting company ☐

(Do not check if a smaller reporting company)

* * * * *

Part I—Information Required in Prospectus

* * * * *

Item 11. Information With Respect to the Registrant

* * * * *

(e) Financial statements meeting the requirements of Regulation S–X (17 CFR Part 210) (Schedules required under Regulation S–X shall be filed as ''Financial Statements Schedules'' pursuant to Item 15, Exhibits and Financial Statement Schedules, of this form), as well as any financial information required by Rule 3–05 and Article 11 of Regulation S–X. A smaller reporting company may provide the information in Item 310 of Regulation S–K in lieu of the financial information required by Rule 3–05 and Article 11 of Regulation S–X;

* * * * *

Item 11A. Material Changes

If the registrant elects to incorporate information by reference pursuant to General Instruction VII. describe any and all material changes in the registrant's affairs which have occurred since the end of the latest fiscal year for which audited financial statements were included in the latest Form 10–K and which have not been described in a Form 10–Q, or Form S–8 filed under the Exchange Act.

* * * * *

Item 12. Incorporation of Certain Information by Reference

* * * * *

(a) * * *

(1) The registrant's latest annual report on Form 10–K filed pursuant to Section 13(a) or Section 15(d) of the Exchange Act which contains financial statements for the registrant's latest fiscal year for which a Form 10–K was required to have been filed; and

* * * * *

45. Amend Form S–3 (referenced in § 239.13) by adding to the cover page, above the calculation of the registration fee table, check boxes requesting the registrant to indicate whether it is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company and revising General Instruction II C., and in Part I, Items 11(a) and 12(a)(1) to read as follows.

Note: The text of Form S–3 does not and this amendment will not appear in the Code of Federal Regulations.

* * * * *

Form S–3

Registration Statement Under the Securities Act of 1933

* * * * *

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of ''large accelerated filer,'' ''accelerated filer'' and ''smaller reporting company'' in Rule 12b–2 of the Exchange Act. (Check one):

Large accelerated filer ☐
Non-accelerated filer ☐
Accelerated filer ☐
Smaller reporting company ☐

Do not check if a smaller reporting company)

* * * * *

General Instructions

* * * * *

II. Application of General Rules and Regulations

* * * * *

C. A smaller reporting company, defined in Rule 405 (17 CFR 230.405), that is eligible to use Form S–3 shall use the disclosure items in Regulation S–K (17 CFR 229.10 *et seq.*) with specific attention to the subparagraph describing scaled disclosure, if any. Smaller reporting companies may provide the financial information called for by Item 310 of Regulation S–K in lieu of the financial information called for by Item 11 in this form.

* * * * *

Part I

Information Required in Prospectus

* * * * *

Item 11. Material Changes

(a) Describe any and all material changes in the registrant's affairs which have occurred since the end of the latest fiscal year for which certified financial statements were included in the latest annual report to security holders and which have not been described in a report on Form 10–Q (§ 249.308a of this chapter) or Form 8–K (§ 249.308 of this chapter) filed under the Exchange Act.

* * * * *

Item 12. Incorporation of Certain Information by Reference

a. * * *

(1) the registrant's latest annual report on Form 10–K (17 CFR 249.310) filed

pursuant to Section 13(a) or 15(d) of the Exchange Act which contains financial statements for the registrant's latest fiscal year for which a Form 10–K was required to be filed; and

* * * * *

46. Amend Form S–8 (referenced in § 239.16b) by adding to the cover page, above the calculation of registration fee table, check boxes requesting the registrant to indicate whether a registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company and revising General Instructions A.1(a)(6) and B.3. to read as follows:

Note: The text of Form S–8 does not and this amendment will not appear in the Code of Federal Regulations.

Form S–8

Registration of Securities Under the Securities Act of 1933

* * * * *

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of ''large accelerated filer,'' ''accelerated filer'' and ''smaller reporting company'' in Rule 12b–2 of the Exchange Act. (Check one):

Large accelerated filer ☐
Non-accelerated filer ☐
Accelerated filer ☐
Smaller reporting company ☐

(Do not check if a smaller reporting company)

* * * * *

General Instructions

A. Rule as to Use of Form S–8

1. * * *

(a) * * *

(6) The term ''Form 10 information'' means the information that is required by Form 10 or Form 20–F (§ 249.210 or § 249.220f of this chapter), as applicable to the registrant, to register under the Securities Exchange Act of 1934 each class of securities being registered using this form. A registrant may provide the Form 10 information in another Commission filing with respect to the registrant.

* * * * *

B. Application of General Rules and Regulations

* * * * *

3. A ''smaller reporting company,'' defined in § 230.405, shall refer to the disclosure items in Regulation S–K (17 CFR 229.10 *et seq.*) and may use the scaled disclosure provided for smaller reporting companies.

* * * * *

47. Amend Form S–11 (referenced in § 229.18) by:

a. Adding to the cover page, above the calculation of registration fee table, check boxes requesting the registrant to indicate whether it is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company; and

b. Revising Item 27.

The revision and addition read as follows:

Note: The text of Form S–11 does not and this amendment will not appear in the Code of Federal Regulations.

Form S–11

For Registration Under the Securities Act of 1933 of Securities of Certain Real Estate Companies

* * * * *

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of ''large accelerated filer,'' ''accelerated filer'' and ''smaller reporting company'' in Rule 12b–2 of the Exchange Act. (Check one):

Large accelerated filer ☐
Non-accelerated filer ☐
Accelerated filer ☐
Smaller reporting company ☐

(Do not check if a smaller reporting company)

* * * * *

Item 27. Financial Statements and Information.

Include in the prospectus the financial statements required by Regulation S–X, the supplementary financial information required in Item 302 of Regulation S–K (§ 229.302 of this chapter) and the information concerning changes in and disagreements with accountants on accounting and financial disclosure required by Item 304 of Regulation S–K (§ 229.304 of this chapter). Although all schedules required by Regulation S–X are to be included in the registration statement, all such schedules other than those prepared in accordance with Rules 12–12, 12–28, and 12–29 of the Regulation may be omitted from the prospectus. A smaller reporting company may provide the information in Item 310 of Regulation S–K (§ 229.310 of this chapter), in lieu of the financial information required by Regulation S–X and need not provide the supplementary financial information required in Item 302 of Regulation S–K.

* * * * *

48. Amend Form S–4 (referenced in § 239.25) by:

a. Adding to the cover page, above the calculation of the registration fee table, check boxes requesting the registrant to indicate whether it is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company;

b. Removing paragraph 4 of General Instruction D; and

c. Revising paragraph 1 of General Instruction I and in Part I Item 5, Item 12(a) before the Instruction, the introductory text of Item 12(b), paragraph 3 of Item 12(c), Item 17(b)(8), Item 18(b), and Item 19(c).

The addition and revisions read as follows:

* * * * *

Note: The text of Form S–4 does not and this amendment will not appear in the Code of Federal Regulations.

* * * * *

Form S–4

Registration Statement Under the Securities Act of 1933

* * * * *

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of ''large accelerated filer,'' ''accelerated filer'' and ''smaller reporting company'' in Rule 12b–2 of the Exchange Act. (Check one):

Large accelerated filer ☐
Non-accelerated filer ☐
Accelerated filer ☐
Smaller reporting company ☐

(Do not check if a smaller reporting company)

* * * * *

General Instructions

* * * * *

I. Roll-Up Transactions

1. If securities to be registered on this Form will be issued in a roll-up transaction as defined in Item 901(c) of Regulation S–K (17 CFR 229.901(c)), then the disclosure provisions of Subpart 229.900 of Regulation S–K (17 CFR 229.900) shall apply to the transaction in addition to the provisions of this Form. A smaller reporting company, defined in § 230.405, that is engaged in a roll-up transaction shall refer to the disclosure items in subpart 900 of Regulation S–K. To the extent that the disclosure requirements of Subpart 229.900 are inconsistent with the disclosure requirements of any other applicable forms or schedules, the requirements of Subpart 229.900 are controlling.

* * * * *

Part I

Information Required in the Prospectus

* * * * *

Item 5. Pro Forma Financial Information

Furnish financial information required by Article 11 of Regulation S–X (§ 210.11–01 *et seq.* of this chapter) with respect to this transaction. A smaller reporting company may provide the information in Item 310 of Regulation S–K (§ 229.310 of this chapter) in lieu of the financial information required by Article 11 of Regulation S–X.

* * * * *

Item 12. Information With Respect to S–3 Registrants

* * * * *

(a) If the registrant elects to deliver this prospectus together with a copy of either its latest Form 10–K filed pursuant to Sections 13(a) or 15(d) of the Exchange Act or its latest annual report to security holders, which at the time of original preparation met the requirements of either Rule 14a–3 or Rule 14c–3:

(1) Indicate that the prospectus is accompanied by either a copy of the registrant's latest Form 10–K or a copy of its latest annual report to security holders, whichever the registrant elects to deliver pursuant to paragraph (a) of this Item.

(2) Provide financial and other information with respect to the registrant in the form required by Part I of Form 10–Q as of the end of the most recent fiscal quarter which ended after the end of the latest fiscal year for which certified financial statements were included in the latest Form 10–K or the latest report to security holders (whichever the registrant elects to deliver pursuant to paragraph (a) of this Item), and more than forty-five days prior to the effective date of this registration statement (or as of a more recent date) by one of the following means:

(i) Including such information in the prospectus;

(ii) Providing without charge to each person to whom a prospectus is delivered a copy of the registrant's latest Form 10–Q; or

(iii) Providing without charge to each person to whom a prospectus is delivered a copy of the registrants latest quarterly report that we delivered to security holders and which included the required financial information.

(3) If not reflected in the registrant's latest Form 10–K or its latest annual report to security holders (whichever the registrant elects to deliver pursuant to paragraph (a) of this Item) provide information required by Rule 3–05 (§ 210.3–05 of this chapter) and Article 11 (§ 210.11–01 through 210.11.03 of this chapter) of Regulation S–X.

(4) Describe any and all material changes in the registrant's affairs which have occurred since the end of the latest fiscal year for which audited financial statements were included in the latest Form 10–K or latest annual report to security holders (whichever the registrant elects to deliver pursuant to paragraph (a) of this Item) and that were not described in a Form 10–Q or quarterly report delivered with the prospectus in accordance with paragraphs (a)(2)(ii) or (iii) of this Item.

* * * * *

(b) If the registrant does not elect to deliver its latest Form 10–K or its latest annual report to security holders:

* * * * *

(c) * * *

(3) such restatement of financial statements or disposition of assets was not reflected in the registrant's latest annual report to security holders and/or in its latest Form 10–K filed pursuant to Section 13(a) or 15(d) of the Exchange Act.

* * * * *

Item 17. Information With Respect to Companies Other Than S–3 Companies

* * * * *

(b) * * *

(8) the quarterly financial and other information as would have been required had the company being acquired been required to file Part I of Form 10–Q (§ 249.308a of this chapter) for the most recent quarter for which such a report would have been on file at the time of the registration statement becomes effective or for a period ending as of a more recent date.

* * * * *

Item 18. Information If Proxies, Consents or Authorizations Are To Be Solicited

* * * * *

(b) If the registrant or the company being acquired meets the requirements for use of Form S–3, any information required by paragraphs (a)(5)(ii) and (7) of this Item with respect to such company may be incorporated by reference from its latest annual report on Form 10–K.

Item 19. Information If Proxies, Consents or Authorizations Are Not To Be Solicited or in an Exchange Offer

* * * * *

(c) If the registrant or the company being acquired meets the requirements for use of Form S–3, any information required by paragraphs (a)(5) and (7) of this Item with respect to such company may be incorporated by reference from its latest annual report on Form 10–K.

* * * * *

49. Revise § 239.42 to read as follows:

§ 239.42 Form F–X, for appointment of agent for service of process and undertaking for issuers registering securities on Form F–8, F–9, F–10, or F–80 (§§ 239.38, 239.39, 239.40, or 239.41), or registering securities or filing periodic reports on Form 40–F (§ 249.240f), or by any issuer or other non-U.S. person filing tender offer documents on Schedule 13E–4F, 14D–1F, or 14D–9F (§§ 240.13e–102, 240.14d–102, or 240.14d–103 of this chapter), by any non-U.S. person acting as trustee with respect to securities registered on Form F–7 (§ 239.37), F–8, F–9, F–10, or by a Canadian issuer qualifying an offering statement pursuant to Regulation A (§ 230.251 et seq.) on Form 1–A (§ 239.90), or by any non-U.S. issuer providing Form CB (§ 249.480) of this chapter to the Commission in connection with a tender offer, rights offering or business combination.

Form F–X shall be filed with the Commission:

(a) By any issuer registering securities on Form F–8, F–9, F–10, or F–80 under the Securities Act of 1933;

(b) By any issuer registering securities on Form 40–F under the Securities Exchange Act of 1934;

(c) By any issuer filing a periodic report on Form 40–F, if it has not previously filed a Form F–X in connection with the class of securities in relation to which the obligation to file a report on Form 40–F arises;

(d) By any issuer or other non-U.S. person filing tender offer documents on Schedule 13E–4F, 14D–1F, or 14D–9F;

(e) By any non-U.S. person acting as trustee with respect to securities registered on Form F–7, F–8, F–9, F–10, or F–80;

(f) By a Canadian issuer qualifying an offering statement pursuant to the provisions of Regulation A; and

(g) By any non-U.S. issuer providing Form CB to the Commission in connection with a tender offer, rights offering or business combination.

50. Amend Form F–X (referenced in § 239.42) by revising General Instructions I.(e) and II. F. (a) and (c) to read as follows:

Note: The text of Form F–X does not and this amendment will not appear in the Code of Federal Regulations.

Form F–X

Appointment of Agent for Service of Process and Undertaking General Instructions

I. * * *

* * * * *

(e) by any non-U.S. person acting as trustee with respect to securities registered on Form F–7, F–8, F–9, F–10, or F–80; and

* * * * *

II. * * *

F. Each person filing this Form in connection with:

(a) the use of Form F–9, F–10, or 40–F or Schedule 13E–4F, 14D–1F, or 14D–9F stipulates and agrees to appoint a successor agent for service of process and file an amended Form F–X if the Filer discharges the Agent or the Agent is unwilling or unable to accept service on behalf of the Filer at any time until six years have elapsed from the date the issuer of the securities to which such Forms and Schedules relate has ceased reporting under the Exchange Act;

* * * * *

(c) its status as trustee with respect to securities registered on Form F–7, F–8, F–9, F–10, or F–80 stipulates and agrees to appoint a successor agent for service of process and file an amended Form F–X if the Filer discharges the Agent or the Agent is unwilling or unable to accept service on behalf of the Filer at any time during which any of the securities subject to the indenture remain outstanding; and

* * * * *

51. Amend Form 1–A (referenced in § 239.90) by revising paragraph B in Part II to read as follows:

Note: The text of Form 1–A does not and this amendment will not appear in the Code of Federal Regulations.

Form 1–A

Regulation A Offering Statement Under the Securities Act of 1933

* * * * *

Part II—Offering Circular

* * * * *

B. For all other issuers and for any issuer that so chooses—the information required by either Part I of Form S–1, (17 CFR 239.11), except for the financial statements called for there, or Model B of this Part II of Form 1–A. Offering circulars prepared pursuant to this instruction need not follow the order of the items or other requirements of the disclosure form. Such information shall not, however, be set forth in such a fashion as to obscure any of the required information or information necessary to keep the required information from being incomplete or misleading. Information requested to be presented in a specified tabular format shall be given in substantially the tabular form specified in the item.

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

52. The authority citations for part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*, 78mm, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4, 80b–11, and 7201 *et seq.*; and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

53. Amend § 240.0–2 by revising paragraph (a) to read as follows:

§ 240.0–2 Business hours of the Commission.

(a) The principal office of the Commission, at 100 F Street, NE, Washington, DC 20549, is open each day, except Saturdays, Sundays, and Federal holidays, from 9 a.m. to 5:30 p.m., Eastern Standard Time or Eastern Daylight Saving Time, whichever currently is in effect in Washington, DC, *provided that* hours for the filing of documents pursuant to the Act or the rules and regulations thereunder are as set forth in paragraphs (b) and (c) of this section.

* * * * *

54. Amend § 240.0–12 by revising the second sentence of paragraph (c) to read as follows:

§ 240.0–12 Commission procedures for filing applications for orders for exemptive relief under Section 36 of the Exchange Act.

* * * * *

(c) * * * Five copies of every paper application and every amendment to such an application must be submitted to the Office of the Secretary at 100 F Street, NE, Washington, DC 20549. * * *

* * * * *

55. Amend § 240.3b–6 by revising the introductory text of paragraph (b)(1), paragraphs (b)(1)(i) and (b)(2) to read as follows:

§ 240.3b–6 Liability for certain statements by issuers.

* * * * *

(b) * * *

(1) A forward-looking statement (as defined in paragraph (c) of this section) made in a document filed with the Commission, in Part I of a quarterly report on Form 10–Q, § 249.308a of this chapter, or in an annual report to share holders meeting the requirements of Rules 14a–3(b) and (c) or 14c–3(a) and (b) (§§ 240.14a–3(b) and (c) or 240.14c–3(a) and (b)), a statement reaffirming such forward-looking statement subsequent to the date the document was filed or the annual report was made publicly available, or a forward-looking statement made prior to the date the document was filed or the date the annual report was made publicly available if such statement is reaffirmed in a filed document, in Part I of a quarterly report on Form 10–Q, or in an annual report made publicly available within a reasonable time after the making of such forward-looking statement; *Provided,* that:

(i) At the time such statements are made or reaffirmed, either the issuer is subject to the reporting requirements of section 13(a) or 15(d) of the Act and has complied with the requirements of Rule 13a–1 or 15d–1 thereunder, if applicable, to file its most recent annual report on Form 10–K, Form 20–F or Form 40–F; or if the issuer is not subject to the reporting requirements of Sections 13(a) or 15(d) of the Act, the statements are made in a registration statement filed under the Securities Act of 1933 offering statement or solicitation of interest written document or broadcast script under Regulation A or pursuant to Section 12(b) or (g) of the Securities Exchange Act of 1934; and

* * * * *

(2) Information that is disclosed in a document filed with the Commission in Part I of a quarterly report on Form 10–Q (§ 249.308a of this chapter) or in an annual report to security holders meeting the requirements of Rules 14a–3(b) and (c) or 14c–3(a) and (b) under the Act (§§ 240.14a–3(b) and (c) or 240.14c–3(a) and (b) of this chapter) and which relates to:

(i) The effects of changing prices on the business enterprise, presented voluntarily or pursuant to Item 303 of Regulation S–K (§ 229.303 of this chapter) ''Management's Discussion and Analysis of Financial Condition and Results of Operations'' or Item 5 of Form 20–F, ''Operating and Financial Review and Prospects,'' or Item 302 of Regulation S–K (§ 229.302 of this chapter), ''Supplementary financial information'' or Rule 3–20(c) of Regulation S–X (§ 210.3–20(c)) of this chapter); or

(ii) The value of proved oil and gas reserves (such as a standardized measure of discounted future net cash flows relating to proved oil and gas

reserves as set forth in paragraphs 30–34 of Statement of Financial Accounting Standards No. 69) presented voluntarily or pursuant to Item 302 of Regulation S–K (§ 229.302 of this chapter).

* * * * *

56. Amend § 240.10A–1 by revising paragraphs (a)(4)(ii) and (b)(3) to read as follows:

§ 240.10A–1 Notice to the Commission Pursuant to Section 10A of the Act.

(a)(1) * * *

(4) * * *

(ii) The disclosure requirements of item 304 of Regulation S–K, § 229.304 of this chapter.

(b) * * *

(3) Submission of the report (or documentation) by the independent accountant as described in paragraphs (b)(1) and (b)(2) of this section shall not replace, or otherwise satisfy the need for, the newly engaged and former accountants' letters under items 304(a)(2)(D) and 304(a)(3) of Regulation S–K, §§ 229.304(a)(2)(D) and 229.304(a)(3) of this chapter, respectively, and shall not limit, reduce, or affect in any way the independent accountant's obligations to comply fully with all other legal and professional responsibilities, including, without limitation, those under generally accepted auditing standards and the rules or interpretations of the Commission that modify or supplement those auditing standards.

* * * * *

57. Amend § 240.10A–3 by revising paragraph (a)(5)(i)(A) to read as follows:

§ 240.10A–3 Listing standards relating to audit committees.

(a) * * *

(5) * * *

(i) * * *

(A) July 31, 2005 for foreign private issuers and smaller reporting companies (as defined in § 240.12b–2); and

* * * * *

58. Amend § 240.12b–2 by: a. Revising paragraphs (1)(iv) and (2)(iv) in the definition of *accelerated filer and large accelerated filer;*

b. Removing the definition of *Small business issuer;* and

c. Adding the definition of *Smaller reporting company* in alphabetical order.

The revisions and addition to read as follows:

§ 240.12b–2 Definitions

* * * * *

Accelerated filer and large accelerated filer

(1) * * *

(iv) The issuer is not eligible to use the requirements for smaller reporting companies in Part 229 of this chapter for its annual and quarterly reports.

(2) * * *

(iv) The issuer is not eligible to use the requirements for smaller reporting companies in Part 229 of this chapter for its annual and quarterly reports.

* * * * *

Smaller reporting company. As used in this part, the term ''*smaller reporting company*'' means an issuer that is not an investment company, an asset-backed issuer (as defined in § 229.1101 of this chapter), or a majority-owned subsidiary of a parent that is not a smaller reporting company and that:

(1) Had a public float of less than $75 million as of the last business day of its most recently completed second fiscal quarter, computed by multiplying the aggregate worldwide number of shares of its voting and non-voting common equity held by non-affiliates by the price at which the common equity was last sold, or the average of the bid and asked prices of common equity, in the principal market for the common equity; or

(2) In the case of an initial registration statement under the Securities Act for shares of its common equity, had a public float of less than $75 million as of a date within 30 days of the date of the filing of the registration statement, computed by multiplying the aggregate worldwide number of such shares held by non-affiliates before the registration plus the number of such shares included in the registration statement by the estimated public offering price of the shares; or

(3) In the case of an issuer whose public float as calculated under paragraph (1) or (2) of this definition was zero because the issuer had no significant public common equity outstanding or no market price for its common equity existed, had annual revenues of less than $50 million during the most recently completed fiscal year for which audited financial statements are available on the date of the filing that establishes whether or not the issuer is a smaller reporting company for any fiscal year; or

(4) *Determination:* Whether or not an issuer is a smaller reporting company is determined for an entire fiscal year on the basis of the information in a quarterly report on Form 10–Q or an initial registration statement under the Securities Act or this Act, whichever is first to be filed during that year. Once an issuer fails to qualify for smaller reporting company status, it will remain unqualified unless it determines that its public float, as calculated in accordance with paragraph (1) of this definition was less than $50 million as of the last business day of its second fiscal quarter or, if that calculation results in zero because the issuer had no significant public equity outstanding or no market price for its equity existed, if the issuer had annual revenues of less than $40 million during its previous fiscal year. An issuer making this determination becomes a smaller reporting company for the purpose of filings for the next fiscal year.

* * * * *

59. Amend § 240.12b–23 by revising paragraphs (a)(3)(i) and (b) to read as follows:

§ 240.12b–23 Incorporation by reference.

(a) * * *

(3) * * *

(i) A proxy or information statement incorporated by reference in response to Part III of Form 10–K (17 CFR 249.310);

* * * * *

(b) Any incorporation by reference of matter pursuant to this section shall be subject to the provisions of § 229.10(d) of this chapter restricting incorporation by reference of documents which incorporate by reference other information. Material incorporated by reference shall be clearly identified in the reference by page, paragraph, and caption or otherwise. Where only certain pages of a document are incorporated by reference and filed as an exhibit, the document from which the material is taken shall be clearly identified in the reference. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the statement or report where the information is required. Matter shall not be incorporated by reference in any case where such incorporation would render the statement or report incomplete, unclear or confusing.

60. Amend § 240.12b–25 by revising the section heading and paragraphs (a) and (b)(2)(ii) to read as follows:

§ 240.12b–25 Notification of inability to timely file all or any required portion of a Form 10–K, 20–F, 11–K, N–SAR, N–CSR, 10–Q, or 10–D.

(a) If all or any required portion of an annual or transition report on Form 10–K, 20–F or 11–K (17 CFR 249.310, 249.220f or 249.311), a quarterly or transition report on Form 10–Q (17 CFR 249.308a), or a distribution report on Form 10–D (17 CFR 249.312) required to be filed pursuant to Section 13 or 15(d) of the Act (15 U.S.C. 78m or 78o(d)) and rules thereunder, or if all or any required portion of a semi-annual, annual or transition report on Form N–CSR (17 CFR 249.331; 17 CFR 274.128)

or Form N–SAR (17 CFR 249.330; 17 CFR 274.101) required to be filed pursuant to Sections 13 or 15(d) of the Act or section 30 of the Investment Company Act of 1940 (15 U.S.C. 80a–29) and the rules thereunder, is not filed within the time period prescribed for such report, the registrant, no later than one business day after the due date for such report, shall file a Form 12b–25 (17 CFR 249.322) with the Commission which shall contain disclosure of its inability to file the report timely and the reasons therefor in reasonable detail.

(b) * * *

(2) * * *

(ii) The subject annual report, semi-annual report or transition report on Form 10–K, 20–F, 11–K, N–SAR, or N–CSR, or portion thereof, will be filed no later than the fifteenth calendar day following the prescribed due date; or the subject quarterly report or transition report on Form 10–Q or distribution report on Form 10–D, or portion thereof, will be filed no later than the fifth calendar day following the prescribed due date; and

* * * * *

61. Amend § 240.12h–3 by revising paragraph (e) to read as follows:

§ 240.12h–3 Suspension of duty to file reports under section 15(d).

* * * * *

(e) If the suspension provided by this section is discontinued because a class of securities does not meet the eligibility criteria of paragraph (b) of this section on the first day of an issuer's fiscal year, then the issuer shall resume periodic reporting pursuant to section 15(d) of the Act by filing an annual report on Form 10–K for its preceding fiscal year, not later than 120 days after the end of such fiscal year.

62. Amend § 240.13a–10 by revising paragraphs (c), (d)(2)(ii), (d)(2)(iii), the introductory text of paragraph (e), paragraphs (e)(1), (e)(2), (e)(4), the Note to paragraphs (c) and (e) and the introductory text of paragraph (j)(2) to read as follows:

§ 240.13a–10 Transition reports.

* * * * *

(c) If the transition period covers a period of less than six months, in lieu of the report required by paragraph (b) of this section, a report may be filed for the transition period on Form 10–Q (§ 249.308a of this chapter) not more than the number of days specified in paragraph (j) of this section after either the close of the transition period or the date of the determination to change the fiscal closing date, whichever is later. The report on Form 10–Q shall cover the period from the close of the last fiscal year end and shall indicate clearly the period covered. The financial statements filed therewith need not be audited but, if they are not audited, the issuer shall file with the first annual report for the newly adopted fiscal year separate audited statements of income and cash flows covering the transition period. The notes to financial statements for the transition period included in such first annual report may be integrated with the notes to financial statements for the full fiscal period. A separate audited balance sheet as of the end of the transition period shall be filed in the annual report only if the audited balance sheet as of the end of the fiscal year prior to the transition period is not filed. Schedules need not be filed in transition reports on Form 10–Q.

(d) * * *

(2) * * *

(ii) The first report required to be filed by the issuer for the newly adopted fiscal year after the date of the determination to change the fiscal year end is a quarterly report on Form 10–Q; and

(iii) Information on the transition period is included in the issuer's quarterly report on Form 10–Q for the first quarterly period (except the fourth quarter) of the newly adopted fiscal year that ends after the date of the determination to change the fiscal year. The information covering the transition period required by Part II and Item 2 of Part I may be combined with the information regarding the quarter. However, the financial statements required by Part I, which may be unaudited, shall be furnished separately for the transition period.

(e) Every issuer required to file quarterly reports on Form 10–Q pursuant to § 240.13a–13 of this chapter that changes its fiscal year end shall:

(1) File a quarterly report on Form 10–Q within the time period specified in General Instruction A.1. to that form for any quarterly period (except the fourth quarter) of the old fiscal year that ends before the date on which the issuer determined to change its fiscal year end, except that the issuer need not file such quarterly report if the date on which the quarterly period ends also is the date on which the transition period ends;

(2) File a quarterly report on Form 10–Q within the time specified in General Instruction A.1. to that form for each quarterly period of the old fiscal year within the transition period. In lieu of a quarterly report for any quarter of the old fiscal year within the transition period, the issuer may file a quarterly report on Form 10–Q for any period of three months within the transition period that coincides with a quarter of the newly adopted fiscal year if the quarterly report is filed within the number of days specified in paragraph (j) of this section after the end of such three month period, provided the issuer thereafter continues filing quarterly reports on the basis of the quarters of the newly adopted fiscal year;

* * * * *

(4) Unless such information is or will be included in the transition report, or the first annual report on Form 10–K for the newly adopted fiscal year, include in the initial quarterly report on Form 10–Q for the newly adopted fiscal year information on any period beginning on the first day subsequent to the period covered by the issuer's final quarterly report on Form 10–Q or annual report on Form 10–K for the old fiscal year. The information covering such period required by Part II and Item 2 of Part I may be combined with the information regarding the quarter. However, the financial statements required by Part I, which may be unaudited, shall be furnished separately for such period.

Note to paragraphs (c) and (e): If it is not practicable or cannot be cost-justified to furnish in a transition report on Form 10–Q or a quarterly report for the newly adopted fiscal year financial statements for corresponding periods of the prior year where required, financial statements may be furnished for the quarters of the preceding fiscal year that most nearly are comparable if the issuer furnishes an adequate discussion of seasonal and other factors that could affect the comparability of information or trends reflected, an assessment of the comparability of the data, and a representation as to the reason recasting has not been undertaken.

* * * * *

(j) * * *

(2) For transition reports to be filed on Form 10–Q (§ 249.308a of this chapter) the number of days shall be:

* * * * *

63. Amend § 240.13a–13 by revising the section heading, paragraph (a), the introductory text of paragraph (c), and paragraph (d) to read as follows:

§ 240.13a–13 Quarterly reports on Form 10–Q (§ 249.308a of this chapter).

(a) Except as provided in paragraphs (b) and (c) of this section, every issuer that has securities registered pursuant to section 12 of the Act and is required to file annual reports pursuant to section 13 of the Act, and has filed or intends to file such reports on Form 10–K (§ 249.310 of this chapter), shall file a quarterly report on Form 10–Q (§ 249.308a of this chapter) within the period specified in General Instruction A.1. to that form for each of the first three quarters of each fiscal year of the

issuer, commencing with the first fiscal quarter following the most recent fiscal year for which full financial statements were included in the registration statement, or, if the registration statement included financial statements for an interim period subsequent to the most recent fiscal year end meeting the requirements of Article 10 of Regulation S–X, for the first fiscal quarter subsequent to the quarter reported upon in the registration statement. The first quarterly report of the issuer shall be filed either within 45 days after the effective date of the registration statement or on or before the date on which such report would have been required to be filed if the issuer has been required to file reports on Form 10–Q as of its last fiscal quarter, whichever is later.

* * * * *

(c) Part I of the quarterly reports on Form 10–Q need not be filed by:

* * * * *

(d) Notwithstanding the foregoing provisions of this section, the financial information required by Part I of Form 10–Q, shall not be deemed to be ''filed'' for the purpose of Section 18 of the Act or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act.

64. Amend § 240.13a–14 by revising paragraph (a) to read as follows:

§ 240.13a–14 Certification of disclosure in annual and quarterly reports.

(a) Each report, including transition reports, filed on Form 10–Q, Form 10–K, Form 20–F or Form 40–F (§§ 249.308a, 249.310, 249.220f or 249.240f of this chapter) under Section 13(a) of the Act (15 U.S.C. 78m(a)), other than a report filed by an Asset-Backed Issuer (as defined in § 229.1101 of this chapter) or a report on Form 20–F filed under § 240.13a–19, must include certifications in the form specified in the applicable exhibit filing requirements of such report and such certifications must be filed as an exhibit to such report. Each principal executive and principal financial officer of the issuer, or persons performing similar functions, at the time of filing of the report must sign a certification. The principal executive and principal financial officers of an issuer may omit the portion of the introductory language in paragraph 4 as well as language in paragraph 4(b) of the certification that refers to the certifying officers' responsibility for designing, establishing and maintaining internal control over financial reporting for the issuer until the issuer becomes subject to the internal control over financial reporting requirements in § 240.13a–15 or 240.15d–15.

* * * * *

65. Amend § 240.13a–16 by revising paragraph (a)(3) to read as follows:

§ 240.13a–16 Reports of foreign private issuers on Form 6–K (17 CFR 249.306).

(a) * * *

(3) Issuers filing periodic reports on Form 10–K, Form 10–Q, and Form 8–K; or

* * * * *

66. Amend § 240.13a–20 by revising the introductory text of paragraph (a) to read as follows:

§ 240.13a–20 Plain English presentation of specified information.

(a) Any information included or incorporated by reference in a report filed under section 13(a) of the Act (15 U.S.C. 78m(a)) that is required to be disclosed pursuant to Item 402, 403, 404 or 407 of Regulation S–K (§ 229.402, 229.403, 229.404 or 229.407 of this chapter) must be presented in a clear, concise and understandable manner. You must prepare the disclosure using the following standards:

* * * * *

67. Amend § 240.14a–3 by:

a. Removing the Note to Small Business Issuers following the introductory text of paragraph (b);

b. Revising paragraph (b)(1) and Note 1;

c. Revising the heading ''Note 2'' to read ''Note 2 to Paragraph (b)(i)''; and

d. Revising paragraphs (b)(5)(ii), (b)(10) and its Note, and (d) to read as follows:

§ 240.14a–3 Information to be furnished to security holders.

* * * * *

(b) * * *

(1) The report shall include, for the registrant and its subsidiaries, consolidated and audited balance sheets as of the end of the two most recent fiscal years and audited statements of income and cash flows for each of the three most recent fiscal years prepared in accordance with Regulation S–X (part 210 of this chapter), except that the provisions of Article 3 (other than §§ 210.3–03(e), 2103–04 and 210.3–20) and Article 11 shall not apply. Any financial statement schedules or exhibits or separate financial statements which may otherwise be required in filings with the Commission may be omitted. If the financial statements of the registrant and its subsidiaries consolidated in the annual report filed or to be filed with the Commission are not required to be audited, the financial statements required by this paragraph may be unaudited. A smaller reporting company may provide the information in Item 310 of Regulation S–K (§ 229.310 of this chapter) in lieu of the financial information required by Rule 14a–3(b)(1) (§ 240.14a–3(b)(1).

Note 1 to Paragraph (b)(1): If the financial statements for a period prior to the most recently completed fiscal year have been examined by a predecessor accountant, the separate report of the predecessor accountant may be omitted in the report to security holders provided the registrant has obtained from the predecessor accountant a reissued report covering the prior period presented and the successor accountant clearly indicates in the scope paragraph of his report (a) that the financial statements of the prior period were examined by other accountants, (b) the date of their report, (c) the type of opinion expressed by the predecessor accountant and (d) the substantive reasons therefor, if it was other than unqualified. It should be noted, however, that the separate report of any predecessor accountant is required in filings with the Commission. If, for instance, the financial statements in the annual report to security holders are incorporated by reference in a Form 10–K, the separate report of a predecessor accountant shall be filed in Part II or in Part IV as a financial statement schedule.

* * * * *

(5) * * *

(ii) The report shall contain management's discussion and analysis of financial condition and results of operations required by Item 303 of Regulation S–K (§ 229.303 of this chapter).

* * * * *

(10) The registrant's proxy statement, or the report, shall contain an undertaking in bold-face or otherwise reasonably prominent type to provide without charge to each person solicited upon the written request of any such person, a copy of the registrant's annual report on Form 10–K, including the financial statements and the financial statement schedules, required to be filed with the Commission pursuant to Rule 13a–1 under the Act for the registrant's most recent fiscal year, and shall indicate the name and address (including title or department) of the person to whom such a written request is to be directed. In the discretion of management, a registrant need not undertake to furnish without charge copies of all exhibits to its Form 10–K provided that the copy of the annual report on Form 10–K furnished without charge to requesting security holders is accompanied by a list briefly describing all the exhibits not contained therein and indicating that the registrant will furnish any exhibit upon the payment of a specified reasonable fee which fee shall be limited to the registrant's

reasonable expenses in furnishing such exhibit. If the registrant's annual report to security holders complies with all of the disclosure requirements of Form 10–K and is filed with the Commission in satisfaction of its Form 10–K filing requirements, such registrant need not furnish a separate Form 10–K to security holders who receive a copy of such annual report.

Note to Paragraph (b)(10): Pursuant to the undertaking required by paragraph (b)(10) of this section, a registrant shall furnish a copy of its annual report on Form 10–K (§ 249.310 of this chapter) to a beneficial owner of its securities upon receipt of a written request from such person. Each request must set forth a good faith representation that, as of the record date for the solicitation requiring the furnishing of the annual report to security holders pursuant to paragraph (b) of this section, the person making the request was a beneficial owner of securities entitled to vote.

* * * * *

(d) An annual report to security holders prepared on an integrated basis pursuant to General Instruction H to Form 10–K (§ 249.310) may also be submitted in satisfaction of this section. When filed as the annual report on Form 10–K, responses to the Items of that form are subject to section 18 of the Act notwithstanding paragraph (c) of this section.

* * * * *

68. Amend § 240.14a–5 by removing the authority citation following the section and revising paragraph (f) to read as follows:

§ 240.14a–5 Presentation of information in proxy statement.

* * * * *

(f) If the date of the next annual meeting is subsequently advanced or delayed by more than 30 calendar days from the date of the annual meeting to which the proxy statement relates, the registrant shall, in a timely manner, inform shareholders of such change, and the new dates referred to in paragraphs (e)(1) and (e)(2) of this section, by including a notice, under Item 5, in its earliest possible quarterly report on Form 10–Q (§ 249.308a of this chapter), or, in the case of investment companies, in a shareholder report under § 270.30d–1 of this chapter under the Investment Company Act of 1940, or, if impracticable, any means reasonably calculated to inform shareholders.

69. Amend § 240.14a–8, by revising paragraph (e)(1) to read as follows:

§ 240.14a–8 Shareholder proposals.

* * * * *

(e) * * *

(1) If you are submitting your proposal for the company's annual meeting, you can in most cases find the deadline in last year's proxy statement. However, if the company did not hold an annual meeting last year, or has changed the date of its meeting for this year more than 30 days from last year's meeting, you can usually find the deadline in one of the company's quarterly reports on Form 10–Q (§ 249.308a of this chapter), or in shareholder reports of investment companies under § 270.30d–1 of this chapter of the Investment Company Act of 1940. In order to avoid controversy, shareholders should submit their proposals by means, including electronic means, that permit them to prove the date of delivery.

* * * * *

70. Amend § 240.14a–101 by revising Notes C. and D.1, and the introductory text of Note E.; and removing Notes F. and G. to the cover page and revising paragraph (e)(1) of Item 9, and revising paragraph (a)(1) of Item 13 to read as follows:

§ 240.14a–101 Schedule 14A. Information required in proxy statement.

* * * * *

Schedule 14A Information

Proxy Statement Pursuant to Section 14(a) of the Securities Exchange Act of 1934

* * * * *

Notes: * * *

C. Except as otherwise specifically provided, where any item calls for information for a specified period with regard to directors, executive officers, officers or other persons holding specified positions or relationships, the information shall be given with regard to any person who held any of the specified positions or relationship at any time during the period. Information, other than information required by Item 404 of Regulation S–K (§ 229.404 of this chapter), need not be included for any portion of the period during which such person did not hold any such position or relationship, provided a statement to that effect is made.

* * * * *

D. * * *

1. Any incorporation by reference of information pursuant to the provisions of this schedule shall be subject to the provisions of § 229.10(d) of this chapter restricting incorporation by reference of documents which incorporate by reference other information. A registrant incorporating any documents, or portions of documents, shall include a statement on the last page(s) of the proxy statement as to which documents, or portions of documents, are incorporated by reference. Information shall not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear or confusing.

* * * * *

E. In Item 13 of this Schedule, the reference to ''meets the requirement of Form S–3'' shall refer to a registrant who meets the following requirements:

* * * * *

Item 9. Independent public accountants.

* * * * *

(e) (1) Disclose, under the caption *Audit Fees*, the aggregate fees billed for each of the last two fiscal years for professional services rendered by the principal accountant for the audit of the registrant's annual financial statements and review of financial statements included in the registrant's Form 10–Q (17 CFR 249.308a) or services that are normally provided by the accountant in connection with statutory and regulatory filings or engagements for those fiscal years.

* * * * *

Item 13. Financial and other information. (*See* Notes D and E at the beginning of this Schedule.)

(a) * * *

(1) Financial statements meeting the requirements of Regulation S–X, including financial information required by Rule 3–05 and Article 11 of Regulation S–X with respect to transactions other than pursuant to which action is to be taken as described in this proxy statement (A smaller reporting company may provide the information in Item 310 of Regulation S–K (§ 229.310 of this chapter) in lieu of the financial information required by Rule 3–05 and Article 11 of Regulation S–X);

* * * * *

71. Amend § 240.14c–3 by removing the Note to Small Business Issuers following paragraph (a)(2).

72. Amend § 240.14c–101 by revising the Note that follows the cover page to read as follows:

§ 240.14c–101 Schedule 14C. Information required in information statement.

Schedule 14C Information

Information Statement Pursuant to Section 14(c) of the Securities Exchange Act of 1934

* * * * *

Note to Cover Page: Where any item, other than Item 4, calls for information with respect to any matter to be acted upon at the meeting or, if no meeting is being held, by written authorization or consent, such item need be answered only with respect to

proposals to be made by the registrant. Registrants and acquirees that meet the definition of ''smaller reporting company'' under Rule 12b–2 of the Exchange Act (§ 240.12b–2) shall refer to the disclosure items in Regulation S–K (§§ 229.10 through 229.1123 of this chapter) and may use the scaled disclosure requirements provided therein for smaller reporting companies. A smaller reporting company may provide the information in Item 310 of Regulation S–K in lieu of any financial statements required by Item 1 of § 240.14c–101.

* * * * *

73. Amend § 240.14d–3 by removing the authority citation following the section and revising paragraph (a)(3)(i) to read as follows:

§ 240.14d–3 Filing and transmission of tender offer statement.

(a) * * *

(3) * * *

(i) To each national securities exchange where such class of the subject company's securities is registered and listed for trading (which may be based upon information contained in the subject company's most recent Annual Report on Form 10–K (§ 249.310 of this chapter) filed with the Commission unless the bidder has reason to believe that such information is not current) which telephonic notice shall be made when practicable prior to the opening of each such exchange; and

* * * * *

74. Amend § 240.15d–10 by revising paragraphs (c), (d)(2)(ii), (d)(2)(iii), the introductory text of (e), paragraphs (e)(1), (e)(2), (e)(4), the Note to paragraphs (c) and (e), paragraph (f), and the introductory text of (j)(2) to read as follows:

§ 240.15d–10 Transition reports.

* * * * *

(c) If the transition period covers a period of less than six months, in lieu of the report required by paragraph (b) of this section, a report may be filed for the transition period on Form 10–Q (§ 249.308 of this chapter) not more than the number of days specified in paragraph (j) of this section after either the close of the transition period or the date of the determination to change the fiscal closing date, whichever is later. The report on Form 10–Q shall cover the period from the close of the last fiscal year end and shall indicate clearly the period covered. The financial statements filed therewith need not be audited but, if they are not audited, the issuer shall file with the first annual report for the newly adopted fiscal year separate audited statements of income and cash flows covering the transition period. The notes to financial statements for the transition period included in such first annual report may be integrated with the notes to financial statements for the full fiscal period. A separate audited balance sheet as of the end of the transition period shall be filed in the annual report only if the audited balance sheet as of the end of the fiscal year prior to the transition period is not filed. Schedules need not be filed in transition reports on Form 10–Q.

(d) * * *

(2)(i) * * *

(ii) The first report required to be filed by the issuer for the newly adopted fiscal year after the date of the determination to change the fiscal year end is a quarterly report on Form 10–Q; and

(iii) Information on the transition period is included in the issuer's quarterly report on Form 10–Q for the first quarterly period (except the fourth quarter) of the newly adopted fiscal year that ends after the date of the determination to change the fiscal year. The information covering the transition period required by Part II and Item 2 of Part I may be combined with the information regarding the quarter. However, the financial statements required by Part I, which may be unaudited, shall be furnished separately for the transition period.

* * * * *

(e) Every issuer required to file quarterly reports on Form 10–Q pursuant to § 240.15d–13 that changes its fiscal year end shall:

(1) File a quarterly report on Form 10–Q within the time period specified in General Instruction A.1. to that form for any quarterly period (except the fourth quarter) of the old fiscal year that ends before the date on which the issuer determined to change its fiscal year end, except that the issuer need not file such quarterly report if the date on which the quarterly period ends also is the date on which the transition period ends;

(2) File a quarterly report on Form 10–Q within the time specified in General Instruction A.1 to that form for each quarterly period of the old fiscal year within the transition period. In lieu of a quarterly report for any quarter of the old fiscal year within the transition period, the issuer may file a quarterly report on Form 10–Q for any period of three months within the transition period that coincides with a quarter of the newly adopted fiscal year if the quarterly report is filed within the number of days specified in paragraph (j) of this section after the end of such three month period, provided the issuer thereafter continues filing quarterly reports on the basis of the quarters of the newly adopted fiscal year;

* * * * *

(4) Unless such information is or will be included in the transition report, or the first annual report on Form 10–K for the newly adopted fiscal year, include in the initial quarterly report on Form 10–Q for the newly adopted fiscal year information on any period beginning on the first day subsequent to the period covered by the issuer's final quarterly report on Form 10–Q or annual report on Form 10–K for the old fiscal year. The information covering such period required by Part II and Item 2 of Part I may be combined with the information regarding the quarter. However, the financial statements required by Part I, which may be unaudited, shall be furnished separately for such period.

Note to Paragraphs (c) and (e): If it is not practicable or cannot be cost-justified to furnish in a transition report on Form 10–Q or a quarterly report for the newly adopted fiscal year financial statements for corresponding periods of the prior year where required, financial statements may be furnished for the quarters of the preceding fiscal year that most nearly are comparable if the issuer furnishes an adequate discussion of seasonal and other factors that could affect the comparability of information or trends reflected, an assessment of the comparability of the data, and a representation as to the reason recasting has not been undertaken.

(f) Every successor issuer that has a different fiscal year from that of its predecessor(s) shall file a transition report pursuant to this section, containing the required information about each predecessor, for the transition period, if any, between the close of the fiscal year covered by the last annual report of each predecessor and the date of succession. The report shall be filed for the transition period on the form appropriate for annual reports of the issuer not more than the number of days specified in paragraph (j) of this section after the date of the succession, with financial statements in conformity with the requirements set forth in paragraph (b) of this section. If the transition period covers a period of less than six months, in lieu of a transition report on the form appropriate for the issuer's annual reports, the report may be filed for the transition period on Form 10–Q not more than the number of days specified in paragraph (j) of this section after the date of the succession, with financial statements in conformity with the requirements set forth in paragraph (c) of this section. Notwithstanding the foregoing, if the transition period covers a period of one month or less, the successor issuer need not file a separate transition report if the

information is reported by the successor issuer in conformity with the requirements set forth in paragraph (d) of this section.

* * * * *

(j) * * *

(2) For transition reports to be filed on Form 10–Q (§ 249.308 of this chapter), the number of days shall be:

* * * * *

75. Amend § 240.15d–13 by revising the section heading, paragraph (a), the introductory text of (c), and paragraphs (d) and (e) to read as follows:

§ 240.15d–13 Quarterly reports on Form 10–Q (§ 249.308 of this chapter).

(a) Except as provided in paragraphs (b) and (c) of this section, every issuer that has securities registered pursuant to the Securities Act and is required to file annual reports pursuant to section 15(d) of the Act on Form 10–K (§ 249.310 of this chapter) shall file a quarterly report on Form 10–Q (§ 249.308 of this chapter) within the period specified in General Instruction A.1. to that form for each of the first three quarters of each fiscal year of the issuer, commencing with the first fiscal quarter following the most recent fiscal year for which full financial statements were included in the registration statement, or, if the registration statement included financial statements for an interim period subsequent to the most recent fiscal year end meeting the requirements of Article 10 of Regulation S–X, for the first fiscal quarter subsequent to the quarter reported upon in the registration statement. The first quarterly report of the issuer shall be filed either within 45 days after the effective date of the registration statement or on or before the date on which such report would have been required to be filed if the issuer had been required to file reports on Form 10–Q as of its last fiscal quarter, whichever is later.

* * * * *

(c) Part I of the quarterly reports on Form 10–Q need not be filed by:

* * * * *

(d) Notwithstanding the foregoing provisions of this section, the financial information required by Part I of Form 10–Q shall not be deemed to be ''filed'' for the purpose of section 18 of the Act or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act.

(e) Notwithstanding the foregoing provisions of this section, the financial information required by Part I of Form 10–Q, or financial information submitted in lieu thereof pursuant to paragraph (d) of this section, shall not be deemed to be ''filed'' for the purpose of section 18 of the Act or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act.

76. Amend § 240.15d–14 by revising paragraph (a) to read as follows:

§ 240.15d–14 Certification of disclosure in annual and quarterly reports.

(a) Each report, including transition reports, filed on Form 10–Q, Form 10–K, Form 20–F or Form 40–F (§ 249.308a, 249.310, 249.220f or 249.240f of this chapter) under section 15(d) of the Act (15 U.S.C. 78o(d)), other than a report filed by an Asset-Backed Issuer (as defined in § 229.1101 of this chapter) or a report on Form 20–F filed under § 240.15d–19, must include certifications in the form specified in the applicable exhibit filing requirements of such report and such certifications must be filed as an exhibit to such report. Each principal executive and principal financial officer of the issuer, or persons performing similar functions, at the time of filing of the report must sign a certification. The principal executive and principal financial officers of an issuer may omit the portion of the introductory language in paragraph 4 as well as language in paragraph 4(b) of the certification that refers to the certifying officers' responsibility for designing, establishing and maintaining internal control over financial reporting for the issuer until the issuer becomes subject to the internal control over financial reporting requirements in § 240.13a–15 or 240.15d–15.

* * * * *

77. Amend § 240.15d–20 by revising the introductory text of paragraph (a) to read as follows:

§ 240.15d–20 Plain English presentation of specified information.

(a) Any information included or incorporated by reference in a report filed under section 15(d) of the Act (15 U.S.C. 78o(d)) that is required to be disclosed pursuant to Item 402, 403, 404 or 407 of Regulation S–K (§ 229.402, 229.403, 229.404 or 229.407 of this chapter) must be presented in a clear, concise and understandable manner. You must prepare the disclosure using the following standards:

* * * * *

78. Amend § 240.15d–21 by revising paragraph (a)(1) to read as follows:

§ 240.15d–21 Reports for employee stock purchase, savings and similar plans.

(a) * * *

(1) The issuer of the stock or other securities offered to employees through their participation in the plan files annual reports on Form 10–K (§ 249.310 of this chapter); and

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

79. The authority citations for part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a *et seq.*, 7202, 7233, 7241, 7262, 7264, and 7265; and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

80. Amend § 249.0–1 by revising paragraph (b) to read as follows:

§ 249.0–1 Availability of forms.

* * * * *

(b) Any person may obtain a copy of any form prescribed for use in this part by written request to the Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549. Any person may inspect the forms at this address and at the Commission's regional offices. (*See* § 200.11 of this chapter for the addresses of SEC regional offices).

81. Amend Form 8–A (referenced in § 249.208a) by revising Item 1 before the Instruction to read as follows:

Note: The text of Form 8–A does not and this amendment will not appear in the Code of Federal Regulations.

Form 8–A

For Registration of Certain Classes of Securities Pursuant to Section 12(b) or (g) of the Securities Act of 1934

Item 1. Description of Registrant's Securities To Be Registered

Furnish the information required by Item 202 of Regulation S–K (§ 229.202 of this chapter), as applicable.

82. Amend Form 10 (referenced in § 249.210) by:

a. Adding check boxes to the cover page, above the Information Requested in Registration Statement, requesting the registrant indicate by check mark whether it is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company; and

b. Revising Item 13;

The addition and revision read as follows:

Note: The text of Form 10 does not and this amendment will not appear in the Code of Federal Regulations.

Form 10

General Form for Registration of Securities

Pursuant to Section 12(b) or (g) of the Securities Exchange Act of 1934

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer,

or a smaller reporting company. See the definitions of ''large accelerated filer,'' ''accelerated filer'' and ''smaller reporting company'' in Rule 12b–2 of the Exchange Act. (Check one):

Large accelerated filer ☐
Non-accelerated filer ☐
Accelerated filer ☐
Smaller reporting company ☐

(Do not check if a smaller reporting company)

* * * * *

Item 13. Financial Statements and Supplementary Data

Furnish all financial statements required by Regulation S–X and supplementary financial information required by Item 302 of Regulation S–K (§ 229.302 of this chapter). Smaller reporting companies may provide financial information required by Item 310 of Regulation S–K in lieu of the information required by Regulation S–X.

* * * * *

83. By removing and reserving § 249.210b and removing Form 10–SB.

Note: The text of Form 10–SB does not appear in the Code of Federal Regulations.

84. Amend Form 20–F (referenced in § 249.220f) by revising Item 11(e) to read as follows:

Form 20–F

* * * * *

Part I

* * * * *

Item 11. Quantitative and Qualitative Disclosures About Market Risk

* * * * *

(e) Smaller reporting companies. A smaller reporting company, as defined in Rule 405 (§ 230.405 of this chapter) and Rule 12b–2 (§ 240.12b–2 of this chapter), need not provide the information required by this Item 11.

* * * * *

85. Amend Form 8–K (referenced in § 249.308) by revising General Instruction B.4.; removing paragraph C.3; revising Item 2.01 paragraph (f) before the Instructions; Instructions 2 and 4 to Item 2.02; Item 2.03 paragraph (d); Item 3.02 paragraphs (a) and (b) before the Instructions and Instruction 2; Item 4.01 paragraphs (a) and (b) before the Instructions; Item 4.02 the introductory text of paragraph (a); Item 5.01 paragraphs (a)(8) and (b); Item 5.02 paragraphs (c)(2), (d)(4), (f), and Instruction 4; in Item 5.03 paragraph (b), revise the phrase ''Form 10–K, Form 10–KSB, Form 10–Q or Form 10–QSB'' to read ''Form 10–K or Form 10–Q'', and revise Instruction 1; Item 5.05 paragraph (a); and Item 9.01 paragraphs (a)(1), (b)(1) and (d) before the Instruction

The revisions read as follows:

Form 8–K

Current Report

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

* * * * *

General Instructions

* * * * *

B. Events To Be Reported and Time for Filing of Reports

* * * * *

4. Copies of agreements, amendments or other documents or instruments required to be filed pursuant to Form 8–K are not required to be filed or furnished as exhibits to the Form 8–K unless specifically required to be filed or furnished by the applicable Item. This instruction does not affect the requirement to otherwise file such agreements, amendments or other documents or instruments, including as exhibits to registration statements and periodic reports pursuant to the requirements of Item 601 of Regulation S–K.

* * * * *

Item 2.01 Completion of Acquisition or Disposition of Assets

* * * * *

(f) if the registrant was a shell company, other than a business combination related shell company, as those terms are defined in Rule 12b–2 under the Exchange Act (17 CFR 240.12b–2), immediately before the transaction, the information that would be required if the registrant were filing a general form for registration of securities on Form 10 under the Exchange Act reflecting all classes of the registrant's securities subject to the reporting requirements of Section 13 (15 U.S.C. 78m) or Section 15(d) (15 U.S.C. 78o(d)) of such Act upon consummation of the transaction, with such information reflecting the registrant and its securities upon consummation of the transaction. Notwithstanding General Instruction B.3 to Form 8–K, if any disclosure required by this Item 2.01(f) is previously reported, as that term is defined in Rule 12b–2 under the Exchange Act (17 CFR 240.12b–2), the registrant may identify the filing in which that disclosure is included instead of including that disclosure in this report.

* * * * *

Item 2.02 Results of Operations and Financial Condition

* * * * *

Instructions.

* * * * *

2. The requirements of paragraph (e)(1)(i) of Item 10 of Regulation S–K (17 CFR 229.10(e)(1)(i)) shall apply to disclosures under this Item 2.02.

* * * * *

4. This Item 2.02 does not apply in the case of a disclosure that is made in a quarterly report filed with the Commission on Form 10–Q (17 CFR 249.308a) or an annual report filed with the Commission on Form 10–K (17 CFR 249.310).

Item 2.03 Creation of a Direct Financial Obligation or an Obligation Under an Off-Balance Sheet Arrangement of a Registrant

* * * * *

(d) For purposes of this Item 2.03, *off-balance sheet arrangement* has the meaning set forth in Item 303(a)(4)(ii) of Regulation S–K (17 CFR 229.303(a)(4)(ii)).

* * * * *

Item 3.02 Unregistered Sales of Equity Securities

(a) If a registrant sells equity securities in a transaction that is not registered under the Securities Act, furnish the information set forth in paragraphs (a) and (c) through (e) of Item 701 of Regulation S–K (17 CFR 229.701(a) and (c) through (e)). For purposes of determining the required filing date for the Form 8–K under this Item 3.02(a), the registrant has no obligation to disclose information under this Item 3.02 until the registrant enters into an agreement enforceable against the registrant, whether or not subject to conditions, under which the equity securities are to be sold. If there is no such agreement, the registrant must provide the disclosure within four business days after the occurrence of the closing or settlement of the transaction or arrangement under which the equity securities are to be sold.

(b) No report need be filed under this Item 3.02 if the equity securities sold, in the aggregate since its last report filed under this Item 3.02 or its last periodic report, whichever is more recent, constitute less than 1% of the number of shares outstanding of the class of equity securities sold. In the case of a smaller reporting company, no report need be filed if the equity securities sold, in the aggregate since its last report filed under this Item 3.02 or its last periodic report, whichever is more recent, constitute less than 5% of the

number of shares outstanding of the class of equity securities sold.

Instructions.

* * * * *

2. A smaller reporting company is defined under Item 10(f)(1) of Regulation S–K (17 CFR 229.10(f)(1)).

* * * * *

Item 4.01 Changes in Registrant's Certifying Accountant

(a) If an independent accountant who was previously engaged as the principal accountant to audit the registrant's financial statements, or an independent accountant upon whom the principal accountant expressed reliance in its report regarding a significant subsidiary, resigns (or indicates that it declines to stand for re-appointment after completion of the current audit) or is dismissed, disclose the information required by Item 304(a)(1) of Regulation S–K including compliance with Item 304(a)(3) of Regulation S–K (17 CFR 229.304(a)(1)).

(b) If a new independent accountant has been engaged as either the principal accountant to audit the registrant's financial statements or as an independent accountant on whom the principal accountant is expected to express reliance in its report regarding a significant subsidiary, the registrant must disclose the information required by Item 304(a)(2) of Regulation S–K (17 CFR 229.302(a)(2)).

* * * * *

Item 4.02 Non-Reliance on Previously Issued Financial Statements or a Related Audit Report or Completed Interim Review

(a) If the registrant's board of directors, a committee of the board of directors or the officer or officers of the registrant authorized to take such action if board action is not required, concludes that any previously issued financial statements, covering one or more years or interim periods for which the registrant is required to provide financial statements under Regulation S–X (17 CFR 210) or Item 310 of Regulation S–K in the case of a smaller reporting company, should no longer be relied upon because of an error in such financial statements as addressed in Accounting Principles Board Opinion No. 20, as may be modified, supplemented or succeeded, disclose the following information:

* * * * *

Item 5.01 Changes in Control of the Registrant

(a) * * *

(8) if the registrant was a shell company, other than a business combination related shell company, as those terms are defined in Rule 12b–2 under the Exchange Act (17 CFR 240.12b–2), immediately before the change in control, the information that would be required if the registrant were filing a general form for registration of securities on Form 10 under the Exchange Act reflecting all classes of the registrant's securities subject to the reporting requirements of Section 13 (15 U.S.C. 78m) or Section 15(d) (15 U.S.C. 78o(d)) of such Act upon consummation of the change in control, with such information reflecting the registrant and its securities upon consummation of the transaction. Notwithstanding General Instruction B.3. to Form 8–K, if any disclosure required by this Item 5.01(a)(8) is previously reported, as that term is defined in Rule 12b–2 under the Exchange Act (17 CFR 240.12b–2), the registrant may identify the filing in which that disclosure is included instead of including that disclosure in this report.

(b) Furnish the information required by Item 403(c) of Regulation S–K (17 CFR 229.403(c)).

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers

* * * * *

(c) * * *

(2) the information required by Items 401(b), (d), (e) and Item 404(a) of Regulation S–K (17 CFR 229.401(b), (d), (e) and 229.404(a); and

* * * * *

(d) * * *

(4) the information required by Item 404(a) of Regulation S–K (17 CFR 229.404(a)).

* * * * *

(f) If the salary or bonus of a named executive officer cannot be calculated as of the most recent practicable date and is omitted from the Summary Compensation Table as specified in Instruction 1 to Item 402(c)(2)(iii) and (iv) of Regulation S–K, disclose the appropriate information under this Item 5.02(f) when there is a payment, grant, award, decision or other occurrence as a result of which such amounts become calculable in whole or in part. Disclosure under this Item 5.02(f) shall include a new total compensation figure for the named executive officer, using the new salary or bonus information to recalculate the information that was previously provided with respect to the named executive officer in the registrant's Summary Compensation Table for which the salary and bonus information was omitted in reliance on Instruction 1 to Item 402(c)(2)(iii) and (iv) of Regulation S–K (17 CFR 229.402(c)(2)(iii) and (iv)).

Instructions to Item 5.02

* * * * *

(4) For purposes of this Item, the term ''named executive officer'' shall refer to those executive officers for whom disclosure was required in the registrant's most recent filing with the Commission under the Securities Act (15 U.S.C. 77a *et seq.*) or Exchange Act (15 U.S.C. 78a *et seq.*) that required disclosure pursuant to Item 402(c) of Regulation S–K (17 CFR 229.402(c)).

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year

* * * * *

Instructions to Item 5.03.

1. Refer to Item 601(b)(3) of Regulation S-K (17 CFR 229.601(b)(3)) regarding the filing of exhibits to this Item 5.03.

* * * * *

Item 5.05 Amendments to the Registrant's Code of Ethics, or Waiver of a Provision of the Code of Ethics

(a) Briefly describe the date and nature of any amendment to a provision of the registrant's code of ethics that applies to the registrant's principal executive officer, principal financial officer, principal accounting officer or controller or persons performing similar functions and that relates to any element of the code of ethics definition enumerated in Item 406(b) of Regulation S–K (17 CFR 229.406(b)).

* * * * *

Item 9.01 Financial Statements and Exhibits

* * * * *

(a) * * *

(1) For any business acquisition required to be described in answer to Item 2.01 of this form, financial statements of the business acquired shall be filed for the periods specified in Rule 3–05(b) of Regulation S–X (17 CFR 210.3–05(b)). A smaller reporting company may provide the information in Item 310(c) of Regulation S–K (17 CFR 229.310(c)) in lieu of any financial statements required by Item 9(a) of this Form.

* * * * *

(b) * * *

(1) For any transaction required to be described in answer to Item 2.01 of this form, furnish any pro forma financial

information that would be required pursuant to Article 11 of Regulation S–X (17 CFR 210.3–14) shall be filed. A smaller reporting company may provide the information in Item 310(d) of Regulation S–K (17 CFR 229.310(d)) in lieu of any financial statements required by Item 9(b) of this Form.

* * * * *

(d) *Exhibits.* The exhibits will be deemed to be filed or furnished, depending upon the relevant item requiring such exhibit, in accordance with the provisions of Item 601 of Regulation S–K (17 CFR 229.601) and Instruction B.2 of this form.

* * * * *

86. Amend Form 10–Q (referenced in § 249.308a) by:

a. Revising the cover page of Form 10–Q to add, above Part I Financial Information, check boxes requesting the registrant to indicate whether it is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company; and

b. In Part I, revising the text of Item 1.

The revision and addition read as follows:

Note: The text of Form 10–Q does not and this amendment will not appear in the Code of Federal Regulations.

Form 10–Q

* * * * *

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of ''large accelerated filer,'' ''accelerated filer'' and ''smaller reporting company'' in Rule 12b–2 of the Exchange Act. (Check one):

Large accelerated filer ☐
Non-accelerated filer ☐
Accelerated filer ☐
Smaller reporting company ☐

(Do not check if a smaller reporting company)

PART I—FINANCIAL INFORMATION

Item 1. Financial Statements

Provide the information required by Rule 10–01 of Regulation S–X (17 CFR 210). A smaller reporting company, defined in Rule 12b–2 (§ 240.12b–2 of this chapter) may provide the information required by Item 310 of Regulation S–K (§ 229.310 of this chapter) in lieu of the information required by Regulation S–X.

* * * * *

87. By removing and reserving § 249.308b and removing Form 10–QSB.

Note: The text of Form 10–KSB does not appear in the Code of Federal Regulations.

88. Amend Form 10–K (referenced in § 249.310) by:

a. Revising the cover page of Form 10–K to add, above the line asking the registrant to indicate whether it is a shell company, check boxes requesting the registrant to indicate whether it is a large accelerated filer, or an accelerated filer; a non-accelerated filer, or a smaller reporting company; and

b. Revising Item 5 paragraph (a), Item 8 and Item 14 paragraph (1).

The additions and revisions read as follows:

Note: The text of Form 10–K does not and this amendment will not appear in the Code of Federal Regulations.

Form 10–K

Annual Report Pursuant to Section 13 or 15(D) of the Securities Exchange Act Of 1934

Form 10–K

* * * * *

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of ''large accelerated filer,'' ''accelerated filer'' and ''smaller reporting company'' in Rule 12b–2 of the Exchange Act. (Check one):

Large accelerated filer ☐
Accelerated filer ☐
Non-accelerated filer ☐
Smaller reporting company ☐

(Do not check if a smaller reporting company)

* * * * *

Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

(a) Furnish the information required by Item 201 of Regulation S–K (17 CFR 229.201) and Item 701 of Regulation S–K (17 CFR 229.701) as to all equity securities of the registrant sold by the registrant during the period covered by the report that were not registered under the Securities Act. If the Item 701 information previously has been included in a Quarterly Report on Form 10–Q (17 CFR 249.308a) or in a Current Report on Form 8–K (17 CFR 249.308), it need not be furnished.

* * * * *

Item 8. Financial Statements and Supplementary Data

(a) Furnish financial statements meeting the requirements of Regulation S–X (§ 210 of this chapter), except § 210.3–05 and Article 11 thereof, and the supplementary financial information required by Item 302 of Regulation S–K (§ 229.302 of this chapter). Financial statements of the registrant and its subsidiaries consolidated (as required by Rule 14a–3(b)) shall be filed under this item. Other financial statements and schedules required under Regulation S–X may be filed as ''Financial Statement Schedules'' pursuant to Item 15, Exhibits, Financial Statement Schedules, and Reports on Form 8–K, of this Form.

(b) A smaller reporting company may provide the information required by Item 310 of Regulation S–K in lieu of any financial statements required by Item 8 of this Form.

* * * * *

Item 14. Principal Accounting Fees and Services

* * * * *

(1) Disclose, under the caption *Audit Fees,* the aggregate fees billed for each of the last two fiscal years for professional services rendered by the principal accountant for the audit of the registrant's annual financial statements and review of financial statements included in the registrant's Form 10–Q (17 CFR 249.308a) or services that are normally provided by the accountant in connection with statutory and regulatory filings or engagements for those fiscal years.

* * * * *

89. By removing and reserving § 249.310b and removing Form 10–KSB.

Note: The text of Form 10–QSB does not appear in the Code of Federal Regulations.

90. Amend Form 11–K (referenced in § 249.311) by revising General Instruction E(b) to read as follows:

Form 11–K

For Annual Reports of Employee Stock Purchase, Savings and Similar Plans Pursuant to Section 15(D) of the Securities Exchange Act of 1934

General Instructions

* * * * *

E. Electronic Filers

* * * * *

(b) Financial Data Schedules are not required to be submitted in connections with annual reports on this form. *See* Item 601(c)(1) of Regulation S–K (§ 229.601(c)(1)).

* * * * *

91. Amend Form SE (referenced in § 249.444) by revising General Instruction 3.C.

* * * * *

Form SE

Form for Submission of Paper Format Exhibits by Edgar Electronic Filers

* * * * *

Form SE General Instructions

* * * * *

3. Filing of Form SE.

* * * * *

C. Identify the exhibit being filed. Attach to the Form SE the paper format exhibit and an exhibit index if required by Item 601 of Regulation S–K (§ 229.601 of this chapter).

* * * * *

PART 260—GENERAL RULE AND REGULATIONS, TRUST INDENTURE ACT OF 1939

92. The authority citation for Part 260 continues to read as follows:

Authority: 15 U.S.C. 77eee, 77ggg, 77nnn, 77sss, 78*ll*(d), 80b–3, 80b–4, and 80b–11.

93. Amend § 260.0–11 by revising the introductory text of paragraph (b)(1), paragraphs (b)(1)(i) and (b)(2) to read as follows:

§ 260.0–11 Liability for certain statements by issuers.

* * * * *

(b) * * *

(1) A forward-looking statement (as defined in paragraph (c) of this section) made in a document filed with the Commission, in Part I of a quarterly report on Form 10–Q, § 249.308a of this chapter, or in an annual report to share holders meeting the requirements of Rules 14a–3(b) and (c) or 14c–3(a) and (b) under the Securities Exchange Act of 1934 (§ 240.14a–3(b) and (c) or § 240.14c–3(a) and (b) of this chapter), a statement reaffirming such forward-looking statement subsequent to the date the document was filed or the annual report was made publicly available, or a forward-looking statement made prior to the date the document was filed or the date the annual report was made publicly available if such statement is reaffirmed in a filed document, in Part I of a quarterly report on Form 10–Q, or in an annual report made publicly available within a reasonable time after the making of such forward-looking statement; *Provided, that:*

(i) At the time such statements are made or reaffirmed, either the issuer is subject to the reporting requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934 and has complied with the requirements of Rule 13a–1 or 15d–1 (§ 240.13a–1 or § 240.15d–1 of this chapter) thereunder, if applicable, to file its most recent annual report on Form 10–K, Form 20–F, or Form 40–F; or if the issuer is not subject to the reporting requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934, the statements are made in a registration statement filed under the Securities Act of 1933 or pursuant to section 12(b) or (g) of the Securities Exchange Act of 1934; and

* * * * *

(2) Information relating to the effects of changing prices on the business enterprise presented voluntarily or pursuant to Item 303 of Regulation S–K (§ 229.303 of this chapter) or Item 5 of Form 20–F (§ 249.220f of this chapter), ''Operating and Financial Review and Prospects,'' or Item 302 of Regulation S–K (§ 229.302 of this chapter), ''Supplementary Financial Information,'' or Rule 3–20(c) of Regulation S–X (§ 210.3–20(c) of this chapter), and disclosed in a document filed with the Commission, in Part I of a quarterly report on Form 10–Q, or in an annual report to shareholders meeting the requirements of Rules 14a–3(b) and (c) or 14c–3(a) and (b) (§ 240.14a–3(b) and (c) or § 240.14c–3(a) and (b)) under the Securities Exchange Act of 1934.

* * * * *

94. Amend § 260.4d–9 by revising the introductory text to read as follows:

§ 260.4d–9 Exemption for Canadian Trust Indentures from Specified Provisions of the Act.

Any trust indenture filed in connection with offerings on a registration statement on Form S–1, (§ 239.1 of this chapter) F–7, F–8, F–9, F–10 or F–80 (§§ 239.37 through 239.41 of this chapter) shall be exempt from the operation of sections 310(a)(3) and 310(a)(4), sections 310(b) through 316(a), and sections 316(c) through 318(a) of the Act; provided that the trust indenture is subject to:

* * * * *

95. Amend § 260.10a–5 by revising paragraph (a) to read as follows:

§ 260.10a–5 Eligibility of Canadian Trustees.

(a) Subject to paragraph (b) of this section, any trust company, acting as trustee under an indenture qualified or to be qualified under the Act and filed in connection with offerings on a registration statement on Form S–1 (§ 239.11 of this chapter) F–7, F–8, F–9, F–10 or F–80 (§§ 239.37 through 239.41 of this chapter) that is incorporated and regulated as a trust company under the laws of Canada or any of its political subdivisions and that is subject to supervision or examination pursuant to the Trust Companies Act (Canada), R.S.C. 1985, or the Canada Deposit Insurance Corporation Act, R.S.C. 1985 shall not be subject to the requirement of domicile in the United States under section 310(a) of the Act (15 U.S.C. 77jjj(a)).

* * * * *

PART 269—FORMS PRESCRIBED UNDER THE TRUST INDENTURE ACT OF 1939

96. The authority citation for part 269 is revised to read as follows:

Authority: 15 U.S.C. 77ddd(c), 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77sss, and 78*ll*(d), unless otherwise noted.

97. Amend § 260.01 by revising paragraph (b) to read as follows:

§ 269.0–1 Availability of forms.

* * * * *

(b) Any person may obtain a copy of any form prescribed for use in this part by written request to the Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549. Any person may inspect the forms at this address and at the Commission's regional offices. (See § 200.11 of this chapter for the addresses of SEC regional offices.)

By the Commission.

Dated: July 5, 2007.

Nancy M. Morris,

Secretary.

[FR Doc. E7–13407 Filed 7–18–07; 8:45 am]

BILLING CODE 8010–01–P

Federal Register

Thursday,
July 19, 2007

Part III

The President

Executive Order 13438—Blocking Property of Certain Persons Who Threaten Stabilization Efforts in Iraq

Presidential Determination No. 2007–26 of July 10, 2007—Presidential Determination on Transfer of Economic Support Funds to the Overseas Private Investment Corporation To Establish a Loan Guarantee Program

Presidential Determination No. 2007–27 of July 12, 2007—Waiver of Limitation on Obligation and Expenditure of $642.5 Million in Fiscal Year 2007 Economic Support Funds for Iraq

Federal Register
Vol. 72, No. 138
Thursday, July 19, 2007

Presidential Documents

Title 3—

The President

Executive Order 13438 of July 17, 2007

Blocking Property of Certain Persons Who Threaten Stabilization Efforts in Iraq

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act, as amended (50 U.S.C. 1701 *et seq.*)(IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*)(NEA), and section 301 of title 3, United States Code,

I, GEORGE W. BUSH, President of the United States of America, find that, due to the unusual and extraordinary threat to the national security and foreign policy of the United States posed by acts of violence threatening the peace and stability of Iraq and undermining efforts to promote economic reconstruction and political reform in Iraq and to provide humanitarian assistance to the Iraqi people, it is in the interests of the United States to take additional steps with respect to the national emergency declared in Executive Order 13303 of May 22, 2003, and expanded in Executive Order 13315 of August 28, 2003, and relied upon for additional steps taken in Executive Order 13350 of July 29, 2004, and Executive Order 13364 of November 29, 2004. I hereby order:

Section 1. (a) Except to the extent provided in section 203(b)(1), (3), and (4) of IEEPA (50 U.S.C. 1702(b)(1), (3), and (4)), or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the date of this order, all property and interests in property of the following persons, 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, are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: any person determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Secretary of Defense,

(i) to have committed, or to pose a significant risk of committing, an act or acts of violence that have the purpose or effect of:

(A) threatening the peace or stability of Iraq or the Government of Iraq; or

(B) undermining efforts to promote economic reconstruction and political reform in Iraq or to provide humanitarian assistance to the Iraqi people;

(ii) to have materially assisted, sponsored, or provided financial, material, logistical, or technical support for, or goods or services in support of, such an act or acts of violence or any person whose property and interests in property are blocked pursuant to this order; or

(iii) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this order.

(b) The prohibitions in subsection (a) of this section include, but are not limited to, (i) the making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to this order, and (ii) the receipt of any contribution or provision of funds, goods, or services from any such person.

Sec. 2. (a) Any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in this order is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

Sec. 3. For purposes of this order:

(a) the term ''person'' means an individual or entity;

(b) the term ''entity'' means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization; and

(c) the term ''United States 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.

Sec. 4. I hereby determine that the making of donations of the type specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) by, to, or for the benefit of, any person whose property and interests in property are blocked pursuant to this order would seriously impair my ability to deal with the national emergency declared in Executive Order 13303 and expanded in Executive Order 13315, and I hereby prohibit such donations as provided by section 1 of this order.

Sec. 5. For those persons whose property and interests in property are blocked pursuant to this order who might have a constitutional presence in the United States, I find that, because of the ability to transfer funds or other assets instantaneously, prior notice to such persons of measures to be taken pursuant to this order would render these measures ineffectual. I therefore determine that for these measures to be effective in addressing the national emergency declared in Executive Order 13303 and expanded in Executive Order 13315, there need be no prior notice of a listing or determination made pursuant to section 1(a) of this order.

Sec. 6. The Secretary of the Treasury, in consultation with the Secretary of State and the Secretary of Defense, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government, consistent with applicable law. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order and, where appropriate, to advise the Secretary of the Treasury in a timely manner of the measures taken.

Sec. 7. Nothing in this order is intended to affect the continued effectiveness of any rules, regulations, orders, licenses, or other forms of administrative action issued, taken, or continued in effect heretofore or hereafter under 31 C.F.R. chapter V, except as expressly terminated, modified, or suspended by or pursuant to this order.

Sec. 8. This order is not intended to, and does not, create any right, benefit, or privilege, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, instrumentalities, or entities, its officers or employees, or any other person.

THE WHITE HOUSE,
July 17, 2007.

[FR Doc. 07–3552
Filed 7–18–07; 8:57 am]
Billing code 3195–01–P

Presidential Documents

Presidential Determination No. 2007–26 of July 10, 2007

Presidential Determination on Transfer of Economic Support Funds to the Overseas Private Investment Corporation To Establish a Loan Guarantee Program

Memorandum for the Secretary of State

Pursuant to section 579 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (Public Law 109–102)(the ''Act''), I hereby determine that it is in furtherance of the purposes of the Foreign Assistance Act of 1961, that $5 million in Economic Support Funds appropriated under title II of the Act may be transferred to and merged with the funds appropriated by the Act for the Overseas Private Investment Corporation Program Account, to be subject to the terms and conditions of that account.

You are authorized and directed to publish this determination in the **Federal Register**.

THE WHITE HOUSE,
Washington, July 10, 2007.

[FR Doc. 07–3550
Filed 7–18–07; 8:57 am]
Billing code 4710–10–P

Presidential Documents

Presidential Determination No. 2007–27 of July 12, 2007

Waiver of Limitation on Obligation and Expenditure of $642.5 Million in Fiscal Year 2007 Economic Support Funds for Iraq

Memorandum for the Secretary of State

Pursuant to the authority vested in me as President by the Constitution and the laws of the United States, including section 1314(c)(2) of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28)(the ''Act''), I hereby waive the requirements of section 1314(c)(1) for $642.5 million of Fiscal Year 2007 Economic Support Funds for Iraq and direct you to submit to the Congress this determination along with the certification in accordance with section 1314(c)(2) of the Act.

You are hereby directed to publish this determination in the **Federal Register**.

THE WHITE HOUSE,
Washington, July 12, 2007.

[FR Doc. 07–3551
Filed 7–18–07; 8:57 am]
Billing code 4710–10–P

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Federal Register

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