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

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. APHIS–2007–0114]

Imported Fire Ant; Additions to the List of Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the imported fire ant regulations by designating as quarantined areas all or portions of 2 counties in Arkansas, 3 in North Carolina, and 3 in Tennessee, by expanding the quarantined area in 1 county in Arkansas and 15 in Tennessee, and by designating the entire State of South Carolina as a quarantined area. As a result of this action, the interstate movement of regulated articles from those areas will be restricted. This action is necessary to prevent the artificial spread of imported fire ant to noninfested areas of the United States.

DATES: This interim rule is effective October 25, 2007. We will consider all comments that we receive on or before December 24, 2007.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*, select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click ''Submit.'' In the Docket ID column, select APHIS–2007–0114 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.
- *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2007–0114, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2007–0114.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

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

FOR FURTHER INFORMATION CONTACT: Mr. Charles L. Brown, Imported Fire Ant Quarantine Program Manager, Pest Detection and Management Programs, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–4838.

SUPPLEMENTARY INFORMATION:

Background

The imported fire ant regulations (contained in 7 CFR 301.81 through 301.81–10 and referred to below as the regulations) quarantine infested States or infested areas within States and restrict the interstate movement of regulated articles to prevent the artificial spread of the imported fire ant.

The imported fire ant (*Solenopsis invicta* Buren, *Solenopsis richteri* Forel, and hybrids of these species) is an aggressive, stinging insect that, in large numbers, can seriously injure and even kill livestock, pets, and humans. The imported fire ant, which is not native to the United States, feeds on crops and builds large, hard mounds that damage farm and field machinery. The regulations are intended to prevent the imported fire ant from spreading throughout its ecological range within the country.

The regulations in § 301.81–3 provide that the Administrator of the Animal and Plant Health Inspection Service (APHIS) will list as a quarantined area each State, or each portion of a State, that is infested with the imported fire ant. The Administrator will designate less than an entire State as a quarantined area only under the following conditions: (1) The State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles listed in § 301.81–2 that are equivalent to the interstate movement restrictions imposed by the regulations; and (2) designating less than the entire State will prevent the spread of the imported fire ant. The Administrator may include uninfested acreage within a quarantined area due to its proximity to an infestation or its inseparability from an infested locality for quarantine purposes.

In § 301.81–3, paragraph (e) lists quarantined areas. We are amending § 301.81–3(e) by:

- Adding all of Lonoke and Yell Counties, AR, to the quarantined area;
- Expanding the quarantined area in Faulkner County, AR, to include the entirety of the county;
- Adding portions of Iredell, Lincoln, and Rutherford Counties, NC, to the list of quarantined areas;
- Expanding the quarantined areas in Cherokee, Greenville, and Spartanburg Counties, SC, to include the entirety of each county, with the result that the entire State of South Carolina is now designated as a quarantined area;
- Adding portions of Crockett, Morgan, and Warren Counties, TN, to the list of quarantined areas;
- Expanding the quarantined areas in Anderson, Coffee, Cumberland, Haywood, Knox, and Williamson Counties, TN; and
- Expanding the quarantined areas in Bedford, Benton, Bledsoe, Blount, Carroll, Grundy, Hickman, Rutherford, and Van Buren Counties, TN, to include the entirety of each county.

We are taking these actions because recent surveys conducted by APHIS and State and county agencies revealed that the imported fire ant has spread to these areas. See the regulatory text at the end of this document for specific descriptions of the new and revised quarantined areas.

Emergency Action

This rulemaking is necessary on an emergency basis to prevent the spread of imported fire ant into noninfested areas of the United States. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

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

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

We are amending the imported fire ant regulations by designating as quarantined areas all or portions of 2 counties in Arkansas, 3 in North Carolina, and 3 in Tennessee, by expanding the quarantined area in 1 county in Arkansas and 15 in Tennessee, and by designating the entire State of South Carolina as a quarantined area. We are taking this action because surveys conducted by APHIS and State and county agencies revealed that imported fire ant has spread to these areas. Agricultural activities in these imported fire ant-infested areas are at risk due to the potential of imported fire ants to directly or indirectly damage crops and agricultural machinery and harm livestock.

This interim rule will affect businesses such as nurseries, landscaping operations, and timber companies that are located within the newly expanded quarantined areas and that transport regulated articles interstate.

Table 1 summarizes the 2002 Census of Agriculture data according to three commodity groups that will be affected by the interim rule. These commodity groups are: (1) Nursery, greenhouse, floriculture, and sod; [1] (2) other crops and hay; [2] and (3) cut Christmas trees and short rotation woody crops.

Since no clear-cut method exists to disaggregate these commodity groups to the specific imported fire ant-regulated articles, the entirety of these commodity groups is used to approximate the number and size of the entities that may be affected by the interim rule.

In 2002, there were 1,193 nurseries, greenhouses, floriculture producers, and sod producers, 4,098 producers of other crops and hay, and 98 producers of cut Christmas trees and short rotation woody crops in the affected counties. Sales [3] of all agricultural products sold in the counties were more than $1 billion in 2002, of which about $172 million can be attributed to the three commodity groups affected by the quarantine restrictions imposed by this rule.

TABLE 1.—SUMMARY OF THREE COMMODITY GROUPS IN THE AFFECTED COUNTIES

Number of affected counties	Nursery, greenhouse, floriculture, and sod		Other crops and hay		Cut-Christmas trees and short rotation woody crops		Subtotal of the commodity groups affected by the quarantine		All agricultural products	
	Number of farms	Sales ($1,000)	Number of farms	Sales ($1,000)	Number of farms	Sales ($1,000)	Number of farms	Sales ($1,000)	Number of farms	Sales ($1,000)
3 (AR)	15	1,366	399	3,095	3	.....	417	4,461	2,923	231,180
3 (NC)	75	3,701	450	1,912	7	27	532	5,640	2,533	172,680
3 (SC)	130	18,946	399	1,749	18	54	547	20,749	2,751	67,410
18 (TN)	973	131,192	2,850	9,001	70	593	3,893	140,786	17,046	538,125
27 (total)	1,193	155,205	4,098	15,757	98	7,439	5,389	171,636	25,253	1,009,412

Source: USDA, NASS, 2002 Census of Agriculture, State and County Level Data. Table 2. Market Value of Agricultural Products Sold Including Direct and Organic in 2002.

Table 2 summarizes the percentage shares of sales and number of farms for those 3 commodity groups relative to the total agricultural product sales and number of farms in the 27 counties. Sales shares of nursery, greenhouse, floriculture, and sod in the newly quarantined counties of South Carolina and Tennessee are substantially higher (28 percent and 24 percent, respectively) than in the newly quarantined counties in Arkansas and North Carolina (less than 1 percent and 2 percent, respectively). An average of 16 percent of farms in the affected counties sell other crops and hay, but these products comprise less than 2 percent of all agricultural products sold in these counties. Overall, based on 2002 Census of Agriculture data, 21 percent of the farms (5,389 out of 25,253 farms) and 17 percent of agricultural product sales in the 27 counties may be affected by this interim rule.

TABLE 2.—PERCENTAGE SHARES OF THREE COMMODITY GROUPS IN THE AFFECTED COUNTIES

Number of counties	Nursery, greenhouse, floriculture, and sod		Other crops and hay		Cut-Christmas trees and short rotation woody crops		Sum of three affected commodity groups by the quarantine		All agricultural products	
	Number of farms (percent)	Sales (percent)	Number of farms (percent)	Sales (percent)	Number of farms (percent)	Sales (percent)	Number of farms (percent)	Sales (percent)	Number of farms (percent)	Sales (percent)
3 (AR)	0.5	0.6	13.7	1.3	0.1	.....	14.3	1.9	100	100
3 (NC)	3.0	2.1	17.8	1.1	0.3	0.0	21.0	3.3	100	100
3 (SC)	4.7	28.1	14.5	2.6	0.7	0.1	19.9	30.8	100	100

[1] In the 2002 Census, data include sales of bedding plants, bulbs, cut flowers, flower seeds, foliage plants, mushrooms, nursery potted plants, shrubbery, nursery stock, live Christmas trees, tobacco transplants, sod, etc.

[2] In the 2002 Census, data are for the total market value of all crops not categorized elsewhere. This includes crops such as grass seed, hay and grass silage, haylage, greenchop, hops, maple syrup, mint for oil, ginseng root, peanuts, sugarcane, sugar beets, etc.

[3] The value of sales represents the gross market value before taxes and production expenses of all agricultural products sold or removed from the place in 2002 regardless of who received the payment.

TABLE 2.—PERCENTAGE SHARES OF THREE COMMODITY GROUPS IN THE AFFECTED COUNTIES—Continued

Number of counties	Nursery, greenhouse, floriculture, and sod		Other crops and hay		Cut-Christmas trees and short rotation woody crops		Sum of three affected commodity groups by the quarantine		All agricultural products	
	Number of farms (percent)	Sales (percent)	Number of farms (percent)	Sales (percent)	Number of farms (percent)	Sales (percent)	Number of farms (percent)	Sales (percent)	Number of farms (percent)	Sales (percent)
18 (TN)	5.7	24.4	16.7	1.7	0.4	0.1	22.8	26.2	100	100
27 (total)	4.7	15.4	16.2	1.6	0.4	0.1	21.3	17.0	100	100

Source: USDA, NASS, 2002 Census of Agriculture, State and County Level Data. Table 2. Market Value of Agricultural Products Sold Including Direct and Organic in 2002.

Table 3 summarizes sales and number of farms in the 27 counties and their respective 4 States. The market value of all agricultural products sold in these counties was more than $1 billion, about 61 percent (or $615 million) of which were sales attributable to livestock, poultry, and animal products, with the remaining 39 percent (or $394 million) attributable to crop sales, including nursery and greenhouse crops. The market value of the 3 affected commodity groups sold in the 27 counties was about $172 million, or about 14 percent of the $1.2 billion in total sales for the 3 affected commodity groups in the 4 States. Within these States and in neighboring States, there is a large agricultural economy at risk due to the potential of imported fire ant to damage crops and injure livestock.

TABLE 3.—SALES AND NUMBER OF FARMS IN THE NEWLY QUARANTINED COUNTIES AND THEIR STATES

Number of counties	Sum of three affected commodity groups and State total		All crops, including nursery and greenhouse		Livestock, poultry, and their products		All agricultural products	
	Number of farms	Sales ($1,000)	Number of farms	Sales ($1,000)	Number of farms	Sales ($1,000)	Number of farms	Sales ($1,000)
Arkansas:								
3	417	4,461	738	79,256	1,868	151,925	2,923	231,180
Total AR	6,287	81,986	12,995	1,620,384	30,956	3,330,014	47,483	4,950,397
North Carolina:								
3	532	5,640	762	13,417	1,553	159,263	2,533	172,680
Total NC	12,030	566,104	24,587	2,008,634	26,948	4,953,052	53,930	6,961,686
South Carolina:								
3	547	20,749	785	33,071	1,207	34,338	2,751	67,409
Total SC	6,131	244,090	7,869	593,245	10,133	896,505	24,541	1,489,750
Tennessee:								
18	3,893	140,786	5,154	268,543	10,124	269,582	17,046	538,125
Total TN	17,266	333,023	29,143	1,072,548	51,367	1,127,266	87,595	2,199,814
27 newly infested counties total	5,389	171,636	7,439	394,287	14,752	615,108	25,253	1,009,394
Four States (AR, NC, SC, TN) total	41,714	1,225,203	74,594	5,294,811	119,404	10,306,837	213,549	15,601,647

Source: USDA, NASS, 2002 Census of Agriculture, State and County Level Data. Table 2. Market Value of Agricultural Products Sold Including Direct and Organic in 2002.

According to Small Business Administration criteria, a business engaged in crop production (North American Industry Classification System [NAICS] Subsector 111) is considered to be a small entity if its annual receipts are not more than $750,000. A business engaged in support activities for agriculture and forestry (NAICS Subsector 115) is considered small if its annual receipts are not more than $6 million. Agricultural entities in the newly quarantined areas are predominantly, if not entirely, small entities.

The aforementioned three commodity groups, as well as farm equipment dealers, construction companies, and those who sell, process, or move regulated articles from and through quarantined areas, may be affected by this rule. Such operations will now be required to treat restricted articles before moving them interstate. Only regulated articles moved interstate outside of the quarantined areas will be affected. However, adverse economic effects of the rule on affected entities that move regulated articles interstate are mitigated by the availability of various treatments. In most cases these treatments permit the movement of regulated articles with only a small additional cost. For example, the treatment cost of an average shipment of nursery plants on a standard trailer truck ranges between 0.04 percent and 1 percent [4] of the value of the plants transported, given a treatment cost per shipment of around $200. The estimated annual compliance costs for these entities is small in comparison to the benefit gained through reduced human-assisted spread of imported fire ant to noninfested areas of the United States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

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

[4] An average nursery plant (i.e., potted) costs between $2 and $50, so that the value of a load for a standard tractor trailer transporting up to 10,000 plants ranges between $20,000 and $500,000; $200/$20,000 = 1 percent, and $200/$500,000 = 0.04 percent.

before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

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

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

PART 301—DOMESTIC QUARANTINE NOTICES

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

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

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

■ 2. In § 301.81–3, paragraph (e) is amended as follows:

■ a. Under the heading Arkansas, by adding, in alphabetical order, new entries for Lonoke and Yell Counties, and by revising the entry for Faulkner County to read as set forth below.

■ b. Under the heading North Carolina, by adding, in alphabetical order, new entries for Iredell, Lincoln, and Rutherford Counties, as set forth below.

■ c. By revising the entry for South Carolina to read as set forth below.

■ d. Under the heading Tennessee, by adding, in alphabetical order, new entries for Crockett, Morgan, and Warren Counties, and by revising the entries for Anderson, Bedford, Benton, Bledsoe, Blount, Carroll, Coffee, Cumberland, Grundy, Haywood, Hickman, Knox, Rutherford, Van Buren, and Williamson Counties to read as set forth below.

§ 301.81–3 Quarantined areas.

* * * * *

(e) * * *

* * * * *

Arkansas

* * * * *

Faulkner County. The entire county.

* * * * *

Lonoke County. The entire county.

* * * * *

Yell County. The entire county.

* * * * *

North Carolina

* * * * *

Iredell County. That portion of the county lying south of State Highway 150.

* * * * *

Lincoln County. That portion of the county lying east of State Highway 321.

* * * * *

Rutherford County. That portion of the county lying south of State Highway 74.

* * * * *

South Carolina

The entire State.

* * * * *

Tennessee

Anderson County. That portion of the county lying east and south of a line beginning at the intersection of the Roane/Anderson County line and Tennessee Highway 330; then northeast on Tennessee Highway 330 to Tennessee Highway 116; then north on Tennessee Highway 116 to Interstate 75; then southeast on Interstate 75 to the Anderson/Knox County line.

Bedford County. The entire county.

Benton County. The entire county.

Bledsoe County. The entire county.

Blount County. The entire county.

* * * * *

Carroll County. The entire county.

* * * * *

Coffee County. That portion of the county lying west and south of a line beginning at the intersection of the Cannon/Coffee County line and Tennessee Highway 53; then south on Tennessee Highway 53 to Riddle Road; then southeast on Riddle Road to Keele Road; then northeast on Keele Road to Tennessee Highway 55; then northeast on Tennessee Highway 55 to Swann Road; then east on Swann Road to Wiser Road; then north on Wiser Road to Rock Road; then east on Rock Road to Pleasant Knoll Road; then north on Pleasant Knoll Road to Marcrom Road; then east on Marcrom Road to the Coffee/Warren County line.

Crockett County. That portion of the county lying east of a line beginning at the intersection of the Haywood/Crockett County line and U.S. Highway 70A/79; then northeast on U.S. Highway 70A/79 to Tennessee Highway 88; then north on Tennessee Highway 88 to Tennessee Highway 54; then northeast on Tennessee Highway 54 to the Crockett/Gibson County line.

Cumberland County. That portion of the county lying southeast of a line beginning at the intersection of the White/Cumberland County line and U.S. Highway 70; then east on U.S. Highway 70 to Market Street (in Crab Orchard); then north on Market Street to Main Street; then west on Main Street to Chestnut Hill Road; then northeast on Chestnut Hill Road to Westchester Drive; then north on Westchester Drive to Peavine Road; then east on Peavine Road to Hebbertsburg Road; then northeast on Hebbertsburg Road to the Cumberland/Morgan County line.

* * * * *

Grundy County. The entire county.

* * * * *

Haywood County. That portion of the county lying southeast of Tennessee Highway 54.

* * * * *

Hickman County. The entire county.

* * * * *

Knox County. That portion of the county lying southwest of a line beginning at the intersection of the Union/Knox County line and Tennessee Highway 33; then south on Tennessee Highway 33 to the Tennessee River; then northeast along the Tennessee River to the French Broad River; then east along the French Broad River to the Knox/Sevier County line.

* * * * *

Morgan County. That portion of the county lying south of a line beginning at the intersection of the Cumberland/Morgan County line and Tennessee Highway 298; then northeast on Tennessee Highway 298 to Tennessee Highway 62; then southeast on Tennessee Highway 62 to the Morgan/Roane County line.

* * * * *

Rutherford County. The entire county.

* * * * *

Van Buren County. The entire county.

Warren County. That portion of the county lying southeast of a line beginning at the intersection of the Coffee/Warren County line and Marcrom Road; then east on Marcrom Road to Fred Hoover Road; then north on Fred Hoover Road to Tennessee Highway 287; then northwest on Tennessee Highway 287 to Vervilla Road; then northeast on Vervilla Road to Swan Mill Road; then east on Swan Mill Road to Grove Road; then southeast on Grove Road to Tennessee Highway 108/127; then northeast on Tennessee Highway 108/127 to the split between Tennessee Highway 108 and Tennessee Highway 127; then northeast on Tennessee Highway 127 to Tennessee Highway 56; then southeast on Tennessee Highway 56 to Fairview Road; then northeast on Fairview Road to Tennessee Highway 8; then southeast on Tennessee Highway 8 to Dark

Hollow Road; then north on Dark Hollow Road to Tennessee Highway 30; then northeast on Tennessee Highway 30 to the Warren/Van Buren County line.

* * * * *

Williamson County. That portion of the county lying northeast of a line beginning at the intersection of the Davidson/Williamson County line and U.S. Highway 31; then southwest on U.S. Highway 31 to U.S. Highway Business 431; then southeast on U.S. Highway Business 431 to Mack Hatcher Parkway; then north on Mack Hatcher Parkway to South Royal Oaks Boulevard; then northeast on South Royal Oaks Boulevard to Tennessee Highway 96; then east on Tennessee Highway 96 to Clovercroft Road; then northeast on Clovercroft Road to Wilson Pike; then north on Wilson Pike to Clovercroft Road; then northeast on Clovercroft Road to Rocky Fork Road; then east on Rocky Fork Road to the Rutherford/Williamson County line. Also, that portion of the county enclosed by a line beginning at the intersection of the Maury/Williamson County line and Tennessee Highway 246; then north on Tennessee Highway 246 to Thompson Station Road West; then east on Thompson Station Road West to Thompson Station Road East; then east on Thompson Station Road East to Interstate 65; then south on Interstate 65 to the Williamson/Maury County line.

* * * * *

Done in Washington, DC, this 19th day of October 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–21003 Filed 10–24–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS–2006–0133]

RIN 0579–AC20

Importation of Unshu Oranges From the Republic of Korea Into Alaska

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations governing the importation of citrus fruit to allow fresh Unshu oranges from the Republic of Korea to be imported into the State of Alaska under certain conditions. As a condition of entry, the oranges will have to be prepared for shipping using packinghouse procedures that include culling of damaged or diseased fruit and cleaning with high-pressure air or water in combination with brushing. In addition, the oranges will have to be accompanied by a phytosanitary certificate with an additional declaration stating that the oranges were inspected and found free from *Xanthomonas axonopodis* pv. *citri* and *Unaspis yanonensis.* The individual cartons or boxes in which the Unshu oranges are shipped will also have to be marked with a statement restricting their importation and distribution to the State of Alaska. This action will allow for the importation of Unshu oranges from the Republic of Korea into Alaska while continuing to provide protection against the introduction of quarantine pests.

DATES: Effective Date: November 26, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. Alex Belano, Import Specialist, Commodity Import Analysis and Operations, Plant Health Programs, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1231; (301) 734–8765.

SUPPLEMENTARY INFORMATION:

Background

Citrus canker is a disease that affects citrus and is caused by the infectious bacterium *Xanthomonas axonopodis* pv. *citri* (also known as *Xanthomonas campestris* pv. *citri* and *Xanthomonas citri*). Currently, the regulations in 7 CFR 319.28 (referred to below as the regulations) allow the importation of Unshu oranges (*Citrus reticulata* var. *unshu*) from certain areas in the Republic of Korea (South Korea) into certain areas of the United States under a permit and after the specified safeguards of a preclearance program have been met to prevent the introduction of citrus canker. However, the importation of Unshu oranges from South Korea was administratively suspended in 2002 due to the increased number of interceptions of the causal agent of citrus canker at various packinghouses in South Korea.

In 2005, the national plant protection organization (NPPO) of South Korea requested that the Animal and Plant Health Inspection Service (APHIS) allow the shipment of Unshu oranges into the State of Alaska until the pest risk of citrus canker from South Korea could be adequately mitigated for the rest of the United States.

On December 4, 2006, we published in the **Federal Register** (71 FR 70330–70335, Docket No. APHIS–2006–0133) a proposal [1] to allow the importation of fresh Unshu oranges from the Republic of Korea into the State of Alaska under certain conditions. As a condition of entry, we proposed that the oranges would have to be prepared for shipping using packinghouse procedures that include culling of damaged or diseased fruit and washing in a water bath. In addition, we proposed that the oranges would have to be accompanied by a phytosanitary certificate with an additional declaration stating that the oranges were inspected and found free from *Xanthomonas axonopodis* pv. *citri* and *Unaspis yanonensis.* The individual cartons or boxes in which the Unshu oranges are shipped would also have to be marked with a statement restricting their importation and distribution to the State of Alaska. This action was intended to allow for the importation of Unshu oranges from the Republic of Korea into Alaska while continuing to provide protection against the introduction of quarantine pests.

We solicited comments concerning our proposal for 60 days ending February 2, 2007. We received two comments by that date, both from domestic citrus industry groups. One of the commenters expressed concern that a pesticide not approved for use in the United States could be imported on fruit from South Korea. While the United States does not have direct control over pesticides that are used on food commodities such as Unshu oranges in other countries, there are regulations in the United States concerning the importation of food to ensure that commodities do not enter the United States containing illegal pesticide residues. Through section 408 of the Federal Food, Drug, and Cosmetic Act, the Environmental Protection Agency (EPA) has the authority to establish, change, or cancel tolerances for food commodities. These tolerances are the maximum levels of pesticide residues that have been determined, through comprehensive safety evaluations, to be safe for human consumption. Tolerances apply to both food commodities that are grown in the United States and food commodities that are grown in other countries and imported into the United States. While EPA has no authority in a foreign country, the tolerance levels are enforced once the commodity enters the

[1] To view the proposed rule and the comments we received, go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2006-0133.*

United States. Chemicals such as DDT that are banned in the United States do not have tolerances on food commodities. Federal Government food inspectors are responsible for monitoring food commodities that enter the United States to confirm that tolerance levels are not exceeded and that residues of pesticide chemicals that are banned in the United States are not present on the commodities. Tolerance levels for all chemicals that are acceptable for use on Unshu oranges may be found in EPA's regulations in 40 CFR 180.101 through180.2020. Tolerance information can also be obtained at *http://www.epa.gov/pesticides/food/viewtols.htm.*

Both commenters expressed concern that the systems approach developed by South Korea was not stringent enough, given the difficulty of eradicating *X. axonopodis* pv. *citri* (citrus canker) and the potential risks from asymptomatic fruit. Concerns included the lack of requirements for worker training, equipment sanitation, and establishment of buffer zones. In particular, the commenters were concerned that the proposed rule did not mention inspection or sampling rates for citrus canker. As stated in the proposed rule, shipments of Unshu oranges to Alaska present minimal risk of introducing or disseminating citrus canker due to the lack of host material within Alaska and the lack of a suitable climate for establishment of the disease. For those reasons, and because visibly infected fruit will be culled at the packinghouse, we are not requiring a sampling regime for Unshu oranges within South Korea. In addition, fruit exposed to, but asymptomatic for, citrus canker is unlikely to have sufficient levels of viable bacteria to cause infection. However, a standard port of entry inspection rate of 2 percent would apply. APHIS has successfully operated similar programs of low risk for tropical fruit commodities imported into Alaska, such as sand pears and apples from Japan, avocados from Mexico, and sand pears from South Korea.

Both commenters also stated that, despite labeling restricting distribution of the fruit to Alaska, it may accidentally be redirected or sent through first-class mail to a citrus-producing State. As stated in the risk management document, in the past 10 years, over 24 million Unshu oranges from South Korea have been imported and only one air shipment of misdirected fruit ended up in a citrus-producing State. That shipment was immediately redirected to a non-citrus-producing State. In order for the fruit to leave Alaska by ground transport, it would have to travel by truck or car via highway, and all agricultural shipments are inspected at the U.S.-Canada border. As citrus fruit is not grown in Canada or Alaska, import restrictions for non-U.S. citrus fruit would apply. Further, we consider the volume of fruit shipped in first-class mail to be too small to present a potential pest risk. The probability of potentially infected citrus fruit reaching areas where any disease could spread is very low.

Both commenters further expressed concern regarding the lack of a requirement for sodium hypochlorite or sodium orthophenyl phenol in the required water bath and concern that the water bath could contribute to the spread of citrus canker. As stated above, we believe shipments of Unshu oranges to Alaska present a minimal risk of introducing or disseminating citrus canker due to the lack of host material and the lack of a suitable climate for establishment of the disease; therefore requiring the use of a disinfectant wash is not necessary. In addition, because the water bath requirement is actually a combination high-pressure water spray and brushing intended to remove external insect pests, there is no standing water that can serve as a medium for transmitting infection. Alternately, forced air cleaning and brushing may be used in place of the water spray. We have amended the regulatory text in § 319.28(c)(1) to make that clear.

Finally, both commenters stated that U.S. inspectors should be present to oversee all aspects of South Korea's citrus export program. In a preclearance program, U.S. inspectors are required to be onsite in the country of export to oversee shipments to the United States. However, the program for importing Unshu oranges to Alaska from South Korea is not a preclearance program. Therefore, the presence of U.S. inspectors to oversee the program is not required and, based on the reasons given in the proposed rule, is not necessary.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the change discussed in this document.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

The United States is not a commercial producer of Unshu oranges (*Citrus reticulata* var. *unshui*). The United States does produce other mandarin varieties of *Citrus reticulata,* such as tangerines and Satsuma mandarins. Effects of the final rule on U.S. entities will depend on (1) the substitutability in Alaska of Unshu oranges for these other mandarin varieties, and (2) Alaska's share of the U.S. supply of the other mandarin varieties. We address these overriding issues before discussing small entities that may be affected.

Unshu orange prices are higher than the prices of U.S.-grown mandarin varieties, indicating that they are not close substitutes. Retail prices of Unshu oranges are approximately $1.20 per pound, whereas other mandarin varieties, such as Satsuma, range from $0.60 to $1 per pound depending on the time of year.[2]

Clearly, the effects of the final rule with respect to Alaska's broadly defined demand for all mandarin varieties are most likely to be very limited. Rather, we expect reestablished imports from South Korea to compete for a share of Alaska's Unshu orange market.

Prior to the administrative suspension in 2002, South Korea and Japan were principal suppliers of Unshu oranges to the United States. It is estimated that Alaska consumes approximately 30 percent of the Unshu oranges imported from Japan. Quantities of Unshu oranges imported from South Korea and Japan, 1995 to 2005, are shown in table 1.

[2] Information on retail prices of Unshu oranges provided by Jerry Kraft of The Oppenheimer Group, the sole importer of Unshu oranges from Japan.

TABLE 1.—UNSHU ORANGE IMPORTS BY THE UNITED STATES FROM SOUTH KOREA AND JAPAN, 1995–2005

Year	South Korea	Japan
	Metric tons	
1995	50	231
1996	220	160
1997	1,190	143
1998	40	223
1999	380	342
2000	240	106
2001	1,434	291
2002	1,601	([1])
2003		275
2004		271
2005		256

Source: USDA, APHIS, International Services.

[1] In 2002, we amended the regulations to allow Unshu oranges from Honshu Island, Japan, to be imported into the previously prohibited citrus-producing States of Arizona, California, Florida, Hawaii, Louisiana, and Texas. That same rule imposed a fumigation requirement for all Unshu oranges from Honshu Island, which seriously curtailed the market for that fruit in non-citrus producing States. As a result, there were no exports of Unshu oranges from Japan to the United States in 2002. We subsequently amended the regulations to apply the fumigation requirement only to fruit bound for citrus-producing States, and exports resumed in 2003.

Unshu orange imports from Japan between 1995 and 2005 averaged 238 metric tons per year.[3] Average imports of Unshu oranges from South Korea between 1995 and 2002 were 644 metric tons per year, with significant year-to-year fluctuations and the average for 2001 and 2002 jumping to 1,518 metric tons. Imports of Unshu oranges from Japan have maintained a more steady supply, even in the more recent years during which Unshu oranges from South Korea have been administratively suspended. From this data, it is not apparent that South Korean supplies will significantly displace Unshu orange imports from Japan.

According to the pest risk assessment prepared for this rulemaking, the quantity of Unshu oranges that will be imported from South Korea into Alaska each year is estimated to be between 200 and 2,000 metric tons (440,925 and 4,409,245 pounds), based on projected imports of between 10 and 100 standard 40–foot containers.[4] The lower end of this range of imports will be comparable to recent import levels from Japan.

Based upon the past shipments detailed in table 1, we anticipate that imports of Unshu oranges from South Korea will not exceed 75 containers (1,500 metric tons) per annum. The historical import data detailed in table 1 suggest that South Korean supplies will not significantly displace Japanese Unshu oranges on the Alaskan market.

Our expectation is that the final rule will have little effect on U.S. producers of mandarin varieties such as tangerines and Satsumas. Any impact for these producers will be small, given that the various mandarin varieties do not appear to be close substitutes for Unshu oranges. Moreover, only sales to Alaska will be affected. However, recognizing that our information for determining possible effects of the final rule is incomplete, we present here data on U.S. tangerine trade and production.

The United States is a net importer of mandarins (including Satsumas and tangerines). In 2005, the United States imported 209.4 million pounds of mandarins (including Satsumas and tangerines) with approximately 91 percent arriving from Spain. In that same year, the United States exported approximately 48.1 million pounds of mandarins (including Satsumas and tangerines). Canada is the largest importer of U.S. fresh mandarins, accounting for 52 percent of U.S. exports. The second and third largest importers of U.S. mandarins are South Korea and Japan, accounting for approximately 38 and 6 percent of exports, respectively.[5] U.S. imports of tangerines experienced an average increase of 17.8 percent annually over the last decade while exports have increased an average of 5.9 percent.[6] Domestic production accounted for approximately 80 percent of domestic fresh consumption in 2005.[7] The United States relies on imports of mandarins to supplement domestic production in satisfying domestic demand. Fresh utilization of U.S. mandarin and tangerine production only accounts, on average, for 70 percent of total utilized production annually.[8] U.S. grower revenue from fresh tangerine production in 2004–05 was approximately $107.4 million.[9]

U.S. tangerine production, imports, and domestic supplies are shown in table 2. Net imports were 20 percent of domestic supply in 2004 to 2005.

[3] This average does not include 2002, since it is likely that Japan would have exported Unshu oranges to the United States in that year if the fumigation requirement described in footnote 1 of table 1 had not been in place.

[4] USDA, APHIS, PPQ–CHPST, ''A Qualitative Pest Risk Analysis for the Importation of Fresh Unshu Orange Fruit (*Citrus reticulata* Blanco var. *unshu* Swingle) from the Republic of Korea,'' May 25, 2006, pg 33.

[5] Source: Global Trade Atlas.

[6] Source: USDA, FAS, PS&D Online. ''Fresh Tangerines: Production, Supply and Distribution in selected Countries,'' *http://www.fas.usda.gov/psdonline/psdDownload.aspx.*

[7] The proportion of domestic fresh consumption attributed to U.S. production is production less exports and processed utilization. Data Source: USDA ERS Briefing Room, Fruit and Tree Nut Yearbook, 2005.

[8] USDA, ERS Briefing Room, *Fruit and Tree Nut Yearbook,* 2005.

[9] Florida Agricultural Statistics Service (FASS), National Agricultural Statistics Service (NASS), USDA, ''Citrus Summary 2004–05,'' February 2006.

TABLE 2.—U.S. FRESH TANGERINE PRODUCTION AND IMPORTATION, SEASONS 1999–2000 THROUGH 2004–05

Year	Production [a]	Net imports [b]	Supply [c]
	Metric tons		
1999–00	298,464	68,185	366,649
2000–01	266,712	85,728	352,440
2001–02	296,649	37,261	333,910
2002–03	289,392	69,164	358,556
2003–04	295,742	72,753	368,495
2004–05	254,919	63,944	318,863

Data Source: USDA/ERS Briefing Room, *Fruit and Tree Nut Yearbook*, 2005.
[a] Excludes processed fruit.
[b] Net imports are imports minus exports.
[c] U.S. production (excluding processed utilization) plus net imports.

The small business size standard for tangerine groves, as identified by the Small Business Administration (SBA) based upon the North American Industry Classification System (NAICS) code 111320, is $750,000 or less in annual receipts.[10]

While available data do not provide the size distribution of U.S. tangerine farms by annual receipts, it is reasonable to assume that the majority of the operations are small businesses by SBA standards.[11] According to the *2002 Census of Agriculture* data, there were a total of 1,731 tangerine operations in the United States in 2002.[12] It is estimated that approximately 93 percent of all citrus-producing farms had annual sales in 2002 of $500,000 or less.

If Unshu oranges and U.S.-grown mandarin varieties were close substitutes, then U.S. entities could be affected to the extent that Unshu orange imports from South Korea would displace sales in Alaska of the U.S.-grown mandarin varieties. Small entities would be affected, since they comprise a substantial number of the producers of mandarin varieties, as indicated by the data on tangerine operations. However, even if all Unshu orange imports from South Korea were to directly replace consumption of U.S.-grown tangerines in Alaska, the effect on U.S. producers will be very minor. Under such a scenario, annual imports of Unshu oranges from South Korea of 2,000 metric tons (the upper limit of the projected range of imports) will displace less than 1 percent of fresh tangerines produced by U.S. operations in 2004–05. We emphasize that even a small impact for U.S. producers such as this is highly unlikely.

We expect that any product displacement that may occur as a result of the changes will be borne by other foreign suppliers of Unshu oranges, in particular Japan's exporters. However, we do not expect any significant product displacement as a result of South Korean supplies. Alaska's Unshu orange consumers may benefit to the extent that the competition results in price declines.

An alternative to this final rule was to continue with the 2002 administrative suspension of the importation of Unshu oranges from South Korea into all parts of the United States, including Alaska. Continuing the suspension of South Korean Unshu orange imports into Alaska is not a satisfactory alternative to the final rule. The final rule's specified mitigation measures will ensure a low risk of introduction of citrus canker and Diaspidad scale into the United States. Resumption of imports will reestablish competition with Japanese suppliers, benefitting U.S. consumers but with little if any expected effect on U.S. producers.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This final rule allows fresh Unshu oranges to be imported into the State of Alaska from South Korea. State and local laws and regulations regarding Unshu oranges imported under this rule will be preempted while the fruit is in foreign commerce. Fresh fruits are generally imported for immediate distribution and sale to the consuming public, and remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. No retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579–0314.

E-Government Act Compliance

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

List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

■ Accordingly, we are amending 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

■ 1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

■ 2. Section 319.28 is amended as follows:

■ a. By redesignating paragraphs (c) through (i) as paragraphs (d) through (j), respectively.

■ b. By adding a new paragraph (c) to read as set forth below.

■ c. By revising newly redesignated paragraph (f) to read as set forth below.

[10] Based upon 2002 Census of Agriculture, State Data and the ''Small Business Size Standards by NAICS Industry,'' Code of Federal Regulations, Title 13, Chapter 1.

[11] Based upon 2002 Census of Agriculture, State Data.

[12] The number of tangerine farms in the United States, as reported by the 2002 *Census of Agriculture,* includes operations that produced tangerines for processed utilization.

§ 319.28 Notice of quarantine.

* * * * *

(c) The prohibition does not apply to Unshu oranges (*Citrus reticulata* Blanco var. *unshu*, Swingle [*Citrus unshiu* Marcovitch, Tanaka]), also known as Satsuma mandarin, grown in the Republic of Korea and imported under permit into the State of Alaska under the following conditions:

(1) The Unshu oranges must be prepared for shipping using packinghouse procedures that include culling damaged or diseased fruit and cleaning the fruit with high-pressure air or water spray in combination with brushing.

(2) Each shipment of Unshu oranges must be accompanied by a phytosanitary certificate from the national plant protection organization of the Republic of Korea bearing the following additional declaration: ''These oranges were inspected and are considered to be free from citrus canker (*Xanthomonas axonopodis* pv. *citri*) and arrowhead scale (*Unaspis yanonensis*).

(3) The individual boxes in which the oranges are shipped must be marked with the following: ''These oranges may not be shipped to or distributed in any State other than Alaska.''

* * * * *

(f) Importations allowed in paragraphs (b), (c), (d), and (e) of this section shall be subject to the permit and other requirements under the regulations in Subpart-Fruits and Vegetables of this part.

* * * * * *

(Approved by the Office of Management and Budget under control number 0579–0314)

Done in Washington, DC, this 19th day of October, 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–21007 Filed 10–24–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1206

[Docket No.: AMS–FV–07–0042; FV–07–702 FR]

Mango Promotion, Research, and Information Order; Amendment to Term of Office Provision

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule that modifies the term of office provision of the Mango Promotion, Research, and Information Order (Order) so that the term of office and term limit for the two wholesaler and/or retailer positions of the National Mango Board (Board) be the same as that of other members. Specifically, the amendment modifies the term of office from one year to three years, and modifies the term limit for these positions from a maximum of three consecutive one-year terms to a maximum of two consecutive three-year terms in order to conform to the requirements of the commodity Promotion, Research, and Information Act of 1996 (Act).

DATES: *Effective Date:* October 26, 2007.

FOR FURTHER INFORMATION CONTACT: Kimberly Coy, Marketing Specialist, Research and Promotion Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, USDA, Stop 0244–Room 0634–S, Washington, DC 20250–0244; telephone (202) 720–9915 or (888) 720–9917 (toll free); or e-mail: *kimberly.coy@usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued under the Mango Promotion, Research, and Information Order [7 CFR Part 1206]. The Order is authorized under the Commodity Promotion, Research, and Information Act of 1996 (Act) [7 U.S.C. 7411–7425].

Executive Order 12866

The Office of Management and Budget has waived the review process required by Executive Order 12866 for this action.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. The rule is not intended to have a retroactive effect and will not affect or preempt any other State or Federal law authorizing promotion or research relating to an agricultural commodity.

The Act provides that any person subject to an order may file a written petition with the Department of Agriculture (Department) if they believe that the order, any provision of the order, or any obligation imposed in connection with the order, is not established in accordance with law. In any petition, the person may request a modification of the order or an exemption from the order. The petitioner is afforded the opportunity for a hearing on the petition. After a hearing, the Department would rule on the petition. The Act provides that the district court of the United States in any district in which the petitioner resides or conducts business shall have the jurisdiction to review the Department's ruling on the petition, provided a complaint is filed not later than 20 days after the date of the entry of the ruling.

Regulatory Flexibility Analysis and Paperwork Reduction Act

In accordance with the Regulatory Flexibility Act (RFA) [5 U.S.C. 601 *et seq.*], the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities and has prepared this final regulatory impact analysis on a substantial number of small entities. The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

The Small Business Administration defines, in 13 CFR Part 121, small agricultural producers as those having annual receipts of no more than $750,000 and small agricultural service firms as having receipts of no more than $6.5 million. First handlers, importers, wholesalers, and retailers would be considered agricultural service firms. There are approximately 5 first handlers and 55 importers subject to and assessed under the Order. The majority of these first handlers and importers would be considered small businesses while wholesalers and retailers would not.

First handlers and importers who market or import less than 500,000 pounds of mangos annually are exempt from the Order. Mangos that are exported out of the United States also are exempt from assessment. In addition, domestic producers, foreign producers, wholesalers, and retailers are not subject to or assessed under the Order, but such individuals are eligible to serve on the Board along with importers and first handlers.

The Mango Promotion, Research, and Information Order, which became effective November 4, 2004, is authorized under the Commodity Promotion, Research, and Information Act of 1996 (Act) [7 U.S.C. 7411–7425]. Pursuant to Section 515(b) of the Act, the Order provides for the establishment of a Board comprised of eight importers, one first handler, two domestic producers, seven foreign producers, and two non-voting wholesalers and/or retailers. The Board is responsible for carrying out promotion, research, and information activities intended to develop, maintain, and increase the demand of mangos in the United States. Appointments to the Board are made by the Secretary of Agriculture from a slate of nominated candidates.

Section 515(b)(5) of the Act provides that members and alternates of a board

shall serve three-year terms of office and may serve a maximum of two consecutive three-year terms, except members and alternates appointed to the initial Board may serve terms of two, three, or four years. Currently, the Order states that the importer, first handler, domestic producers, and foreign producers each may serve a three-year term of office and may serve a maximum of two consecutive three-year terms, except members appointed to the initial Board serve staggered terms of two, three and four years. However, the Order provides one-year terms of office for wholesaler and/or retailer members, and such members may serve a maximum of three consecutive one-year terms.

At its February 2007 meeting, the Board reviewed the term of office for the two wholesaler and/or retailer positions. After considerable discussion and review of alternatives, the Board approved a proposal for recommendation to the Department to modify from a one year to a two year the term of office for the wholesaler and/or retailer positions. Upon review of the Board's proposal, the Department determined that the current term of office provision for the two wholesaler and/or retailer positions was not in conformance with the Act. Accordingly, this rule modifies the Order's term of office provision to provide for wholesaler and/or retailer positions terms of three years with a maximum of two consecutive three-year terms.

The amendment will bring the Order in conformance with the Act. Additionally, the overall impact of the amendment will be favorable for first handlers and importers because the amendment will provide greater Board continuity, align the wholesaler and/or retailer positions terms of office with other Board positions, and reduce the administrative burden of conducting nominations on an annual basis for these positions.

In accordance with the Office of Management and Budget (OMB) regulation [5 CFR Part 1320] which implements the Paperwork Reduction Act of 1995 [44 U.S.C. Chapter 35], the information collection requirements under the Paperwork Reduction Act of 1995 [44 U.S.C. 3501 *et seq.*], there are no new requirements contained in this rule. The information collection requirements have been previously approved by the Office of Management and Budget (OMB) under OMB control number 0581–0093.

There are no federal rules that duplicate, overlap, or conflict with this rule.

Background

The Order became effective November 3, 2004, and is authorized under the Commodity Promotion, Research, and Information Act of 1996 [7 U.S.C. 7411–7425], and is administered by the Board. The Order provides for a 20-member Board consisting of eight importers, one first handler, two domestic producers, seven foreign producers, and two non-voting wholesalers and/or retailers.

Under the Order, the Board administers a nationally coordinated program of promotion, research, and information designed to strengthen the position of mangos in the market place and to develop, maintain, and expand the demand for mangos in the United States. The program is financed by an assessment of ½ cent per pound on first handlers and importers who market or import 500,000 pounds or more of mangos annually. Under the Order, first handlers remit assessments directly to the Board, and assessments paid by importers are collected and remitted by the United States Customs Service.

Section 515(b)(5) of the Act provides that members and alternates of a board shall serve three-year terms of office and may serve a maximum of two consecutive three-year terms, except members and alternates appointed to the initial board may serve terms of two, three, or four years. Currently, with the exception of the initial Board, the Order provides a three-year term of office for first handler, importer, domestic producer, and foreign producer members, and these members may serve a maximum of two consecutive three-year terms. First handlers, importers, domestic producers, and foreign producers who were appointed to the initial Board were assigned to serve staggered terms of office of two, three, and four years—ending December 31, 2007, 2008, 2009. Members serving an initial term of two or four years are eligible to serve a second term of three years. The terms of office for first handler, importer, domestic producer, and foreign producer positions are consistent with the Act.

For the two wholesaler and/or retailer Board positions, the Order currently provides a one-year term of office and members may serve a maximum of three consecutive one-year terms. Wholesaler and/or retailer members appointed to the initial Board were appointed to serve a term of office of one year with the term ending December 31, 2007. The term of office and the term limit for the wholesaler and/or retailer positions are not in conformance with the Act. Thus, this rule will modify the Order to bring it in conformance with the Act. Also, the amendment will be favorable for first handlers and importer because the amendment will provide greater Board continuity, align the wholesaler and/or retailer positions terms of office with other Board positions, and reduce the administrative burden of conducting nominations on an annual basis for these positions.

Nominations and appointments to the Board are conducted pursuant to § 1206.30 establishment and membership, § 1206.31 nominations and appointments, and § 1206.32 term of office. Appointments to the Board are made by the Secretary of Agriculture from a slate of nominated candidates. Nominations for the importer, first handler, domestic producer, and foreign producer positions are made by the respective industry organizations or individuals. Nominations for the wholesaler and/or retailer positions are made by the Board. Nominations for Board positions for terms ending December 31, 2007, will be based on the amendment contained in this rule. The term of office for such appointments will commence January 1, 2008.

An interim final rule concerning this action was published in the **Federal Register** (71 FR 41425) on July 30, 2007. Copies of the rule were made available through the Internet by USDA and the Office of the **Federal Register**. That rule provided a 30-day comment period which ended on August 29, 2007. One comment was received by the deadline.

The commenter opposed the government regulations placed on the American people. However, the comment concerned the marketing of onions.

After consideration of all relevant material presented, the Board's recommendation, and other information, it is hereby found that this rule is consistent with and will tend to effectuate the declared policy of the Act. The interim final rule as published in the **Federal Register** (71 FR 41425) on July 30, 2007, is adopted as a final rule, without change.

List of Subjects in 7 CFR Part 1206

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Mango promotion, reporting and recording, requirements.

PART 1206—MANGO PROMOTION, RESEARCH, AND INFORMATION ORDER

■ Accordingly, the interim final rule amending 7 CFR part 1206 which was published at 71 FR 41425 on July 30,

2007, is adopted as a final rule without change.

Dated: October 18, 2007.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 07–5268 Filed 10–24–07; 8:45 am]

BILLING CODE 3410–02–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AI23

List of Approved Spent Fuel Storage Casks: HI–STORM 100 Revision 4

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its spent fuel storage cask regulations by revising the Holtec International (Holtec) HI–STORM 100 cask system listing within the ''List of Approved Spent Fuel Storage Casks'' to include Amendment No. 4 to Certificate of Compliance (CoC) Number 1014. Amendment No. 4 will include changes to add site-specific options to the CoC to permit use of a modified HI–STORM 100 cask system at the Indian Point Unit 1 (IP1) Independent Spent Fuel Storage Installation (ISFSI). These options include the shortening of the HI–STORM 100S Version B, Multi-Purpose Canister (MPC)–32 and MPC–32F, and the HI–TRAC 100D Canister to accommodate site-specific restrictions. Additional changes address the Technical Specification (TS) definition of transport operations and associated language in the safety analysis report (SAR); the soluble boron requirements for Array/Class 14x14E IP1 fuel; the helium gas backfill requirements for Array/Class 14x14E IP1 fuel; the addition of a fifth damaged fuel container design under the TS definition for damaged fuel container; addition of separate burnup, cooling time, and decay heat limits for Array/Class 14x14 IP1 fuel for loading in an MPC–32 and MPC–32F; addition of antimony-beryllium secondary sources as approved contents; the loading of all IP1 fuel assemblies in damaged fuel containers; the preclusion of loading of IP1 fuel debris in the MPC–32 or MPC–32F; the reduction of the maximum enrichment for Array/Class 14x14E IP1 fuel from 5.0 to 4.5 weight percent uranium-235; changes to licensing drawings to differentiate the IP1 MPC–32 and MPC–32F from the previously approved MPC–32 and MPC–32F; and other editorial changes, including replacing all references to U.S. Tool and Die with Holtec Manufacturing Division.

DATES: The final rule is effective January 8, 2008, unless significant adverse comments are received by November 26, 2007. A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. If the rule is withdrawn, timely notice will be published in the **Federal Register**.

ADDRESSES: You may submit comments by any one of the following methods. Please include the following number (RIN 3150–AI23) in the subject line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including personal information such as social security numbers and birth dates in your submission.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: SECY@nrc.gov. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415–1966. Comments can also be submitted via the Federal eRulemaking Portal *http://www.regulations.gov.*

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 am and 4:15 pm Federal workdays [telephone (301) 415–1966].

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at (301) 415–1101.

Publicly available documents related to this rulemaking may be viewed electronically on the public computers at the NRC's Public Document Room (PDR), O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/NRC/ADAMS/index.html.* From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.* An electronic copy of the CoC No. 1014, the revised TS, and the preliminary safety evaluation report (SER) for Amendment No. 4 can be found in a package under ADAMS Accession No. ML072220481.

CoC No. 1014, the revised TS, the preliminary SER for Amendment No. 4, and the environmental assessment are available for inspection at the NRC PDR, 11555 Rockville Pike, Rockville, MD. Single copies of these documents may be obtained from Jayne M. McCausland, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6219, e-mail *jmm2@nrc.gov.*

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

SUPPLEMENTARY INFORMATION:

Background

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

To implement this mandate, the NRC approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule in 10 CFR Part 72, which added a new Subpart K within 10 CFR Part 72, entitled ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). This rule also established a new Subpart L within 10

CFR Part 72, entitled ''Approval of Spent Fuel Storage Casks,'' which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on May 1, 2000 (65 FR 25241) that approved the HI–STORM 100 cask system design and added it to the list of NRC-approved cask designs in 10 CFR 72.214 as CoC No. 1014.

Discussion

On June 23, 2006, the certificate holder, Holtec submitted an application to the NRC that requested an amendment to CoC No. 1014. Specifically, Holtec requested changes to add site-specific options to the CoC to permit use of a modified HI–STORM 100 cask system at the IP1 ISFSI. These options included the shortening of the HI–STORM 100S Version B, MPC–32 and MPC–32F and the HI–TRAC 100D Canister to accommodate site-specific restrictions. Additional changes addressed the TS definition of transport operations and associated language in the SAR; the soluble boron requirements for Array/Class 14x14E IP1 fuel; the helium gas backfill requirements for Array/Class 14x14E IP1 fuel; the addition of a fifth damaged fuel container design under the TS definition for damaged fuel container; addition of separate burnup, cooling time, and decay heat limits for Array/Class 14x14 IP1 fuel for loading in an MPC–32 and MPC–32F; addition of antimony-beryllium secondary sources as approved contents; the loading of all IP1 fuel assemblies in damaged fuel containers; the preclusion of loading of IP1 fuel debris in the MPC–32 or MPC–32F; the reduction of the maximum enrichment for Array/Class 14x14E IP1 fuel from 5.0 to 4.5 weight percent uranium-235; changes to licensing drawings to differentiate the IP1 MPC–32 and MPC–32F from the previously approved MPC–32 and MPC–32F; and other editorial changes, including replacing all references to U.S. Tool and Die with Holtec Manufacturing Division. No other changes to the Holtec HI–STORM 100 cask system were requested in this application. As documented in the SER, the NRC staff performed a detailed safety evaluation of the proposed CoC amendment request and found that an acceptable safety margin is maintained. In addition, the NRC staff has determined that there continues to be reasonable assurance that public health and safety and the environment will be adequately protected.

This direct final rule revises the HI–STORM 100 cask system listing in 10 CFR 72.214 by adding Amendment No. 4 to CoC No. 1014. The amendment consists of the changes described above as set forth in the revised CoC and TS. The particular TS which are changed are identified in the SER.

The amended HI–STORM 100 cask design, when used under the conditions specified in the CoC, the TS, and NRC regulations, will meet the requirements of Part 72; thus, adequate protection of public health and safety will continue to be ensured. After this direct final rule becomes effective, persons who hold a general license under 10 CFR 72.210 may load spent nuclear fuel into HI–STORM 100 casks that meet the criteria of Amendment No. 4 to CoC No. 1014, in accordance with 10 CFR 72.212.

Discussion of Amendments by Section

Section 72.214 List of Approved Spent Fuel Storage Casks

Certificate No. 1014 is revised by adding the effective date of Amendment No. 4.

Procedural Background

This rule is limited to the changes contained in Amendment No. 4 to CoC No. 1014 and does not include other aspects of the HI–STORM 100 dry storage cask system. The NRC is using the ''direct final rule procedure'' to issue this amendment because it represents a limited and routine change to an existing CoC that is expected to be noncontroversial. Adequate protection of public health and safety continues to be ensured. The amendment to the rule will become effective on January 8, 2008. However, if the NRC receives significant adverse comments on this direct final rule by November 26, 2007, then the NRC will publish a document that withdraws this action and will subsequently address the comments received in a final rule as a response to the companion proposed rule published elsewhere in this issue of the **Federal Register**. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC staff to make a change (other than editorial) to the rule, CoC, or TS.

Voluntary Consensus Standards

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

Agreement State Compatibility

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

Plain Language

The Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31883), directed that the Government's documents be in clear

and accessible language. The NRC requests comments on this direct final rule specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the address listed under the heading **ADDRESSES**, above.

Finding of No Significant Environmental Impact: Availability

Under the National Environmental Policy Act of 1969, as amended, and the NRC regulations in Subpart A of 10 CFR Part 51, the NRC has determined that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The NRC has prepared an environmental assessment and, on the basis of this environmental assessment, has made a finding of no significant impact. This rule will amend the CoC for the HI–STORM 100 cask design within the list of approved spent fuel storage casks that power reactor licensees can use to store spent fuel at reactor sites under a general license. The amendment will include changes to add site-specific options to the CoC to permit use of a modified HI–STORM 100 cask system at the IP1 ISFSI. These options include the shortening of the HI–STORM 100S Version B, MPC–32 and MPC–32F, and the HI–TRAC 100D Canister to accommodate site-specific restrictions. Additional changes address the TS definition of transport operations and associated language in the SAR; the soluble boron requirements for Array/Class 14×14E IP1 fuel; the helium gas backfill requirements for Array/Class 14×14E IP1 fuel; the addition of a fifth damaged fuel container design under the TS definition for damaged fuel container; addition of separate burnup, cooling time, and decay heat limits for Array/Class 14×14 IP1 fuel for loading in an MPC–32 and MPC–32F; addition of antimony-beryllium secondary sources as approved contents; the loading of all IP1 fuel assemblies in damaged fuel containers; the preclusion of loading of IP1 fuel debris in the MPC–32 or MPC–32F; the reduction of the maximum enrichment for Array/Class 14×14E IP1 fuel from 5.0 to 4.5 weight percent uranium-235; changes to licensing drawings to differentiate the IP1 MPC–32 and MPC–32F from the previously approved MPC–32 and MPC–32F; and other editorial changes, including replacing all references to U.S. Tool and Die with Holtec Manufacturing Division. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Single copies of the environmental assessment and finding of no significant impact are available from Jayne M. McCausland, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6219, e-mail *jmm2@nrc.gov.*

Paperwork Reduction Act Statement

This direct final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget (OMB), Approval Number 3150–0132, 10 CFR part 72.

Public Protection Notification

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

Regulatory Analysis

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR Part 72 to provide for the storage of spent nuclear fuel under a general license in cask designs approved by the NRC. Any nuclear power reactor licensee can use NRC-approved cask designs to store spent nuclear fuel if it notifies the NRC in advance, spent fuel is stored under the conditions specified in the cask's CoC, and the conditions of the general license are met. A list of NRC-approved cask designs is contained in 10 CFR 72.214. On May 1, 2000 (65 FR 25241), the NRC issued an amendment to part 72 that approved the HI–STORM 100 cask design by adding it to the list of NRC-approved cask designs in 10 CFR 72.214. On June 23, 2006, the certificate holder, Holtec, submitted an application to the NRC to amend CoC No. 1014 to add site-specific options to the CoC to permit use of a modified HI–STORM 100 cask system at the IP1 ISFSI. These options included the shortening of the HI–STORM 100S Version B, MPC–32 and MPC–32F, and the HI–TRAC 100D Canister to accommodate site-specific restrictions. Additional changes addressed the TS definition of transport operations and associated language in the SAR; the soluble boron requirements for Array/Class 14×14E IP1 fuel; the helium gas backfill requirements for Array/Class 14×14E IP1 fuel; the addition of a fifth damaged fuel container design under the TS definition for damaged fuel container; addition of separate burnup, cooling time, and decay heat limits for Array/Class 14×14 IP1 fuel for loading in an MPC–32 and MPC–32F; addition of antimony-beryllium secondary sources as approved contents; the loading of all IP1 fuel assemblies in damaged fuel containers; the preclusion of loading of IP1 fuel debris in the MPC–32 or MPC–32F; the reduction of the maximum enrichment for Array/Class 14×14E IP1 fuel from 5.0 to 4.5 weight percent uranium-235; changes to licensing drawings to differentiate the IP1 MPC–32 and MPC–32F from the previously approved MPC–32 and MPC–32F; and other editorial changes, including replacing all references to U.S. Tool and Die with Holtec Manufacturing Division.

The alternative to this action is to withhold approval of Amendment No. 4 and to require any part 72 general licensee, seeking to load spent fuel into HI–STORM 100 casks under Amendment No. 4, to request an exemption from the requirements of 10 CFR 72.212 and 72.214. Under this alternative, each interested part 72 licensee would have to prepare, and the NRC would have to review, a separate exemption request, thereby increasing the administrative burden upon the NRC and the costs to each licensee.

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

Regulatory Flexibility Certification

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this rule will not, if issued, have a significant economic impact on a substantial number of small entities. This direct final rule affects only nuclear power plant licensees and Holtec. These entities do not fall within the scope of the definition of ''small entities'' set forth in the Regulatory Flexibility Act or the size standards established by the NRC (10 CFR 2.810).

Backfit Analysis

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

Congressional Review Act

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

List of Subjects in 10 CFR Part 72

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

■ For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the Nuclear Waste Policy Act of 1982, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR Part 72.

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

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

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

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

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

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1014.

Initial Certificate Effective Date: May 31, 2000.

Amendment Number 1 Effective Date: July 15, 2002.

Amendment Number 2 Effective Date: June 7, 2005.

Amendment Number 3 Effective Date: May 29, 2007.

Amendment Number 4 Effective Date: January 8, 2008.

SAR Submitted by: Holtec International.

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

Docket Number: 72–1014.

Certificate Expiration Date: June 1, 2020.

Model Number: HI–STORM 100.

* * * * *

Dated at Rockville, Maryland, this 10th day of October, 2007.

For the Nuclear Regulatory Commission.

William F. Kane,

Acting Executive Director for Operations.

[FR Doc. E7–21016 Filed 10–24–07; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 344

RIN 3064–AD20

Extension of Time Period for Quarterly Reporting of Bank Officers' and Certain Employees' Personal Securities Transactions

AGENCY: Federal Deposit Insurance Corporation (''FDIC'').

ACTION: Final rule.

SUMMARY: The FDIC is amending its regulation governing personal securities trading reporting to extend the time period from 10-business to 30-calendar days after the end of the calendar quarter that officers and all employees of state nonmember banks who make or participate in investment decisions for the accounts of customers have to report their personal securities transactions.

DATES: This final rule will become effective on: November 26, 2007.

FOR FURTHER INFORMATION CONTACT: Anthony J. DiMilo, Trust Examination Specialist, (202) 898–7496, in the Division of Supervision and Consumer Protection; Julia E. Paris, Senior Attorney, (202) 898–3821, in the Legal Division.

SUPPLEMENTARY INFORMATION:

I. Background

Section 344.9(a)(3) of Part 344 of the FDIC's recordkeeping and confirmation requirements for effecting securities transactions requires all bank officers of state nonmember banks and all employees who, in connection with their duties, make or participate in investment decisions for the accounts of customers (''certain employees'') to report to the bank all securities transactions made by them or on their behalf in which they have a beneficial interest within 10-business days after the end of the calendar quarter.[1] At the time it was adopted, this provision, among others, reflected the U.S. Securities and Exchange Commission's (''SEC'') recommendations contained in the *Final Report of the Securities and Exchange Commission on Bank Securities Activities* (June 30, 1977) and generally was patterned after SEC regulations.[2] Specifically, section 344.9(a)(3) was intended to be comparable to the SEC's Rule 17j–1 of the Investment Company Act of 1940, which required ''access persons'' to report personal securities transactions quarterly and originally mandated a 10-business day period for reporting.[3]

The SEC, in July 2004, amended Rule 17j–1 to extend the reporting time period to 30-calendar days after the end of the calendar quarter.[4] The effective date of the SEC's amendments to Rule 17j–1 was August 31, 2004, with a compliance date of January 7, 2005.

II. Summary of Proposed Rule

On June 27, 2007, the FDIC published for comment a Notice of Proposed

[1] 12 CFR 344.9(a)(3).

[2] 44 FR 43260, 43263 (July 24, 1979); *see* 45 FR 73898 (Nov. 7, 1980) (SEC final rule 17j–1 adopting investment advisor code of ethics and disclosure requirements for ''access persons,'' as defined by 17 CFR 270.17–j–1(a)(1)).

[3] *See* 17 CFR 270.17j–1(c)(2) (1998); 45 FR 73898 (Nov. 7, 1980).

[4] 69 FR 41696 (July 9, 2004).

Rulemaking to amend section 344.9(a)(3) to extend the time period for reporting quarterly personal securities transactions to 30-calendar days after the end of the calendar quarter.[5] The comment period was 60 days, and expired on August 27, 2007. The FDIC received one comment on this proposal. The commenter supported the proposed amendment and agreed that the purpose of extending the reporting deadline was to align the FDIC's requirements with the SEC's, and to promote practical and uniform recordkeeping requirements.

III. Final Rule

As explained above, the FDIC received one industry comment on its proposal to extend the personal securities transactions reporting requirement to 30-calendar days after the end of the calendar quarter, which comment endorsed the FDIC's reasoning for its proposal. Accordingly, the FDIC is adopting the rule as proposed with no revisions.

IV. Regulatory Analysis and Procedure

A. Plain Language

Section 722 of the Gramm-Leach-Bliley Act (12 U.S.C. 4809) requires the FDIC to use ''plain language'' in all proposed and final rules published after January 1, 2000. The proposed rule requested comments on how the rule might be changed to reflect the requirements of GLBA. No comments were received.

B. Regulatory Flexibility Act

Under section 605(b) of the Regulatory Flexibility Act (''RFA'') (5 U.S.C. 605(b)) the regulatory flexibility analysis otherwise required under section 603 of the RFA (5 U.S.C. 603) is not required if the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities and the agency publishes such certification and a statement explaining the factual basis for such a certification in the **Federal Register** along with its rule.

Pursuant to section 605(b) of the RFA, the FDIC certifies that this final rule will not have a significant impact on a substantial number of small entities. The FDIC does not expect that this rule will create any additional burden on small entities. In effect, the rule extends to 30-calendar days the reporting period within which officers and certain employees of state nonmember banks have to report their personal securities transactions and gives these individuals more latitude to report their quarterly securities transactions. Accordingly, a regulatory flexibility analysis is not required.

C. Paperwork Reduction Act

The recordkeeping and reporting requirements for securities transactions in Part 344 constitute a collection of information as defined by the Paperwork Reduction Act. The information collection has been approved by the Office of Management and Budget under control number 3064–0028. The reporting requirements and burden associated with that collection would not be affected by this rule.

List of Subjects in 12 CFR Part 344

Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, title 12, chapter III, part 344, is amended as follows:

PART 344—RECORDKEEPING AND CONFIRMATION REQUIREMENTS FOR SECURITIES TRANSACTIONS

■ 1. The authority citation for Part 344 continues to read as follows:

Authority: 12 U.S.C. 1817, 1818, and 1819.

■ 2. In § 344.9, paragraph (a)(3) is revised to read as follows:

§ 344.9 Personal securities trading reporting by bank officers and employees.

(a) * * *

(3) In connection with their duties, obtain information concerning which securities are being purchased or sold or recommend such action, must report to the bank, within 30-calendar days after the end of the calendar quarter, all transactions in securities made by them or on their behalf, either at the bank or elsewhere in which they have a beneficial interest. The report shall identify the securities purchased or sold and indicate the dates of the transactions and whether the transactions were purchases or sales.

* * * * *

By Order of the Board of Directors.

Dated at Washington, DC, the 16th day of October, 2007.

Federal Deposit Insurance Corporation

Robert E. Feldman,

Executive Secretary.

[FR Doc. E7–20998 Filed 10–24–07; 8:45 am]

BILLING CODE 6714–01–P

[5] 72 FR 35204 (June 27, 2007).

TENNESSEE VALLEY AUTHORITY

18 CFR Part 1301

Testimony by TVA Employees, Production of Official Records, and Disclosure of Official Information in Legal Proceedings

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Final rule.

SUMMARY: The Tennessee Valley Authority (''TVA'') is publishing as a final rule a regulation governing access to TVA information and records in connection with legal proceedings in which neither the United States nor TVA is a party. This final rule establishes guidelines for use in determining whether TVA employees will provide testimony or records relating to their official duties. It also establishes procedures for requesters to follow when making demands on or requests to a TVA employee for official documents or to provide testimony. This final rule standardizes TVA's past practices, promotes uniformity in decisions, conserves the ability of TVA to conduct official business, preserves its employee resources, protects confidential information, provides guidance to requestors, minimizes involvement in matters unrelated to TVA's mission and programs, avoids wasteful allocation of agency resources, and avoids spending public time and money for private purpose.

DATES: The effective date of the regulation is October 25, 2007.

FOR FURTHER INFORMATION CONTACT: Nicholas P. Goschy, Assistant General Counsel, Tennessee Valley Authority, 400 W. Summit Hill Drive, Knoxville, Tennessee 37902, (865) 632–8960.

SUPPLEMENTARY INFORMATION:

Background

TVA regularly receives subpoenas and other informal requests for documents and requests for TVA employees to provide testimony or evidence in cases in which TVA is not a party. Sometimes these subpoenas or requests are for TVA records that are not available to the public under the Freedom of Information Act. TVA also receives requests for TVA employees to appear as witnesses in litigation and to provide testimony relating to materials contained in TVA's official records or provide testimony or information acquired during the performance of the employees' official duties.

Although many other federal agencies currently have regulations in place to address these types of requests, and

TVA itself has rules implementing the Freedom of Information Act that govern requests for information from the general public, TVA has not had official regulations governing subpoenas and other information requests for document production and testimony of TVA employees in legal proceedings. Issues about such requests that have arisen in recent years warrant adoption of regulations governing their submission, evaluation, and processing. Responding to these requests is not only burdensome, but may also result in a significant disruption of a TVA employee's work schedule and possibly involve TVA in issues unrelated to its responsibilities. In order to resolve these issues, many agencies have issued regulations, similar to this final regulation, governing the circumstances and manner in which an employee may respond to demands for testimony or for the production of documents. Establishing uniform procedures for legal processes will ensure timely notice and promote centralized decision making. The United States Supreme Court upheld this type of regulation in *United States ex rel. Touhy* v. *Ragen*, 340 U.S. 462 (1951).

On September 10, 2007, TVA published in the **Federal Register** its own proposed *Touhy* regulation, for codification in part 1301 of 18 CFR. See 72 FR 51572–51574, which provided for a 30 day comment period. TVA did not receive any comments on the proposed rule, and is issuing the final rule with no substantive changes from the proposed rule.

The final rule will formalize past practices already utilized by TVA in responding to requests for disclosure of official records or testimony by TVA employees when TVA is not a party to the litigation. Briefly summarized, the final rule will prohibit disclosure of official records or testimony by TVA's employees, as defined in section 1301.52, unless there is compliance with the rule. The final rule sets out the information that requesters must provide and the factors that TVA will consider in making determinations in response to requests for testimony or the production of documents. The final rule sets forth TVA's standard practice of providing employee testimony by affidavit only and clarifies those steps requesters must follow in order to obtain official TVA documents, including how to accomplish service of process on TVA. The final rule also establishes a new practice that service can now be accomplished by United States mail.

This final rule applies to a range of matters in any legal proceeding in which TVA is not a named party. Current and former TVA employees will not provide testimony about specific matters involving information which they acquired during the performance of their official duties unless permitted to testify as provided in the rule. They are not restricted from providing testimony on their own time about general matters unconnected with the specific TVA matters.

This final rule will ensure a more efficient use of TVA's resources, minimize the possibility of involving TVA in issues unrelated to its responsibilities, promote uniformity in responding to such subpoenas and like requests, and maintain the impartiality of TVA in matters that are in dispute between other parties. It will also serve TVA's interest in protecting sensitive, confidential, and privileged information and records that are generated in fulfillment of TVA's statutory responsibilities.

The final rule is internal and procedural rather than substantive. It does not create a right to obtain official records or the official testimony of a TVA employee nor does it create any additional right or privilege not already available to TVA to deny any demand or request for testimony or documents. Failure to comply with the procedures set out in these regulations would be a basis for denying a demand or request submitted to TVA.

List of Subjects in 18 CFR Part 1301

Administrative practice and procedure.

■ For the reasons stated in the preamble, TVA amends 18 CFR Chapter XIII, as follows:

PART 1301—PROCEDURES

■ 1. The authority citation for part 1301 continues to read as follows:

Authority: 16 U.S.C. 831–831ee, 5 U.S.C. 552.

■ 2. Part 1301 is amended by adding subpart D to read as follows:

Subpart D—Testimony by TVA Employees, Production of Official Records, and Disclosure of Official Information in Legal Proceedings

Sec.
1301.51 Purpose and scope.
1301.52 Definitions.
1301.53 General.
1301.54 Requirements for a demand for records or testimony.
1301.55 Responding to demands.
1301.56 Final determination.
1301.57 Waiver.

Subpart D—Testimony by TVA Employees, Production of Official Records, and Disclosure of Official Information in Legal Proceedings

§ 1301.51 Purpose and scope.

(a) *Purpose*. This part sets forth the procedures to be followed when TVA or a TVA employee is served with a demand to provide testimony and/or produce or disclose official information or records in a legal proceeding in which TVA or the United States is not a party, and where such appearance arises out of, or is related to, the individual's employment with TVA.

(b) *Scope*. This part applies when, in a judicial, administrative, legislative, or other legal proceeding, a TVA employee is served with a demand to provide testimony concerning information acquired in the course of performing official duties or because of official status and/or to produce official information and/or records.

§ 1301.52 Definitions.

The following definitions apply to this part:

(a) *Appearance* means testimony or production of documents or other material, including an affidavit, deposition, interrogatory, declaration, or other required written submission.

(b) *Demand* means a subpoena, order, or other demand of a court of competent jurisdiction, or other specific authority (e.g. an administrative or State legislative body), for the production, disclosure, or release of TVA records or information or for the appearance of TVA personnel as witnesses in their official capacities.

(c) *Employee* means any members of the Board of Directors, officials, officers, directors, employees or agents of TVA, except as TVA may otherwise determine in a particular case, and includes former TVA employees to the extent that the information sought was acquired in the performance of official duties for TVA.

(d) *General Counsel* means the General Counsel of TVA or a person to whom the General Counsel has delegated authority under this part.

(e) *Legal proceeding* means any and all pre-trial, trial, and post-trial stages of all judicial or administrative actions, hearings, investigations, or similar proceedings before courts, commissions, boards, or other judicial or quasi-judicial bodies or tribunals, whether criminal, civil, or administrative in nature.

(f) *Records* or *official records and information* means all information in the custody and control of TVA, relating to information in the custody and control of TVA, or acquired by a TVA

employee in performance of his or her official duties or because of his or her official status while the individual was employed by TVA.

(g) *Testimony* means any written or oral statements, including depositions, answers to interrogatories, affidavits, declarations, interviews, and statements made by an individual in connection with a legal proceeding.

§ 1301.53 General.

(a) No employee shall appear, in response to a demand for official records or information, in any proceeding to which this part applies to provide testimony and/or produce records or other official information without prior authorization as set forth in this part.

(b) This part is intended only to provide procedures for responding to demands for testimony or production of records or other official information, and is not intended to, does not, and may not be relied upon to, create any right or benefit, substantive or procedural, enforceable by any party against TVA and the United States.

§ 1301.54 Requirements for a demand for records or testimony.

(a) *Service of demands.* Only TVA's General Counsel or his/her designee is authorized to receive and accept demands sought to be served upon TVA or its employees. All such documents should be delivered in person or by United States mail to the Office of the General Counsel, Tennessee Valley Authority, 400 W. Summit Hill Drive, Knoxville, Tennessee 37902.

(b) *Time limit for serving demands.* The demand must be served at least 30 days prior to the scheduled date of testimony or disclosure of records, in order to ensure that the General Counsel has adequate time to consider the demand and prepare a response, except in cases of routine requests for personnel and payroll records located on-site in Knoxville, where service 15 days prior will normally be considered sufficient. The General Counsel may, upon request and for good cause shown, waive the requirement of this paragraph.

(c) *Form of Demand.* A demand for testimony or production of records or other official information must comply with the following requirements:

(1) The demand must be in writing and submitted to the General Counsel.

(2) The demand must include the following information:

(i) The caption of the legal proceeding, docket number, and name and address of the court or other authority involved.

(ii) If production or records or other official information is sought, a list of categories of records sought, a detailed description of how the information sought is relevant to the issues in the legal proceeding, and a specific description of the substance of the records sought.

(iii) If testimony is sought, a description of the intended use of the testimony, a detailed description of how the testimony sought is relevant to the issues in the legal proceeding, and a specific description of the substance of the testimony sought.

(iv) A statement as to how the need for the information outweighs any need to maintain the confidentiality of the information and outweighs the burden on TVA to produce the documents or testimony.

(v) A statement indicating that the information sought is not available from another source, from other persons or entities, or from the testimony of someone other than a TVA employee, such as a retained expert.

(vi) The name, address, and telephone number of counsel to each party in the case.

(d) *Additional information.* TVA reserves the right to require additional information to complete the request where appropriate or to waive any of the requirements of this section at its sole discretion.

§ 1301.55 Responding to demands.

Generally, authorization to provide the requested material or testimony shall not be withheld unless their disclosure is prohibited by law or for other compelling reasons, provided the request is reasonable and in compliance with the requirements of this part, and subject to the following conditions:

(a) *Demands for testimony.* TVA's practice is to provide requested testimony of TVA employees by affidavit only. TVA will provide affidavit testimony in response to demands for such testimony, provided all requirements of this part are met and there is no compelling factor under paragraph (c) of this section that requires the testimony to be withheld. The General Counsel may waive this restriction when necessary.

(b) *Demands for production of records or official information.* TVA's practice is to provide requested records or official information, provided all requirements of this part are met and there is no compelling factor under paragraph (c) of this section that requires the records or official information to be withheld.

(c) *Factors to be considered in determining whether requested testimony or records or official information must be withheld.* The General Counsel shall consider the following factors, among others, in deciding whether requested testimony or materials must be withheld:

(1) Whether production is appropriate in light of any relevant privilege;

(2) Whether production is appropriate under the applicable rules of discovery or the procedures governing the case or matter in which the demand arose;

(3) Whether the material requested is relevant to the matter at issue;

(4) Whether allowing such testimony or production of records would be necessary to prevent a miscarriage of justice;

(5) Whether disclosure would violate a statute, Executive Order, or regulation, including, but not limited to, the Privacy Act of 1974, as amended, 5 U.S.C. 552a;

(6) Whether disclosure would impede or interfere with an ongoing law enforcement investigation or proceeding, or compromise constitutional rights or national security interests;

(7) Whether disclosure would improperly reveal trade secrets or proprietary confidential information without the owner's consent;

(8) Whether disclosure would unduly interfere with the orderly conduct of TVA's functions;

(9) Whether the records or testimony can be obtained from other sources;

(10) Whether disclosure would result in TVA appearing to favor one litigant over another;

(11) Whether the demand or request is within the authority of the party making it; and

(12) Whether a substantial Government interest is implicated.

(d) *Restrictions on testimony or production of records or official information.* When necessary or appropriate, the General Counsel may impose restrictions or conditions on the production of testimony or records or official information. These restrictions may include, but are not limited to:

(1) Limiting the area of testimony;

(2) Requiring that the requester and other parties to the legal proceeding agree to keep the testimony under seal;

(3) Requiring that the testimony be used or made available only in the legal proceeding for which it was requested;

(4) Requiring that the parties to the legal proceeding obtain a protective order or execute a confidentiality agreement to limit access and any further disclosure of produced records or official information.

(e) *Fees for Production.* Fees will be charged for production of TVA records and information. The fees will be the same as those charged by TVA pursuant to its Freedom of Information Act regulations, 16 CFR 1301.10.

§ 1301.56 Final determination.

The General Counsel makes the final determination whether a demand for testimony or production of records or official testimony in a legal proceeding in which TVA is not a party shall be granted. All final determinations are within the sole discretion of the General Counsel. The General Counsel will notify the requesting party and, when necessary, the court or other authority of the final determination, the reasons for the grant or denial of the request, and any conditions that the General Counsel may impose on the production of testimony or records or official information.

§ 1301.57 Waiver.

The General Counsel may grant a waiver of any procedure described by this part where a waiver is considered necessary to promote a significant interest of TVA or the United States, or for other good cause.

Maureen H. Dunn,

General Counsel.

[FR Doc. E7–20907 Filed 10–24–07; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Phenylbutazone Paste

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Luitpold Pharmaceuticals, Inc. The supplemental NADA provides for a revised human food safety warning for phenylbutazone paste, used in horses for relief of inflammatory conditions associated with the musculoskeletal system.

DATES: This rule is effective October 25, 2007.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7540, e-mail: melanie.berson@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Luitpold Pharmaceuticals, Inc., Animal Health Division, Shirley, NY 11967, filed a supplement to NADA 140–958 that provides for use of EQUIPHEN (phenylbutazone) Paste in horses for relief of inflammatory conditions associated with the musculoskeletal system. The supplemental NADA provides for a revised human food safety warning on product labeling. The supplemental NADA is approved as of September 26, 2007, and the regulations are amended in 21 CFR 520.1720c to reflect the approval.

Approval of this supplemental NADA did not require review of additional safety or effectiveness data or information. Therefore, a freedom of information summary is not required.

FDA has determined under 21 CFR 25.33(a)(1) 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.

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

List of Subjects in 21 CFR Part 520

Animal drugs.

■ 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 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

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

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

§ 520.1720c [Amended]

■ 2. In § 520.1720c, in paragraph (c)(3), remove ''Not for use in horses intended for food.'' and add in its place ''Do not use in horses intended for human consumption.''

Dated: October 17, 2007.

Bernadette Dunham,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. E7–21054 Filed 10–24–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Spinosad

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Elanco Animal Health. The NADA provides for veterinary prescription use of spinosad chewable tablets to kill fleas and for the prevention and treatment of flea infestations on dogs for 1 month.

DATES: This rule is effective October 25, 2007.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7540, e-mail: *melanie.berson@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Elanco Animal Health, A Division of Eli Lilly & Co., Lilly Corporate Center, Indianapolis, IN 46285, filed NADA 141–277 that provides for veterinary prescription use of COMFORTIS (spinosad) Chewable Tablets to kill fleas and for the prevention and treatment of flea infestations (*Ctenocephalides felis*) on dogs for 1 month. The NADA is approved as of September 25, 2007, and the regulations in 21 CFR part 520 are amended by adding § 520.2130 to reflect the approval.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(i)), this approval qualifies for 5 years of marketing exclusivity beginning on the date of approval.

FDA has determined under 21 CFR 25.33(d)(1) 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.

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

List of Subjects in 21 CFR Part 520

Animal drugs.

■ 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 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

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

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

■ 2. Add § 520.2130 to read as follows:

§ 520.2130 Spinosad.

(a) *Specifications*. Each chewable tablet contains 140, 270, 560, 810, or 1620 milligrams (mg) spinosad.

(b) *Sponsor*. See No. 000986 in § 510.600 of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount*. Administer tablets once a month at a recommended minimum dosage of 13.5 mg per pound (30 mg per kilogram) of body weight.

(2) *Indications for use*. To kill fleas and for the prevention and treatment of flea infestations (*Ctenocephalides felis*) on dogs for 1 month.

(3) *Limitations*. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: October 17, 2007.

Bernadette Dunham,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. E7–21058 Filed 10–24–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 520 and 558

New Animal Drugs; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for five approved new animal drug applications (NADAs) from Merial Ltd., to Huvepharma AD.

DATES: This rule is effective October 25, 2007.

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

SUPPLEMENTARY INFORMATION: Merial Ltd., 3239 Satellite Blvd., Bldg. 500, Duluth, GA 30096–4640 has informed FDA that it has transferred ownership of, and all rights and interest in, the following five approved NADAs to Huvepharma AD, 33 James Boucher Blvd., Sophia 1407, Bulgaria:

Application No.	Trade name(s)
012–350	AMPROVINE (amprolium) 25% Type A Medicated Article; CORID (amprolium) 25% Type A Medicated Article
013–149	AMPROVINE (amprolium) 9.6% Solution
013–461	Broiler PMX No. 1620 (amprolium/ethopabate)
033–165	AMPROVINE (amprolium) 20% Soluble Powder; CORID (amprolium) 20% Soluble Powder
034–393	COYDEN 25 (clopidol); Lerbek 25

Accordingly, the agency is amending the regulations in 21 CFR 520.100, 558.55, 558.58, and 558.175 to reflect the transfer of ownership.

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

List of Subjects

21 CFR Part 520

Animal drugs.

21 CFR Part 558

Animal drugs, Animal feeds.

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

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

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

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

§ 520.100 [Amended]

■ 2. In paragraph (b)(1) of § 520.100, remove ''050604'' and in its place add ''016592''.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

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

§ 558.55 [Amended]

■ 4. In paragraph (a) of § 558.55, remove ''050604'' and in its place add ''No. 016592''.

■ 5. In § 558.58, in the table in paragraph (e)(1)(i), in the first entry, in the ''Sponsor'' column, add ''050604'' and ''016592''; add paragraph (a)(3); and revise paragraph (b) to read as follows:

§ 558.58 Amprolium and ethopabate.

(a) * * *

(3) 25 percent amprolium and 0.8 percent ethopabate.

(b) *Approvals*. See § 510.600(c) of this chapter.

(1) No. 050604 for products described in paragraph (a) of this section.

(2) No. 016592 for product described in paragraph (a)(3) of this section.

§ 558.175 [Amended]

■ 6. In § 558.175, in paragraph (b) and in the table in paragraph (d)(1) in the ''Sponsor'' column, remove ''050604'' and in its place add ''016592''.

Dated: October 17, 2007.

Bernadette Dunham,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. E7–21057 Filed 10–24–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs For Use in Animal Feeds; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the

animal drug regulations to reflect a change of sponsor for seven approved new animal drug applications (NADAs) from Schering-Plough Animal Health Corp. to Huvepharma AD.

DATES: This rule is effective October 25, 2007.

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

SUPPLEMENTARY INFORMATION: Schering-Plough Animal Health Corp., 556 Morris Ave., Summit NJ 07901, has informed FDA that it has transferred ownership of, and all rights and interest in, the following seven approved NADAs to Huvepharma AD, 33 James Boucher Blvd., Sophia 1407, Bulgaria:

Application No.	Trade name(s)
140–951	CLINICOX (diclazuril) Type A Medicated Article
141–090	CLINICOX / STAFAC
141–153	CLINICOX / BMD
141–158	CLINICOX / FLAVOMYCIN
141–190	CLINICOX / BMD / 3–NITRO
141–194	CLINICOX / BMD
141–195	CLINICOX / FLAVOMYCIN

Accordingly, the agency is amending the regulations in 21 CFR 558.198 to reflect the transfer of ownership.

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

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

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

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

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

§ 558.198 [Amended]

■ 2. In § 558.198, in paragraph (b), remove ''000061'' and in its place add ''016592''; and in the tables in paragraphs (d)(1) and (d)(2), in the ''Sponsor'' column, remove ''000061'' wherever it occurs and in its place add ''016592''.

Dated: October 17, 2007.

Bernadette Dunham,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. E7–21059 Filed 10–24–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9361]

RIN 1545–BD56

Corporate Reorganizations; Transfers of Assets or Stock Following a Reorganization

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations that provide guidance regarding the effect of certain transfers of assets or stock on the continuing qualification of transactions as reorganizations under section 368(a). This document also contains final regulations that provide guidance on the continuity of business enterprise requirement and the definitions of ''qualified group'' and ''party to a reorganization.'' These regulations affect corporations and their shareholders.

DATES: *Effective Date:* These regulations are effective October 25, 2007.

Applicability Date: For dates of applicability, see §§ 1.368–1(d)(4)(iv), 1.368–1(d)(5), 1.368–2(f), 1.368–2(j)(3)(iv), and 1.368–2(k)(3).

FOR FURTHER INFORMATION CONTACT: Mary W. Lyons, at (202) 622–7930 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

On August 18, 2004, the IRS and Treasury Department published a notice of proposed rulemaking (REG–130863–04) in the **Federal Register** (69 FR 51209) proposing regulations that would provide guidance regarding the effect of certain transfers of assets or stock on the qualification of a transaction as a reorganization under section 368(a) (the proposed regulations). The proposed regulations also included amendments to the continuity of business enterprise (COBE) regulations under § 1.368–1(d) and the definition of a ''party to a reorganization'' under § 1.368–2(f). The proposed regulations replaced an earlier proposal, dated March 2, 2004 (REG–165579–02) and published in the **Federal Register** (69 FR 9771), which was withdrawn. No public hearing regarding the proposed regulations was requested or held. However, a number of comments were received, the most significant of which are discussed in this preamble.

The theory underlying the tax-free treatment afforded reorganizations described in section 368 is that such transactions ''effect only a readjustment of continuing interest in property under modified corporate forms.'' See § 1.368–1(b). The continuity of interest and continuity of business enterprise requirements are expressions of this principle. Earlier cases also implemented this principle through a concept that later became known as the prohibition of ''remote'' continuity of interest. Commonly viewed as arising out of the Supreme Court decisions in *Groman* v. *Commissioner*, 302 U.S. 82 (1937), and *Helvering* v. *Bashford*, 302 U.S. 454 (1938), remote continuity of interest focuses on the link between the former target corporation (T)

shareholders and the T business assets following the reorganization.

Since the Supreme Court's decisions in *Groman* and *Bashford,* it has been recognized that other transactions, including transactions involving the same level of ''remoteness'' as addressed in the *Groman* and *Bashford* decisions, adequately preserve the link between the former T shareholders and the T business assets and therefore constitute mere readjustments of continuing interests. Accordingly, legislative, regulatory, and administrative developments have provided significantly more flexibility regarding transfers of stock and assets following otherwise tax-free reorganizations where this link is adequately maintained. For example, Congress enacted section 368(a)(2)(D) to expressly allow a triangular reorganization by permitting a controlled subsidiary to use its parent's stock as consideration in a merger. Similarly, the term ''party to a reorganization'' was broadened to include the parent in such a case.

In addition, Congress enacted section 368(a)(2)(C), which provides that a transaction otherwise qualifying under section 368(a)(1)(A), (B), (C), or (G) (where the requirements of section 354(b) are met) is not disqualified where part or all of the acquired assets or stock is transferred to a corporation that is controlled (as defined in section 368(c)) by the acquiring corporation. Section 1.368–2(k), as in effect prior to these final regulations, expanded the scope of section 368(a)(2)(C) by permitting successive transfers of the acquired assets or stock to one or more corporations, provided that the transferee corporation was controlled in each transfer by the transferor corporation. Administratively, the IRS and Treasury Department have since interpreted section 368(a)(2)(C) and § 1.368–2(k) as permissive rather than exclusive or restrictive, concluding that certain transfers not specifically described in either of those provisions did not disqualify the reorganization. See Rev. Rul. 2001–24 (2001–1 CB 1290) permitting the transfer of acquiring subsidiary stock to a controlled subsidiary following a reorganization described in section 368(a)(1)(A) by reason of (a)(2)(D), and Rev. Rul. 2002–85 (2002–2 CB 986) permitting the transfer of acquired assets to a controlled subsidiary following a reorganization described in section 368(a)(1)(D).

The current regulations do not contain separate rules addressing remote continuity because the IRS and Treasury Department believe that these issues are adequately addressed by the rules adopted to implement the continuity of business enterprise requirement. See TD 8760 (63 FR 4174). Similarly, the rules relating to the continuity of business enterprise requirement have been broadened over the years to permit transactions that adequately preserve the link between the former T shareholders and the T business assets. Under § 1.368–1(d), as in effect prior to these final regulations, the COBE requirement generally is satisfied as long as a member of the qualified group (or, in certain cases, a partnership) either continues T's historic business or uses a significant portion of T's historic business assets in a business. A *qualified group* is defined in § 1.368–1(d)(4)(ii), as in effect prior to these final regulations, as one or more chains of corporations connected through stock ownership with the issuing corporation, but only if the issuing corporation owns directly stock meeting the requirements of section 368(c) in at least one of the corporations, and stock meeting the requirements of section 368(c) in each of the corporations (other than the issuing corporation) is owned directly by one of the other corporations.

These final regulations continue the trend of broadening the rules regarding transfers of assets or stock following an otherwise tax-free reorganization where the transaction adequately preserves the link between the former T shareholders and the T business assets. Accordingly, the definition of a ''qualified group'' in § 1.368–1(d)(4)(ii) and the rules regarding stock or asset transfers in § 1.368–2(k) have been expanded. Conforming changes to § 1.368–2(f), relating to the definition of ''a party to a reorganization,'' also have been made.

A. Continuity of Business Enterprise (COBE) Regulations

Several commentators urged that the definition of ''qualified group'' under § 1.368–1(d)(4)(ii) should not be restricted by the control requirement of section 368(c), but rather should be expanded to parallel the definition of an affiliated group under section 1504(a). The IRS and Treasury Department have declined to make this change, primarily because the section 368(c) definition of control is a major structural component underlying the statutory framework of the reorganization provisions. On the other hand, the IRS and Treasury Department have concluded that it is consistent with reorganization policy to expand the definition of a qualified group. Specifically, § 1.368–1(d)(4)(ii), as revised by this Treasury decision, permits qualified group members to aggregate their direct stock ownership of a corporation in determining whether they own the requisite section 368(c) control in such corporation (provided that the issuing corporation owns directly stock meeting such control requirement in at least one other corporation). This aggregation concept is similar to the one found in section 1504(a). The IRS and Treasury Department believe that aggregating stock ownership within the qualified group adequately preserves the link between the former T shareholders and the T business assets while further facilitating the post-acquisition relocation of assets and stock as necessary within the group.

Finally, as discussed in section B.3. of this preamble, and in response to comments, the COBE regulations have been expanded to provide that if members of the qualified group own interests in a partnership that meets requirements equivalent to the control definition in section 368(c), any stock owned by such partnership is treated as owned by members of the qualified group. Thus, for example, following a reorganization under section 368(a)(1)(B), T remains a member of the qualified group upon a transfer of the T stock to a partnership in which members of the qualified group own all the interests. See section B.3. of this preamble. Similarly, a wholly owned subsidiary of a partnership in which members of the qualified group own all the interests will be a member of the qualified group. Accordingly, following a reorganization under section 368(a)(1)(A), the acquiring corporation may transfer the T assets to the subsidiary (either directly or through the partnership) without violating the COBE requirement.

B. Section 1.368–2(k)

As provided in § 1.368–1(a), a transaction must be evaluated under all relevant provisions of law, including the step transaction doctrine, in determining whether it qualifies as a reorganization under section 368(a). Section 1.368–2 provides guidance regarding whether a transaction satisfies the explicit statutory requirements of a particular reorganization. Section 1.368–2(k) generally provides that a transaction otherwise qualifying as a reorganization will not be disqualified as a result of certain subsequent transfers of assets or stock. The fact that a subsequent transfer of assets or stock is not described in § 1.368–2(k) does not necessarily preclude reorganization qualification, but the overall transaction would then be subject to analysis under the step transaction doctrine.

These final regulations adopt the rules of the proposed regulations regarding subsequent transfers of assets or stock with certain modifications. Section 1.368–2(k), as revised by this Treasury decision, generally provides that a transaction otherwise qualifying as a reorganization under section 368(a) shall not be disqualified or recharacterized as a result of one or more subsequent transfers (or successive transfers) of assets or stock, provided that the COBE requirement is satisfied and the transfer(s) qualify as ''distributions'' or ''other transfers'' (as described in § 1.368–2(k)(1), and as discussed in section B.1. and B.2., respectively, of this preamble).

1. Distributions

Proposed § 1.368–2(k) would permit the acquiring corporation to distribute to certain shareholders part or all of the stock or assets acquired in a transaction otherwise qualifying as a reorganization without affecting its characterization as such. The proposed regulations would generally permit distributions to certain shareholders provided that no distributee receives ''substantially all'' of the acquired assets, including the assets of a corporation whose stock is acquired in the reorganization, or stock constituting control of the acquired corporation. This limitation reflected the concern that such a transaction might be more properly characterized as a direct acquisition by the distributee. For example, Rev. Rul. 67–274 (1967–2 CB 141) held that an acquisition of T stock in a purported reorganization under section 368(a)(1)(B) followed by a prearranged liquidation of T is treated as a reorganization under section 368(a)(1)(C); Rev. Rul. 72–405 (1972–2 CB 217) held that an acquisition of T in a forward triangular merger followed by a prearranged liquidation of the acquiring corporation is treated as a reorganization under section 368(a)(1)(C); and Rev. Rul. 2004–83 (2004–2 CB 157) held that a purchase of T stock from the common shareholder followed by a prearranged liquidation of T is treated as a reorganization under section 368(a)(1)(D).

Commentators raised an administrative concern that the parameters of the ''substantially all'' standard are less than certain, at least under case law, and, thus, requested that a safe harbor test be adopted in the final regulations. The IRS and Treasury Department believe that this is a valid concern. Accordingly, these final regulations have adopted a different approach than the ''substantially all'' standard of the proposed regulations. The new approach in these final regulations focuses on whether the distribution consists of an amount of assets (disregarding any assets held by the acquiring corporation, or the merged corporation in the case of a reorganization under section 368(a)(1)(A) by reason of (a)(2)(E), prior to the transaction) that would result in the distributing corporation being treated as liquidated for Federal income tax purposes.

The IRS and Treasury Department believe that this approach will be easier for taxpayers to apply and the government to administer than the ''substantially all'' standard in the proposed regulations. In addition, this approach more fully preserves the analysis and conclusions set forth in Rev. Rul. 67–274, Rev. Rul. 72–405, and Rev. Rul. 2004–83, in the context of Congress having required the target corporation to liquidate in all asset reorganizations. Finally, this approach more consistently applies the principles of section 368(a)(2)(C) (which allows for transfers of all of the acquired assets or stock) to post-acquisition distributions.

Specifically, these final regulations provide that a transaction otherwise qualifying as a reorganization will not be disqualified or recharacterized as a result of one or more distributions of assets, stock of the acquired corporation, or both, provided the COBE requirement is satisfied and the distributions do not result in a liquidation of the distributing corporation for Federal income tax purposes (disregarding, for this purpose, assets held by the acquiring corporation, or the merged corporation in the case of a reorganization under section 368(a)(1)(A) by reason of (a)(2)(E), prior to the transaction). Additionally, in the case of distributions of stock of the acquired corporation, these final regulations only protect the transaction from disqualification or recharacterization if the distributions consist of less than all of the stock of the acquired corporation that was acquired in the transaction and do not cause the acquired corporation to cease to be a member of the qualified group.

These final regulations also clarify that certain indirect distributions of assets are treated under § 1.368–2(k) in the same manner as a direct distribution of those assets. For example, such an indirect distribution of assets can occur where, following a transaction that otherwise qualifies as a reorganization under section 368(a)(1)(A), the acquiring corporation transfers a portion of the T assets to a partnership (or a corporation) in exchange for an interest in the transferee partnership (or stock in the transferee corporation) in an ''other transfer'' described in § 1.368–2(k)(1)(ii), and then distributes that partnership interest (or stock) to a shareholder.

Finally, the IRS and Treasury Department believe that distributions of assets under these final regulations that involve the assumption of liabilities are distinguishable from the transaction analyzed in Rev. Rul. 70–107 (1970–1 CB 78). That ruling considered a transaction in which the acquiring corporation acquired all of the target corporation's assets in exchange for voting stock of the acquiring corporation's parent. In the transaction, the target corporation's liabilities were assumed in part by the acquiring corporation and in part by the acquiring corporation's parent. The ruling holds that the parent corporation's direct assumption of some of the target corporation's liabilities violates the solely for voting stock requirement of section 368(a)(1)(C). These final regulations do not implicate the fact pattern addressed in Rev. Rul. 70–107.

2. Other transfers

Proposed § 1.368–2(k) would provide, in part, that a transaction otherwise qualifying as a reorganization under section 368(a) would not be disqualified if any assets or stock of a party to the reorganization, other than the stock of the issuing corporation, is subsequently transferred to a member of the qualified group. Commentators asked that the reference to transfers of stock of the issuing corporation be removed, stating that the effect, if any, of a transfer of the stock of the issuing corporation is adequately addressed by the continuity of interest rules under § 1.368–1(e). The IRS and Treasury Department agree. In response to this comment (and comments regarding the interaction with the definition of a party to the reorganization in § 1.368–2(f)), this provision has been revised to refer to the assets or stock of the acquired corporation, the acquiring corporation, or the surviving corporation, as the case may be.

Accordingly, these final regulations provide that a transaction otherwise qualifying as a reorganization will not be disqualified or recharacterized as a result of one or more transfers (that do not constitute distributions) of assets or stock, or both, of the acquired corporation, the acquiring corporation, or the surviving corporation, as the case may be, provided the COBE requirement is satisfied, and the acquired corporation, the acquiring corporation, or the surviving corporation, as the case may be, does not terminate its corporate existence in connection with the transfer(s). In the case of transfers of stock of the acquired corporation, the

acquiring corporation, or the surviving corporation, as the case may be, these final regulations only protect the transaction from disqualification or recharacterization if the transfers do not cause such corporation to cease to be a member of the qualified group.

3. Transfers of stock to partnerships

Example 3 of former § 1.368–2(k), issued January 28, 1998 (63 FR 4174), involved a transfer of stock of the acquired corporation to a partnership. In the example, P acquired all the stock of T solely in exchange for P stock in a transaction that otherwise qualified as a reorganization under section 368(a)(1)(B). Immediately thereafter, P transferred the T stock to members of its qualified group, who then transferred the T stock to a partnership all of the interests in which were owned by such members. The example concludes that because the transfer of T stock to the partnership is not described in § 1.368–2(k), the characterization of the transaction must be determined under relevant provisions of law, including the step transaction doctrine. The example further concludes that the transaction fails to meet the control requirement of a reorganization described in section 368(a)(1)(B) because immediately after the transaction the acquiring corporation does not have control of T. The preamble to the proposed regulations indicated that the IRS and Treasury Department were reexamining the conclusion set forth in *Example 3* and requested comments in this regard. Consequently, *Example 3* was not included in the proposed regulations. Comments were received and considered in the course of studying this issue.

After further examination, the IRS and Treasury Department have concluded that transfers of stock of a corporation to a controlled partnership (that is, one in which members of the qualified group own interests meeting requirements equivalent to section 368(c)) adequately preserve the link between the former T shareholders and the T business assets. This section 368(c) equivalent control standard is applied to transfers of stock to a partnership in order to protect the section 368(c) control requirement applicable to triangular and stock acquisition reorganizations. Accordingly, these final regulations reverse the conclusion reached in *Example 3* of former § 1.368–2(k).

To accommodate these policy considerations, the final regulations permit both distributions of stock of the acquired corporation and other transfers of stock of the acquired corporation, the acquiring corporation, or the surviving corporation, as the case may be, provided the transfer of stock does not cause the transferred corporation to cease to be a member of the COBE qualified group. To that end, as described in section A. of this preamble, the COBE regulations have been expanded to provide that if members of the qualified group own interests in a partnership that meet requirements equivalent to the control definition in section 368(c), any stock owned by such partnership is attributed to and treated as owned by members of the qualified group. Accordingly, this full stock attribution rule treats partnerships in a manner similar to members of the COBE qualified group.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small businesses.

Drafting Information

The principal author of these final regulations is Mary W. Lyons of the Office of Associate Chief Counsel (Corporate). However, other personnel from the IRS and Treasury Department participated in their development.

Availability of IRS Documents

IRS revenue rulings, procedures, and notices cited in this preamble are made available by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

List of Subjects in 26 CFR part 1

Income taxes, Reporting and record keeping requirements.

Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.368–1 is amended as follows:

■ 1. Paragraph (d)(4)(ii) is revised.

■ 2. Paragraph (d)(4)(iii)(D) is added.

■ 3. Paragraph (d)(4)(iv) is revised.

■ 4. Paragraph (d)(5) introductory text is revised.

■ 5. In paragraph (d)(5), *Examples 7* through *12* are redesignated as *Examples 8* through *13*, respectively, and new *Examples 7, 14,* and *15* are added.

■ 6. In paragraph (d)(5), the first sentences of paragraph (i) in redesignated *Examples 9, 10,* and *12* are revised.

The revisions and additions read as follows:

§ 1.368–1 Purpose and scope of exception of reorganization exchanges.

* * * * *

(d) * * *

(4) * * *

(ii) *Qualified group.* A qualified group is one or more chains of corporations connected through stock ownership with the issuing corporation, but only if the issuing corporation owns directly stock meeting the requirements of section 368(c) in at least one other corporation, and stock meeting the requirements of section 368(c) in each of the corporations (except the issuing corporation) is owned directly (or indirectly as provided in paragraph (d)(4)(iii)(D) of this section) by one or more of the other corporations.

(iii) * * *

(D) *Stock attributed from certain partnerships.* Solely for purposes of paragraph (d)(4)(ii) of this section, if members of the qualified group own interests in a partnership meeting requirements equivalent to section 368(c) (a section 368(c) controlled partnership), any stock owned by the section 368(c) controlled partnership shall be treated as owned by members of the qualified group. Solely for purposes of determining whether a lower-tier partnership is a section 368(c) controlled partnership, any interest in a lower-tier partnership that is owned by a section 368(c) controlled partnership shall be treated as owned by members of the qualified group.

(iv) *Effective/applicability dates.* Paragraphs (d)(4)(i) and (d)(4)(iii) (other than paragraph (d)(4)(iii)(D)) of this section apply to transactions occurring after January 28, 1998, except that they do not apply to any transaction

occurring pursuant to a written agreement which is binding on January 28, 1998, and at all times thereafter. Paragraphs (d)(4)(ii) and (d)(4)(iii)(D) of this section apply to transactions occurring on or after October 25, 2007, except that they do not apply to any transaction occurring pursuant to a written agreement which is binding before October 25, 2007, and at all times after that.

(5) *Examples.* The following examples illustrate this paragraph (d). All the corporations have only one class of stock outstanding. The preceding sentence and paragraph (d)(5) *Example 6* and *Example 8* through *Example 13* apply to transactions occurring after January 28, 1998, except that they do not apply to any transaction occurring pursuant to a written agreement which is binding on January 28, 1998, and at all times thereafter. Paragraph (d)(5) *Example 7*, *Example 14*, and *Example 15* apply to transactions occurring on or after October 25, 2007, except that they do not apply to any transaction occurring pursuant to a written agreement which is binding before October 25, 2007, and at all times after that. The examples read as follows:

* * * * *

Example 7. Transfers of acquired stock to members of the qualified group—continuity of business enterprise satisfied. (i) *Facts.* The facts are the same as *Example 6*, except that, instead of P acquiring the assets of T, HC acquires all of the outstanding stock of T in exchange solely for stock of P. In addition, as part of the plan of reorganization, HC transfers 10 percent of the stock of T to each of subsidiaries S–1 through S–10. T will continue to operate an auto parts distributorship. Without regard to whether the transaction satisfies the COBE requirement, the transaction qualifies as a triangular B reorganization (as defined in § 1.358–6(b)(2)(iv)).

(ii) *Continuity of business enterprise.* Under paragraph (d)(4)(i) of this section, P is treated as holding the assets and conducting the business of T because T is a member of the qualified group (as defined in paragraph (d)(4)(ii) of this section). The COBE requirement of paragraph (d)(1) of this section is satisfied.

* * * * *

Example 9. * * * (i) *Facts.* The facts are the same as *Example 8,* except that S–3 transfers the historic T business to PRS in exchange for a 1 percent interest in PRS.

(ii) * * *

Example 10. * * * (i) *Facts.* The facts are the same as *Example 8,* except that S–3 transfers the historic T business to PRS in exchange for a 33⅓ percent interest in PRS, and no member of P's qualified group performs active and substantial management functions for the ski boot business operated in PRS.

* * * * *

Example 12. * * * (i) *Facts.* The facts are the same as *Example 11*, except that S–1 transfers all the T assets to PRS, and P and X each transfer cash to PRS in exchange for partnership interests. * * *

* * * * *

Example 14. Transfer of acquired stock to a partnership—continuity of business enterprise satisfied. (i) *Facts.* Pursuant to a plan of reorganization, the T shareholders transfer all of their T stock to a subsidiary of P, S–1, solely in exchange for P stock. In addition, as part of the plan of reorganization, S–1 transfers the T stock to its subsidiary, S–2, and S–2 transfers the T stock to its subsidiary, S–3. S–2 and S–3 form a new partnership, PRS. Immediately thereafter, S–3 transfers all of the T stock to PRS in exchange for an 80 percent interest in PRS, and S–2 transfers cash to PRS in exchange for a 20 percent interest in PRS.

(ii) *Continuity of business enterprise.* Members of the qualified group, in the aggregate, own all of the interests in PRS. Because these interests in PRS meet requirements equivalent to section 368(c), under paragraph (d)(4)(iii)(D) of this section, the T stock owned by PRS is treated as owned by members of the qualified group. P is treated as holding all of the businesses and assets of T because T is a member of the qualified group (as defined in paragraph (d)(4)(ii) of this section). The COBE requirement of paragraph (d)(1) of this section is satisfied because P is treated as continuing T's business.

Example 15. Transfer of acquired stock to a partnership—continuity of business enterprise not satisfied. (i) *Facts.* The facts are the same as in *Example 14,* except that S–3 and U, an unrelated corporation, form a new partnership, PRS, and, immediately thereafter, S–3 transfers all of the T stock to PRS in exchange for a 50 percent interest in PRS, and U transfers cash to PRS in exchange for a 50 percent interest in PRS.

(ii) *Continuity of business enterprise.* Members of the qualified group, in the aggregate, own 50 percent of the interests in PRS. Because these interests in PRS do not meet requirements equivalent to section 368(c), the T stock owned by PRS is not treated as owned by members of the qualified group under paragraph (d)(4)(iii)(D) of this section. P is not treated as holding all of the businesses and assets of T because T has ceased to be a member of the qualified group (as defined in paragraph (d)(4)(ii) of this section). The COBE requirement of paragraph (d)(1) of this section is not satisfied because P is not treated as continuing T's business or using T's historic business assets in a business.

* * * * *

■ **Par. 3.** Section 1.368–2 is amended by:

■ 1. Adding three sentences at the end of paragraph (f).

■ 2. Revising paragraphs (j)(3)(ii) and (iv).

■ 3. Removing the first sentence of paragraph (j)(3)(iii) and adding two new sentences at the beginning of the paragraph.

■ 4. Revising paragraph (k).

The additions and the revisions read as follows:

§ 1.368–2 Definition of terms.

* * * * *

(f) * * * If a transaction otherwise qualifies as a reorganization under section 368(a)(1)(B) or as a reverse triangular merger (as defined in § 1.358–6(b)(2)(iii)), the target corporation (in the case of a transaction that otherwise qualifies as a reorganization under section 368(a)(1)(B)) or the surviving corporation (in the case of a transaction that otherwise qualifies as a reverse triangular merger) remains a party to the reorganization even though its stock or assets are transferred in a transaction described in paragraph (k) of this section. If a transaction otherwise qualifies as a forward triangular merger (as defined in § 1.358–6(b)(2)(i)), a triangular B reorganization (as defined in § 1.358–6(b)(2)(iv)), a triangular C reorganization (as defined in § 1.358–6(b)(2)(ii)), or a reorganization under section 368(a)(1)(G) by reason of section 368(a)(2)(D), the acquiring corporation remains a party to the reorganization even though its stock is transferred in a transaction described in paragraph (k) of this section. The two preceding sentences apply to transactions occurring on or after October 25, 2007, except that they do not apply to any transaction occurring pursuant to a written agreement which is binding before October 25, 2007, and at all times after that.

* * * * *

(j) * * *

(3) * * *

(ii) Except as provided in paragraph (k) of this section, the controlling corporation must control the surviving corporation immediately after the transaction.

(iii) After the transaction, the surviving corporation must hold substantially all of its own properties and substantially all of the properties of the merged corporation (other than stock of the controlling corporation distributed in the transaction). The surviving corporation may transfer such properties as provided in paragraph (k) of this section. * * *

(iv) Paragraph (j)(3)(ii) and the first two sentences of paragraph (j)(3)(iii) of this section apply to transactions occurring on or after October 25, 2007, except that they do not apply to any transaction occurring pursuant to a written agreement which is binding before October 25, 2007, and at all times thereafter. The remainder of paragraph (j)(3)(iii) of this section applies to transactions occurring after January 28,

1998, except that it does not apply to any transaction occurring pursuant to a written agreement which is binding on January 28, 1998, and at all times after that.

* * * * *

(k) *Certain transfers of assets or stock in reorganizations*—(1) *General rule.* A transaction otherwise qualifying as a reorganization under section 368(a) shall not be disqualified or recharacterized as a result of one or more subsequent transfers (or successive transfers) of assets or stock, provided that the requirements of § 1.368–1(d) are satisfied and the transfer(s) are described in either paragraph (k)(1)(i) or (k)(1)(ii) of this section.

(i) *Distributions.* One or more distributions to shareholders (including distribution(s) that involve the assumption of liabilities) are described in this paragraph (k)(1)(i) if—

(A) The property distributed consists of—

(*1*) Assets of the acquired corporation, the acquiring corporation, or the surviving corporation, as the case may be, or an interest in an entity received in exchange for such assets in a transfer described in paragraph (k)(1)(ii) of this section;

(*2*) Stock of the acquired corporation provided that such distribution(s) of stock do not cause the acquired corporation to cease to be a member of the qualified group (as defined in § 1.368–1(d)(4)(ii)); or

(*3*) A combination thereof; and

(B) The aggregate of such distributions does not consist of—

(*1*) An amount of assets of the acquired corporation, the acquiring corporation (disregarding assets held prior to the potential reorganization), or the surviving corporation (disregarding assets of the merged corporation), as the case may be, that would result in a liquidation of such corporation for Federal income tax purposes; or

(*2*) All of the stock of the acquired corporation that was acquired in the transaction.

(ii) *Other Transfers.* One or more other transfers are described in this paragraph (k)(1)(ii) if—

(A) The transfer(s) are not described in paragraph (k)(1)(i) of this section;

(B) The property transferred consists of—

(*1*) Part or all of the assets of the acquired corporation, the acquiring corporation, or the surviving corporation, as the case may be;

(*2*) Part or all of the stock of the acquired corporation, the acquiring corporation, or the surviving corporation, as the case may be, provided that such transfer(s) of stock do not cause such corporation to cease to be a member of the qualified group (as defined in § 1.368–1(d)(4)(ii)); or

(*3*) A combination thereof; and

(C) The acquired corporation, the acquiring corporation, or the surviving corporation, as the case may be, does not terminate its corporate existence in connection with the transfer(s).

(2) *Examples.* The following examples illustrate the application of this paragraph (k). Except as otherwise noted, P is the issuing corporation, and T is an unrelated target corporation. All corporations have only one class of stock outstanding. T operates a bakery that supplies delectable pastries and cookies to local retail stores. The acquiring corporate group produces a variety of baked goods for nationwide distribution. Except as otherwise noted, P owns all of the stock of S–1 and 80 percent of the stock of S–4, S–1 owns 80 percent of the stock of S–2 and 50 percent of the stock of S–5, S–2 owns 80 percent of the stock of S–3, and S–4 owns the remaining 50 percent of the stock of S–5. The examples are as follows:

Example 1. Transfers of acquired assets to members of the qualified group after a reorganization under section 368(a)(1)(C). (i) *Facts.* Pursuant to a plan of reorganization, T transfers all of its assets to S–1 solely in exchange for P stock, which T distributes to its shareholders, and S–1's assumption of T's liabilities. In addition, pursuant to the plan, S–1 transfers all of the T assets to S–2, and S–2 transfers all of the T assets to S–3.

(ii) *Analysis.* Under this paragraph (k), the transaction, which otherwise qualifies as a reorganization under section 368(a)(1)(C), is not disqualified by the successive transfers of all of the T assets to S–2 and from S–2 to S–3 because the transfers are not distributions described in paragraph (k)(1)(i) of this section, the transfers consist of part or all of the assets of the acquiring corporation, the acquiring corporation does not terminate its corporate existence in connection with the transfers, and the transaction satisfies the requirements of § 1.368–1(d).

Example 2. Distribution of acquired assets to a member of the qualified group after a reorganization under section 368(a)(1)(C). (i) *Facts.* Pursuant to a plan of reorganization, T transfers all of its assets to S–1 solely in exchange for P stock, which T distributes to its shareholders, and S–1's assumption of T's liabilities. In addition, pursuant to the plan, S–1 distributes half of the T assets to P, and P assumes half of the T liabilities.

(ii) *Analysis.* Under this paragraph (k), the transaction, which otherwise qualifies as a reorganization under section 368(a)(1)(C), is not disqualified by the distribution of half of the T assets from S–1 to P, or P's assumption of half of the T liabilities from S–1, because the distribution consists of assets of the acquiring corporation, the distribution does not consist of an amount of S–1's assets that would result in a liquidation of S–1 for Federal income tax purposes (disregarding S–1's assets held prior to the acquisition of T), and the transaction satisfies the requirements of § 1.368–1(d).

Example 3. Indirect distribution of acquired assets to a member of the qualified group after a reorganization under section 368(a)(1)(C). (i) *Facts.* The facts are the same as *Example 2,* except that, pursuant to the plan, S–1 contributes half of the T assets to newly formed S–6, S–6 assumes half of the T liabilities, and S–1 distributes all of the S–6 stock to P.

(ii) *Analysis.* Under this paragraph (k), the transaction, which otherwise qualifies as a reorganization under section 368(a)(1)(C), is not disqualified by the transfer of half of the T assets to S–6 and the distribution of the S–6 stock to P because the transfer of half of the T assets to S–6 is described in paragraph (k)(1)(ii) of this section, the distribution of the S–6 stock to P is an indirect distribution of assets of the acquiring corporation, the distribution does not consist of an amount of S–1's assets that would result in a liquidation of S–1 for Federal income tax purposes (disregarding S–1's assets held prior to the acquisition of T), and the transaction satisfies the requirements of § 1.368–1(d).

Example 4. Distribution of acquired stock to a controlled partnership after a reorganization under section 368(a)(1)(B). (i) *Facts.* P owns 80 percent of the stock of S–1, and an 80-percent interest in PRS, a partnership. S–4 owns the remaining 20 percent interest in PRS. PRS owns the remaining 20 percent of the stock of S–1. Pursuant to a plan of reorganization, the T shareholders transfer all of their T stock to S–1 solely in exchange for P stock. In addition, pursuant to the plan, S–1 distributes 90 percent of the T stock to PRS in redemption of 5 percent of the stock of S–1 owned by PRS.

(ii) *Analysis.* Under this paragraph (k), the transaction, which otherwise qualifies as a reorganization under section 368(a)(1)(B), is not disqualified by the distribution of 90 percent of the T stock from S–1 to PRS because the distribution consists of less than all of the stock of the acquired corporation that was acquired in the transaction, the distribution does not cause T to cease to be a member of the qualified group (as defined in § 1.368–1(d)(4)(ii)), and the transaction satisfies the requirements of § 1.368–1(d).

Example 5. Transfer of acquired stock to a non-controlled partnership. (i) *Facts.* Pursuant to a plan, the T shareholders transfer all of their T stock to S–1 solely in exchange for P stock. In addition, as part of the plan, T distributes half of its assets to S–1, S–1 assumes half of the T liabilities, and S–1 transfers the T stock to S–2. S–2 and U, an unrelated corporation, form a new partnership, PRS. Immediately thereafter, S–2 transfers all of the T stock to PRS in exchange for a 50 percent interest in PRS, and U transfers cash to PRS in exchange for a 50 percent interest in PRS.

(ii) *Analysis.* Under this paragraph (k), the transaction, which otherwise qualifies as a reorganization under section 368(a)(1)(B), is not disqualified by the distribution of half of the T assets from T to S–1, or S–1's assumption of half of the T liabilities from T,

because the distribution consists of assets of the acquired corporation, the distribution does not consist of an amount of T's assets that would result in a liquidation of T for Federal income tax purposes, and the transaction satisfies the requirements of § 1.368–1(d). Further, this paragraph (k) describes the transfer of the acquired stock from S–1 to S–2, but does not describe the transfer of the acquired stock from S–2 to PRS because such transfer causes T to cease to be a member of the qualified group (as defined in § 1.368–1(d)(4)(ii)). Therefore, the characterization of this transaction must be determined under the relevant provisions of law, including the step transaction doctrine. See § 1.368–1(a). The transaction fails to meet the control requirement of a reorganization described in section 368(a)(1)(B) because immediately after the acquisition of the T stock, the acquiring corporation does not have control of T.

Example 6. Transfers of acquired assets to members of the qualified group after a reorganization under section 368(a)(1)(D). (i) *Facts.* P owns all of the stock of T. Pursuant to a plan of reorganization, T transfers all of its assets to S–1 solely in exchange for S–1 stock, which T distributes to P, and S–1's assumption of T's liabilities. In addition, pursuant to the plan, S–1 transfers all of the T assets to S–2, and S–2 transfers all of the T assets to S–3.

(ii) *Analysis.* Under this paragraph (k), the transaction, which otherwise qualifies as a reorganization under section 368(a)(1)(D), is not disqualified by the successive transfers of all the T assets from S–1 to S–2 and from S–2 to S–3 because the transfers are not distributions described in paragraph (k)(1)(i) of this section, the transfers consist of part or all of the assets of the acquiring corporation, the acquiring corporation does not terminate its corporate existence in connection with the transfers, and the transaction satisfies the requirements of § 1.368–1(d).

Example 7. Transfer of stock of the acquiring corporation to a member of the qualified group after a reorganization under section 368(a)(1)(A) by reason of section 368(a)(2)(D). (i) *Facts.* Pursuant to a plan of reorganization, S–1 acquires all of the T assets in the merger of T into S–1. In the merger, the T shareholders receive solely P stock. Also, pursuant to the plan, P transfers all of the S–1 stock to S–4.

(ii) *Analysis.* Under this paragraph (k), the transaction, which otherwise qualifies as a reorganization under section 368(a)(1)(A) by reason of section 368(a)(2)(D), is not disqualified by the transfer of all of the S–1 stock to S–4 because the transfer is not a distribution described in paragraph (k)(1)(i) of this section, the transfer consists of part or all of the stock of the acquiring corporation, the transfer does not cause S–1 to cease to be a member of the qualified group (as defined in § 1.368–1(d)(4)(ii)), the acquiring corporation does not terminate its corporate existence in connection with the transfer, and the transaction satisfies the requirements of § 1.368–1(d).

Example 8. Transfer of acquired assets to a partnership after a reorganization under section 368(a)(1)(A) by reason of section 368(a)(2)(D). (i) *Facts.* Pursuant to a plan of reorganization, S–1 acquires all of the T assets in the merger of T into S–1. In the merger, the T shareholders receive solely P stock. In addition, pursuant to the plan, S–1 transfers all of the T assets to PRS, a partnership in which S–1 owns a 33⅓-percent interest. PRS continues T's historic business. S–1 does not perform active and substantial management functions as a partner with respect to PRS's business.

(ii) *Analysis.* Under this paragraph (k), the transaction, which otherwise qualifies as a reorganization under section 368(a)(1)(A) by reason of section 368(a)(2)(D), is not disqualified by the transfer of T assets from S–1 to PRS because the transfer is not a distribution described in paragraph (k)(1)(i) of this section, the transfer consists of part or all of the assets of the acquiring corporation, the acquiring corporation does not terminate its corporate existence in connection with the transfers, and the transaction satisfies the requirements of § 1.368–1(d).

Example 9. Sale of acquired assets to a member of the qualified group after a reorganization under section 368(a)(1)(C). (i) *Facts.* Pursuant to a plan of reorganization, T transfers all of its assets to S–1 in exchange for P stock, which T distributes to its shareholders, and S–1's assumption of T's liabilities. In addition, pursuant to the plan, S–1 sells all of the T assets to S–5 for cash equal to the fair market value of those assets.

(ii) *Analysis.* Under this paragraph (k), the transaction, which otherwise qualifies as a reorganization under section 368(a)(1)(C), is not disqualified by the sale of all of the T assets from S–1 to S–5 because the transfer is not a distribution described in paragraph (k)(1)(i) of this section, the transfer consists of part or all of the assets of the acquiring corporation, the acquiring corporation does not terminate its corporate existence in connection with the transfers, and the transaction satisfies the requirements of § 1.368–1(d).

(3) *Effective/applicability date.* This paragraph (k) applies to transactions occurring on or after October 25, 2007, except that it does not apply to any transaction occurring pursuant to a written agreement which is binding before October 25, 2007, and at all times after that.

Kevin M. Brown,

Deputy Commissioner for Services and Enforcement.

Approved: October 16, 2007.

Eric Solomon,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. E7–20863 Filed 10–24–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. CGD05–07–098]

Special Local Regulations for Marine Events; Approaches to Annapolis Harbor, Spa Creek and Severn River, Annapolis, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce special local regulations during the Eastport Yacht Club Lights Parade on the waters of Spa Creek, Annapolis Harbor and the Severn River at Annapolis, Maryland; from 4:30 p.m. to 9 p.m., December 8, 2007. This action is necessary to control vessel traffic due to the confined nature of the waterway and expected vessel congestion during the event. During the enforcement period, the effect will be to restrict general navigation in the regulated area for the safety of event participants, spectators and vessels transiting the event area.

DATES: The regulations in 33 CFR 100.511 will be enforced from 4:30 p.m. to 9 p.m. on December 8, 2007.

FOR FURTHER INFORMATION CONTACT: Ronald Houck, Marine Events Coordinator, Commander, Coast Guard Sector Baltimore, 2401 Hawkins Point Road, Baltimore, MD 21226–1971, and (410) 576–2674.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the special local regulations for the Eastport Yacht Club lighted boat parade on the waters of Spa Creek and the Severn River at Annapolis, Maryland in 33 CFR 100.511 on December 8, 2007 from 4:30 p.m. until 9 p.m. These regulations can be found in the May 24, 1989 issue of the **Federal Register** (54 FR 22438).

The Eastport Yacht Club will sponsor a lighted boat parade on the waters of Spa Creek and the Severn River at Annapolis, Maryland. The event will consist of approximately 50 boats traveling at slow speed along two separate parade routes in Annapolis Harbor. The participating boats will range in length from 10 to 60 feet, and each will be decorated with holiday lights.

In order to ensure the safety of participants, spectators and transiting vessels, 33 CFR 100.511 will be in effect for the duration of the event. Under provisions of 33 CFR 100.511, vessels may not enter the regulated area without

permission from the Coast Guard Patrol Commander. Spectator vessels may anchor outside the regulated area but may not block a navigable channel. Because these restrictions will be in effect for a limited period, they should not result in a significant disruption of maritime traffic. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

This notice is issued under authority of 33 CFR 100.511 and 5 U.S.C. 552(a). In addition to this notice, the maritime community will be provided extensive advance notification via the Local Notice to Mariners, marine information broadcasts, local radio stations and area newspapers, so mariners can adjust their plans accordingly. If the Captain of the Port or Patrol Commander determines that the regulated area need not be enforced for the full duration stated in this notice, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: October 15, 2007.

Fred M. Rosa, Jr.,

Rear Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. E7–20976 Filed 10–24–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. COTP Western Alaska–07–003]

RIN 1625–AA00

Safety Zone; Gulf of Alaska, Narrow Cape, Kodiak Island, AK

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the Gulf of Alaska, encompassing the navigable waters in the vicinity of Narrow Cape and Ugak Island. The zone is needed to protect persons and vessels operating in the vicinity of the safety zone during a rocket launch from the Alaska Aerospace Development Corporation, Narrow Cape, Kodiak Island facility. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Commander, Seventeenth Coast Guard District, the Coast Guard Captain of the Port, Western Alaska, or their on-scene representative. The intended effect of this safety zone is to ensure the safety of human life and property during the rocket launch.

DATES: This temporary final rule is effective from 12 p.m. through 4 p.m. September 28, 2007 through October 31, 2007. The safety zones will be enforced each of these days from 12 p.m. through 4 p.m.

ADDRESSES: Documents indicated in this preamble as being available in the docket are available for inspection and copying at Coast Guard Marine Safety Detachment Kodiak, Kodiak, AK 99619. Normal Office hours are 7:30 a.m. to 4 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Patrick Lee, Marine Safety Detachment, at (907) 486–5918.

SUPPLEMENTARY INFORMATION:

Regulatory History

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(8), the Coast Guard finds that good cause exists for not publishing an NPRM. Because the hazardous condition is expected to last for approximately four (4) hours of each day, and because general permission to enter the safety zone will be given during non-hazardous times, the impact of this rule on commercial and recreational traffic is expected to be minimal. Any delay encountered in this regulation's effective date would be contrary to public interest because immediate action is needed to protect human life and property from possible fallout from the rocket launch. The parameters of the zone will not unduly impair business and transits of vessels. The Coast Guard will announce via Broadcast Notice to Mariners the anticipated date and time of each launch and will grant general permission to enter the safety zone during those times in which the launch does not pose a hazard to mariners.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The process of scheduling a rocket launch is uncertain due to unforeseen delays such as weather that can cause cancellation of the launch. The Coast Guard attempts to publish a final rule as close to the expected launch date as possible; however, these attempts often prove futile due to frequent and unexpected re-scheduling. Any delay encountered in this regulation's effective date would be unnecessary and contrary to public interest since immediate action is needed to protect human life and property from possible fallout from the rocket launch. The parameters of the zone will not unduly impair business and transits of vessels. The Coast Guard will announce via Broadcast Notice to Mariners the anticipated date and time of each launch and will grant general permission to enter the safety zone during those times in which the launch does not pose a hazard to mariners.

Background and Purpose

The Alaska Aerospace Development Corporation will launch an unmanned rocket from their facility at Narrow Cape, Kodiak Island, Alaska sometime between 12 p.m. and 4 p.m. during a five-day period between September 28, 2007 and October 31, 2007. The safety zone is necessary to protect spectators and transiting vessels from the potential hazards associated with the launch. The duration of the safety zone period will allow time for proper surveillance to be conducted to ensure the public is clear of the hazard area prior to and immediately following the rocket launch. The Captain of the Port, Western Alaska will terminate the safety zone after rocket launch operations are complete.

The Coast Guard will announce via Broadcast Notice to Mariners the anticipated date and time of the launch and will grant general permission to enter the safety zone during those times in which a launch schedule does not pose a hazard to mariners. Because the hazardous situation is expected to last for approximately four (4) hours each day during the five-day launch window period, and because general permission to enter the safety zone will be given during non-hazardous times, the impact of this rule on commercial and recreational traffic is expected to be minimal.

Discussion of Rule

From the latest information received from the Alaska Aerospace Development Corporation, the launch window is scheduled for four (4) hours during a five-day period between September 28, 2007 and October 31, 2007. The size and duration of the safety zone has been set to protect the public from potential hazards associated with the launch. The Pacific Range Support Team has identified a launch area exclusion zone from the area north of Narrow Cape to a point south of Ugak Island along the launch trajectory. The COTP will enforce a single safety zone in support of their exclusion zone. The established safety zone includes the navigable waters in the vicinity of Narrow Cape and Ugak Island, within the boundaries defined by a line drawn from a point located at 57°29.8′ North,

152° 17.0′ West, then southeast to a point located at 57° 21.1′ North, 152° 11.2′ West, then southwest to a point located at 57° 19.9′ North, 152° 14.2′ West, and then northwest to a point located at 57° 25.4′ North, 152° 28.2′ West, and then northeast to the point located at 57°29.8′ North, 152° 17.0′ West. All coordinates reference Datum: NAD 1983.

This safety zone is necessary to protect transiting vessels from the potential hazards associated with the Rocket launch. The Coast Guard will announce via Broadcast Notice to Mariners the anticipated date and time of the launch and will grant general permission to enter the safety zone during those times in which the launch does not pose a hazard to mariners.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential cost and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Homeland Security (DHS) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DHS is unnecessary. Because the hazardous situation is expected to last for approximately four (4) hours each day during the five-day launch window period, and because general permission to enter the safety zone will be given during non-hazardous times, the impact of this rule on commercial traffic should be minimal. Before the effective period, we will issue maritime advisories widely available to users of the affected portion of the Gulf of Alaska. We believe there will be minimal economic impact on commercial traffic.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601—612), we have considered whether this rule would have significant economic impacts 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 less than 50,000.

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

This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit, anchor, or fish in a portion of the Gulf of Alaska from north of Narrow Cape to South of Ugak Island from 12 p.m. to 4 p.m. each day from September 28, 2007 until October 31, 2007 until rocket launch operations are complete. Because the hazardous situation is expected to last for approximately four (4) hours of each day during the five-day launch window period, and because general permission to enter the safety zone will be given during non-hazardous times, the impact of this rule on commercial and recreational traffic should be minimal. Before the effective period, we will issue maritime advisories widely available to users of the affected portion of the Gulf of Alaska. We believe there will be minimal impact to small entities.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a ''tribal implication'' under the order.

Energy Effects

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

Technical Standards

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

procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(g) of the Instruction, from further environmental documentation because this rule establishes a safety zone. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' will be available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—[AMENDED]

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

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

■ 2. From September 28, 2007 to October 31, 2007 add temporary § 165.T17–072 to read as follows:

§ 165.T17–072 Alaska Aerospace Development Corporation, Safety Zone; Gulf of Alaska, Narrow Cape, Kodiak Island, AK.

(a) *Description.* The established safety zone includes the navigable waters in the vicinity of Narrow Cape and Ugak Island, within the boundaries defined by a line drawn from a point located at 57°29.8′ North, 152°17.0′ West, then southeast to a point located at 57°21.1′ North, 152°11.2′ West, then southwest to a point located at 57°19.9′ North, 152°14.2′ West, and then northwest to a point located at 57°25.4′ North, 152°28.2′ West, and then northeast to the point located at 57°29.8′ North, 152°17.0′ West. All coordinates reference Datum: NAD 1983.

(b) *Enforcement periods.* The safety zones in this section will be enforced from 12 p.m. to 4 p.m. during each day of a five-day launch window period from September 28, 2007 to October 31, 2007.

(c) *Regulations.* (1) The Duty Officer at Marine Safety Detachment, Kodiak, Alaska can be contacted at telephone number (907) 486–5918 or (907) 539–5841.

(2) The Captain of the Port may authorize and designate any Coast Guard commissioned, warrant, or petty officer to act on his behalf in enforcing the safety zone.

(3) The general regulations governing safety zones contained in § 165.23 apply. No person or vessel may enter or remain in this safety zone without first obtaining permission from the Captain of the Port or his on-scene representative. The Captain of the Port, Western Alaska, on-scene representative may be contacted at Marine Safety Detachment Kodiak.

Dated: September 28, 2007.

M.R. Devries,

Captain, U.S. Coast Guard, Captain of the Port, Western Alaska.

[FR Doc. E7–20978 Filed 10–24–07; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60, 61, and 63

[FRL–8487–5]

Delegation of Authority to the States of Iowa, Kansas, Missouri, and Nebraska for New Source Performance Standards (NSPS); National Emission Standards for Hazardous Air Pollutants (NESHAP); and Maximum Achievable Control Technology (MACT) Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation of authority.

SUMMARY: The states of Iowa, Kansas, Missouri, and Nebraska have submitted updated regulations for delegation of EPA authority for implementation and enforcement of NSPS, NESHAP, and MACT standards. The submissions cover new EPA standards and, in some instances, revisions to standards previously delegated. EPA's review of the pertinent regulations shows that they contain adequate and effective procedures for the implementation and enforcement of these Federal standards. This action informs the public of delegations to the above-mentioned agencies.

DATES: This notice is effective on October 25, 2007. The dates of delegation can be found in the **SUPPLEMENTARY INFORMATION** section of this document.

ADDRESSES: Copies of documents relative to this action are available for public inspection during normal business hours at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

Effective immediately, all notifications, applications, reports, and other correspondence required pursuant to the newly delegated standards and revisions identified in this document must be submitted with respect to sources located in the jurisdictions identified in this document, to the following addresses:

Iowa Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Urbandale, Iowa 50322.

Kansas Department of Health and the Environment, Bureau of Air and Radiation, 1000 SW Jackson St., Ste. 310, Topeka, Kansas 66612–1367.

Missouri Department of Natural Resources, Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102–0176.

Nebraska Department of Environmental Quality, Air Quality Division, 1200 ''N'' Street, Suite 400, PO Box 98922, Lincoln, NE 68509.

Duplicates of required documents must also continue to be submitted to the EPA Regional Office at the above address.

FOR FURTHER INFORMATION CONTACT: Heather Hamilton at (913) 551–7039, or by e-mail at *hamilton.heather@epa.gov*.

SUPPLEMENTARY INFORMATION: The supplementary information is organized in the following order:

What does this action do?
What is the authority for delegation?
What does delegation accomplish?
What has been delegated?
What has not been delegated?

List of Delegation Tables

Table I—NSPS, 40 CFR Part 60
Table II—NESHAP, 40 CFR Part 61
Table III—NESHAP, 40 CFR Part 63

What does this action do?

The EPA is providing notice of an update to its delegable authority for

implementation and enforcement of the Federal standards shown in the tables below to the states of Iowa, Kansas, Missouri, and Nebraska. This action updates the delegation tables previously published at 72 FR 1937 (January 17, 2007). The EPA has established procedures by which these agencies are automatically delegated the authority to implement the standards when they adopt regulations which are identical to the Federal standards. We then periodically provide notice of the new and revised standards for which delegation has been given. This notice does not affect or alter the status of the listed standards under state or Federal law.

What is the authority for delegation?

1. Section 111(c)(1) of the Clean Air Act (CAA) authorizes EPA to delegate authority to any state agency which submits adequate regulatory procedures for implementation and enforcement of the NSPS program. The NSPS are codified at 40 CFR part 60.

2. Section 112(l) of the CAA and 40 CFR part 63, subpart E, authorizes the EPA to delegate authority to any state or local agency which submits adequate regulatory procedures for implementation and enforcement of emission standards for hazardous air pollutants. The hazardous air pollutant standards are codified at 40 CFR parts 61 and 63, respectively.

What does delegation accomplish?

Delegation confers primary responsibility for implementation and enforcement of the listed standards to the respective state and local air agencies. However, EPA also retains the concurrent authority to enforce the standards.

What has been delegated?

Tables I, II, and III below list the delegated standards. Each item listed in the Subpart column has two relevant dates listed in each column for each state. The first date in each block is the reference date to the CFR contained in the state rule. In general, the state or local agency has adopted the applicable standard through the date as noted in the table. The second date is the most recent effective date of the state agency rule for which the EPA has granted the delegation. This notice specifically addresses revisions to the columns for Iowa, Kansas, Missouri, and Nebraska.

What has not been delegated?

1. The EPA regulations effective after the first date specified in each block have not been delegated, and authority for implementation of these regulations is retained solely by EPA.

2. In some cases, the standards themselves specify that specific provisions cannot be delegated. In such cases, a specific section of the standard details what authorities can and cannot be delegated. You should review the applicable standard in the CFR for this information.

3. In some cases, the state rules do not adopt the Federal standard in its entirety. Each state rule (available from the respective agency) should be consulted for specific information.

4. In some cases, existing delegation agreements between the EPA and the agencies limit the scope of the delegated standards. Copies of delegation agreements are available from the state agencies, or from this office.

5. With respect to 40 CFR part 63, subpart A, General Provisions (see Table III), the EPA has determined that sections 63.6(g), 63.6(h)(9), 63.7(e)(2)(ii) and (f), 63.8(f), and 63.10(f) cannot be delegated. Additional information is contained in an EPA memorandum titled ''Delegation of 40 CFR Part 63 General Provisions Authorities to State and Local Air Pollution Control Agencies'' from John Seitz, Director, Office of Air Quality Planning and Standards, dated July 10, 1998.

List of Delegation Tables

TABLE I.—DELEGATION OF AUTHORITY (PART 60 NSPS—REGION 7

Subpart	Source category	State of Iowa	State of Kansas	State of Missouri	State of Nebraska
A	General Provisions	09/21/06 04/04/07	07/01/05 06/15/07	06/30/03 11/30/05	07/01/03 12/14/04
B	Adoption and Submittal of State Plans for Designated Facilities	09/21/06 04/04/07			
D	Fossil-Fuel Fired Steam Generators for Which Construction is Commenced After August 17, 1971.	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
Da	Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978.	09/21/06 04/04/07	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
Db	Industrial-Commercial-Institutional Steam Generating Units	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	02/27/06 12/13/06
Dc	Small Industrial-Commercial-Institutional Steam Generating Units	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	02/27/06 12/13/06
E	Incinerators	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
Ea	Municipal Waste Combustors for Which Construction is Commenced After December 20, 1989, and on or before September 20 1994.	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
Eb	Large Municipal Waste Combustors for Which Construction is Commenced after September 20, 1994, or for Which Modification or Reconstruction is Commenced After June 19, 1996.	09/21/06 04/04/07	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
Ec	Hospital/Medical/Infectious Waste Incinerators for Which Construction Commenced after June 20, 1996.	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
F	Portland Cement Plants	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
G	Nitric Acid Plants	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
H	Sulfuric Acid Plants	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
I	Hot Mix Asphalt Facilities	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
J	Petroleum Refineries	09/21/06 04/04/07	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04

TABLE I.—DELEGATION OF AUTHORITY (PART 60 NSPS—REGION 7—Continued

Subpart	Source category	State of Iowa	State of Kansas	State of Missouri	State of Nebraska
K	Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978.	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
Ka	Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984.	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
Kb	Volatile Organic Liquid Storage Vessels (including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984.	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	10/15/03 12/14/04
L	Secondary Lead Smelters	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
M	Secondary Brass and Bronze Production Plants	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
N	Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973.	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
Na	Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983.	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
O	Sewage Treatment Plants	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
P	Primary Copper Smelters	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
Q	Primary Zinc Smelters	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
R	Primary Lead Smelters	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
S	Primary Aluminum Reduction Plants	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
T	Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
U	Phosphate Fertilizer Industry: Superphosphoric Acid Plants	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
V	Phosphate Fertilizer Industry: Diammonium Phosphate Plants	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
W	Phosphate Fertilizer Industry: Triple Superphosphate Plants	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
X	Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
Y	Coal Preparation Plants	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
Z	Ferroalloy Production Facilities	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
AA	Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and on or Before August 17, 1983.	02/22/05 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
AAa	Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983.	02/22/05 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
BB	Kraft Pulp Mills	09/21/06 04/04/07	07/01/05 06/15/07	06/30/05 08/30/07	
CC	Glass Manufacturing Plants	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
DD	Grain Elevators	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
EE	Surface Coating of Metal Furniture	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
GG	Stationary Gas Turbines	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/08/04 05/07/05
HH	Lime Manufacturing Plants	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
KK	Lead-Acid Battery Manufacturing Plants	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
LL	Metallic Mineral Processing Plants	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
MM	Automobile and Light Duty Truck Surface Coating Operations	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
NN	Phosphate Rock Plants	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
PP	Ammonium Sulfate Manufacture	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
QQ	Graphic Arts Industry: Publication Rotogravure Printing	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
RR	Pressure Sensitive Tape and Label Surface Coating Operations	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04

TABLE I.—DELEGATION OF AUTHORITY (PART 60 NSPS—REGION 7—Continued

Subpart	Source category	State of Iowa	State of Kansas	State of Missouri	State of Nebraska
SS	Industrial Surface Coating: Large Appliances	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
TT	Metal Coil Surface Coating	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
UU	Asphalt Processing and Asphalt Roofing Manufacture	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
VV	Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry.	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
WW	Beverage Can Surface Coating Industry	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
XX	Bulk Gasoline Terminals	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
AAA	New Residential Wood Heaters	12/19/03 12/15/04	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
BBB	Rubber Tire Manufacturing Industry	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
DDD	Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry.	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
FFF	Flexible Vinyl and Urethane Coating and Printing	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
GGG	Equipment Leaks of VOC in Petroleum Refineries	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
HHH	Synthetic Fiber Production Facilities	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
III	Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) AIR Oxidation Unit Processes.	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
JJJ	Petroleum Dry Cleaners	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
KKK	Equipment Leaks of VOC from Onshore Natural Gas Processing Plants.	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
LLL	Onshore Natural Gas Processing: SO_2 Emissions	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
NNN	Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
OOO	Nonmetallic Mineral Processing Plants	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
PPP	Wool Fiberglass Insulation Manufacturing Plants	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
QQQ	VOC Emissions from Petroleum Refinery Wastewater Systems	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
RRR	Volatile Organic Compound Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
SSS	Magnetic Tape Coating Facilities	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
TTT	Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
UUU	Calciners and Dryers in Mineral Industries	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
VVV	Polymeric Coating of Supporting Substrates Facilities	02/27/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
WWW	Municipal Solid Waste Landfills	09/21/06 04/04/07	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
AAAA	Small Municipal Waste Combustion Units for Which Construction is Commenced After August 30, 1999 or for Which Modification or Reconstruction is Commenced After June 6, 2001.	09/21/06 04/04/07	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04
CCCC	Commercial and Industrial Solid Waste Incineration Units for Which Construction is Commenced After November 30, 1999 or for Which Modification or Reconstruction is Commenced on or After June 1, 2001.	02/27/06 08/23/06	07/01/03 12/03/04	06/30/03 11/30/05	07/01/03 12/14/04
DDDD	Commercial and Industrial Solid Waste Incineration Units that Commenced Construction On or Before November 30, 1999.			07/01/03 12/14/04	07/01/03 12/14/04
EEEE	Other Solid Waste Incineration Units for Which Construction Commenced After December 9, 2004 or Modification or Reconstruction Commenced On or After June 16, 2006.	12/16/05 08/23/06			
FFFF	Other Solid Waste Incineration Units that Commenced Construction On or Before December 9, 2004.				
IIII	Stationary Compression Ignition Internal Combustion Engines	09/21/06 04/04/07			

TABLE I.—DELEGATION OF AUTHORITY (PART 60 NSPS—REGION 7—Continued

Subpart	Source category	State of Iowa	State of Kansas	State of Missouri	State of Nebraska
KKKK	Stationary Combustion Turbines	09/21/06 04/04/07			

TABLE II.—DELEGATION OF AUTHORITY—PART 61 NESHAP—REGION 7

Subpart	Source category	State of Iowa	State of Kansas	State of Missouri	State of Nebraska	Lincoln-Lancaster County	City of Omaha
A	General Provisions	12/11/03 12/15/04	07/01/05 06/15/07	06/30/03 11/30/05	07/01/01 07/10/02	07/01/92 07/31/01	07/01/01 04/18/03
B	Radon Emissions from Underground Uranium Mines.	....	07/01/05 06/15/07				
C	Beryllium	12/11/03 12/15/04	07/01/05 06/15/07	06/30/05 08/30/07	07/01/01 07/10/02	07/01/92 07/31/01	07/01/01 04/18/03
D	Beryllium Rocket Motor Firing	12/11/03 12/15/04	07/01/05 06/15/07	06/30/05 08/30/07	07/01/01 07/10/02	07/01/92 07/31/01	07/01/01 04/18/03
E	Mercury	12/11/03 12/15/04	07/01/05 06/15/07	06/30/05 08/30/07	07/01/01 07/10/02	07/01/92 07/31/01	07/01/01 04/18/03
F	Vinyl Chloride	12/11/03 12/15/04	07/01/05 06/15/07	06/30/05 08/30/07	07/01/01 07/10/02	07/01/92 07/31/01	07/01/01 04/18/03
J	Equipment Leaks (Fugitive Emission Sources) of Benzene.	12/11/03 12/15/04	07/01/05 06/15/07	06/30/05 08/30/07	07/01/01 07/10/02	07/01/92 07/31/01	07/01/01 04/18/03
L	Benzene Emissions from Coke By-Product Recovery Plants.	12/11/03 12/15/04	07/01/05 06/15/07	06/30/05 08/30/07	07/01/01 07/10/02	07/01/92 07/31/01	07/01/01 04/18/03
M	Asbestos	12/11/03 12/15/04	07/01/05 06/15/07	06/30/05 08/30/07	07/01/01 07/10/02	07/01/92 07/31/01	07/01/01 04/18/03
N	Inorganic Arsenic Emissions from Glass Manufacturing Plants.	12/11/03 12/15/04	07/01/05 06/15/07	06/30/05 08/30/07	07/01/01 07/10/02	07/01/92 07/31/01	07/01/01 04/18/03
O	Inorganic Arsenic Emissions From Primary Copper Smelters.	12/11/03 12/15/04	07/01/05 06/15/07	06/30/05 08/30/07	07/01/01 07/10/02	07/01/92 07/31/01	07/01/01 04/18/03
P	Inorganic Arsenic Emissions From Arsenic Trioxide and Metallic Arsenic Production Facilities.	12/11/03 12/15/04	07/01/05 06/15/07	06/30/05 08/30/07	07/01/01 07/10/02	07/01/92 07/31/01	07/01/01 04/18/03
Q	Radon Emissions From Department of Energy Facilities.	....	07/01/05 06/15/07				
R	Radon Emissions From Phosphogypsum Stacks.	....	07/01/05 06/15/07				
T	Radon Emissions From the Disposal of Uranium Mill Tailings.	....	07/01/05 06/15/07				
V	Equipment Leaks (Fugitive Emission Sources).	12/11/03 12/15/04	07/01/05 06/15/07	06/30/05 08/30/07	07/01/01 07/10/02	07/01/92 07/31/01	07/01/01 04/18/03
W	Radon Emissions From Operating Mill Tailings.	.....	07/01/05 06/15/07				
Y	Benzene Emissions From Benzene Storage Vessels.	12/11/03 12/15/04	07/01/05 06/15/07	06/30/05 08/30/07	07/01/01 07/10/02	07/01/92 07/31/01	07/01/01 04/18/03
BB	Benzene Emissions From Benzene Transfer Operations.	12/11/03 12/15/04	07/01/05 06/15/07	06/30/05 08/30/07	07/01/01 07/10/02	07/01/92 07/31/01	07/01/01 04/18/03
FF	Benzene Waste Operations	12/11/03 12/15/04	07/01/05 06/15/07	06/30/05 08/30/07	07/01/01 07/10/02	07/01/92 07/31/01	07/01/01 04/18/03

TABLE III.—DELEGATION OF AUTHORITY—PART 63 NESHAP—REGION 7

Subpart	Source category	State of Iowa	State of Kansas	State of Missouri	State of Nebraska	Lincoln-Lancaster County	City of Omaha
A	General Provisions	10/25/06 04/04/07	07/01/05 06/15/07	06/30/03 11/30/05	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
B	Requirements for Control Technology Determinations for Major Sources in Accordance with Clean Air Act Sections, Section 112(g) and (j).	02/16/06 08/23/06	07/01/05 06/15/07	12/31/00 11/20/02	07/01/03 12/14/04	....	04/05/02 04/18/03 (112 (g) only)

TABLE III.—DELEGATION OF AUTHORITY—PART 63 NESHAP—REGION 7—Continued

Subpart	Source category	State of Iowa	State of Kansas	State of Missouri	State of Nebraska	Lincoln-Lancaster County	City of Omaha
D	Compliance Extensions for Early Reductions of Hazardous Air Pollutants.	02/16/06 08/23/06	07/01/05 06/15/07	12/31/00 09/30/02	07/01/03 12/14/04	11/21/94 07/31/01	12/29/92 04/18/03
F	Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
G	Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
H	Organic Hazardous Air Pollutants for Equipment Leaks.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
I	Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
J	Polyvinyl Chloride and Copolymers Production.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07			
L	Coke Oven Batteries	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07			
M	National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.	10/25/06 04/04/07	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
N	Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/19/04 09/25/05	07/01/00 07/31/01	07/01/01 04/18/03
O	Ethylene Oxide Emissions Standards for Sterilization Facilities.	10/25/06 04/04/07	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
Q	Industrial Process Cooling Towers.	10/25/06 04/04/07	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
R	Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations).	10/25/06 04/04/07	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/98 04/18/03
S	Pulp and Paper Industry.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
T	Halogenated Solvent Cleaning.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
U	Polymers and Resins Group I.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
W	Epoxy Resins Production and Non-Nylon Polyamides Production.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03

TABLE III.—DELEGATION OF AUTHORITY—PART 63 NESHAP—REGION 7—Continued

Subpart	Source category	State of Iowa	State of Kansas	State of Missouri	State of Nebraska	Lincoln-Lancaster County	City of Omaha
X	Secondary Lead Smelting.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
Y	Marine Tank Vessel Loading Operations.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07			
AA/BB	Phosphoric Acid/ Phosphate Fertilizers.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
CC	Petroleum Refineries	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/81/97 07/31/01	07/01/01 04/18/03
DD	Off-Site Waste and Recovery Operations.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
EE	Magnetic Tape Manufacturing Operations.	10/25/06 04/04/07	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
GG	Aerospace Manufacturing and Rework Facilities.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
HH	Oil and Natural Gas Production Facilities.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
II	Shipbuilding and Ship Repair (Surface Coating).	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07			
JJ	Wood Furniture Manufacturing Operations.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
KK	Printing and Publishing Industry.	10/25/06 04/04/07	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
LL	Primary Aluminum Reduction Plants.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
MM	Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Along Semichemical Pulp Mills.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	....	07/01/01 04/18/03
OO	Tanks—Level 1	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
PP	Containers	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
QQ	Surface Impoundments.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
RR	Individual Drain Systems.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
SS	Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
TT	Equipment Leaks—Control Level 1 Standards.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
UU	Equipment Leaks—Control Level 2 Standards.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
VV	Oil-Water Separators and Organic-Water Separators.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
WW	Storage Vessel (Tanks)—Control Level 2.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03

TABLE III.—DELEGATION OF AUTHORITY—PART 63 NESHAP—REGION 7—Continued

Subpart	Source category	State of Iowa	State of Kansas	State of Missouri	State of Nebraska	Lincoln-Lancaster County	City of Omaha
XX	Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	03/01/06 12/13/06		
YY	Generic Maximum Achievable Control Technology Standards.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
CCC	Steel Pickling—HCL Process Facilities and Hydrochloric Acid Regeneration Plants.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
DDD	Mineral Wool Production.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
EEE	Hazardous Waste Combustors.	10/25/06 04/04/07	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	
GGG	Pharmaceutical Production.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
HHH	Natural Gas Transmission and Storage Facilities.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
III	Flexible Polyurethane Foam Production.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
JJJ	Polymers and Resins Group IV.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
LLL	Portland Cement Manufacturing Industry.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
MMM	Pesticide Active Ingredient Production.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
NNN	Wool Fiberglass Manufacturing.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
OOO	Manufacture of Amino/Phenolic Resins.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
PPP	Polyether Polyols Production.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
QQQ	Primary Copper Smelting.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07			
RRR	Secondary Aluminum Production.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	09/03/04 09/25/05	....	07/01/01 04/18/03
TTT	Primary Lead Smelting.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
UUU	Petroleum Refineries	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04		
VVV	Publicly Owned Treatment Works.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/01 07/31/01	07/01/01 04/18/03
XXX	Ferroalloys Production.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	07/01/00 07/31/01	07/01/01 04/18/03
AAAA	Municipal Solid Waste Landfills.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04		
CCCC	Manufacturing of Nutritional Yeast.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04	....	07/01/01 04/18/03
DDDD	Plywood and Composite Wood Products.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 09/25/05		
EEEE	Organic Liquids Distribution (Non-Gasoline).	10/25/06 04/04/07	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 09/25/05		
FFFF	Misc. Organic Chemical Manufacturing.	10/25/06 04/04/07	07/01/05 06/15/07	06/30/05 08/30/07	02/27/06 12/13/06		
GGGG	Solvent Extraction for Vegetable Oil Production.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	09/01/04 09/25/05	....	07/01/01 04/18/03

TABLE III.—DELEGATION OF AUTHORITY—PART 63 NESHAP—REGION 7—Continued

Subpart	Source category	State of Iowa	State of Kansas	State of Missouri	State of Nebraska	Lincoln-Lancaster County	City of Omaha
HHHH	Wet Formed Fiberglass Mat Production.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04		
IIII	Surface Coating of Automobiles and Light-Duty Trucks.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 09/25/05		
JJJJ	Paper and Other Web Coating.	10/25/06 04/04/07	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04		
KKKK	Surface Coating of Metal Cans.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 09/25/05		
MMMM	Surface Coating of Misc. Metal Parts and Products.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 09/25/05		
NNNN	Surface Coating of Large Appliances.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04		
OOOO	Printing, Coating and Dyeing of Fabrics and Other Textiles.	10/25/06 04/04/07	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04		
PPPP	Surface Coating of Plastic Parts and Products.	.....	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 09/25/05		
QQQQ	Surface Coating of Wood Building Products.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04		
RRRR	Surface Coating of Metal Furniture.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04		
SSSS	Surface Coating of Metal Coil.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04		
TTTT	Leather Finishing Operations.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04		
UUUU	Cellulose Products Manufacturing.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04		
VVVV	Boat Manufacturing	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04		
WWWW	Reinforced Plastic Composites Production.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04		
XXXX	Rubber Tire Manufacturing.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04		
YYYY	Stationary Combustion Turbines.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 09/25/05		
ZZZZ	Stationary Reciprocating Internal Combustion Engines.	.....	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 09/25/05		
AAAAA	Lime Manufacturing Plants.	.....	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 09/25/05		
BBBBB	Semiconductor Manufacturing.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07			
CCCCC	Coke Ovens: Pushing, Quenching, and Battery Stacks.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07			
DDDDD	Industrial, Commercial and Institutional Boilers and Process Heaters.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 09/25/05		
EEEEE	Iron and Steel Foundries.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 09/25/05		
FFFFF	Integrated Iron and Steel Manufacturing Facilities.	10/25/06 04/04/07	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04		
GGGGG	Site Remediation	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 09/25/05		
HHHHH	Misc. Coating Manufacturing.	10/25/06 04/04/07	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 09/25/05		
IIIII	Mercury Cell Chlor-Alkali Plants.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07			
JJJJJ	Brick and Structural Clay Products Manufacturing.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04		

TABLE III.—DELEGATION OF AUTHORITY—PART 63 NESHAP—REGION 7—Continued

Subpart	Source category	State of owa	State of Kansas	State of Missouri	State of ebraska	Lincoln-Lancaster ounty	City of Omaha
KKKKK ...	Clay Ceramics Manufacturing.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04		
LLLLL	Asphalt Processing and Asphalt Roofing Manufacturing.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04		
MMMMM	Flexible Poly-urethane Foam Fabrication Operation.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04		
NNNNN ..	Hydrochloric Acid Production.	10/25/06 04/04/07	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04		
PPPPP ...	Engine Test Cells/Stands.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04		
QQQQQ	Friction Materials Manufacturing Facilities.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07			
RRRRR ..	Taconite Iron Ore Processing.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07			
SSSSS ...	Refractory Products Manufacturing.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07	07/01/03 12/14/04		
TTTTT	Primary Magnesium Refining.	02/16/06 08/23/06	07/01/05 06/15/07	06/30/05 08/30/07			

Summary of This Action

All sources subject to the requirements of 40 CFR parts 60, 61, and 63 are also subject to the equivalent requirements of the above-mentioned state or local agencies.

This notice informs the public of delegations to the above-mentioned agencies of the above-referenced Federal regulations.

Authority: This notice is issued under the authority of sections 101, 110, 112, and 301 of the CAA, as amended (42 U.S.C. 7401, 7410, 7412, and 7601).

Dated: October 16, 2007.

Cecilia Tapia,

Acting Regional Administrator, Region 7.

[FR Doc. E7–21065 Filed 10–24–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[EPA–HQ–OAR–2003–0010 FRL–8487–2]

RIN 2060–AK02

Regulation of Fuels and Fuel Additives: Modification of Baselines for Gasoline Produced or Imported for Use in Hawaii, Alaska and U.S. Territories

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule allows refiners and importers who produce or import conventional gasoline for use in Alaska, Hawaii, the Commonwealth of Puerto Rico and the Virgin Islands the option to change the way in which they calculate emissions from such gasoline for purposes of establishing their conventional gasoline anti-dumping and toxics performance baselines and determining compliance with their baselines.

Specifically, this final rule allows refiners and importers of gasoline sold for use in these areas to petition EPA to modify their baselines to replace the anti-dumping statutory baseline with the single seasonal statutory baseline that is most appropriate to the regional climate, and to use the seasonal component of the Complex Model that is most appropriate to the regional climate to calculate individual baselines and annual average emissions. The rule allows refiners and importers to petition EPA to use the summer statutory baseline and the summer Complex Model for all baseline and compliance calculations for conventional gasoline produced or imported for use in Hawaii, Puerto Rico and the Virgin Islands, and allows refiners and importers to petition EPA to use the winter statutory baseline and the winter Complex Model for all baseline and compliance calculations for conventional gasoline produced or imported for use in Alaska. EPA is taking this action to address certain inconsistencies in the fuels regulations which may have significant unintended negative impacts on refiners and importers who produce or import gasoline for these areas.

DATES: This final rule is effective on November 26, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR–2003–0010. All documents in the docket are listed on the *http://www.regulations.gov* web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Air and Radiation Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Marilyn Bennett, Transportation and Regional Programs Division, Office of Transportation and Air Quality (6406J), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 343–9624; fax number: (202) 343–2803; e-mail address: *bennett.marilyn@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

Entities potentially affected by this action include those involved with the production and importation of conventional gasoline motor fuel. Regulated categories and entities affected by this action include:

Category	NAICS codes [a]	SIC codes [b]	Examples of potentially regulated parties
Industry	324110	2911	Petroleum Refiners, Importers.

[a] North American Industry Classification System (NAICS).
[b] Standard Industrial Classification (SIC) system code.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could be potentially regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your entity is regulated by this action, you should carefully examine the applicability criteria of Part 80, subparts D, E, F and J of title 40 of the Code of Federal Regulations. If you have any question regarding applicability of this action to a particular entity, consult the person in the preceding **FOR FURTHER INFORMATION CONTACT** section above.

B. Outline of This Preamble

I. General Information
II. Anti-Dumping Compliance
III. Mobile Source Air Toxics Rule (MSAT) Compliance
IV. Comments on the NPRM
V. Final Rule
VI. Environmental Effects of This Action
VII. Public Participation
VIII. Statutory and Executive Order Reviews
IX. Statutory Provisions and Legal Authority

II. Anti-Dumping Compliance

A. Background

1. The Anti-Dumping Requirements

Section 211(k) of the Clean Air Act (''CAA'' or ''Act'') requires EPA to establish standards for cleaner burning reformulated gasoline (RFG) to be used in specified ozone nonattainment areas. The Act also requires EPA to establish requirements for non-RFG, or conventional gasoline, designed to prevent refiners from ''dumping'' into conventional gasoline the dirty gasoline components that are removed when RFG is produced. The requirements for conventional gasoline are called ''anti-dumping'' requirements. To be in compliance with these requirements, the exhaust toxics and nitrogen oxides (NO_X) emissions performance of a refinery's or importer's conventional gasoline must be no dirtier than the refinery's or importer's 1990 exhaust toxics and NO_X emissions performance, on an annual average basis.

The anti-dumping regulations require refiners to calculate the exhaust toxics and NO_X emissions performance of gasoline using a predictive model, called the Complex Model. *See* 40 CFR 80.45. The Complex Model has a summer version and a winter version.[1] For the same fuel composition (based on those fuel parameters evaluated in the Complex Model), the winter Complex Model predicts significantly higher emissions of exhaust toxics and NO_X than the summer Complex Model, on a mg/mile basis.

The anti-dumping regulations require refineries and importers of conventional gasoline to comply with an established baseline for exhaust toxics and NO_X. The baseline is either an ''individual baseline'' or the ''anti-dumping statutory baseline.'' An individual baseline is based on the average performance of the gasoline that the individual refinery or importer produced or imported during the calendar year 1990. The anti-dumping statutory baseline is based on the average quality of gasoline sold throughout the United States during 1990. The anti-dumping statutory baseline applies to refineries and importers that are unable to calculate an individual baseline based on 1990 gasoline performance. If a refinery or importer has an individual baseline, gasoline production during a given annual averaging period, up to the refinery's or importer's 1990 production or import volume, must be no ''dirtier'' than the refinery's or importer's individual 1990 baseline for exhaust toxics and NO_X. Gasoline produced or imported during the annual averaging period in excess of the refinery's or importer's 1990 gasoline production or import volume must be no dirtier than the anti-dumping statutory baseline for exhaust toxics and NO_X. For refineries and importers that do not have an individual baseline, all gasoline produced or imported during the annual averaging period must meet the anti-dumping statutory baseline for exhaust toxics and NO_X.

To comply with the anti-dumping requirements, each refinery and importer must evaluate the overall quality of the conventional gasoline that it produces or imports during each annual averaging period and compare it to the refinery's or importer's baseline (individual 1990 baseline or anti-dumping statutory baseline, as appropriate). So long as the conventional gasoline produced or imported has overall emissions, as calculated by the Complex Model, that are no worse than the performance reflected in the refinery's or importer's baseline, the refinery or importer is in compliance with EPA's anti-dumping requirements.

The anti-dumping statutory baseline includes both summertime and wintertime seasonal components. The anti-dumping statutory baseline, which approximates the average emissions of gasoline sold in the U.S. in 1990, is the volume-weighted average of the summertime and wintertime 1990 baseline gasoline emissions, as calculated using the appropriate seasonal version of the Complex Model. *See* 59 FR 7793 (February 16, 1994).[2]

2. Calculating Individual Baselines and Annual Average Emissions

A refinery's or importer's individual 1990 baseline is calculated using the summer version of the Complex Model to assess the performance of the refinery's or importer's 1990 summer gasoline and the winter version of the Complex Model to assess the

[1] The summer Complex Model is based on data reflecting the performance of gasoline sold in the summer; i.e., gasoline with lower RVP to comply with volatility requirements at 40 CFR 80.27 and which is typical of summer climatic conditions. The winter Complex Model is a modified version of the summer model which sets the RVP at 8.7 psi and adjusts for winter climate conditions. A detailed discussion of the development of the summer and winter versions of the Complex Model is included in the Final Regulatory Impact Analysis for Reformulated Gasoline (December 13, 1993). Public Docket No. A–92–12.

[2] For a discussion of the methodology used in determining the anti-dumping statutory baseline, see 56 FR 31179 (July 9, 1991).

performance of the refinery's or importer's 1990 winter gasoline. For purposes of these calculations, the regulations consider summer gasoline to be gasoline that is subject to EPA's volatility requirements, and winter gasoline to be gasoline that is not subject to EPA's volatility requirements. 40 CFR 80.91(e)(2)(ii)(A). Gasoline sold in Alaska and Hawaii, and in the territories of Puerto Rico and the Virgin Islands, is not subject to the volatility requirements. *See* CAA Section 211(h)(5).[3] Thus, for purposes of calculating a refinery's or importer's individual 1990 baseline emissions, none of the gasoline produced or imported for use in these areas is summer gasoline under the current regulations. As a result, all of the gasoline produced or imported for use in these areas was evaluated using the winter Complex Model for purposes of calculating individual 1990 baseline emissions.

Similarly, to determine annual average emissions for compliance purposes, each year refineries and importers calculate emissions from their summer gasoline using the summer Complex Model and emissions from their winter gasoline using the winter Complex Model. For purposes of calculating annual average emissions, the regulations specify that summer gasoline is gasoline that meets the volatility requirements and winter gasoline is gasoline that does not meet the volatility requirements. 40 CFR 80.101(g)(5) and (g)(6). Because gasoline produced or imported for use in Alaska, Hawaii, Puerto Rico and the Virgin Islands is not subject to the volatility requirements, refineries and importers currently are required to evaluate all of their gasoline produced or imported for use in these areas during the annual averaging period using the winter Complex Model.[4]

As discussed above, refiners and importers must provide gasoline that complies with their individual anti-dumping baseline up to their 1990 baseline volume, after which any excess volumes must comply with the anti-dumping statutory baseline.[5] Refiners and importers without an individual baseline must comply with the anti-dumping statutory baseline for all of the conventional gasoline they produce or import during each annual averaging period.[6] This general approach to compliance applies to both refiners and importers of gasoline sold in the continental U.S. and refiners and importers of gasoline produced or imported for use in Alaska, Hawaii, Puerto Rico and the Virgin Islands.

B. Need for Action

As discussed above, under the anti-dumping regulations, gasoline produced or imported in excess of a refinery's or importer's 1990 baseline volume during the annual averaging period must comply with the anti-dumping statutory baseline. All gasoline produced or imported during each annual averaging period by refineries and importers who are unable to establish an individual baseline also must comply with the anti-dumping statutory baseline. In most cases, use of the anti-dumping statutory baseline is an appropriate and necessary tool to ensure that conventional gasoline quality does not degrade in comparison to the average quality of gasoline sold in 1990. However, for gasoline produced or imported for use in Alaska, Hawaii, Puerto Rico and the Virgin Islands that is subject to the anti-dumping statutory baseline, the current anti-dumping requirements can result in an inconsistent application of EPA's seasonal Complex Models.

As discussed above, the anti-dumping statutory baseline is an estimate of the average quality of all 1990 gasoline. This estimate was calculated using the summer Complex Model to evaluate ''summer'' gasoline and the winter Complex Model for all other gasoline. Similarly, for compliance purposes, summer conventional gasoline sold in the continental United States is evaluated using the summer Complex Model, and all other conventional gasoline is evaluated using the winter Complex Model. Thus, for conventional gasoline subject to the anti-dumping statutory baseline that is sold in the continental U.S., we expect there to be general agreement between the seasonal models used to develop the baseline and the seasonal models used to evaluate annual compliance. Application of the anti-dumping statutory baseline for such gasoline provides reasonable assurance that the quality of the conventional gasoline will not degrade relative to the average quality of gasoline in 1990.

Like gasoline produced or imported for use in the continental United States, gasoline produced or imported for use in Alaska, Hawaii, Puerto Rico and the Virgin Islands in excess of the refinery's or importer's 1990 baseline volume of gasoline, and all gasoline produced or imported for use in these areas by a refiner or importer who does not have an individual baseline must comply with the anti-dumping statutory baseline. However, since the annual emissions performance of all gasoline produced or imported for use in these areas must be evaluated using only the *winter* Complex Model, for these areas there is not an agreement between the seasonal models reflected in the statutory baseline (which, as discussed above, was developed using both the summer and winter seasonal models) and the seasonal model used for calculating annual compliance.[7] Because the winter Complex Model predicts higher emissions than the summer Complex Model, in these situations, the refinery or importer is required to comply with a standard that, in effect, is more stringent than intended. That is, the refiner or importer must produce or import gasoline that is actually cleaner than the average gasoline produced or imported for use

[3] The U.S. territories of Guam, the Commonwealth of the Northern Mariana Islands and American Samoa also are not subject to the volatility requirements pursuant to CAA section 211(h)(5); however, these territories have received exemptions from the anti-dumping requirements. *See* 61 FR 53854 (October 16, 1996)(Guam); 62 FR 63853 (December 3, 1997)(Northern Mariana Islands); 65 FR 71067 (November 29, 2000)(American Samoa). Gasoline produced or imported for use in Guam, the Commonwealth of the Northern Mariana Islands and American Samoa is also exempt from the Mobile Source Air Toxics requirements. *See* 40 CFR 80.820(d). As a result, gasoline produced or imported for use in these areas is not affected by today's rule.

[4] Pursuant to a rulemaking on June 9, 1999 (64 FR 30904), refiners and importers who have Puerto Rico gasoline, or Puerto Rico and Virgin Islands gasoline, in their individual baseline are allowed to petition EPA to replace the winter Complex Model with the summer Complex Model for anti-dumping baseline and compliance calculations. *See* 40 CFR 80.93(d) and 80.101(f)(4)(iii) and (g)(1)(ii)(B).

[5] For refineries and importers with individual 1990 baselines who produce gasoline volumes in excess of their 1990 volume during an averaging period, the regulations require the use of a specified ''compliance baseline'' equation. 40 CFR 80.101(f). In general, this equation adjusts the refinery's or importer's individual baseline to reflect the parameter values of the statutory baseline for that volume of the refinery's or importer's total annual gasoline production which is in excess of the refinery's or importer's 1990 baseline volume. This adjusted compliance baseline then is the refinery's or importer's anti-dumping standard for that annual averaging period, and the annual average emissions from all conventional gasoline produced by that refinery or importer during the annual averaging period must meet that standard.

[6] Since most importers are unable to establish an individual 1990 baseline, importers generally are required to comply with the anti-dumping statutory baseline.

[7] Gasoline produced or imported for Alaska, Hawaii, Puerto Rico and the Virgin Islands was evaluated using only the winter Complex Model for purposes of calculating a refinery's or importer's individual 1990 baseline. Since annual production or imports for these areas is also evaluated using the winter Complex Model, there is a general agreement between the seasonal model used to develop the baseline and the seasonal model used to calculate annual emissions for gasoline production or imports up to the refinery's or importer's individual 1990 baseline volume of gasoline produced or imported for these areas.

in 1990.[8] This unintended result can have a significant adverse economic effect on those refineries and importers whose baselines include gasoline produced or imported for use in Alaska, Hawaii, Puerto Rico and the Virgin Islands and who have increased the volume of gasoline that they produce or import for these areas above their 1990 baseline volumes of gasoline produced or imported for these areas, and those refineries and importers who are subject to the anti-dumping statutory baseline for all of their gasoline.

C. NPRM

In the NPRM, EPA proposed to correct this inconsistency in the anti-dumping regulations by allowing gasoline produced or imported for use in Alaska, Hawaii, Puerto Rico and the Virgin Islands to be compared to a baseline that is seasonally consistent with the compliance model that is used for purposes of compliance evaluation. Specifically, EPA proposed the following changes for refiners and importers who produce or import conventional gasoline for use in Alaska, Hawaii, Puerto Rico and the Virgin Islands.

First, EPA proposed to allow refiners and importers to petition EPA to change their baselines such that any gasoline produced or imported for use in these areas that is currently subject to the anti-dumping statutory baseline instead would be subject to the single seasonal component of the anti-dumping statutory baseline that agrees with the single seasonal model used for compliance. This approach alleviates the current inconsistency (as described above) by more accurately comparing the performance of the refiner's or importer's average 1990 gasoline with gasoline currently produced.

Second, EPA proposed that any refiner or importer for whom a petition to change its baseline has been approved must use the single seasonal statutory baseline that is most appropriate to the regional climate for any gasoline that is not subject to an individual 1990 baseline, and use the seasonal component of the Complex Model that is most appropriate to the regional climate for calculating both 1990 individual baseline emissions and annual average emissions. Thus, refiners and importers with an approved petition that produce or import gasoline for use in Hawaii, Puerto Rico and the Virgin Islands would use the summer statutory baseline component for any gasoline not subject to an individual baseline, and use the summer Complex Model for purposes of calculating 1990 individual baseline and annual average emissions. Refiners and importers with an approved petition that produce or import gasoline for use in Alaska would use the winter statutory baseline for any gasoline not subject to an individual baseline, and use the winter Complex Model for purposes of calculating 1990 individual baseline and annual average emissions. A discussion of the rationale for these seasonal determinations is contained in the preamble to the NPRM. *See* 70 FR 646 (January 4, 2005).

Under this approach, refiners and importers of gasoline produced or imported for use in Hawaii, Puerto Rico and the Virgin Islands would need to establish a separate individual 1990 baseline for gasoline produced or imported for use in these areas using only the summer Complex Model. Gasoline produced or imported for use in these areas would be required to comply with this new individual baseline for gasoline up to the refinery's or importer's 1990 baseline volume of gasoline produced or imported for these areas. Gasoline production or imports in excess of the refinery's or importer's 1990 baseline volume would be subject to only the summer component of the statutory baseline. In the case of refiners and importers with an individual 1990 baseline which does not include any gasoline produced or imported for use in these areas, any gasoline produced or imported for use in these areas during the annual averaging period would be subject to the refinery's or importer's individual summer 1990 baseline, and the summer Complex Model would be used for all compliance calculations. Such gasoline will not be considered in determining whether a refiner or importer has produced or imported any incremental gasoline volumes above the refinery's or importer's 1990 baseline volume.

Similarly, refiners and importers of gasoline produced or imported for use in Alaska would need to establish a separate individual 1990 baseline for gasoline produced or imported for use in Alaska using only the winter Complex Model. Gasoline produced or imported for use in Alaska would be required to comply with this individual baseline up to the refinery's or importer's 1990 baseline volume of Alaska gasoline. Gasoline produced or imported for use in Alaska in excess of the refinery's or importer's 1990 baseline volume of Alaska gasoline would be subject to only the winter component of the statutory baseline. Refiners and importers of gasoline produced or imported for use in Alaska would continue to use the winter Complex Model for all compliance calculations for Alaska gasoline. In the case of refineries and importers with an individual 1990 baseline that does not include any gasoline produced or imported for use in Alaska, any gasoline produced or imported for use in Alaska during the annual averaging period would be subject to the refinery's or importer's individual winter 1990 baseline, and the winter Complex Model would be used for all compliance calculations. Such gasoline will not be considered in determining whether a refiner or importer has produced or imported any incremental gasoline volumes above the refinery's or importer's 1990 baseline volume.

To implement the changes described above, EPA proposed to modify the individual baseline submission provisions at § 80.93(d) to allow refineries and importers that produce or import gasoline for use in Hawaii, Puerto Rico and the Virgin Islands the option to petition EPA to recalculate the emissions of their 1990 conventional gasoline produced or imported for use in these areas using the summer Complex Model.[9] For refiners and importers who produced or imported gasoline in 1990 for use in both the continental U.S. and an affected area, this would require the calculation of a separate 1990 individual baseline for gasoline produced or imported for use in these areas, and recalculation of the refiner's or importer's current anti-dumping baseline (which would continue to be used for compliance

[8] Because the winter Complex Model predicts higher emissions for exhaust toxics and NO_X than the summer Complex Model, the average emissions of gasoline produced or imported for use in Alaska, Hawaii, Puerto Rico and the Virgin Islands during an annual averaging period, which is evaluated using only the winter Complex Model, will appear to have higher emissions than that same gasoline would appear to have if evaluated using the summer Complex Model for some of the volume of gasoline. If, for example, gasoline produced or imported for use in these areas has properties identical to the properties of anti-dumping baseline gasoline, that gasoline (as evaluated using only the winter Complex Model) will appear to have higher emissions than anti-dumping baseline gasoline, and would be deemed out of compliance with the anti-dumping statutory baseline emissions standard.

[9] As discussed in footnote 4 above, in a final rule dated June 9, 1999 (64 FR 30904), EPA modified the anti-dumping regulations to allow refiners and importers who have Puerto Rico gasoline, or Puerto Rico and Virgin Islands gasoline, in their 1990 baseline to petition EPA to replace the winter Complex Model with the summer Complex Model for purposes of compliance calculations. Today's rule does not substantively change the provisions for Puerto Rico gasoline promulgated on June 9, 1999. Rather, today's rule extends the use of the summer only Complex Model to Puerto Rico gasoline produced or imported by refiners and importers that do not have individual baselines and those that have an individual baseline but do not have any Puerto Rico gasoline, or Puerto Rico and Virgin Islands gasoline, in their baselines.

purposes for gasoline produced or imported for other areas) to reflect the subtraction of baseline gasoline produced or imported for use in Hawaii, Puerto Rico and the Virgin Islands.[10] As discussed above, under the current regulations, the winter Complex Model is required to be used to evaluate Alaska gasoline for purposes of establishing the individual 1990 baseline and for determining annual average compliance. Since the winter Complex Model is the appropriate seasonal model for Alaska, we did not propose to change this requirement, however, we did propose to clarify this requirement in the baseline submission provisions in § 80.93(d). Under the proposal, refiners and importers who produced or imported gasoline in 1990 for use in both the continental U.S. and Alaska would be required to calculate a separate baseline for Alaska gasoline and recalculate their current anti-dumping baseline for use with other gasoline to reflect the subtraction of 1990 baseline Alaska gasoline. EPA also proposed to revise the anti-dumping compliance baseline provisions at § 80.101(f)(3) and (f)(4)(iii). EPA proposed a new (f)(3) which establishes compliance baselines for refiners and importers with 1990 individual baselines that did not include any gasoline produced or imported for use in the affected areas. As discussed above, for these refiners and importers, any conventional gasoline produced or imported for use in the affected areas would be subject to the refiner's or importer's appropriate seasonal individual baseline. EPA proposed to revise § 80.101(f)(4)(iii) to provide equations for calculating a compliance baseline for refiners and importers with individual 1990 baselines that have approved petitions and that produce or import gasoline for use in one or more of the affected areas.

The proposed modifications of the baseline submission provisions at § 80.93(d) also would allow refiners and importers currently subject to the anti-dumping statutory baseline for all of their gasoline (i.e., parties without a 1990 individual baseline) the option to petition EPA to change their baseline to only the summer component of the statutory baseline for any conventional gasoline produced or imported for use in Hawaii, Puerto Rico and the Virgin Islands, and the winter component of the statutory baseline for any conventional gasoline produced or imported for use in Alaska. EPA proposed to modify § 80.101(f)(2) to require such refiners and importers to comply with the summer statutory baseline component for gasoline produced or imported for use in Hawaii, Puerto Rico and the Virgin Islands, and the winter statutory baseline component for gasoline produced or imported for use in Alaska. In addition, EPA proposed to modify § 80.101(g)(1) to require refiners and importers with approved petitions under § 80.93(d) to evaluate all of their gasoline produced or imported for use in Hawaii, Puerto Rico and the Virgin Islands during the annual averaging period using only the summer Complex Model, and clarify that gasoline produced or imported for use in Alaska during the annual averaging period must be evaluated using only the winter Complex Model.

A refiner or importer that produces or imports gasoline for Alaska and also for Hawaii and/or Puerto Rico and/or the Virgin Islands, and that wishes to change its baseline for all of these areas, would submit separate petitions, one for Alaska gasoline under § 80.93(d)(1) and one for Hawaii, Puerto Rico and the Virgin Islands gasoline under § 80.93(d)(2). In this case, the refiner or importer would have two separate baselines, one for gasoline produced or imported for Alaska, and one for gasoline produced or imported for Hawaii, Puerto Rico and the Virgin Islands. Such refiner or importer would also have another separate baseline for any gasoline produced or imported for the continental United States.

In addition to the proposed changes to the anti-dumping regulations discussed above, EPA proposed conforming changes to §§ 80.91(e)(2)(ii)(A), and 80.101(g)(2) and (g)(6) to clarify the summer/winter distinction with regard to gasoline produced or imported for use in Alaska, Hawaii, Puerto Rico and the Virgin Islands.

EPA proposed that the changes would be optional for any refiner or importer that produces or imports gasoline intended for use in Alaska, Hawaii, Puerto Rico and the Virgin Islands, and would be limited to those refiners and importers that petition the Agency for these changes. However, EPA proposed that a refiner or importer that changes from the anti-dumping statutory baseline to a single statutory baseline component must use the appropriate seasonal statutory baseline component and must use it for all gasoline produced or imported for use in any of the areas subject to this rule. Such refiner or importer must use the appropriate seasonal Complex Model for all future calculations. For example, an importer of Puerto Rico gasoline that petitions EPA to change from the anti-dumping statutory baseline to a single seasonal statutory baseline component must change to the summer statutory baseline component and must use the summer Complex Model for all future calculations for Puerto Rico gasoline and also for any gasoline the importer imports into Hawaii and/or the Virgin Islands. Refiners and importers with approved petitions whose 1990 individual baselines include gasoline produced or imported for these areas would be required to recalculate their individual baselines, as described above, and submit the new baselines with their petition.

EPA proposed to require refiners and importers that change their baseline in accordance with the proposed rule to retain documents which substantiate that gasoline complying with the new baseline, in fact, was produced or imported for use in the affected area.

EPA proposed that refiners and importers of gasoline produced or imported for use in the affected areas who do not petition EPA to change their baselines would continue to be subject to their current baselines and would continue to use the Complex Model that is required for calculating emissions under the current regulations.

III. Mobile Source Air Toxics Rule (MSAT) Compliance

A. Background

The Mobile Source Air Toxics (MSAT) rule published on March 29, 2001, contains provisions which require refiners and importers to determine a baseline and compliance value for air toxics. *See* 40 CFR part 80, subpart J. A refiner, for each refinery, and an importer must identify the appropriate toxics performance baseline for its conventional gasoline and its reformulated gasoline. The refiner or importer must then demonstrate compliance with each applicable baseline on an annual average basis using the Complex Model.

Under the MSAT toxics performance rule, refiners, for each refinery, and importers are required to produce or import gasoline that is no dirtier than the gasoline they produced or imported during the baseline period, 1998 through 2000. Accordingly, refiners and

[10] For refineries and importers with individual baselines that produce or import gasoline for the continental U.S. as well as Alaska, Hawaii, Puerto Rico or the Virgin Islands, the approach in today's rule likely would result in a reduction of the total volume of gasoline that currently would be subject to the anti-dumping statutory baseline, since gasoline produced or imported for Alaska, Hawaii, Puerto Rico or the Virgin Islands in excess of the refinery's or importer's baseline volume of gasoline for these areas would no longer be included in the volume of gasoline subject to the anti-dumping statutory baseline. This may have an impact on the refinery's or importer's compliance baseline for the annual averaging period.

importers are required to establish an individual toxics baseline, separately for RFG and conventional gasoline, based on the average toxics performance of their gasoline during the baseline period. Refiners and importers are also required to establish a total baseline volume based on their volume of gasoline production during the baseline period. If a refinery or importer did not have sufficient production or imports during the baseline period to calculate an average toxics performance for their gasoline, they are subject to a default toxic baseline established by EPA. Refineries or importers subject to the default baseline do not have an MSAT baseline volume.

Compliance with the MSAT toxics performance requirements is determined on an annual average basis. The gasoline produced or imported during the annual averaging period can be no more polluting than the refiner's or importer's baseline level for that type of gasoline (RFG or conventional). For RFG, total toxics emissions are evaluated, and toxics performance is reported as a percent reduction from the statutory baseline. For conventional gasoline, only exhaust toxics emissions are evaluated, and toxics performance is reported in mg/mile. Any volume produced or imported in excess of a refiner's or importer's individual baseline volume can be no more polluting than the RFG toxics standard, or the refiner's or importer's conventional gasoline anti-dumping toxics baseline level, as applicable.

B. NPRM

EPA proposed to modify the MSAT toxics performance requirements in a manner that is consistent with the changes that were proposed for the conventional gasoline anti-dumping program. The changes to the MSAT requirements are necessary because, generally, the MSAT toxics performance provisions applicable to conventional gasoline are of the same form as the anti-dumping provisions, and because such changes are needed to maintain agreement between methods used to establish baselines and those used to evaluate gasoline performance for purposes of compliance. Thus, we proposed to require a refiner or importer that submits a petition under the anti-dumping program as described in the NPRM to also petition for a separate or modified MSAT baseline applicable to gasoline produced or imported into Alaska and/or Hawaii, Puerto Rico, and the Virgin Islands.

EPA proposed the following MSAT baseline and compliance determinations for refiners and importers who submit petitions under this rule for gasoline produced or imported for use in Alaska and/or Hawaii, Puerto Rico and the Virgin Islands.

Affected parties who did not produce or import any gasoline during the baseline period (1998–2000), may petition EPA to have the appropriate seasonal MSAT conventional gasoline default baseline for gasoline produced or imported for use in Alaska and/or Hawaii, Puerto Rico, and the Virgin Islands, and use the appropriate seasonal version of the Complex Model for evaluating gasoline produced or imported for these areas. Such parties would be subject to the annual MSAT conventional gasoline default baseline for all other gasoline produced or imported (i.e., gasoline for use in the continental U.S.)

Affected parties who produced gasoline during the baseline period, but who did not produce or import gasoline for Alaska and/or Hawaii, Puerto Rico, or the Virgin Islands during the baseline period, may petition EPA to have the appropriate individual refinery or importer conventional gasoline seasonal MSAT baseline for these areas, and evaluate any gasoline produced or imported for use in these areas using the appropriate seasonal Complex Model. Such gasoline will not be considered in determining whether a refiner or importer has produced or imported any incremental gasoline volumes above the refiner's or importer's MSAT baseline volume.

Affected parties who only produced or imported gasoline for Alaska and/or Hawaii, Puerto Rico, or the Virgin Islands during the baseline period may petition EPA for a revised MSAT baseline using the appropriate seasonal version of the Complex Model, and use the appropriate seasonal version of the Complex Model for all compliance determinations for such gasoline. Gasoline produced or imported for use in these areas up to the refiner's or importer's MSAT baseline volume would be subject to the refiner's or importer's seasonally appropriate MSAT baseline. Any incremental volumes above the baseline volume would be subject to the refiner's or importer's appropriate seasonal anti-dumping baseline. Any gasoline produced or imported for use in the continental U.S. would be subject to the annual MSAT conventional gasoline default baseline.

Affected parties who produced or imported gasoline during the baseline period for use in the continental U.S. *and* for use in Alaska and/or Hawaii, Puerto Rico, or the Virgin Islands may petition EPA to have a separate, seasonally appropriate MSAT baseline and a separate MSAT baseline volume for gasoline produced or imported for use in Alaska and/or Hawaii, Puerto Rico, and the Virgin Islands. Such refiners or importers must then use the appropriate seasonal component of the Complex Model to evaluate gasoline sold in these areas. Additionally, such refiners must establish a separate annual baseline and baseline volume for all other gasoline, which must be evaluated using the annual Complex Model.

Under the current regulations, refiners and importers who produce or import gasoline for use in Alaska, and/or Hawaii, Puerto Rico or the Virgin Islands who are subject to the MSAT default baseline are, in fact, required to produce or import gasoline that is cleaner than the national annual average during the MSAT baseline period. This is because the MSAT default baseline was determined using both seasonal components of the Complex Model, while parties in the affected areas are required to evaluate their gasoline using only the winter Complex Model (which, as discussed above, gives higher emission values for the same gasoline than if the gasoline were evaluated using both seasonal components of the model). EPA proposed to correct this inconsistency while continuing to require such parties to produce or import gasoline that is no more polluting than the average gasoline during the MSAT baseline period, as required under the MSAT rule. Similarly, parties with individual MSAT baselines will continue to meet the requirements under the MSAT rule for gasoline produced or imported up to their baseline volume, without being required to produce or import gasoline that is cleaner than their average gasoline during the MSAT baseline period.

For parties with an individual MSAT baseline who produce or import gasoline in excess of their MSAT baseline volume, the MSAT regulations require the excess volume to meet the refiner's or importer's standard under the anti-dumping rule (i.e., excess volume may not be more polluting than the refiner's or importer's individual anti-dumping baseline level). Therefore, EPA proposed that gasoline produced or imported in excess of the MSAT baseline volume be subject to the anti-dumping baseline that is established for purposes of anti-dumping compliance under today's rule.

To implement the changes described above, EPA proposed appropriate modifications to §§ 80.825, 80.850, 80.855, 80.910 and 80.915 of subpart J.

IV. Comments on the NPRM

Comments on the NPRM were generally very favorable. One commenter suggested that we clarify the regulations regarding the effective date for petitions granted under the rule, and that we clarify whether there is a deadline for submitting a petition. In the NPRM we proposed that the baseline and compliance method changes in today's rule would become effective beginning with the annual averaging period in which a refiner's or importer's petition is granted. As a result, a petition may be submitted at any time during an annual averaging period. Once a petition is granted, the new method for determining compliance with the anti-dumping and air toxics requirements will apply beginning with the annual averaging period in which the petition was granted, and will continue to apply in each annual averaging period thereafter. As discussed in the NPRM, once a petition has been granted, the refinery or importer will not be able to revert back to its original baseline. The new baseline will apply to the refinery regardless of ownership; i.e., if a refinery obtains a new baseline under today's rule, the new baseline will apply to the refinery even if the refinery is subsequently sold to another refiner. We have added language in the final rule to clarify when a petition may be submitted and the effective date of an approved petition.

Another commenter believes that the default toxics baselines in § 80.855(b)(2) (i.e., the seasonal default toxics baselines applicable to parties with approved petitions under § 80.93(d)) should apply only to refiners that submit petitions under § 80.93(d) after this rule is finalized. A refiner who previously received approval to use the summer Complex Model under § 80.93(d), and who was unable to establish an individual toxics baseline under the MSAT rule, currently is subject to the conventional gasoline MSAT default toxics baseline. The rule as proposed would apply a more stringent default toxics baseline (i.e., seasonal default baseline) to such a refiner, which, the commenter believes, would impose a burden on the refiner that was not anticipated at the time the refiner applied for use of the summer Complex Model under § 80.93(d).

The default baselines in § 80.855(b)(2) are the average seasonal toxics levels during the MSAT baseline years calculated using the appropriate seasonal Complex Model. As discussed above, where a refiner uses a seasonal Complex Model for annual average compliance calculations, we believe it is appropriate for the refiner to also be subject to the appropriate seasonal default baseline. A refiner with a previously approved baseline change under § 80.93(d) (which as noted above applies to refiners who produce gasoline for use in Puerto Rico) uses the summer Complex Model for calculating its annual average toxics emissions. Therefore, we believe it is appropriate for the summer MSAT default baseline in § 80.855(b)(2)(ii) to apply to such a refiner. However, since refiners with previously approved petitions under § 80.93(d) have been using the conventional gasoline default toxics baseline under the current regulations, we believe that the summer default baseline in § 80.855(b)(2)(ii) should only apply to such refiners prospectively, and that such refiners should be afforded the opportunity to withdraw their petitions under § 80.93(d). As a result, we have included provisions in the final rule which specify that the appropriate seasonal default toxics baseline would apply to any refiner with a previously approved petition under § 80.93(d) beginning with the 2008 annual averaging period, and that any such refiner may petition EPA to withdraw approval of its petition under § 80.93(d) beginning with the 2008 annual averaging period. Although these provisions were not included in the NPRM, we believe they are necessary in order to clarify the application of the provisions in § 80.855(b)(2) with regard to parties with previously approved petitions, and are a logical outgrowth of the proposal to apply the seasonal default toxics baselines in § 80.855(b)(2) to any refiner with a previously approved petition under § 80.93(d).

Another commenter suggested that we clarify that a refiner or importer that produces or imports gasoline for Alaska and also for Hawaii, and/or Puerto Rico and/or the Virgin Islands would have two separate baselines and baseline volumes under today's rule, one for gasoline produced or imported for Alaska, and one for gasoline produced or imported for Hawaii, Puerto Rico and the Virgin Islands. We have added language to clarify this in today's final rule.

One commenter suggested that we clarify the requirements for new refineries or importers in the final rule. As discussed above, the rule provides an alternative to the existing regulatory baseline and compliance requirements for gasoline produced or imported for use in Alaska, Hawaii, Puerto Rico and the Virgin Islands. Any new refinery or importer (which would not have an individual anti-dumping or MSAT baseline) would be subject to the anti-dumping statutory and MSAT default baselines, unless the refiner or importer petitions EPA under the provisions of today's rule to have the appropriate seasonal anti-dumping and MSAT baselines and seasonal Complex Model apply. We have added a provision to clarify the regulations in this regard.

One commenter requested that we make certain references to § 80.93(d) in the regulations more specific with regard to the subparagraphs being referenced. We have made these changes in today's final rule.

V. Final Rule

With the exceptions noted above and minor editorial changes, today's rule finalizes the provisions in the NPRM as proposed.

Although the current anti-dumping and MSAT toxics performance requirements will be superseded by more stringent mobile source emissions controls by 2011, we believe it is appropriate to provide this relief to the affected parties at this time in order to address the inequity caused by the inconsistencies in the current regulations and to avoid any gasoline supply problems that may result from this inequity.

VI. Environmental Effects of This Action

As discussed in the NPRM, we believe that allowing refiners and importers to change their baselines in accordance with today's rule will not undermine the environmental goals of the anti-dumping program (i.e., to ensure that conventional gasoline will be no dirtier than 1990 gasoline), or the MSAT toxics performance rule (i.e., to ensure that gasoline, RFG and conventional, will be no dirtier than gasoline during the MSAT baseline years.) The changes in today's rule will not result in gasoline with exhaust toxics or NO_X emissions that are greater than conventional gasoline in these areas, or nationwide, compared to 1990 levels, or toxics emissions that are greater than gasoline in these areas, or nationwide, compared to the MSAT baseline years. Today's rule provides an alternative compliance method for refiners and importers who, under the current regulations, are required to produce or import gasoline for use in the affected areas that is actually cleaner than that required under the anti-dumping and MSAT programs. As a result, even if all of these affected parties choose the new compliance method, the goals of the anti-dumping and MSAT programs would be met. To the extent that parties choose to retain their current

compliance method, there would continue to be an added environmental benefit above and beyond that specifically required to meet the goals of these programs.

VII. Public Participation

In the NPRM, we requested comment on the need to take this action and the proposed changes to the regulations. We have reviewed and considered all comments. The comments and EPA's responses to the comments are discussed above.

VIII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action is not a ''significant regulatory action'' under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the EO.

B. Paperwork Reduction Act

The information collection requirements in this rule will be submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* The information collection requirements are not enforceable until OMB approves them.

This final rule addresses certain adverse impacts on refiners and importers of conventional gasoline under the current fuels regulations, and provides refiners and importers with additional flexibility to comply with the regulations. The flexibility afforded under this rule is optional. Modest information collection requirements in the form of a one-time only petition to EPA and minimal recordkeeping requirements are required of those refiners who wish to avail themselves of the flexibility provided in this rule.

The estimated hour burden for this rule is 20 hours per petition. The estimated number of petitions is 10. The estimated cost burden for the petition is $70 per hour. The total estimated cost for each respondent is $1,400. The total estimated cost for all respondents is $14,000. We do not anticipate that any burdens will be associated with the additional recordkeeping requirements, since the information required to be retained normally is included on business documents retained by refiners and importers.

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

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9. When this ICR is approved by OMB, the Agency will publish a technical amendment to 40 CFR part 9 in the **Federal Register** to display the OMB control number for the approved information collection requirements contained in this final rule.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

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

This final rule provides provisions intended to address existing adverse economic impacts of the current rule on certain refiners and importers while continuing to promote successful implementation of the requirements for conventional gasoline. Specifically, this rule provides all affected refiners and importers, including small refiners and importers, options for evaluating the emissions of conventional gasoline, which will have the effect of relieving regulatory burden. We have therefore concluded that today's final rule will relieve regulatory burden for all affected small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially

affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's final rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local or tribal governments or the private sector. EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year that will result in expenditures of $100 million or more. This rule affects gasoline refiners and importers of conventional gasoline by providing optional provisions for evaluating the emissions of conventional gasoline in certain situations. This rule will have the effect of reducing the burden of the conventional gasoline regulations on these regulated parties. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

E. Executive Order 13132: Federalism

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

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This rule provides options for evaluating the emissions of conventional gasoline. The requirements of the rule will be enforced by the federal government at the national level. Thus, Executive Order 13132 does not apply to this rule.

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

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications. This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Today's action finalizes certain modifications to the federal requirements for conventional gasoline, and does not impose any enforceable duties on communities of Indian tribal governments. Thus, Executive Order 13175 does not apply to this rule.

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

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

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This final rule is not subject to Executive Order 13045 because it is not economically significant and does not establish an environmental standard intended to mitigate health or safety risks.

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

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

I. National Technology Transfer and Advancement Act

As noted in the proposed rule, Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. 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(a). This rule will be effective on November 26, 2007.

K. Clean Air Act Section 307(d)

This rule is subject to Section 307(d) of the CAA. Section 307(d)(7)(B) provides that ''[o]nly an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review.'' This section also provides a mechanism for the EPA to convene a proceeding for reconsideration, ''[i]f the person raising an objection can demonstrate to the EPA

that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule.'' Any person seeking to make such a demonstration to the EPA should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Director of the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20004.

IX. Statutory Provisions and Legal Authority

The statutory authority for the actions finalized today comes from section 211(c) and (k) of the CAA (42 U.S.C. 7545(c) and (k)), which allows us to regulate fuels that either contribute to air pollution which endangers public health or welfare or which impairs emission control equipment. Additional support for the procedural aspects of the fuels controls in today's final rule, including the petition requirement, comes from sections 114(a) and 301(a) of the CAA (42 U.S.C. 7414(a) and 7601(a)). Today's action is a final rulemaking under section 307(d) of the CAA (42 U.S.C. 7607(d)).

List of Subjects in 40 CFR Part 80

Environmental protection, Air pollution control, Fuel additives, Gasoline, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: October 18, 2007.

Stephen L. Johnson,

Administrator.

■ For the reasons set out in the preamble, part 80 of title 40 Chapter I of the Code of Federal Regulations is amended as follows:

PART 80—REGULATION OF FUEL AND FUEL ADDITIVES

■ 1. The authority citation for part 80 continues to read as follows:

Authority: 42 U.S.C. 7414, 7545, and 7601(a).

Subpart E—[Amended]

■ 2. Section 80.91 is amended by revising paragraph (e)(2)(ii)(A) to read as follows:

§ 80.91 Individual baseline determination.

* * * * *

(e) * * *

(2) * * *

(ii) * * *

(A)(*1*) All gasoline produced to meet EPA's 1990 summertime volatility requirements shall be considered summer gasoline. All other gasoline shall be considered winter gasoline, except:

(*2*) Gasoline produced or imported for use in Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands that is subject to an approved petition under § 80.93(d)(2) shall be considered summer gasoline for purposes of paragraph (e) of this section.

* * * * *

■ 3. Section 80.93 is amended by revising paragraph (d) to read as follows:

§ 80.93 Individual baseline submission and approval.

* * * * *

(d) *Requirements for a petition applicable to gasoline produced or imported for use in Alaska, Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands.* (1)(i) Any refiner for any refinery or importer with gasoline produced or imported for use in Alaska in its individual 1990 baseline may petition EPA to establish a separate 1990 baseline for gasoline produced or imported for use in Alaska using the winter Complex Model, and to use the winter statutory baseline values under § 80.91(c)(5) for any gasoline produced or imported for use in Alaska which is in excess of the refinery's or importer's 1990 volume of gasoline produced or imported for use in Alaska for purposes of determining the refinery's or importer's compliance baseline under § 80.101(f)(4).

(ii) Any refiner for any refinery or importer with an individual 1990 baseline which did not include any gasoline produced or imported for use in Alaska in 1990 may petition EPA to establish the refinery's or importer's winter baseline values as the compliance baseline under § 80.101(f)(3) for gasoline which the refiner or importer produces or imports for use in Alaska.

(iii) Any refiner for any refinery or importer subject only to the anti-dumping statutory baseline under § 80.91(c)(5) may petition EPA to have the winter statutory baseline values under § 80.91(c)(5) apply instead for purposes of determining the refinery's or importer's compliance baseline under § 80.101(f)(2) for gasoline which the refiner or importer produces or imports for use in Alaska.

(2)(i) Any refiner for any refinery or importer with gasoline produced or imported for use in Hawaii, and/or the Commonwealth of Puerto Rico, and/or the Virgin Islands in its individual 1990 baseline may petition EPA to establish a separate 1990 baseline for gasoline produced or imported for use in these areas using the summer Complex Model, and to use the summer statutory baseline values under § 80.91(c)(5) for any gasoline produced or imported for use in these areas in excess of the refinery's or importer's 1990 volume of gasoline produced or imported for use in these areas, for purposes of determining the refinery's or importer's compliance baseline under § 80.101(f)(4).

(ii) Any refiner for any refinery or importer with an individual 1990 baseline which did not include any gasoline produced or imported for use in Hawaii, and/or the Commonwealth of Puerto Rico, and/or the Virgin Islands in 1990 may petition EPA to establish the refinery's or importer's summer baseline values as the compliance baseline under § 80.101(f)(3) for gasoline which the refiner or importer produces or imports for use in these areas.

(iii) Any refiner or importer subject only to the anti-dumping statutory baseline under § 80.91(c)(5) may petition EPA to have the summer statutory baseline values under § 80.91(c)(5) apply instead for purposes of determining the refinery's or importer's compliance baseline under § 80.101(f)(2) for gasoline which the refiner or importer produces or imports for use in Hawaii, and/or the Commonwealth of Puerto Rico, and/or the Virgin Islands.

(iv) Any petition submitted in accordance with paragraphs (d)(2)(i), (d)(2)(ii) or (d)(2)(iii) of this section shall apply to gasoline produced or imported for use in all of the areas specified in the operative paragraphs.

(3) A petition under paragraphs (d)(1) or (d)(2) of this section must include the following:

(i) Identification of the refiner and refinery or importer;

(ii) EPA company and facility registration numbers issued under § 80.76;

(iii) Identification of a contact person; and

(iv) For petitions submitted under paragraphs (d)(1)(i) and (d)(2)(i) of this section:

(A) Revised 1990 individual baseline determination wherein the baseline for gasoline produced or imported for use in Alaska has been evaluated using the winter Complex Model, or gasoline produced or imported for use in Hawaii,

and/or the Commonwealth of Puerto Rico, and/or the Virgin Islands has been evaluated using the summer Complex Model, as applicable, with the calculations clearly and fully described and displayed; and

(B) Revised 1990 individual baseline determination for gasoline in the refinery's or importer's original individual 1990 baseline which was not produced or imported for use in Alaska, and/or Hawaii, and/or the Commonwealth of Puerto Rico, and/or the Virgin Islands, as applicable, with the calculations clearly and fully described and displayed.

(C) Baseline auditor agreement with the revised baseline values.

(4) For U.S. Postal delivery, the petition shall be sent to: Attn: RFG Program, Mailstop 6406J, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. For commercial delivery: Attn: RFG Program, 6th Floor (202–343–9038), U.S. Environmental Protection Agency, 1310 L St., NW., Washington, DC 20005.

(5) EPA reserves the right to request additional information. If such information is not forthcoming in a timely manner, the petition will not be approved.

(6) A petition under this section may be submitted at any time during the annual averaging period. The baseline and compliance methods approved in a petition submitted under paragraph (d) of this section shall apply beginning with the annual averaging period in which the petition was approved and shall continue to apply in each annual averaging period thereafter. Once a petition has been approved under this section, the refiner or importer may not revert back to its original baseline.

(7) A refiner for any refinery or importer with an approved petition under paragraph (d)(1) of this section and an approved petition under paragraph (d)(2) of this section will be subject to a separate baseline and baseline volume for its gasoline produced or imported for use in Alaska, and a separate baseline and baseline volume for its gasoline produced or imported for use in Hawaii, the Commonwealth of Puerto Rico and the Virgin Islands.

(8)(i) Any refiner for any refinery or importer must have an approved petition under paragraph (d)(1) of this section in order to use the seasonal baseline and seasonal Complex Model, as provided in paragraph (d)(1) of this section, for gasoline produced or imported for use in Alaska.

(ii) Any refiner for any refinery or importer must have an approved petition under paragraph (d)(2) of this section in order to use the seasonal baseline and seasonal Complex Model, as provided in paragraph (d)(2) of this section, for gasoline produced or imported for use in Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands.

(iii) Any new refiner or importer without an individual anti-dumping baseline shall be subject to the annual average anti-dumping statutory baseline under § 80.91(c)(5) unless the refiner or importer petitions for and receives approval of use of a seasonal baseline and seasonal Complex Model under this section.

(9)(i) The provisions of this paragraph (d) shall apply to any refiner, for any refinery, or importer that received approval of a petition under this paragraph (d) prior to November 26, 2007 beginning with the 2008 annual averaging period.

(ii) Any refiner, for any refinery, or importer that received approval of a petition under paragraph (d) of this section prior to November 26, 2007 may petition EPA to withdraw such approval. Such petition must be submitted to EPA by December 31, 2007. A withdrawal of approval under this paragraph is effective beginning with the 2008 annual averaging period and shall remain in effect in each annual averaging period thereafter.

(iii) A refiner or importer with an approved withdrawal under paragraph (d)(9)(i) of this section will be subject to the baseline which was in effect prior to the effective date of the refiner's or importer's approved petition under this paragraph (d). Once a refiner or importer receives approval of a withdrawal of a petition under paragraph (d)(9)(i) of this section the refiner or importer is ineligible to receive approval of a change in baseline under this section.

■ 4. Section 80.101 is amended by:
■ a. Revising paragraph (f)(2);
■ b. Adding paragraph (f)(3);
■ c. Revising paragraph (f)(4)(iii);
■ d. Revising paragraph (g)(1)(ii)(B), and adding paragraph (g)(1)(ii)(C);
■ e. Revising paragraph (g)(2) introductory text, (g)(2)(i), and (g)(6), to read as follows:

§ 80.101 Standards applicable to refiners and importers.

* * * * *

(f) * * *

(2)(i) In the case of any refiner for any refinery or importer for whom the anti-dumping statutory baseline applies under § 80.91, the anti-dumping statutory baseline for each parameter or emissions performance shall be the compliance baseline for that refinery or importer.

(ii) In the case of any refiner for any refinery or importer that has received approval of a petition submitted under § 80.93(d)(1)(iii), the compliance baseline for each emissions performance for that refinery or importer for gasoline produced or imported for use in Alaska shall be the winter statutory baseline value under § 80.45(b)(3), Table 5.

(iii) In the case of any refiner for any refinery or importer that has received approval of a petition submitted under § 80.93(d)(2)(iii), the compliance baseline for each emissions performance for that refinery or importer for gasoline produced or imported for use in Hawaii, the Commonwealth of Puerto Rico, and/or the Virgin Islands shall be:

(A) The summer statutory baseline value under § 80.45(b)(3), Table 5 for NO_X.

(B) The summer statutory baseline value under § 80.45(b)(3), Table 5 for Toxics less the corresponding value for Benzene under § 80.45(b)(3), Table 4.

(3)(i) In the case of any refiner for any refinery or importer that has received approval of a petition submitted under § 80.93(d)(1)(ii), the compliance baseline for each emissions performance for that refinery or importer for gasoline produced or imported for use in Alaska shall be the refinery's or importer's winter baseline value determined under § 80.91.

(ii) In the case of any refiner for any refinery or importer that has received approval of a petition submitted under § 80.93(d)(2)(ii), the compliance baseline for each emissions performance for that refinery or importer for gasoline produced or imported for use in Hawaii, the Commonwealth of Puerto Rico, and/or the Virgin Islands shall be the refinery's or importer's summer baseline value determined under § 80.91.

(4) * * *

(iii) Any refiner or importer with an individual baseline that has received approval of a petition submitted under § 80.93(d) and has produced or imported gasoline for use in Alaska, Hawaii, the Commonwealth of Puerto Rico, or the Virgin Islands must calculate the compliance baseline for each parameter or emissions performance as follows:

$$CB_i \frac{CB_{i,1} \times V_1 + CB_{i,2} \times V_2 + CB_{i,3} \times (V_3 - V_r)}{(V_1 + V_2 + V_3 - V_r)}$$

If $V_j \geq V_{1990j} > 0$:

$$CB_{i,j} = B_{i,j} \times \left(\frac{V_{1990j}}{V_j}\right) + DB_{i,j} \times \left(1 - \frac{V_{1990j}}{V_j}\right)$$

If $V_j < V_{1990j}$ or $V_{1990j} = 0$: $CB_{i,j} = B_{i,j}$

Where:

CB_i = The compliance baseline for parameter or emissions performance i

$CB_{i,j}$ = The compliance baseline for parameter or emissions performance i applicable to the conventional gasoline in production volume V_j

j is a subscript identifying a portion of gasoline and RBOB produced or imported as follows:

j=1: Conventional gasoline supplied to Hawaii, the Commonwealth of Puerto Rico and the Virgin Islands, if gasoline supplied to these areas is covered by a petition for a separate baseline.

j=2: Conventional gasoline supplied to Alaska, if gasoline supplied to this area is covered by a petition for a separate baseline.

j=3: Conventional gasoline, reformulated gasoline, RBOB and California gasoline produced or imported by a refiner or importer, and not included in portions 1 or 2.

V_j = The averaging period volume for portion j.

V_r = The volume of reformulated gasoline, RBOB and California gasoline included in V_3.

$B_{i,j}$ = The refiner/importer's individual baseline for parameter or emissions performance i applicable to the conventional gasoline in portion j, or the applicable statutory baseline if assigned in lieu of an individual baseline.

$DB_{i,j}$ = The statutory baseline for parameter or emissions performance i applicable to the conventional gasoline in portion j (i.e., the annual or seasonal statutory baseline).

V_{1990j} = The 1990 baseline volume applicable to portion j.

(g) * * *

(1) * * *

(ii) * * *

(B) Any refiner for any refinery or importer that has received EPA approval of a petition submitted in accordance with the provisions of § 80.93(d)(1) must use the applicable winter complex model under § 80.45, using an RVP of 8.7 psi, to evaluate its averaging period gasoline produced or imported for use in Alaska.

(C) Any refiner for any refinery or importer that has received EPA approval of a petition submitted in accordance with the provisions of § 80.93(d)(2) must use the applicable summer complex model under § 80.45 to evaluate its averaging period gasoline produced or imported for use in Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands.

(2) In the case of any refiner or importer subject to the anti-dumping statutory baseline, the summer statutory baseline and/or the winter statutory baseline, the refiner or importer shall determine compliance using the following methodology:

(i) Calculate the compliance total for the averaging period for sulfur, T–90, olefins, exhaust benzene emissions, exhaust toxics and exhaust NO_X emissions, as applicable, based upon the anti-dumping statutory baseline value, the summer statutory baseline value, or the winter statutory baseline value, as applicable, for that parameter using the formula specified at 80.67.

* * * * *

(6)(i) The emissions performance of gasoline that has an RVP greater than the RVP required under § 80.27 (''winter gasoline'') shall be determined using the applicable winter complex model under § 80.45, using an RVP of 8.7 psi for compliance calculation purposes under this subpart E.

(ii) Except as provided in paragraph (g)(1)(ii) of this section, the emissions performance of gasoline produced or imported for use in areas that are not subject to the requirements of § 80.27 shall be determined using the applicable winter complex model under § 80.45, using an RVP of 8.7 psi for compliance calculation purposes under this subpart E.

* * * * *

■ 5. Section 80.104 is amended by adding paragraph (a)(2)(xiii) to read as follows:

§ 80.104 Recordkeeping requirements.

* * * * *

(a) * * *

(2) * * *

(xiii) In the case of gasoline subject to an approved petition under § 80.93(d), documents that reflect that the gasoline was produced or imported for use in Alaska, Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands, as applicable.

* * * * *

Subpart J—[Amended]

■ 6. Section 80.825 is amended by revising paragraph (c)(2) to read as follows:

§ 80.825 How is the refinery or importer annual average toxics value determined?

* * * * *

(c) * * *

(2) (i) The toxics value, T_i, of each batch of conventional gasoline, and the annual average toxics value, T_a, for conventional gasoline under this subpart are in milligrams per mile (mg/mile) and volumes are in gallons.

(ii) Any refiner for any refinery or importer that has received EPA approval of a petition submitted in accordance with the provisions of § 80.93(d) shall determine the toxics value, T_i, of each batch of conventional gasoline produced or imported for use in Alaska, and/or Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands in accordance with § 80.101(g)(1)(ii).

* * * * *

■ 7. Section 80.850 is amended by revising paragraph (c) and adding paragraph (d) to read as follows:

§ 80.850 How is the compliance baseline determined?

* * * * *

(c) Any refiner for any refinery or importer with an approved anti-dumping baseline under § 80.93(d) for gasoline produced or imported for use in Alaska, and/or Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands, and for which a conventional gasoline baseline toxics value for such gasoline can be determined according to § 80.915(b)(1), shall determine its compliance baseline applicable to such gasoline according to the following equation:

$$T_{CBase} = \frac{T_{Base} \times V_{Base} + T_{Exist} \times V_{Inc} + T_{SBase} \times V_{SBase} + T_{SExist} \times V_{SInc} + T_{WBase} \times V_{WBase} + T_{WExist} \times V_{WInc}}{V_{Base} + V_{Inc} + V_{SBase} + V_{SInc} + V_{WBase} + V_{WInc}}$$

Where:

T_{CBase} = Compliance baseline toxics value.

T_{Base} = Baseline toxics value for the refinery or importer, calculated according to § 80.915(b)(1) for all gasoline except gasoline produced or imported for use in Alaska, Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands.

V_{Base} = Baseline volume for the refinery or importer, calculated according to § 80.915(b)(2) for all gasoline except gasoline produced or imported for use in Alaska, Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands.

T_{Exist} = The refinery's or importer's anti-dumping compliance baseline value for exhaust toxics, in mg/mi, per § 80.101(f) for all gasoline except gasoline produced or imported for use in Alaska, Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands.

V_{Inc} = Volume of gasoline produced or imported, excluding the volume of gasoline produced or imported for use in Alaska, Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands during the averaging period, which is in excess of V_{Base}.

T_{SBase} = Baseline toxics value for the refinery or importer, calculated according to § 80.915(e)(2)(i) for gasoline produce or imported for use in Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands.

V_{SBase} = Baseline volume for the refinery or importer, calculated according to § 80.915(e)(2)(ii) for gasoline produce or imported for use in Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands.

T_{SExist} = The refinery's or importer's anti-dumping compliance baseline value for exhaust toxics, in mg/mi, per § 80.101(f) for gasoline produce or imported for use in Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands.

V_{SInc} = Volume of gasoline produced or imported for use in Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands during the averaging period which is in excess of V_{SBase}.

T_{WBase} = Baseline toxics value for the refinery or importer, calculated according to § 80.915(e)(1)(i) for gasoline produce or imported for use in Alaska.

V_{WBase} = Baseline volume for the refinery or importer, calculated according to § 80.915(e)(1)(ii) for gasoline produce or imported for use in Alaska.

T_{WExist} = The refinery's or importer's anti-dumping compliance baseline value for exhaust toxics, in mg/mi, per § 80.101(f) for gasoline produce or imported for use in Alaska.

V_{WInc} = Volume of gasoline produced or imported for use in Alaska during the averaging period which is in excess of V_{WBase}.

(d) If the refinery or importer produced less gasoline during the compliance period than its applicable baseline volume, the value of V_{inc}, V_{SInc} or V_{WInc}, as applicable, will be zero.

■ 8. Section 80.855 is amended by adding paragraph (b)(2) to read as follows:

§ 80.855 What is the compliance baseline for refineries or importers with insufficient data?

* * * * *

(b) * * *

(2)(i) A refinery or importer that has an approved anti-dumping baseline under § 80.93(d) for gasoline produced or imported for use in Alaska, and that cannot determine an applicable toxics value according to paragraph (b)(1) of this section, shall have the following as its compliance baseline for the purposes of this subpart: 110.72 mg/mile.

(ii) A refinery or importer that has an approved anti-dumping baseline under § 80.93(d) for gasoline produce or imported for use in Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands and that cannot determine an applicable toxics value according to paragraph (b)(1) of this section, shall have the following as its compliance baseline for the purposes of this subpart: 77.82 mg/mile.

(iii) The provisions of this paragraph (b)(2) shall apply to any refiner, for any refinery, or importer that received approval of a petition under § 80.93(d) prior to November 26, 2007 beginning with the 2008 annual averaging period.

(iv) Any new refiner or importer without a toxics baseline that produces or imports gasoline for use in Alaska, Hawaii, the Commonwealth of Puerto Rico or the Virgin Islands shall be subject to the applicable toxics default baseline under paragraph (b)(1) of this section unless the refiner or importer petitions for and receives approval of use of a seasonal baseline and seasonal Complex Model under § 80.93(d).

* * * * *

■ 9. Section 80.910 is amended by revising paragraph (a) to read as follows:

§ 80.910 How does a refiner or importer apply for a toxics baseline?

(a)(1) A refiner or importer shall submit an application to EPA which includes the information required under paragraph (c) of this section no later than June 30, 2001, or 3 months prior to the first introduction of gasoline into commerce from the refinery or by the importer, whichever is later.

(2) A refiner or importer shall submit an application to EPA for the purposes of this subpart simultaneously with the submission of a petition under § 80.93(d).

* * * * *

■ 10. Section 80.915 is amended by redesignating paragraphs (e) through (h) as paragraphs (f) through (i) and adding new paragraph (e) to read as follows:

§ 80.915 How are the baseline toxics value and baseline toxics volume determined?

* * * * *

(e)(1)(i) A refiner or importer which is approved for a petition submitted under § 80.910(a)(2) for gasoline produced or imported for use in Alaska shall calculate the applicable toxics baseline value using the following equation:

$$T_{WBase} = \frac{\sum_{i=1}^{n} (V_i \times T_i)}{\sum_{i=1}^{n} V_i} + M$$

Where:

T_{WBase} = Baseline toxics value for gasoline produced or imported for use in Alaska.

V_i = Volume of gasoline batch i produced or imported for use in Alaska between January 1, 1998 and December 31, 2000, inclusive.

T_i = Toxics value of gasoline batch i produced or imported for use in Alaska between January 1, 1998 and December 31, 2000, inclusive.

i = Individual batch of gasoline produced or imported for use in Alaska between January 1, 1998 and December 31, 2000, inclusive.

n = Total number of batches of gasoline produced or imported for use in Alaska between January 1, 1998 and December 31, 2000, inclusive.

M = Compliance margin.

(ii) The baseline volume associated with the baseline value calculated in paragraph (e)(1)(i) of this section shall be calculated using the methodology in paragraph (b)(2) of this section for the gasoline described in paragraph (e)(1)(i) of this section.

(2)(i) A refiner or importer which is approved for a petition submitted under § 80.910(a)(2) for gasoline produced or imported for use in Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands shall calculate the applicable toxics baseline value using the following equation:

$$T_{SBase} = \frac{\sum_{i=1}^{n}(V_i \times T_i)}{\sum_{i=1}^{n} V_i} + M$$

Where:

T_{SBase} = Baseline toxics value for gasoline produced or imported for use in Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands.

V_i = Volume of gasoline batch i produced or imported for use in Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands between January 1, 1998 and December 31, 2000, inclusive.

T_i= Toxics value of gasoline batch i produced or imported for use in Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands between January 1, 1998 and December 31, 2000, inclusive.

$_i$ = Individual batch of gasoline produced or imported for use in Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands between January 1, 1998 and December 31, 2000, inclusive.

n = Total number of batches of gasoline produced or imported for use in Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands between January 1, 1998 and December 31, 2000, inclusive.

M = Compliance margin.

(ii) The baseline volume associated with the baseline value calculated in paragraph (e)(2)(i) of this section shall be calculated using the methodology in paragraph (b)(2) of this section for the gasoline described in paragraph (e)(2)(i) of this section.

* * * * *

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 071018614–7615–01]

RIN 0648–XD56

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan

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

ACTION: Temporary rule.

SUMMARY: The Assistant Administrator for Fisheries (AA), NOAA, announces temporary restrictions consistent with the requirements of the Atlantic Large Whale Take Reduction Plan's (ALWTRP) implementing regulations. These regulations apply to lobster trap/pot and anchored gillnet fishermen in an area totaling approximately 2,305 nm² (7,905 km²), south of Portland, Maine, for 15 days. The purpose of this action is to provide protection to an aggregation of northern right whales (right whales).

DATES: Effective beginning at 0001 hours October 27, 2007, through 2400 hours November 10, 2007.

ADDRESSES: Copies of the proposed and final Dynamic Area Management (DAM) rules, Environmental Assessments (EAs), Atlantic Large Whale Take Reduction Team (ALWTRT) meeting summaries, and progress reports on implementation of the ALWTRP may also be obtained by writing Diane Borggaard, NMFS/Northeast Region, One Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Diane Borggaard, NMFS/Northeast Region, 978–281–9300 x6503; or Kristy Long, NMFS, Office of Protected Resources, 301–713–2322.

SUPPLEMENTARY INFORMATION:

Electronic Access

Several of the background documents for the ALWTRP and the take reduction planning process can be downloaded from the ALWTRP web site at *http://www.nero.noaa.gov/whaletrp/*.

Background

The ALWTRP was developed pursuant to section 118 of the Marine Mammal Protection Act (MMPA) to reduce the incidental mortality and serious injury of three endangered species of whales (right, fin, and humpback) due to incidental interaction with commercial fishing activities. In addition, the measures identified in the ALWTRP would provide conservation benefits to a fourth species (minke), which are neither listed as endangered nor threatened under the Endangered Species Act (ESA). The ALWTRP, implemented through regulations codified at 50 CFR 229.32, relies on a combination of fishing gear modifications and time/area closures to reduce the risk of whales becoming entangled in commercial fishing gear (and potentially suffering serious injury or mortality as a result).

On January 9, 2002, NMFS published the final rule to implement the ALWTRP's DAM program (67 FR 1133). On August 26, 2003, NMFS amended the regulations by publishing a final rule, which specifically identified gear modifications that may be allowed in a DAM zone (68 FR 51195). The DAM program provides specific authority for NMFS to restrict temporarily on an expedited basis the use of lobster trap/pot and anchored gillnet fishing gear in areas north of 40° N. lat. to protect right whales. Under the DAM program, NMFS may: (1) require the removal of all lobster trap/pot and anchored gillnet fishing gear for a 15-day period; (2) allow lobster trap/pot and anchored gillnet fishing within a DAM zone with gear modifications determined by NMFS to sufficiently reduce the risk of entanglement; and/or (3) issue an alert to fishermen requesting the voluntary removal of all lobster trap/pot and anchored gillnet gear for a 15-day period and asking fishermen not to set any additional gear in the DAM zone during the 15-day period.

A DAM zone is triggered when NMFS receives a reliable report from a qualified individual of three or more right whales sighted within an area (75 nm² (139 km²)) such that right whale density is equal to or greater than 0.04 right whales per nm² (1.85 km²). A qualified individual is an individual ascertained by NMFS to be reasonably able, through training or experience, to identify a right whale. Such individuals include, but are not limited to, NMFS staff, U.S. Coast Guard and Navy personnel trained in whale identification, scientific research survey personnel, whale watch operators and naturalists, and mariners trained in whale species identification through disentanglement training or some other training program deemed adequate by NMFS. A reliable report would be a credible right whale sighting.

On October 16, 2007, an aerial survey reported and aggregation of seven right whales in the proximity of 43°05′ N latitude and 69°56′ W longitude. The position lies approximately 50nm south of Portland, Maine. After conducting an investigation, NMFS ascertained that the report came from a qualified individual and determined that the report was reliable. Thus, NMFS has received a reliable report from a qualified individual of the requisite right whale density to trigger the DAM provisions of the ALWTRP.

Once a DAM zone is triggered, NMFS determines whether to impose restrictions on fishing and/or fishing gear in the zone. This determination is based on the following factors, including but not limited to: the location of the DAM zone with respect to other fishery closure areas, weather conditions as they relate to the safety of human life at sea, the type and amount of gear already present in the area, and a review of recent right whale entanglement and mortality data.

NMFS has reviewed the factors and management options noted above relative to the DAM under consideration. As a result of this review, NMFS prohibits lobster trap/pot and anchored gillnet gear in this area during the 15-day restricted period unless it is modified in the manner described in this temporary rule.

The DAM Zone is bound by the following coordinates:

43°25′ N., 70°23′ W (NW Corner)
43°25′ N., 69°29′ W
42°45′ N., 69°29′ W
42°45′ N., 69°38′ W
42°34′ N., 69°38′ W
42°34′ N., 70°34′ W
43°19′ N., 70°34′ W
43°19′ N., 70°23′ W
43°25′ N., 70°23′ W (NW Corner)

In addition to those gear modifications currently implemented under the ALWTRP at 50 CFR 229.32, the following gear modifications are required in the DAM zone. If the requirements and exceptions for gear modification in the DAM zone, as described below, differ from other ALWTRP requirements for any overlapping areas and times, then the more restrictive requirements will apply in the DAM zone.

Lobster Trap/Pot Gear

Fishermen utilizing lobster trap/pot gear within the portions of Northern Nearshore Lobster Waters, Northern Inshore State Lobster Waters, and the Stellwagen Bank/Jeffrey's Ledge Restricted Area that overlap with the DAM zone are required to utilize all of the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;
2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;
3. Fishermen are allowed to use two buoy lines per trawl; and
4. A weak link with a maximum breaking strength of 600 lb (272.4 kg) must be placed at all buoys.

Fishermen utilizing lobster trap/pot gear within the portion of the Offshore Lobster Waters Area that overlap with the DAM zone are required to utilize all of the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;
2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;
3. Fishermen are allowed to use two buoy lines per trawl; and
4. A weak link with a maximum breaking strength of 1,500 lb (680.4 kg) must be placed at all buoys.

Anchored Gillnet Gear

Fishermen utilizing anchored gillnet gear within the portions of Other Northeast Gillnet Waters and the Stellwagen Bank/Jeffrey's Ledge Restricted Area that overlap with the DAM zone are required to utilize all the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;
2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;
3. Fishermen are allowed to use two buoy lines per string;
4. Each net panel must have a total of five weak links with a maximum breaking strength of 1,100 lb (498.8 kg). Net panels are typically 50 fathoms (91.4 m) in length, but the weak link requirements would apply to all variations in panel size. These weak links must include three floatline weak links. The placement of the weak links on the floatline must be: one at the center of the net panel and one each as close as possible to each of the bridle ends of the net panel. The remaining two weak links must be placed in the center of each of the up and down lines at the panel ends;
5. A weak link with a maximum breaking strength of 1,100 lb (498.8 kg) must be placed at all buoys; and
6. All anchored gillnets, regardless of the number of net panels, must be securely anchored with the holding power of at least a 22 lb (10.0 kg) Danforth-style anchor at each end of the net string.

The restrictions will be in effect beginning at 0001 hours October 27, 2007, through 2400 hours November 10, 2007, unless terminated sooner or extended by NMFS through another notification in the **Federal Register**.

The restrictions will be announced to state officials, fishermen, ALWTRT members, and other interested parties through e-mail, phone contact, NOAA website, and other appropriate media immediately upon issuance of the rule by the AA.

Classification

In accordance with section 118(f)(9) of the MMPA, the Assistant Administrator (AA) for Fisheries has determined that this action is necessary to implement a take reduction plan to protect North Atlantic right whales.

Environmental Assessments for the DAM program were prepared on December 28, 2001, and August 6, 2003. This action falls within the scope of the analyses of these EAs, which are available from the agency upon request.

NMFS provided prior notice and an opportunity for public comment on the regulations establishing the criteria and procedures for implementing a DAM zone. Providing prior notice and opportunity for comment on this action, pursuant to those regulations, would be impracticable because it would prevent NMFS from executing its functions to protect and reduce serious injury and mortality of endangered right whales. The regulations establishing the DAM program are designed to enable the agency to help protect unexpected concentrations of right whales. In order to meet the goals of the DAM program, the agency needs to be able to create a DAM zone and implement restrictions on fishing gear as soon as possible once the criteria are triggered and NMFS determines that a DAM restricted zone is appropriate. If NMFS were to provide prior notice and an opportunity for public comment upon the creation of a DAM restricted zone, the aggregated right whales would be vulnerable to entanglement which could result in serious injury and mortality. Additionally, the right whales would most likely move on to another location before NMFS could implement the restrictions designed to protect them, thereby rendering the action obsolete. Therefore, pursuant to 5 U.S.C. 553(b)(B), the AA finds that good cause exists to waive prior notice and an opportunity to comment on this action to implement a DAM restricted zone to reduce the risk of entanglement of endangered right whales in commercial lobster trap/pot and anchored gillnet gear as such procedures would be impracticable.

For the same reasons, the AA finds that, under 5 U.S.C. 553(d)(3), good cause exists to waive the 30–day delay in effective date. If NMFS were to delay for 30 days the effective date of this action, the aggregated right whales would be vulnerable to entanglement, which could cause serious injury and mortality. Additionally, right whales would likely move to another location between the time NMFS approved the action creating the DAM restricted zone

and the time it went into effect, thereby rendering the action obsolete and ineffective. Nevertheless, NMFS recognizes the need for fishermen to have time to either modify or remove (if not in compliance with the required restrictions) their gear from a DAM zone once one is approved. Thus, NMFS makes this action effective 2 days after the date of publication of this document in the **Federal Register**. NMFS will also endeavor to provide notice of this action to fishermen through other means upon issuance of the rule by the AA, thereby providing approximately 3 additional days of notice while the Office of the **Federal Register** processes the document for publication.

NMFS determined that the regulations establishing the DAM program and actions such as this one taken pursuant to those regulations are consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program of the U.S. Atlantic coastal states. This determination was submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. Following state review of the regulations creating the DAM program, no state disagreed with NMFS' conclusion that the DAM program is consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program for that state.

The DAM program under which NMFS is taking this action contains policies with federalism implications warranting preparation of a federalism assessment under Executive Order 13132. Accordingly, in October 2001 and March 2003, the Assistant Secretary for Intergovernmental and Legislative Affairs, Department of Commerce, provided notice of the DAM program and its amendments to the appropriate elected officials in states to be affected by actions taken pursuant to the DAM program. Federalism issues raised by state officials were addressed in the final rules implementing the DAM program. A copy of the federalism Summary Impact Statement for the final rules is available upon request (**ADDRESSES**).

The rule implementing the DAM program has been determined to be not significant under Executive Order 12866.

Authority: 16 U.S.C. 1361 *et seq.* and 50 CFR 229.32(g)(3)

Dated:October 19, 2007.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 07–5291 Filed 10–22–07; 2:45 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 061228342–7068–02]

RIN 0648–XD55

Fisheries of the Northeastern United States; Atlantic Herring Fishery; Total Allowable Catch Harvested for Management Area 1A

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

ACTION: Closure of Atlantic herring fishery for Management Area 1A.

SUMMARY: NMFS announces that effective 0001 hours, October 25, 2007, federally permitted vessels may not fish for, catch, possess, transfer or land more than 2,000 lb (907.2 kg) of Atlantic herring in or from Management Area 1A (Area 1A) per trip or calendar day until January 1, 2008, when the 2008 TAC becomes available, except for transiting purposes as described in this notice. This action is based on the determination that 95 percent of the Atlantic herring total allowable catch (TAC) allocated to Area 1A for 2007 is projected to be harvested by October 25, 2007. Regulations governing the Atlantic herring fishery require publication of this notification to advise vessel and dealer permit holders that no TAC is available for the directed fishery for Atlantic herring harvested from Area 1A.

DATES: Effective 0001 hrs local time, October 25, 2007, through 2400 hrs local time, December 31, 2007.

FOR FURTHER INFORMATION CONTACT: Don Frei, Fishery Management Specialist, at (978) 281–9221.

SUPPLEMENTARY INFORMATION: Regulations governing the Atlantic herring fishery are found at 50 CFR part 648. The regulations require annual specification of optimum yield, domestic and foreign fishing, domestic and joint venture processing, and management area TACs. The 2007 TAC allocated to Area 1A (72 FR 17807, April 10, 2007) is 50,000 mt (1,10,231,000 lb).

The regulations at 50 CFR 648.202 require the Administrator, Northeast Region, NMFS (Regional Administrator) to monitor the Atlantic herring fishery in each of the four management areas designated in the Fishery Management Plan for the Atlantic Herring Fishery and, based upon dealer reports, state data, and other available information, to determine when the harvest of Atlantic herring is projected to reach 95 percent of the TAC allocated. When such a determination is made, NMFS is required to publish notification in the **Federal Register** of this determination. Effective upon a specific date, NMFS must notify vessel and dealer permit holders that vessels are prohibited from fishing for, catching, possessing, transferring or landing more than 2,000 lb (907.2 kg) of herring per trip or calendar day in or from the specified management area for the remainder of the closure period. Transiting of Area 1A with more than 2,000 lb of herring on board is allowed under the conditions specified below.

The Regional Administrator has determined, based upon dealer reports and other available information, that 95 percent of the total Atlantic herring TAC allocated to Area 1A for the 2007 fishing year is projected to be harvested by October 25, 2007. Therefore, effective 0001 hrs local time, October 27, 2007, federally permitted vessels may not fish for, catch, possess, transfer or land more than 2,000 lb (907.2 kg) of Atlantic herring in or from Area 1A per trip or calendar day through December 31, 2007; except a vessel may transit Area 1A with more than 2,000 lb (907.2 kg) of herring on board, or land more than 2,000 lb (907.2 kg) provided such herring were not caught in Area 1A, and provided all fishing gear is stowed and not available for immediate use as required by § 648.23(b). Effective October 25, 2007, federally permitted dealers are also advised that they may not purchase Atlantic herring from federally permitted Atlantic herring vessels that harvest more than 2,000 lb (907.2 kg) of Atlantic herring from Area 1A through December 31, 2007, 2400 hrs local time.

Classification

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

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

Dated: October 19, 2007.

Emily H. Menashes,

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

[FR Doc. 07–5293 Filed 10–22–07; 2:45 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 070607119–7119–01]

RIN 0648–AV11

Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Annual Specifications

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement the annual harvest guideline (HG) for Pacific sardine in the U.S. exclusive economic zone (EEZ) off the Pacific coast (California, Oregon, and Washington) for the fishing season of January 1, 2007, through December 31, 2007. This HG has been calculated according to the regulations implementing the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) and establishes allowable harvest levels for Pacific sardine off the Pacific coast.

DATES: Effective November 26, 2007 through December 31. 2007.

ADDRESSES: Copies of the report *Assessment of Pacific Sardine Stock for U.S. Management in 2007* may be obtained from the Southwest Regional Office by contacting Rodney R. McInnis, Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: Joshua Lindsay, Southwest Region, NMFS, (562) 980–4034.

SUPPLEMENTARY INFORMATION: The CPS FMP, which was implemented by publication of the final rule in the **Federal Register** on December 15, 1999 (64 FR 69888), divides management unit species into two categories: actively managed and monitored. The HG for actively managed species (Pacific sardine and Pacific mackerel) is based on formulas applied to current biomass estimates. Biomass estimates are not calculated for species that are only monitored (jack mackerel, northern anchovy, and market squid).

During public meetings each year, the biomass for each actively managed species within the CPS FMP is presented to the Pacific Fishery Management Council's (Council) CPS Management Team (Team) and the Council's CPS Advisory Subpanel (Subpanel). At that time, the biomass, the HG, and the status of the fisheries are reviewed and discussed. This information is then presented to the Council along with recommendations and comments from the Team and Subpanel. Following review by the Council and after hearing public comments, the Council makes its recommendation to NMFS.

Public meetings of the Team, Subpanel and CPS Subcommitee of the Scientific and Statistical Committee (SSC) were held in October 2006. During these meetings the current stock assessment update for Pacific sardine, which included a preliminary biomass estimate and HG, was presented and reviewed in accordance with the procedures of the FMP. In November, the Council held a public meeting in San Diego, California (71 FR 62998) during which time the Council reviewed the current stock assessment, biomass numbers and proposed HG. Following the Team and Subpanel reports and hearing public comments, the Council adopted the Team's recommended HG for the 2007 Pacific sardine fishing season (January 1, 2007 through December 31, 2007) of 152,564 metric tons (mt). Although this HG is 28 percent higher than the HG for 2006, it is over 50,000 mt greater than the largest recent harvest by U.S. west coast fisheries. The Council also adopted the Subpanel recommendation of an incidental catch allowance for Pacific sardine of up to 45 percent by weight in other CPS fisheries in the event that the coastwide harvest of Pacific sardine exceeds a seasonal allocation prior to the next scheduled reallocation.

The Pacific sardine HG is apportioned based on the following allocation scheme established by Amendment 11 (71 FR 36999) to the CPS FMP: 35 percent (53,397 mt) is allocated coastwide on January 1; 40 percent (61,025 mt), plus any portion not harvested from the initial allocation is reallocated coastwide on July 1; and on September 15 the remaining 25 percent (38,141 mt), plus any portion not harvested from earlier allocations is released.

If the total harvest guideline or these apportionment levels for Pacific sardine are reached at any time, the Pacific sardine fishery shall be closed until either it re-opens per the allocation scheme or the beginning of the next fishing season. The Regional Administrator shall publish in the **Federal Register**, through appropriate rulemaking procedures, the date of the closure of the directed fishery for Pacific sardine.

Classification

The Administrator, Southwest Region, NMFS, determined that this final rule is necessary for the conservation and management of the CPS fishery and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

This final rule is exempt from OMB review under Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule (72 FR 35419) and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

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

Dated: October 18, 2007.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. E7–20927 Filed 10–24–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070213032–7032–01]

RIN 0648–XD59

Fisheries of the Exclusive Economic Zone Off Alaska; Trawl Gear in the Gulf of Alaska

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

ACTION: Temporary rule; modification of a closure.

SUMMARY: NMFS is opening directed fishing for groundfish by vessels using trawl gear in the Gulf of Alaska (GOA), effective 1200 hrs, Alaska local time, October 22, 2007. This action is necessary to fully use the 2007 Pacific halibut prohibited species catch (PSC) limit specified for vessels using trawl gear in the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), October 22, 2007, through

2400 hrs, A.l.t., December 31, 2007. Comments must be received at the following address no later than 4:30 p.m., A.l.t., November 6, 2007.

ADDRESSES: You may submit comments, identified by 0648–XD59, by any one of the following methods:

- Mail to: P.O. Box 21668, Juneau, AK 99802;
- Hand delivery to the Federal Building, 709 West 9th Street, Room 420A, Juneau, Alaska;
- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov*
- FAX to 907–586–7557, Attn: Ellen Sebastian
- Mail to the Federal Building, 709 West 9th Street, Room 420A, Juneau, Alaska

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

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 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 Pacific halibut bycatch allowance specified for trawl gear in the GOA is 2,000 metric tons (mt) as established by the 2007 and 2008 harvest specifications for groundfish of the GOA (72 FR 9676, March 5, 2007, as corrected by 72 FR 13217, March 21, 2007).

NMFS closed directed fishing for groundfish by vessels using trawl gear in the GOA under § 679.21(d)(7)(i) on October 15, 2007 (72 FR 59038, October 18, 2007). As of October 19, 2007, NMFS has determined that 59 metric tons of the 2007 Pacific halibut bycatch allowance for the fishery remains. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully use the 2007 Pacific halibut PSC limit specified for vessels using trawl gear in the GOA, NMFS is terminating the previous closure and is opening directed fishing for groundfish by vessels using trawl gear in the GOA, effective 1200 hrs, A.l.t., October 22, 2007.

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 opening of the groundfish fishery by vessels using trawl gear in the GOA. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet and processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of October 19, 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.

Without this inseason adjustment, NMFS could not allow the fishery for groundfish by vessels using trawl gear in the GOA to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until November 6, 2007.

This action is required by § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: October 22, 2007.

Alan D. Risenhoover,

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

[FR Doc. 07–5292 Filed 10–22–07; 2:45 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 72, No. 206
Thursday, October 25, 2007

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 925 and 944

[Docket No. AMS–FV–06–0184; FV03–925–1 PR]

Grapes Grown in a Designated Area of Southeastern California and Imported Table Grapes; Change in Regulatory Periods

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Reopening of comment period.

SUMMARY: Notice is hereby given that the comment period on proposed changes to the regulatory period when minimum grade, size, quality, and maturity requirements apply to southeastern California grapes under Marketing Order No. 925 (order) and to imported grapes under the table grape import regulation is reopened. The original proposed rule regarding this matter was published in the **Federal Register** on May 25, 2005 (70 FR 30001), and cited statistical information through the 2004 shipping season. The Agricultural Marketing Service (AMS) is now considering updated statistical information for the 2005 through 2007 shipping seasons. AMS hereby invites comments on the updated statistical information contained herein, as it pertains to the proposed rule to change the regulatory period.

DATES: Comments must be received by November 26, 2007.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments should be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938, or Internet: *http://www.regulations.gov.* All comments should reference the docket number and the date and page number of this issue and the May 25, 2005, issue of the **Federal Register** and will be available for public inspection in the office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Jennifer Garcia, Marketing Specialist, or Kurt Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; Telephone: (559) 487–5901; Fax: (559) 487–5906, or E-mail: *Jennifer.Garcia@usda.gov* or *Kurt.Kimmel@usda.gov.*

Small businesses may request information complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: A proposed rule was issued on May 20, 2005, and published in the **Federal Register** on May 25, 2005 (70 FR 30001) that would change the regulatory periods when the minimum grade, size, quality, and maturity requirements apply to southeastern California grapes under the order and to imported grapes under the table grape import regulation. Three notices of extension to the comment period were published in the **Federal Register** on July 25, 2005 (70 FR 42513), September 27, 2005 (70 FR 56378), and July 11, 2006 (71 FR 39019).

Section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (AMAA), delineates the requirements whereby the Secretary of Agriculture may extend the regulatory period during which marketing order regulations are in effect for imports. Those requirements have also been included by reference in the proposed rule. One specific requirement is that the Secretary consider ''To what extent, during the previous year, imports of a commodity that did not meet the requirements of a marketing order applicable to such commodity were marketed in the United States during the period that such marketing order requirements were in effect for available domestic commodities (or would have been marketed during such time if not for any additional period established by the Secretary).'' That requirement cannot be fulfilled, given the current timeline in this rulemaking process, without the introduction of evidence from ''the previous year''.

The proposed rule was published using statistical data up through and including the year 2004, which was the most current data available at the time. This rule, in addition to reopening the comment period, provides updated statistical information that fulfills the requirements for the proposed action as required in the Act.

The type and sources of the statistical information contained herein are intended to mirror the statistical evidence cited in the proposed rule. USDA believes that the updated statistical information for the years 2005 through 2007 continue to support the arguments presented in the proposed rule.

Imported Grape Statistics

The proposed rule cited U.S. Census Bureau statistics for imported grape for the years 2000–2003. During that period, an average of 60 million 18-pound lugs of grapes were imported into the United States. Using updated data and compiling the average for the years 2000–2006 (January through December), approximately 68 million 18-pound lugs of grapes were imported into the United States. The two main countries exporting to the United States were Chile, with average exports of 51 million 18-pound lugs (76 percent of the total), and Mexico, with 14 million 18-pound lugs (21 percent of the total), The remaining three percent came from various countries.

The proposed rule stated, based on 2000–2004 statistics, that the greatest percentage of imported Chilean table grapes enter the United States through the Port of Philadelphia. This continues to be the case. Information from USDA's Market News Service (Market News) for 2000–2007 shows that the Port of Philadelphia received an average of 20 million 18-pound lugs of imported Chilean grapes during the February 1 to April 19 period, with 30 percent (6 million) of these 20 million 18-pound lugs arriving between April 1 and April 19. Market News import statistics for the 2007 shipping season show that 18.28 million lugs of grapes were imported from Chile into Philadelphia from February 1 to April 19, with 25 percent

(4.55 million) arriving between April 1 and April 19. After the April 20 start of the regulatory period shipments drop off by over 99 percent.

The Market News reports also show that weekly shipments of Chilean grapes imported into Philadelphia in 2007 mirror the pattern of previous years. An average of approximately 3 million 18-pound lugs of grapes were imported each week of the season up to the April 20 start of regulation. Following the April 20 start date of regulation, weekly shipments averaged 70,000 lugs, with shipments ceasing altogether after May 31.

Voluntary Inspection Data

Statistics from the AMS, Fresh Products Branch regarding voluntary inspections of imported Chilean grapes were cited in the proposed rule to highlight the high failure rates of imported grape inspections on product imported from April 1 to April 19 during the years 2000–2004. The trend of high failure rates on voluntary inspections continues in subsequent years. Voluntary inspections for the 2005–2007 shipping seasons indicate that, on average, 82 percent of the voluntary inspections conducted on Chilean grapes imported into the Port of Philadelphia from April 1 to April 19 failed, indicating that the product did not meet minimum U.S. quality standards. The voluntary inspections were conducted on an average of 32 percent of the total grapes imported during that period, meaning that, on average, at least 26 percent (82 percent of the 32 percent inspected) of all imports failed to meet minimum quality standards during that time frame. With 68 percent of the imports not subject to any inspection, the percentage of substandard grapes entering the U.S. could be much higher that the 26 percent that is known to have been voluntarily subjected to inspection and subsequently failed.

In 2007 specifically, 28 percent of imported grapes entering the country through the Port of Philadelphia were voluntarily inspected. The failure rate of those voluntary inspections was 81 percent, which mimics the trend highlighted in the proposed rule for years 2000–2004.

Wholesale Market Reports

The proposed rule cited Market News reports to show that fair, ordinary, and poor condition imported table grapes were in the market during the month of May in the years 2000–2004 and in June of 2000, 2001 and 2004. A review of recent reports shows that, similar to previous years, fair, ordinary, and poor condition imported grapes were in the market in May of 2005–2007 as well.

In addition, the proposed rule cited Market News reports to highlight specific incidences where poor quality imported Chilean grapes were present in the Philadelphia, Boston, St. Louis, New York, Chicago, and Detroit wholesale markets at dramatically reduced prices in May of 2002, 2003, and 2004.

In 2007, lower quality imported Chilean grapes continued to be present in various U.S. wholesale markets. Market news reports for the Philadelphia, Boston, Chicago, New York, Baltimore, and Detroit wholesale markets for May of 2007 show that ordinary and poor quality Chilean grapes were present in the market and that they were available at dramatically reduced prices. Those grapes continue to be in direct competition with excellent/good quality domestically produced grapes subject to marketing order regulation at much higher prices.

Specifically, Market News reports for the Philadelphia wholesale market from May 1 to May 23, 2007, show that imported poor condition Chilean Thompson Seedless grapes were present in the market for $1.00 to $3.00 a lug. Imported poor condition Chilean Red Seedless grapes were also in the market from may 15 to May 17, 2007 at $1.00 to $4.00 a lug. Additionally, poor condition imported Chilean Black Seedless grapes were also selling for $1.00 a lug from May 21 to May 23, 2007. Good quality Black Seedless grapes from the production area were sold in the same market from May 18 to May 25, 2007 at prices ranging from $38 to $40 a lug.

Market News reports for the Boston wholesale market show that poor quality imported Chilean Autumn Royal, Black Seedless, Princess, Red Globe, and Thompson Seedless were present at different dates through the month of May, 2007, at prices that ranged from $1.00 to $6.00. Good quality Black Seedless grapes from the production area were present at prices ranging from $38.00 to $40.00.

The statistical information from the California Table Grape Commission Market Activity Reports could not be duplicated for 2007 at the time of this rulemaking action.

USDA is reopening the comment period for an additional 30 days to allow interested persons to review and submit written comments on the updated statistical information contained in this rule as it pertains to the proposed rule. All written comments timely received will be considered before a final determination is made on this matter. Comments in reference to the proposed rule that have been received prior to this action will continue to be considered as well.

Authority: 7 U.S.C. 601–674.

Dated: October 18, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 07–5266 Filed 10–24–07; 8:45 am]

BILLING CODE 3410–02–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AI23

List of Approved Spent Fuel Storage Casks: HI-STORM 100 Revision 4

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its spent fuel storage cask regulations by revising the Holtec International (Holtec) HI-STORM 100 cask system listing within the ''List of Approved Spent Fuel Storage Casks'' to include Amendment No. 4 to Certificate of Compliance (CoC) Number 1014. Amendment No. 4 would modify the CoC by including changes to add site-specific options to the CoC to permit use of a modified HI-STORM 100 cask system at the Indian Point Unit 1 (IP1) Independent Spent Fuel Storage Installation (ISFSI). These options include the shortening of the HI-STORM 100S Version B, Multi-Purpose Canister (MPC)–32 and MPC–32F and the HI-TRAC 100D Canister to accommodate site-specific restrictions. Additional changes address the Technical Specification (TS) definition of transport operations and associated language in the safety analysis report (SAR); the soluble boron requirements for Array/Class 14x14E IP1 fuel; the helium gas backfill requirements for Array/Class 14x14E IP1 fuel; the addition of a fifth damaged fuel container design under the TS definition for damaged fuel container; addition of separate burnup, cooling time, and decay heat limits for Array/Class 14x14 IP1 fuel for loading in an MPC–32 and MPC–32F; addition of antimony-beryllium secondary sources as approved contents; the loading of all IP1 fuel assemblies in damaged fuel containers; the preclusion of loading of IP1 fuel debris in the MPC–32 or MPC–32F; the reduction of the maximum enrichment for Array/Class 14x14E IP1

fuel from 5.0 to 4.5 weight percent uranium-235; changes to licensing drawings to differentiate the IP1 MPC–32 and MPC–32F from the previously approved MPC–32 and MPC–32F; and other editorial changes, including replacing all references to U.S. Tool and Die with Holtec Manufacturing Division.

DATES: Comments on the proposed rule must be received on or before November 26, 2007.

ADDRESSES: You may submit comments by any one of the following methods. Please include the following number (RIN 3150–AI23) in the subject line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including personal information such as social security numbers and birth dates in your submission.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: SECY@nrc.gov. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415–1966. Comments can also be submitted via the Federal eRulemaking Portal *http://www.regulations.gov*.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Federal workdays [telephone (301) 415–1966].

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at (301) 415–1101.

Publicly available documents related to this rulemaking may be viewed electronically on the public computers at the NRC's Public Document Room (PDR), O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/NRC/ADAMS/index.html*. From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*. An electronic copy of the proposed CoC No. 1014, the proposed Technical Specifications (TS), and the preliminary safety evaluation report (SER) for Amendment No. 4 can be found in a package under ADAMS Accession No. ML072220481.

The proposed CoC No. 1014, the proposed TS, the preliminary SER for Amendment No. 4, and the environmental assessment, are available for inspection at the NRC PDR, 11555 Rockville Pike, Rockville, MD. Single copies of these documents may be obtained from Jayne M. McCausland, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6219, e-mail *jmm2@nrc.gov*.

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

SUPPLEMENTARY INFORMATION: For additional supplementary information, see the direct final rule published in the Rules and Regulations section of this **Federal Register**.

Procedural Background

This rule is limited to the changes contained in Amendment No. 4 to CoC No. 1014 and does not include other aspects of the HI-STORM 100 design. Because NRC considers this action noncontroversial and routine, the NRC is publishing this proposed rule concurrently as a direct final rule elsewhere in this issue of the **Federal Register**. Adequate protection of public health and safety continues to be ensured. The direct final rule will become effective on January 8, 2008. However, if the NRC receives significant adverse comments on the direct final rule by November 26, 2007, then the NRC will publish a document that withdraws the direct final rule. If the direct final rule is withdrawn, the NRC will address the comments received in response to the proposed revisions in a subsequent final rule. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action in the event the direct final rule is withdrawn.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC staff to make a change (other than editorial) to the rule, CoC, or TS.

For additional procedural information and the regulatory analysis, see the direct final rule published in the Rules and Regulations section of this **Federal Register**.

List of Subjects In 10 CFR Part 72

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

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the Nuclear Waste Policy Act of 1982, as amended; and 5 U.S.C. 553; the NRC is proposing to adopt the following amendments to 10 CFR part 72.

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

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

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended; sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242; as amended, 1244, 1246 (42

U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951, as amended by Pub. L. 102–486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241; sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Pub. L. 109–58, 119 Stat. 806–10 (42 U.S.C. 2014, 2021, 2021b, 2111).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c),(d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C.10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

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

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1014.

Initial Certificate Effective Date: May 31, 2000.

Amendment Number 1 Effective Date: July 15, 2002.

Amendment Number 2 Effective Date: June 7, 2005.

Amendment Number 3 Effective Date: May 29, 2007.

Amendment Number 4 Effective Date: January 8, 2008.

SAR Submitted by: Holtec International.

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

Docket Number: 72–1014.

Certificate Expiration Date: June 1, 2020.

Model Number: HI-STORM 100.

* * * * *

Dated at Rockville, Maryland, this 10th day of October, 2007.

For the Nuclear Regulatory Commission.

William F. Kane,

Acting Executive Director for Operations.

[FR Doc. E7–21015 Filed 10–24–07; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0081; Directorate Identifier 2007–NM–186–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus A318, A319, A320, and A321 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

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

A number of occurrences of an incorrect installation of the trimmable horizontal stabilizer actuator (THSA) have been found and reported during the accomplishment of the AIRBUS Service Bulletin (SB) A320–27–1164 mandated by EASA AD 2006–0223.

These issues could lead to a degradation of the integrity of the THSA primary load path and to secondary load path partial or full engagement.

Degradation of the THSA primary load path could result in latent (undetected) loading and eventual failure of the THSA secondary load path, with consequent uncontrolled movement of the horizontal stabilizer and loss of control of the airplane. The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by November 26, 2007.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *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.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–2141; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2007–0081; Directorate Identifier 2007–NM–186–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2007–0178, dated June 22, 2007 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

A number of occurrences of an incorrect installation of the trimmable horizontal stabilizer actuator (THSA) have been found and reported during the accomplishment of the AIRBUS Service Bulletin (SB) A320–27–1164 mandated by EASA AD 2006–0223.

These issues could lead to a degradation of the integrity of the THSA primary load path and to secondary load path partial or full engagement.

This AD therefore mandates a one-time detailed visual inspection of specific parts of the THSA attachments.

Degradation of the THSA primary load path could result in latent (undetected) loading and eventual failure of the THSA secondary load path, with consequent uncontrolled movement of the horizontal stabilizer and loss of control of the airplane. The corrective actions include doing a one-time detailed visual inspection of the lower and the upper THSA attachments for correct installation and the presence of metallic particles, contacting Airbus for repair instructions if any installation deviations or metallic particles are found, and doing repairs. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Airbus has issued Service Bulletin A320–27A1179, dated January 12, 2007. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This AD and the MCAI or Service Information

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

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a NOTE within the proposed AD.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 721 products of U.S. registry. We also estimate that it would take about 3 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $173,040, or $240 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

AIRBUS: Docket No. FAA–2007–0081; Directorate Identifier 2007–NM–186–AD.

Comments Due Date

(a) We must receive comments by November 26, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus A318, A319, A320, and A321 series airplanes, certificated in any category, all certified models, all manufactured serial numbers (MSN) up to and including MSN 2860.

Subject

(d) Air Transport Association (ATA) of America Code 27: Flight Controls.

Reason

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

A number of occurrences of an incorrect installation of the trimmable horizontal stabilizer actuator (THSA) have been found and reported during the accomplishment of the AIRBUS Service Bulletin (SB) A320–27–1164 mandated by EASA AD 2006–0223.

These issues could lead to a degradation of the integrity of the THSA primary load path and to secondary load path partial or full engagement.

This AD therefore mandates a one-time detailed visual inspection of specific parts of the THSA attachments.

Degradation of the THSA primary load path could result in latent (undetected) loading and eventual failure of the THSA secondary load path, with consequent uncontrolled movement of the horizontal stabilizer and loss of control of the airplane. The corrective actions include doing a one-time detailed visual inspection of the lower and the upper THSA attachments for correct installation and the presence of metallic particles, contacting Airbus for repair instructions if any installation deviations or metallic particles are found, and doing repairs.

Actions and Compliance

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

(1) Within 600 flight hours or 750 flight cycles or 100 days after the effective date of this AD, whichever occurs first, inspect the lower and the upper THSA attachments for installation deviations and metallic particles,

in accordance with Airbus Service Bulletin A320–27A1179, dated January 12, 2007; and, if any installation deviations or metallic particles are found, before further flight, contact Airbus for repair instructions and repair.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, 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: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2141; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI EASA Airworthiness Directive 2007–0178, dated June 22, 2007, and Airbus Service Bulletin A320–27A1179, dated January 12, 2007, for related information.

Issued in Renton, Washington, on October 12, 2007.

Stephen P. Boyd,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–21006 Filed 10–24–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–27785; Directorate Identifier 2006–NM–267–AD]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: We are revising an earlier NPRM for the products listed above. This action revises the earlier NPRM by expanding the scope. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

It has been found that some ''caution'' messages issued by the Flight Guidance Control System (FGCS) are not displayed on aircraft equipped with [certain] EPIC software load[s] * * *. Therefore, following a possible failure on one FGCS channel during a given flight, such a failure condition will remain undetected * * *. If another failure occurs on the second FGCS channel, the result may be a command hardover by the autopilot.

A command hardover is a sudden roll, pitch, or yaw movement, which could result in reduced controllability of the airplane. The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by November 19, 2007.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *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.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2007–27785; Directorate Identifier 2006–NM–267–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

We proposed to amend 14 CFR part 39 with an earlier NPRM for the specified products, which was published in the **Federal Register** on April 6, 2007 (72 FR 17042). That earlier NPRM proposed to require actions intended to address the unsafe condition for the products listed above.

Since that NPRM was issued, EMBRAER Model ERJ 190–200 STD, –200 LR, and –200 IGW airplanes have been added to the U.S. type certificate data sheet. We have determined that these airplane models are subject to the unsafe condition and are included in the MCAI for Model 190 airplanes.

Comments

We have considered the following comments received on the earlier NPRM.

Request to Add Optional Terminating Action

Two commenters, EMBRAER and the Air Transport Association (ATA) on behalf of its member US Airways, have requested that an optional method of compliance be added to the AD.

EMBRAER states that PRIMUS EPIC Field-Loadable Software Version 19.3 is available and that instructions for uploading this new software are described in Service Bulletins 170–31–0019 and 190–31–0009, both issued on May 4, 2007. EMBRAER continues that, as soon as this upload is accomplished, the repetitive inspections described by service bulletins 170–22–0003 and 190–22–0002 (cited in the original NPRM as appropriate sources of service information) are no longer needed. Consequently EMBRAER suggests that we revise the NPRM to include an optional installation of software version 19.3 in lieu of the repetitive inspections.

US Airways states that Embraer Service Bulletin 190–22–0002, dated November 9, 2006, mandates testing of the FGCS channel engagement until MAU PRIMUS EPIC software LOAD version 19.1 has been installed. US Airways therefore requests that upload of PRIMUS EPIC Software Version 19.1 or higher be added to the final rule as an option to the compliance requirements already stated in the NPRM.

We partially agree with this request. We have determined that software LOAD version 19.1 will not address the unsafe condition described in the supplemental NPRM. However, we have confirmed with Embraer that software LOAD version 19.3 or higher is acceptable as an optional terminating action for the repetitive functional checks. We have therefore revised paragraph (f) into paragraph (f)(1) and paragraph (f)(2) in the supplemental NPRM to provide for the optional terminating action.

Request to Clarify Procedures

One commenter, Ranamdeep Singh, asks that we clarify or remove the following statement from paragraph (f) of the NPRM: ''Before further flight, do all applicable replacements of the actuator input-output processor in accordance with the applicable service bulletin.'' The commenter states that the MCAI specifies a functional check within 300 hours after the effective date of the MCAI, with repetitions every 600 hours thereafter, in accordance with EMBRAER Service Bulletin 190–22–0002, dated November 9, 2006, but does not require replacing the actuator input-output processor before further flight. The commenter continues that Service Bulletin 190–22–0002 provides an alternative procedure to perform the functional check with the airplane in flight rather than on the ground. The commenter states an intent to use this alternative method due to a lack of ground equipment, but asserts that the words ''before further flight'' in paragraph (f) of the NPRM mean that the alternative method can not be used, which, therefore, causes an excessive burden by forcing operators to perform the functional check on the ground. The commenter therefore requests that we clarify or remove the specified statement.

We partially agree with this request. It appears there is some confusion regarding the procedures described in Service Bulletin 190–22–0002. The original NPRM requires replacing the actuator input-output processor before further flight after it has been determined that replacement is applicable. The functional checks described in the service bulletin, in paragraph 3.A.2 of the ground check and paragraphs 3.B.6(a) and (b) of the alternative check, all specify replacing the actuator input-output processor if certain messages are displayed during the functional check. The operator may use the alternative method and perform the functional check in flight, but after the check has been done, any defective actuator input-output processor must be replaced before further flight after the airplane has landed. It is not necessary to change the supplemental NPRM in this regard.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Certain changes described above expand the scope of the earlier NPRM. As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this proposed AD.

Differences Between This AD and the MCAI or Service Information

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

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a NOTE within the proposed AD.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 98 products of U.S. registry. We also estimate that it would take about 2 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $15,680, or $160 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the

distribution of power and responsibilities among the various levels of government.

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

EMPRESA BRASILEIRA DE AERONAUTICA S.A. (EMBRAER): Docket No. FAA–2007–27785; Directorate Identifier 2006–NM–267–AD.

Comments Due Date

(a) We must receive comments by November 19, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all EMBRAER Model ERJ 170–100 LR, –100 STD, –100 SE, –100 SU, –200 LR, –200 STD, and –200 SU airplanes, and Model ERJ 190–100 STD, –100 LR, –100 IGW, –200 STD, –200 LR, and –200 IGW airplanes; certificated in any category.

Subject

(d) Air Transport Association (ATA) of America Code 22: Auto Flight.

Reason

(e) The mandatory continuing airworthiness information (MCAI) for Model ERJ 170 airplanes states:

It has been found that some ''caution'' messages issued by the Flight Guidance Control System (FGCS) are not displayed on aircraft equipped with EPIC software load 17.3 or 17.5. Therefore, following a possible failure on one FGCS channel during a given flight, such a failure condition will remain undetected or latent in subsequent flights. If another failure occurs on the second FGCS channel, the result may be a command hardover by the autopilot.

The MCAI for Model ERJ 190 airplanes states:

It has been found that some ''caution'' messages issued by the Flight Guidance Control System (FGCS) are not displayed on aircraft equipped with EPIC software load 4.3, 4.4 or 4.5. Therefore, following a possible failure on one FGCS channel during a given flight, such a failure condition will remain undetected or latent in subsequent flights. If another failure occurs on the second FGCS channel, the result may be a command hardover by the autopilot.

A command hardover is a sudden roll, pitch, or yaw movement, which could result in reduced controllability of the airplane. The MCAI mandates a functional test of the flight guidance control system channels engagement. The corrective action is replacement of the actuator input-output processor if necessary.

Actions and Compliance

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

(1) Within 300 flight hours after the effective date of this AD, do a functional check of the flight guidance control system (FGCS) channels engagement, in accordance with EMBRAER Service Bulletin 170–22–0003 or EMBRAER Service Bulletin 190–22–0002, both dated November 9, 2006, as applicable. Repeat the functional check thereafter at intervals not to exceed 600 flight hours, until the optional terminating action described by paragraph (f)(2) of this AD had been done. If any malfunction of the FGCS is discovered during any functional check required by this paragraph, before further flight, do all applicable replacements of the actuator input-output processor in accordance with the applicable service bulletin.

Note 1: For the purpose of this AD, a functional check is: ''A quantitative check to determine if one or more functions of an item perform within specified limits.''

(2) Installing PRIMUS EPIC Field-Loadable Software Version 19.3, in accordance with EMBRAER Service Bulletin 170–31–0019, Revision 01, dated June 25, 2007; or Service Bulletin 190–31–0009, Revision 02, dated June 29, 2007, as applicable, ends the repetitive functional checks required by paragraph (f)(1) of this AD. If any software versions higher than 19.3 are available, the latest of any such versions is acceptable for the installation described in this paragraph.

FAA AD Differences

Note 2: This AD differs from the MCAI and/or service information as follows: We have provided optional terminating action in paragraph (f)(2) of this AD; this difference has been coordinated with the Agência Nacional de Aviação Civil (ANAC).

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, Attn: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI Brazilian Airworthiness Directives 2006–11–02 and 2006–11–03, both effective November 16, 2006; EMBRAER Service Bulletins 170–22–0003 and 190–22–0002, both dated November 9, 2006; EMBRAER Service Bulletin 170–31–0019, Revision 01, dated June 25, 2007; and EMBRAER Service Bulletin 190–31–0009, Revision 02, dated June 29, 2007; for related information.

Issued in Renton, Washington, on October 13, 2007.

Stephen P. Boyd,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–21008 Filed 10–24–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0083; Directorate Identifier 2006–NM–266–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135BJ, –135ER, –135KE, –135KL, –135LR, –145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

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

> It has been found the occurrence of engine anti-ice system valve failure, where the valve spring seat has broken and obstructed the anti-ice system venturi tube. * * *
>
> Therefore, should the aircraft encounter icing conditions, ice may accrete in the engine inlet lip and be ingested through the air inlet, resulting in possible engine damage and flame-out.

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by November 26, 2007.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *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.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2007–0083; Directorate Identifier 2006–NM–266–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The Agência Nacional de Aviação Civil (ANAC), which is the aviation authority for Brazil, has issued Brazilian Airworthiness Directive 2006–09–03R1, effective January 4, 2007 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> It has been found the occurrence of engine anti-ice system valve failure, where the valve spring seat has broken and obstructed the anti-ice system venturi tube. Aircraft dispatch with that failure may be allowed by the operator Minimum Equipment List (MEL), since the engine anti-ice system valve be locked in the OPEN position. However, there is no readily available means to make sure the anti-ice system tubing is free of debris, allowing unrestricted hot airflow to the piccolo tube on the engine inlet lip. Therefore, should the aircraft encounter icing conditions, ice may accrete in the engine inlet lip and be ingested through the air inlet, resulting in possible engine damage and flame-out.

The MCAI requires inspection of the engine anti-icing system valves and tubes to detect damage and, if necessary, replacement of the anti-icing system valves. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

EMBRAER has issued the following service bulletins:

- 145–30–0044, Revision 03, dated December 12, 2006.
- 145–30–0049, Revision 01, dated October 19, 2006.
- 145LEG–30–0016, Revision 01, dated February 5, 2007.
- 145LEG–30–0018, Revision 02, dated December 12, 2006.

The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This AD and the MCAI or Service Information

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

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a NOTE within the proposed AD.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 697 products of U.S. registry. We also estimate that it would take about 2 work-hours per product to comply with the requirements of this proposed AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $111,520, or $160 per product.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with

promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

EMPRESA BRASILEIRA DE AERONAUTICA S.A. (EMBRAER): Docket No. FAA–2007–0083; Directorate Identifier 2006–NM–266–AD.

Comments Due Date

(a) We must receive comments by November 26, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135BJ, –135ER, –135KE, –135KL, –135LR, –145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes, certificated in any category, except aircraft having serial numbers 14500921, 14500928, 14500932, 14500949, 14500958, 14500971, 14500973 and up, which will have in-factory modification incorporated.

Subject

(d) Air Transport Association of America Code 30: Ice and Rain Protection.

Reason

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

It has been found the occurrence of engine anti-ice system valve failure, where the valve spring seat has broken and obstructed the anti-ice system venturi tube. Aircraft dispatch with that failure may be allowed by the operator Minimum Equipment List (MEL), since the engine anti-ice system valve be locked in the OPEN position. However, there is no readily available means to make sure the anti-ice system tubing is free of debris, allowing unrestricted hot airflow to the piccolo tube on the engine inlet lip. Therefore, should the aircraft encounter icing conditions, ice may accrete in the engine inlet lip and be ingested through the air inlet, resulting in possible engine damage and flame-out.

The MCAI requires inspection of the engine anti-icing system valves and tubes to detect damage and, if necessary, replacement of the anti-icing system valves.

Actions and Compliance

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

(1) PART I—Within the next 500 flight hours or 3 months after the effective date of this AD, whichever occurs first, carry out a general visual inspection of both LH (left-hand) and RH (right-hand) engine anti-ice system valves to determine their P/N (part number).

(i) If any engine anti-ice system valve with P/N C146009–2 is found, no further action is required by paragraph (f)(1) of this AD.

(ii) If any anti-ice system valve with P/N C146009–3 is found, before further flight: Remove it and carry out a detailed inspection regarding its integrity; and carry out a special detailed inspection for an obstruction in the corresponding engine anti-ice system tubes; according to the detailed instructions and procedures described in EMBRAER Service Bulletin 145–30–0049, Revision 01, dated October 19, 2006; or 145LEG–30–0016, Revision 01, dated February 5, 2007; as applicable.

(A) If the valve is damaged or the tube is obstructed, as shown in EMBRAER Service Bulletin 145–30–0049, Revision 01, dated October 19, 2006; or 145LEG–30–0016, Revision 01, dated February 5, 2007; as applicable; before further flight: Replace the valve with another one bearing P/N C146009–2, C146009–3, or C146009–4; or remove the obstruction; as applicable; in accordance with the Accomplishment Instructions of the applicable service bulletin.

(B) If the valve is not damaged or the tube is not obstructed, re-install the valve or install another one bearing P/N C146009–2, C146009–3, or C146009–4; or re-install the tube; in accordance with the Accomplishment Instructions of the applicable service bulletin.

(iii) If any engine anti-ice system valve with P/N C146009–4 is found, no further action is required by paragraph (f)(1) of this AD. In this case, paragraphs (f)(2), (f)(3), (f)(4), (f)(7), and (f)(8) of this AD are not applicable. However, paragraphs (f)(5) and (f)(6) of this AD must be accomplished.

(2) PART II—Within the next 1,500 flight hours or 9 months after the effective date of this AD, whichever occurs first, and thereafter at intervals that do not exceed 1,000 flight hours or 6 months, whichever occurs first, carry out a detailed inspection for damage of both LH and RH engine anti-ice system valves bearing P/N C146009–2 or C146009–3; and a special detailed inspection for obstruction of the corresponding engine anti-ice system tubes; according to the detailed instructions and procedures described in EMBRAER Service Bulletin 145–30–0049, Revision 01, dated October 19, 2006; or 145LEG–30–0016, Revision 01, dated February 5, 2007; as applicable; accomplishing paragraphs (f)(2)(i) and (f)(2)(ii) of this AD.

(i) If the valve is damaged or the tube is obstructed, as shown in EMBRAER Service Bulletin 145–30–0049, Revision 01, dated October 19, 2006; or 145LEG–30–0016, Revision 01, dated February 5, 2007; as applicable; before further flight: Replace the valve with another one bearing P/N C146009–2, C146009–3, or C146009–4; or remove the obstruction; as applicable; in accordance with the Accomplishment Instructions of the applicable service bulletin.

(ii) If the valve is not damaged, and the tube is not obstructed, before further flight: Re-install the valve or install another one bearing P/N C146009–2, C146009–3, or C146009–4; or remove the obstruction; as applicable; in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145–30–0049, Revision 01, dated October 19, 2006; or 145LEG–30–0016, Revision 01, dated February 5, 2007; as applicable.

(3) PART III—Any engine anti-ice system valve with P/N C146009–2 or C146009–3 that will be installed as a replacement as provided for in paragraph (f)(1) and (f)(2) of this AD, must undergo a detailed inspection for its integrity before installation, and any damage or obstruction repaired, according to the detailed instructions and procedures described in EMBRAER Service Bulletin 145–30–0049, Revision 01, dated October 19, 2006; or 145LEG–30–0016, Revision 01, dated February 5, 2007; as applicable; and additionally adhere to paragraphs (f)(3)(i) and (f)(3)(ii) of this AD.

(i) If the valve is damaged, replace it by another one bearing P/N C146009–2, C146009–3, or C146009–4; in accordance with the Accomplishment Instructions of the applicable service bulletin.

(ii) If the valve is not damaged installation is permitted.

(4) PART IV—Any engine anti-ice system tubes that will be installed on the aircraft as a replacement as provided for in paragraph (f)(1) and (f)(2) of this AD, must undergo a special detailed inspection before installation, and any damage or obstruction repaired, according to the detailed instructions and procedures described in EMBRAER Service Bulletin 145–30–0049, Revision 01, dated October 19, 2006; or 145LEG–30–0016, Revision 01, dated February 5, 2007; as applicable.

(5) PART V—If any engine anti-ice system valve with P/N C146009–4 has been found during the inspection required by paragraph (f)(1) of this AD, do paragraphs (f)(5)(i) or (f)(5)(ii) of this AD, as applicable, within the next 1,500 flight hours or 9 months after the effective date of this AD, whichever occurs first.

(i) If the valve was installed according to the detailed instructions and procedures described in EMBRAER Service Bulletin 145–30–0044, Revision 01, dated June 26, 2006, Revision 02, dated September 25, 2006, or Revision 03, dated December 12, 2006; or 145LEG–30–0018, Revision 02, dated December 12, 2006; as applicable; no further action is required by this AD.

(ii) If the valve was installed according to the detailed instructions and procedures described in EMBRAER Service Bulletin 145–30–0044, Revision 03, dated December 12, 2006; 145LEG–30–0018, dated June 26, 2006; or 145LEG–30–0018, Revision 01, dated September 25, 2006; as applicable; carry out a special detailed inspection in the corresponding engine anti-ice system tubes, and repair any damage or remove any obstruction; according to the detailed instructions and procedures described in EMBRAER Service Bulletin 145–30–0049, Revision 01, dated October 19, 2006; or 145LEG–30–0016, Revision 01, dated February 5, 2007; as applicable.

(6) PART VI—Before aircraft dispatch with one or two engine anti-ice system valves inoperative (Master Minimum Equipment List (MMEL) 30–21–01), carry out a detailed inspection for damage of the affected engine anti-ice system valves; and a special detailed inspection for obstruction of the corresponding engine anti-ice system tubes; and repair any damage or obstruction before further flight. Do all actions according to the detailed instructions and procedures described in EMBRAER Service Bulletin 145–30–0049, Revision 01, dated October 19, 2006; or 145LEG–30–0016, Revision 01, dated February 5, 2007; as applicable; accomplishing paragraph (f)(2) of this AD, unless:

(i) Valves with P/N C146009–4 have been previously installed according to the detailed instructions and procedures described in EMBRAER Service Bulletin 145–30–0044, Revision 03, dated December 12, 2006; or 145LEG–30–0018, dated June 26, 2006; or 145LEG–30–0018, Revision 01, dated September 25, 2006; as applicable; and additionally, paragraph (f)(5)(ii) of this AD has been accomplished; or

(ii) Valves with P/N C146009–4 have been previously installed according to the detailed instructions and procedures described in EMBRAER Service Bulletin 145–30–0044, Revision 01, dated June 26, 2006, or Revision 02, dated September 25, 2006; or 145LEG–30–0018, Revision 02, dated December 12, 2006; as applicable.

(7) PART VII—Within the next 2,500 flight hours or 12 months after the effective date of this AD, whichever occurs first, install engine anti-ice system valves bearing P/N C146009–4 in the LH and RH engine positions, replacing P/N C146009–3, according to the detailed instructions and procedures described in EMBRAER Service Bulletin 145–30–0044, Revision 01, dated June 26, 2006, Revision 02, dated September 25, 2006, or Revision 03, dated December 12, 2006; or 145LEG–30–0018, Revision 02, dated December 12, 2006; as applicable.

(8) PART VIII—Within the next 6,000 flight hours or 30 months after the effective date of this AD, whichever occurs first, install engine anti-ice system valves bearing P/N C146009–4 in the LH and RH engine positions, replacing P/N C146009–2, according to the detailed instructions and procedures described in EMBRAER Service Bulletin 145–30–0044, Revision 01, dated June 26, 2006; Revision 02, dated September 25, 2006, or Revision 03, dated December 12, 2006; or 145LEG–30–0018, Revision 02, dated December 12, 2006; as applicable.

(9) The installation of engine anti-ice system valves bearing P/N C146009–4 according to the detailed instructions and procedures described in EMBRAER Service Bulletin 145–30–0044, Revision 01, dated June 26, 2006, Revision 02, dated September 25, 2006, or Revision 03, dated December 12, 2006; or 145LEG–30–0018, Revision 02, dated December 12, 2006; as applicable; constitutes a terminating action for this AD, in lieu of the repetitive inspections required by paragraph (f)(2) of this AD.

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

Note 2: For the purposes of this AD, a detailed inspection is: ''An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required.''

Note 3: For the purposes of this AD, a special detailed inspection is: ''An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. The examination is likely to make extensive use of specialized inspection techniques and/or equipment. Intricate cleaning and substantial access or disassembly procedure may be required.''

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, ANM–116, International Branch, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1175; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI Brazilian Airworthiness Directive 2006–09–03R1, effective January 4, 2007; and EMBRAER Service Bulletins 145–30–0044, Revision 03, dated December 12, 2006; 145–30–0049, Revision 01, dated October 19, 2006; 145LEG–30–0016, Revision 01, dated February 5, 2007; and 145LEG–30–0018, Revision 02, dated December 12, 2006; for related information.

Issued in Renton, Washington, on October 15, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–21002 Filed 10–24–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0082; Directorate Identifier 2007–NM–219–AD]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

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

It has been found that the implementation of the Inertial Reference Units (IRU) on the ERJ–170 [and ERJ–190] may lead, in certain degraded modes, to an erroneous Flight Path Angle (FPA) indication on both Primary Flight Displays, with no alert to the flight crew. On the ERJ–170 [and ERJ–190], FPA is considered as important as pitch and bank angle for piloting purposes.

The unsafe condition is reduced ability of the flightcrew to control the flight path of the airplane. The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by November 26, 2007.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *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.
- *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.

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1405; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2007–0082; Directorate Identifier 2007–NM–219–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The Agência Nacional de Aviação Civil (ANAC), which is the aviation authority for Brazil, has issued Brazilian Airworthiness Directives 2007–08–03 and 2007–08–04, both effective August 27, 2007 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI state:

It has been found that the implementation of the Inertial Reference Units (IRU) on the ERJ–170 [and ERJ–190] may lead, in certain degraded modes, to an erroneous Flight Path Angle (FPA) indication on both Primary Flight Displays, with no alert to the flight crew. On the ERJ–170 [and ERJ–190], FPA is considered as important as pitch and bank angle for piloting purposes.

The unsafe condition is reduced ability of the flightcrew to control the flight path of the airplane. The corrective action is removal of certain wiring connections in the electrical connectors of both IRUs. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Embraer has issued Service Bulletins 170–34–0019 and 190–34–0009, both dated February 26, 2007. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This AD and the MCAI or Service Information

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

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a NOTE within the proposed AD.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 108 products of U.S. registry. We also estimate that it would take about 6 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Required parts would cost about $62 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage

for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $58,536, or $542 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

EMPRESA BRASILEIRA DE AERONAUTICA S.A. (EMBRAER): Docket No. FAA–2007–0082; Directorate Identifier 2007–NM–219–AD.

Comments Due Date

(a) We must receive comments by November 26, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to EMBRAER Model ERJ 170–100 LR, –100 STD, –100 SE, –100 SU, –200 LR, –200 STD, and –200 SU airplanes, certificated in any category, as identified in Embraer Service Bulletin 170–34–0019, dated February 26, 2007; and Model ERJ 190–100 STD, –100 LR, –100 IGW, –200 STD, –200 LR, and –200 IGW airplanes; certificated in any category, as identified in Embraer Service Bulletin 190–34–0009, dated February 26, 2007.

Subject

(d) Air Transport Association (ATA) of America Code 34: Navigation.

Reason

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

It has been found that the implementation of the Inertial Reference Units (IRU) on the ERJ–170 [and ERJ–190] may lead, in certain degraded modes, to an erroneous Flight Path Angle (FPA) indication on both Primary Flight Displays, with no alert to the flight crew. On the ERJ–170 [and ERJ–190], FPA is considered as important as pitch and bank angle for piloting purposes.

The unsafe condition is reduced ability of the flightcrew to control the flight path of the airplane. The corrective action is removal of certain wiring connections in the electrical connectors of both IRUs.

Actions and Compliance

(f) Within 18 months after the effective date of this AD, unless already done, remove the wiring connections from pins 51 and 52 in the electrical connectors of both IRUs, in accordance with the Accomplishment Instructions of Embraer Service Bulletin 170–34–0019 or 190–34–0009, as applicable, both dated February 26, 2007.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1405; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI Brazilian Airworthiness Directives 2007–08–03 and 2007–08–04, both effective August 27, 2007, and to Embraer Service Bulletins 170–34–0019 and 190–34–0009, both dated February 26, 2007, for related information.

Issued in Renton, Washington, on October 12, 2007.

Stephen P. Boyd,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–21005 Filed 10–24–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0089; Directorate Identifier 2007–NM–117–AD]

RIN 2120–AA64

Airworthiness Directives; Various Transport Category Airplanes Equipped With Auxiliary Fuel Tanks Installed in Accordance With Certain Supplemental Type Certificates

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for

various transport category airplanes. This proposed AD would require deactivation of Rogerson Aircraft Corporation auxiliary fuel tanks. This proposed AD results from fuel system reviews conducted by the manufacturer, which identified potential unsafe conditions for which the manufacturer has not provided corrective actions. We are proposing this AD to prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

DATES: We must receive comments on this proposed AD by December 10, 2007.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *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.
- *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.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Serj Harutunian, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5254; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2007–0089; Directorate Identifier 2007–NM–117–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (67 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (''SFAR 88,'' Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 requires certain type design (*i.e.*, type certificate (TC) and supplemental type certificate (STC) design approval) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to design approval holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: single failures, single failures in combination with another latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Supplemental Type Certificates (STCs) for Rogerson Auxiliary Fuel Tanks

The auxiliary fuel tank STCs on affected airplanes are of two basic type designs: a box-and-bladder type, and a double-walled cylindrical type. The box-and-bladder tanks are emptied and vented into the airplane center wing tank using either pneumatic air pressure supplied from the airplane, or electrical power from the airplane to power fuel pumps installed in the tank external dry bay area. The double-walled cylindrical tanks use pneumatic air pressure to empty into the airplane center wing tank. All auxiliary tanks use some type of electrical fuel quantity indication system (FQIS), flight deck control and annunciation panels, float level switches, valves and venting systems, electrical wiring connections in the dry bay area, and electrical bonding methods.

FAA's Findings

During the SFAR 88 safety assessment, it was determined that the Rogerson Aircraft Corporation FQIS and float level switch did not meet intrinsically safe electrical energy levels as described in the guidelines of advisory circular (AC) 25.981–1B, Fuel Tank Ignition Source Prevention Guidelines. Rogerson identified potential ignition sources resulting from a combination of single and latent failures for the Rogerson fuel tank subsystems. To prevent high electrical energy levels from the FQIS and float level switch from entering the auxiliary fuel tank, we have determined that the appropriate solution (depending on the type of auxiliary tank) for continued use is a combination of actions. First, installing a transient suppression device (TSD) on FQIS and float level switches would be needed. In order to maximize wire separation, the TSD must be installed as close as possible to the points where the FQIS and float level switch wires exit the TSD and enter the auxiliary tank. Other actions might

include replacing high-energy FQISs, and float level switches that are impractical for TSD application, with intrinsically safe FQISs, providing wire separation, conducting a one time inspection and/or replacing aging float level switch conduit assemblies, periodically inspecting the external dry bay system components and wires, and testing the integrity of bonding resistances.

Furthermore, to reduce fuel vapor ignition risks associated with dry running of fuel pumps and fuel pump failures, operational limitations are needed to ensure that the fuel pumps are turned off when the auxiliary tank is emptied. An inspection to detect fuel leakage in the dry bay and vent pipe shrouds needs to be included in the operator's maintenance program. Rogerson Aircraft Corporation has declared all STCs as high-flammability exposure installations, and has reported a few service difficulties with fuel leakage and damage to tank bladders during maintenance activities.

Rogerson has not provided the service information required under SFAR 88 that would lead the FAA to make a finding of compliance; therefore, we must mandate the deactivation of all Rogerson Aircraft Corporation auxiliary fuel tanks.

If operators do not wish to deactivate their auxiliary fuel tanks, we will consider requests for alternative methods of compliance (AMOCs). The most likely requests would be to allow continued use of the tanks by showing compliance with SFAR 88. This would involve obtaining STCs and developing maintenance procedures to address the safety issues identified above.

Once an operator has deactivated the tank as required by this AD, the operator might wish to remove the tank. This would require a separate design approval, if an approved tank removal procedure does not exist.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. For this reason, we are proposing this AD, which would require deactivation to prevent usage of auxiliary fuel tanks.

Explanation of Compliance Time

In most ADs, we adopt a compliance time allowing a specified amount of time after the AD's effective date. In this case, however, the FAA has already issued regulations that require operators to revise their maintenance/inspection programs to address fuel tank safety issues. The compliance date for these regulations is December 16, 2008. To provide for coordinated implementation of these regulations and this proposed AD, we are using this same compliance date in this proposed AD.

Costs of Compliance

There are about 148 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for the 39 U.S.-registered airplanes to comply with this proposed AD. Based on these figures, the estimated costs for U.S. operators could be as high as $194,400 to prepare and report the deactivation procedures, and $140,400 to deactivate the tank.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Individual cost
Report	1	$80	None	$80, per STC.
Preparation of tank deactivation procedure	80	80	None	$6,400, per STC.
Physical tank deactivation	30	80	$1,200	$3,600, per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Various Transport Category Airplanes: Docket No. FAA–2007–0089; Directorate Identifier 2007–NM–117–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by December 10, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to airplanes, certificated in any category and equipped with auxiliary fuel tanks installed in accordance with specified Supplemental Type Certificates (STCs), as identified in Table 1 of this AD.

TABLE 1.—AFFECTED AIRPLANES

Airplanes	Auxiliary tank STC
Boeing Model 707 airplanes	SA4053WE, SA1308NM.
Boeing Model 727–100 series airplanes	SA2970WE, SA3674WE, SA3157WE, SA3319WE, SA3559WE, SA2734WE, SA3920NM, SA3810WE, SA1979NM, SA1398NM, SA3483WE.
Boeing Model 727–200 series airplanes	SA3065WE, SA1051NW.
Boeing Model 737–200 series airplanes	SA1082NW, SA2153WE, SA1054NW.
Boeing Model 737–400 and –500 series airplanes	SA3992NM, SA3980NM.
Boeing Model 767–200 series airplanes	SA5544NM.
British Aerospace Model 1–11–400 series airplanes	SA1995WE, SA1626WE, SA3819WE, SA2971WE.
McDonnell Douglas Model DC–9–15 and DC–9–15F airplanes.	SA3558WE, SA2587WE, SA1050NW.
McDonnell Douglas Model DC–9–32F (C–9B) airplanes	SA3436NM, SA3495NM.

Unsafe Condition

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

Compliance

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

Report

(f) Within 45 days after the effective date of this AD, submit a report to the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. The report must include the following information:

(1) The airplane registration and auxiliary tank STC number installed.

(2) The usage frequency in terms of total number of flights per year and total number of flights for which the auxiliary tank is used.

Prevent Usage of Auxiliary Fuel Tanks

(g) On or before December 16, 2008, deactivate the auxiliary fuel tanks, in accordance with a deactivation procedure approved by the Manager of the Los Angeles ACO. Any auxiliary tank component that remains on the airplane must be secured and must have no effect on the continued operational safety and airworthiness of the airplane. Deactivation may not result in the need for additional instructions for continued airworthiness.

Note 1: Appendix A of this AD provides criteria that should be included in the deactivation procedure. The proposed deactivation procedures should be submitted to the Los Angeles ACO as soon as possible to ensure timely review and approval.

Note 2: For technical information, contact John Cox, Director of Engineering, Rogerson Aircraft Corporation, 16940 Von Karman, Irvine, California 92606; phone (949) 442–2381; fax (949) 442–2311.

Alternative Methods of Compliance (AMOCs)

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

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

Appendix A—Deactivation Criteria

The auxiliary fuel tank deactivation procedure required by paragraph (g) of this AD should address the following actions.

(1) Permanently drain auxiliary fuel tanks, and clear them of fuel vapors to eliminate the possibility of out-gassing of fuel vapors from the emptied auxiliary tank.

Note: If applicable, removing the bladder might help eliminate out-gassing.

(2) Disconnect all electrical connections from the fuel quantity indication system (FQIS), fuel pumps if applicable, float switches, and all other electrical connections required for auxiliary tank operation, and stow them at the auxiliary tank interface.

(3) Disconnect all pneumatic connections if applicable, cap them at the pneumatic source, and secure them.

(4) Disconnect all fuel feed and fuel vent plumbing interfaces with airplane original equipment manufacturer (OEM) tanks, cap them at the airplane tank side, and secure them in accordance with a method approved by the FAA; one approved method is specified in AC 25–8 Fuel Tank Flammability Minimization. In order to eliminate the possibility of structural deformation during cabin decompression, leave open and secure the disconnected auxiliary fuel tank vent lines.

(5) Pull and collar all circuit breakers used to operate the auxiliary tank.

(6) Revise the weight and balance document, if required, and obtain FAA approval.

(7) Amend the applicable sections of the applicable airplane flight manual (AFM) to indicate that the auxiliary fuel tank is deactivated. Remove auxiliary fuel tank operating procedures to ensure that only the OEM fuel system operational procedures are contained in the AFM. Amend the Limitations Section of the AFM to indicate that the AFM Supplement for the STC is not in effect. Place a placard in the flight deck indicating that the auxiliary tank is deactivated. The AFM revisions specified in this paragraph may be accomplished by inserting a copy of this AD into the AFM.

(8) Amend the applicable sections of the applicable airplane maintenance manual to remove auxiliary tank maintenance procedures.

(9) After the auxiliary fuel tank is deactivated, accomplish procedures such as leak checks and pressure checks deemed necessary before returning the airplane to service. These procedures must include verification that the airplane FQIS and fuel distribution systems have not been adversely affected.

(10) Include with the operator's proposed procedures any relevant information or additional steps that are deemed necessary by the operator to comply with the deactivation and return the airplane to service.

Issued in Renton, Washington, on October 15, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–21001 Filed 10–24–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0053; Directorate Identifier 98–ANE–54–AD]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF6–50, –80A1/A3, and –80C2A Series Turbofan Engines

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) for General Electric Company (GE) CF6–50, –80A1/A3, and –80C2A series turbofan engines, installed on Airbus A300 and A310 series airplanes. That AD currently requires initial and repetitive inspections and checks of the thrust reverser actuation systems. This proposed AD would require revised inspection thresholds and intervals, and would require the same actions and additional inspections of the thrust reverser actuation system locking features. This proposed AD results from refined safety analyses performed on the thrust reverser systems by GE and Airbus. We are proposing this AD to prevent inadvertent in-flight thrust reverser deployment, which can result in loss of control of the airplane.

DATES: We must receive any comments on this proposed AD by December 24, 2007.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

Contact Middle River Aircraft Systems, Mail Point 46, 103 Chesapeake Park Plaza, Baltimore, MD, 21220, attn: Warranty Support, telephone: (410) 682–0094, fax: (410) 682–0100 for the service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Robert Green, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *Robert.green@faa.gov*; telephone (781) 238–7754; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2007–0053; Directorate Identifier 98–ANE–54–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is the same as the Mail address provided in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

Discussion

The FAA proposes to amend 14 CFR part 39 by superseding AD 99–18–20, Amendment 39–11286 (64 FR 48286, September 3, 1999). That AD requires initial and repetitive inspections and checks of the thrust reverser actuation systems, and allows extended repetitive inspection intervals if an optional double p-seal configuration is installed. That AD was the result of a report of a higher than anticipated center drive unit cone brake failure rate, which reduces the overall thrust reverser system protection against inadvertent deployment. That condition, if not corrected, could result in inadvertent in-flight thrust reverser deployment, which can result in loss of control of the airplane.

Actions Since AD 99–18–20 Was Issued

Since AD 99–18–20 was issued, refined safety analyses performed on the thrust reverser systems installed on GE CF6–50, –80A1/A3, and –80C2A series turbofan engines were completed by GE and Airbus.

Relevant Service Information

We have reviewed and approved the technical contents of Middle River Aircraft Systems (MRAS) Alert Service Bulletin (ASB) No. CF6–50 S/B 78A3001, Revision 4, dated August 30, 2007, ASB No. CF6–80A1/A3 S/B 78A1002, Revision 5, dated July 19, 2007, and ASB No. CF6–80C2A1/A2/A3/A5/A8/A5F S/B 78A1015, Revision 7, dated August 30, 2007. These ASBs describe procedures for performing initial and repetitive thrust reverser system inspections and checks.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. For that reason, we are proposing this AD, which would require revised inspection thresholds and intervals, and would require inspections of the thrust reverser actuation system locking features. The proposed AD would require that you do these actions using the relevant service information described previously.

Costs of Compliance

We estimate that this proposed AD would affect 206 engines installed on airplanes of U.S. registry. We also estimate that it would take about one work-hour per engine to perform the proposed additional inspection, and that the average labor rate is $80 per work-hour. Based on these figures, we estimate the total additional cost of the proposed AD for one inspection of the U.S. fleet, to be $28,000.

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.

Docket Number Change

We are transferring the docket for this proposed AD to the Federal Docket Management System (FDMS) as part of our on-going docket management consolidation efforts. The new Docket No. is FAA–2007–0053. The old Docket No. became the Directorate Identifier, which is 98–ANE–54–AD.

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 AD:

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

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

3. Would 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. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Under the authority delegated to me by the Administrator, the Federal Aviation Administration 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 removing Amendment 39–11286 (64 FR 48286, September 3, 1999) and by adding a new airworthiness directive to read as follows:

General Electric Company: Docket No. FAA–2007–0053; Directorate Identifier 98–ANE–54–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by December 24, 2007.

Affected ADs

(b) This AD supersedes AD 99–18–20, Amendment 39–11286.

Applicability

(c) This AD applies to General Electric Company (GE) CF6–50, –80A1/A3, and –80C2A series turbofan engines. These engines are installed on Airbus A300 and A310 series airplanes.

Unsafe Condition

(d) This AD results from refined safety analyses performed on the thrust reverser systems by GE and Airbus. We are issuing this AD to prevent inadvertent in-flight thrust reverser deployment, which can result in loss of control of the airplane.

Compliance

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

Initial Inspection for CF6–50 Series Turbofan Engines

(f) For CF6–50 series turbofan engines, perform initial thrust reverser inspections using Section 2, Accomplishment Instructions, of Middle River Aircraft Systems (MRAS) Alert Service Bulletin (ASB) No. CF6–50 S/B 78A–3001, Revision 4, dated August 30, 2007, as follows:

(1) On Airbus A300 series airplanes with a Three Light Reverser Indication Circuit configuration, and without thrust reverser actuation system (TRAS) locks installed, perform the initial inspections and checks within 1,500 hours time-in-service (TIS) after the effective date of this AD.

(2) On Airbus A300 series airplanes with a Three Light Reverser Indication Circuit configuration, and with TRAS locks installed, perform the initial inspections and checks within 7,000 hours TIS after the effective date of this AD.

(3) On Airbus A300 series airplanes with a Two Light Reverser Indication Circuit configuration, and without TRAS locks installed, perform the initial inspections and checks within 1,500 hours TIS after the effective date of this AD.

(4) On Airbus A300 series airplanes with a Two Light Reverser Indication Circuit configuration, and with TRAS locks installed, perform the initial inspections and checks within 7,000 hours TIS after the effective date of this AD.

Repetitive Inspections for CF6–50 Series Turbofan Engines

(g) For CF6–50 series turbofan engines, perform repetitive thrust reverser inspections using Section 2, Accomplishment Instructions, of MRAS ASB No. CF6–50 S/B 78A–3001, Revision 4, dated August 30, 2007, as follows:

(1) On Airbus A300 series airplanes with a Three Light Reverser Indication Circuit configuration, and without TRAS locks installed, perform repetitive inspections and checks at the following:

(i) Within every 2,500 hours time-since-last-inspection (TSLI), perform paragraph 2.D., Translating Cowl Air Seal, Dagmar Fairing and Aft Frame Inspection; and paragraph 2.I., Fan Reverser Operational Check.

(ii) Within every 6,000 hours TSLI, perform paragraph 2.C., Pneumatic Drive Motor (PDM) Disc Brake Holding Torque Check; paragraph 2.E., Feedback Rod to Yoke Alignment Check and Inspection of Feedback Yoke and Feedback Rod; paragraph 2.F., Translating Cowl Auto Re-Stow Function Check; and paragraph 2.I., Fan Reverser Operational Check.

(2) Within every 7,000 hours TSLI on Airbus A300 series airplanes with a Three Light Reverser Indication Circuit configuration, and with TRAS locks installed, perform repetitive inspections and checks.

(3) On Airbus A300 series airplanes with a Two Light Reverser Indication Circuit configuration, and without TRAS locks installed, perform repetitive inspections and checks at the following:

(i) Within every 2,500 hours TSLI, perform paragraph 2.D., Translating Cowl Air Seal, Dagmar Fairing and Aft Frame Inspection; and paragraph 2.I., Fan Reverser Operational Check.

(ii) Within every 6,000 hours TSLI, perform paragraph 2.C., Pneumatic Drive Motor (PDM) Disc Brake Holding Torque Check; paragraph 2.E., Feedback Rod to Yoke Alignment Check and Inspection of Feedback Yoke and Feedback Rod; paragraph 2.G., Translating Cowl Auto Re-Stow Function Check; paragraph 2.H., Over Pressure Shutoff Valve (OPSOV) Indication Check; and paragraph 2.I., Fan Reverser Operational Check.

(4) On Airbus A300 series airplanes with a Two Light Reverser Indication Circuit configuration, and with TRAS locks installed, perform repetitive inspections and checks within every 7,000 hours TSLI.

Initial and Repetitive Inspections for CF6–80A1/A3 Series Turbofan Engines

(h) For CF6–80A1/A3 series turbofan engines installed on Airbus A310–200 airplanes, perform initial and repetitive thrust reverser inspections using Section 2, Accomplishment Instructions, of MRAS ASB No. CF6–80A1/A3 S/B 78A–1002, Revision 5, dated July 19, 2007, at the following:

(1) For initial inspection, within 1,500 hours TIS after the effective date of this AD.

(2) For repetitive inspections, within every 7,000 hours TSLI.

Initial Inspection for CF6–80C2A Series Turbofan Engines

(i) For CF6–80C2A series turbofan engines, perform initial thrust reverser inspections using Section 2, Accomplishment

Instructions, of MRAS ASB No. CF6–80C2A1/A2/A3/A5/A8/A5F S/B 78A1015, Revision 7, dated August 30, 2007, at the following:

(1) On Airbus A300 and A310 series airplanes with left-hand and right-hand reverser halves that do not have the double/backup P-seal introduced by MRAS SB No. CF6–80C2 S/B 78A1005, and that do not have locking actuator assemblies (LAAs) installed, within 600 hours TIS after the effective date of this AD.

(2) On Airbus A300 and A310 series airplanes with left-hand and right-hand reverser halves that have the double/backup P-seal introduced by MRAS SB No. CF6–80C2 S/B 78A1005, or that have LAAs installed, within 7,000 hours TIS after the effective date of this AD.

Directional Pilot Valve (DPV) Pressure Switch Check on Airbus Airplanes With CF6–80C2A5F Engines Is Not Applicable

(3) The DPV pressure switch check per paragraph 2.F. is not applicable to Airbus airplanes with CF6–80C2A5F left-hand and right-hand fan reverser halves (model ES–CF6–5), because this check is performed through the full authority digital electronic control fault detection system.

Repetitive Inspections for CF6–80C2A Series Turbofan Engines

(j) For CF6–80C2A series turbofan engines, perform repetitive thrust reverser inspections using Section 2, Accomplishment Instructions, of MRAS ASB No. CF6–80C2A1/A2/A3/A5/A8/A5F S/B 78A1015, Revision 7, dated August 30, 2007, at the following:

(1) On Airbus A300 and A310 series airplanes with left-hand and right-hand reverser halves that do not have the double/backup P-seal, introduced by MRAS SB No. CF6–80C2 S/B 78A1005, and that do not have LAAs installed, within every 600 hours TSLI.

(2) On Airbus A300 and A310 series airplanes with left-hand and right-hand reverser halves that have the double/backup P-seal, introduced by MRAS SB No. CF6–80C2 S/B 78A1015, or that have LAAs installed, within every 7,000 hours TSLI.

Engines That Fail an Inspection or Check

(k) On engines that fail an inspection or check required by this AD, perform corrective actions or deactivate the fan reverser per Section 2, Accomplishment Instructions, of the applicable MRAS ASB, before further flight.

Previous Credit

(l) Initial and repetitive inspections and checks of the thrust reverser actuation systems done before the effective date of this AD that use the following ASBs, comply with the requirements specified in this AD:

(1) MRAS ASB No. CF6–50 S/B 78A–3001, Revision 2, dated December 18, 1997; and MRAS ASB No. CF6–50 S/B 78A–3001, Revision 3, dated May 3, 2006.

(2) MRAS ASB No. CF6–80A1/A3 S/B 78A–1002, Revision 3, dated January 21, 1999; and MRAS ASB No. CF6–80A1/A3 S/B 78A–1002, Revision 4, dated May 3, 2006.

(3) MRAS ASB No. CF6–80C2 S/B 78A1015, Revision 5, dated January 21, 1999; and MRAS ASB No. CF6–80C2A1/A2/A3/A5/A8/A5F S/B 78A1015, Revision 6, dated May 3, 2006.

Alternative Methods of Compliance

(m) The Manager, Engine Certification Office, FAA, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

Related Information

(n) France AD 1999–422– IMP(B), dated October 20, 1999, also addresses the subject of this AD.

(o) Contact Robert Green, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *Robert.green@faa.gov;* telephone (781) 238–7754; fax (781) 238–7199, for more information about this AD.

Issued in Burlington, Massachusetts, on October 18, 2007.

Francis A. Favara,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. E7–21000 Filed 10–24–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–29343; Directorate Identifier 2000–NE–13–AD]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc RB211 Series Turbofan Engines

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) for Rolls-Royce plc (RR) RB211–535E4–37, RB211–535E4–B–37, and RB211–535E4–B–75 series turbofan engines. That AD requires initial and repetitive ultrasonic inspections of installed low pressure compressor (LPC) fan blade roots on-wing and during overhaul, and relubrication according to accumulated life cycles. That AD also introduces an alternative technique to ultrasonically inspect installed fan blades on-wing using a surface wave ultrasonic probe. Also, that AD introduces application of Metco 58 blade root coating as an optional terminating action. This proposed AD would require the same actions but would add compliance paragraphs to relax the compliance schedule for repetitive inspections for RB211–535E4 engines operating in flight profiles A and B, if certain requirements are met. This proposed AD results from RR issuing Mandatory Service Bulletin (MSB) No. RB.211–72–C879, Revision 5. That MSB introduces a relaxed repetitive compliance schedule for RB211–535E4 engines operating in flight profiles A and B, if certain requirements are met. We are proposing this AD to detect cracks in LPC fan blade roots, which if not detected, could lead to uncontained multiple fan blade failure, and damage to the airplane.

DATES: We must receive any comments on this proposed AD by December 24, 2007.

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

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

Contact Rolls-Royce plc, PO Box 31, Derby, England, DE248BJ; telephone: 011–44–1332–242–424; fax: 011–44–1332–249–936 for the service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Ian Dargin, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; e-mail: *ian.dargin@faa.gov;* telephone: (781) 238–7178; fax: (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send us any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2007–29343; Directorate Identifier 2000–NE–13–AD'' in the subject line 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://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of the Web site, anyone can find and read the comments in any of our dockets, including, if provided, the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is the same as the Mail address provided in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

Discussion

On January 18, 2005, we issued AD 2005–02–05, Amendment 39–13950 (70 FR 3863, January 27, 2005). That AD requires initial and repetitive ultrasonic inspections of installed LPC fan blade roots on-wing and during overhaul using a surface wave ultrasonic probe, and relubrication according to accumulated life cycles. That AD also adds the application of Metco 58 blade root coating as an optional terminating action. That AD results from RR issuing MSB No. RB.211–72–C879, Revision 4, which contains revised Accomplishment Instructions and consumable materials list.

Actions Since We Issued AD 2005–02–05

Since we issued AD 2005–02–05, Rolls-Royce plc updated MSB No. RB.211–72–C879, Revision 4, dated April 2, 2004, to Revision 5, dated March 8, 2007, for RR RB211 series turbofan engines. Revision 5 relaxes the compliance for repetitive inspections for RB211–535E4 engines operating in flight profiles A and B, if certain requirements are met.

Clarification Changes

Also, as clarification, we changed the Table 4 initial compliance from ''65% hard life'' to ''within 350 cycles after achieving 65% hard life''. These changes better reflect the proposed AD wording, with the latest MSB.

Relevant Service Information

We have reviewed and approved the technical contents of Rolls-Royce plc MSB No. RB.211–72–C879, Revision 5, dated March 8, 2007. That MSB describes procedures for ultrasonic inspection of high cyclic life blades on-wing with either the LPC fan blades in place or removed from the LPC. The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom (UK), classified the original issue of the service bulletin as mandatory and issued AD 002–01–2000 to ensure the airworthiness of these RR engines in the UK.

Bilateral Agreement Information

This engine model is manufactured in UK and is type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Under this bilateral airworthiness agreement, the UK kept us informed of the situation described above. We have examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. We are proposing this AD, which would require initial and repetitive ultrasonic inspection of installed LPC fan blade roots on-wing and during overhaul using a surface wave ultrasonic probe, and relubrication according to accumulated life cycles. This proposed AD would also maintain the application of Metco 58 blade root coating as an optional terminating action. The proposed AD would require that you do these actions using the service information described previously.

Costs of Compliance

We estimate that this proposed AD would affect 788 engines installed on airplanes of U.S. registry. We also estimate that it would take about 7 work-hours per engine to perform the proposed actions, and that the average labor rate is $80 per work-hour. Based on these figures, we estimate the total cost of the proposed AD to U.S. operators to be $358,540.

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 AD:

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

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

3. Would 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. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration

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 removing Amendment 39–13950 (70 FR 3863, January 27, 2005) and by adding a new airworthiness directive, to read as follows:

Rolls-Royce plc: Docket No. FAA–2007–29343; Directorate Identifier 2000–NE–13–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by December 24, 2007.

Affected ADs

(b) This AD revises AD 2005–02–05, Amendment 39–13950.

Applicability

(c) This AD applies to Rolls-Royce plc (RR) RB211–535E4–37, RB211–535E4–B–37, and RB211–535E4–B–75 series turbofan engines with low pressure compressor (LPC) fan blades with the part numbers (P/Ns) listed in Table 1 of this AD. These engines are installed on, but not limited to, Boeing 757 and Tupolev Tu204 series airplanes. Table 1 follows:

TABLE 1.—APPLICABLE LPC FAN BLADE P/NS

UL16135	UL16171	UL16182	UL19643	UL20044
UL20132	UL20616	UL21345	UL22286	UL23122
UL24525	UL24528	UL24530	UL24532	UL24534
UL27992	UL28601	UL28602	UL29511	UL29556
UL30817	UL30819	UL30933	UL30935	UL33707
UL33709	UL36992	UL37090	UL37272	UL37274
UL37276	UL37278	UL38029	UL38032	

Unsafe Condition

(d) This AD results from RR issuing Mandatory Service Bulletin (MSB) No. RB.211–72–C879, Revision 5, that introduces a relaxed repetitive compliance schedule for RB211–535E4 engines operating in flight profiles A and B, if certain requirements are met. We are issuing this AD to detect cracks in low pressure compressor (LPC) fan blade roots, which if not detected, could lead to uncontained multiple fan blade failure, and damage to the airplane.

Compliance

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

(f) If you have a full set of fan blades, modified using RR Service Bulletin No. RB.211–72–C946, Revision 2, dated September 26, 2002, that can be identified by a blue triangle etched on the blade airfoil suction surface close to the leading edge tip of each blade, no further action is required.

(g) On RB211–535E4 engines, operated to Flight Profile A, ultrasonically inspect, and if required, relubricate using the following Table 2:

TABLE 2.—RB211–535E4 FLIGHT PROFILE A

Engine location	Initial inspection within cycles-since-new (CSN)	Type action	In accordance with mandatory service bulletin (MSB)	Repeat inspection within (CSN)
(1) On-wing	17,350	(i) Root Probe, inspect and relubricate, OR	RB.211–72–C879 Revision 5, 3.A.(1) through 3.A.(7), dated March 8, 2007.	1,400
		(ii) Wave Probe	RB.211–72–C879 Revision 5, 3.B.(1) through 3.B.(7), dated March 8, 2007.	1,150
(2) In Shop	17,350	Root Probe, inspect and relubricate ..	RB.211–72–C879 Revision 5, 3.C.(1) through 3.C.(4), dated March 8, 2007.	1,400

(h) On RB211–535E4 engines, operated to Flight Profile B, ultrasonically inspect, and if required, relubricate using the following Table 3:

TABLE 3.—RB211–535E4 FLIGHT PROFILE B

Engine location	Initial inspection within (CSN)	Type action	In accordance with MSB	Repeat inspection within (CSN)
(1) On-wing	12,350	(i) Root Probe, inspect and relubricate, OR	RB.211–72–C879 Revision 5, 3.A.(1) through 3.A.(7), dated March 8, 2007.	850
		(ii) Wave Probe	RB.211–72–C879 Revision 5, 3.B.(1) through 3.B.(7), dated March 8, 2007.	700
(2) In Shop	12,350	Root Probe, inspect and relubricate	RB.211–72–C879 Revision 5, 3.C.(1) through 3.C.(4), dated March 8, 2007.	850

(i) On RB211–535E4 engines, operated to combined Flight Profile A and B, ultrasonically inspect, and if required, relubricate using the following Table 4:

TABLE 4.—RB211–535E4 FLIGHT PROFILE A AND B

Engine location	Initial inspection within (CSN)	Type action	In accordance with MSB	Repeat inspection within (CSN)
(1) On-wing	350 cycles after achieving 65% hard life (To calculate, see MSB Compliance Section 1.C.(4)).	(i) Root Probe, inspect and relubricate, OR	RB.211–72–C879 Revision 5, 3.A.(1) through 3.A.(7), dated March 8, 2007.	As current flight profile. See paragraphs (j) and (k) of this AD.
		(ii) Wave Probe	RB.211–72–C879 Revision 5, 3.B.(1) through 3.B.(7), dated March 8, 2007.	As current flight profile. See paragraphs (j) and (k) of this AD.
(2) In Shop	350 cycles after achieving 65% hard life (To calculate, see MSB Compliance Section 1.C.(4)).	Root Probe, inspect and relubricate.	RB.211–72–C879 Revision 5, 3.C.(1) through 3.C.(4), dated March 8, 2007.	As current flight profile. See paragraphs (j) and (k) of this AD.

(j) For RB.211–535E4 engines that are currently flying in Profile A, if the initial inspection is completed before X minus 1,400 cycles then the next inspection may be delayed to X, where X is 65% of the revised life limit.

(k) For RB.211–535E4 engines that are currently flying in Profile B, if the initial inspection is completed before X minus 850 cycles then the next inspection may be delayed to X, where X is 65% of the revised life limit.

(l) Fan blades that have been operated within RB.211–535E4 Flight Profile A and B will have final life as defined in the Time Limits Manual. See References Section 1.G.(3), of MSB RB.211–72–C879, Revision 5, dated March 8, 2007.

(m) On RB.211–535E4–B engines, ultrasonically inspect, and if required, relubricate using the following Table 5:

TABLE 5.—RB211–535E4–B

Engine location	Initial inspection within (CSN)	Type action	In accordance with MSB	Repeat inspection within (CSN)
(1) On-wing	17,000	(i) Root Probe, inspect and relubricate, OR	RB.211–72–C879 Revision 5, 3.A.(1) through 3.A.(7), dated March 8, 2007.	1,200
		(ii) Wave Probe	RB.211–72–C879 Revision 5, 3.B.(1) through 3.B.(7), dated March 8, 2007.	1,000
(2) In Shop	17,000	Root Probe, inspect and relubricate	RB.211–72–C879 Revision 5, 3.C.(1) through 3.C.(4), dated March 8, 2007.	1,200

Optional Terminating Action

(n) Application of Metco 58 blade root coating using RR SB No. RB.211–72–C946, Revision 2, dated September 26, 2002, constitutes terminating action to the repetitive inspection requirements specified in paragraphs (g), (h), (i), and (k) of this AD.

Alternative Methods of Compliance

(o) The Manager, Engine Certification Office, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

Previous Credit

(p) Previous credit is allowed for initial and repetitive inspections performed using AD 2003–12–15 (Amendment 39–13200, 68 FR 37735, June 25, 2003), RR MSB No. RB.211–72–C879, Revision 3, dated October 9, 2002, and RR MSB No. RB.211–72–C879, Revision 4, dated April 2, 2004.

Related Information

(q) CAA airworthiness directive AD 002–01–2000, dated October 9, 2002, also addresses the subject of this AD.

Issued in Burlington, Massachusetts, on October 18, 2007.

Francis A. Favara,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. E7–20999 Filed 10–24–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

37 CFR Part 2

[Docket No. PTO–T–2007–0035]

RIN 0651–AC17

Changes in the Requirement for a Description of the Mark in Trademark Applications

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: The United States Patent and Trademark Office (''USPTO'') proposes to amend the Rules of Practice in Trademark Cases to require a description of the mark in all applications to register a mark not in standard characters.

DATES: Comments must be received by December 24, 2007 to ensure consideration.

ADDRESSES: The Office prefers that comments be submitted via electronic mail message to *TM Description Requirements@uspto.gov.* Written comments may also be submitted by mail to Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313–1451, attention Cynthia C. Lynch; or by hand delivery to the Trademark Assistance Center, Concourse Level, James Madison Building-East Wing, 600 Dulany Street, Alexandria, Virginia, attention Cynthia C. Lynch; or by

electronic mail message via the Federal eRulemaking Portal. See the Federal eRulemaking Portal Web site (*http://www.regulations.gov*) for additional instructions on providing comments via the Federal eRulemaking Portal.

The comments will be available for public inspection on the Office's Web site at *http://www.uspto.gov*. and will also be available at the Office of the Commissioner for Trademarks, Madison East, Tenth Floor, 600 Dulany Street, Alexandria, Virginia.

FOR FURTHER INFORMATION CONTACT: Cynthia C. Lynch, Office of the Deputy Commissioner for Trademark Examination Policy, by telephone at (571) 272–8742.

SUPPLEMENTARY INFORMATION: The USPTO proposes to amend 37 CFR 2.37 to require trademark applicants to include a description of the mark for all marks not in standard characters and to make conforming amendments to 37 CFR 2.32(a) and 2.52(b)(5). The requirement will facilitate greater accuracy and efficiency in design coding and in pseudo-mark data determinations. Therefore, the revised rules will promote more accurate and complete searchability of marks in the USPTO records.

The current rule regarding descriptions of marks provides that a description ''may be included in the application and must be included if required by the trademark examining attorney.'' 37 CFR 2.37. Because the USPTO has concluded that the description contributes to the accuracy of design coding and pseudo-mark determinations that are made before the application reaches the examining attorney, and ultimately to more complete searches, the USPTO proposes a rule change to facilitate initial design coding and to make available a description of the mark in all files where it is likely to be useful. Thus, any applicant whose mark is not in standard characters would be required to provide a description of the mark as an application requirement.

Trademarks may consist of words, designs, or both. Both the USPTO and the public search USPTO trademark records for purposes of assessing likelihood of confusion with proposed trademarks. Words in trademarks generally can be searched directly. In contrast, designs in trademarks must be classified based on the elements they contain (e.g., stars or trees), so that they can be searched. In its electronic systems, the USPTO applies a coding system based on the Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks. Codes established under the system are assigned to trademark applications that contain designs at the time they are filed. The design classification system used is unique to the USPTO, and is applied only to marks with design elements.

Design coding of marks in new applications initially occurs before the applications are assigned to examining attorneys. When the mark in an application contains a design element, USPTO employees or contractors in the Pre-Examination section designate and apply the appropriate design codes for the mark. To improve searchability, the USPTO has also created a pseudo-mark field for some marks in the electronic database. The pseudo-mark field shows the literal equivalent of a pictorial representation in a design mark, or spellings that are similar or phonetically equivalent to wording in a word mark. The USPTO has engaged in a variety of efforts to improve the accuracy of its design code and pseudo-mark data, and continues to explore options for further improvement.

The USPTO has determined that requiring the applicant to describe any design elements proves very useful for determining the proper design codes and pseudo-mark data. For example, the applicant's description of its design elements can clarify ambiguous design elements or ''double entendres'' created by design elements, and will help to ensure that the design coding and pseudo-mark determinations have been comprehensive.

Discussion of Specific Rules

The Office proposes to revise 37 CFR 2.37 and to make conforming amendments to 37 CFR 2.32(a) and 2.52(b)(5). These rules concern descriptions of marks in trademark applications (37 CFR 2.37), the requirements for a complete application (37 CFR 2.32), and the requirements for drawings (37 CFR 2.52). Trademark Rule 2.37 currently provides that a description of the mark may be mandated by the trademark examining attorney. The proposed revisions make the inclusion of a description mandatory for all applications where the mark is not in standard characters. The remainder of § 2.37 would not change, in that a description may be included for standard character mark applications, and must be included if the trademark examining attorney so requires. The conforming amendments make the inclusion of a description a requirement for a complete application and remove discretion from applicants as to whether a description is necessary for non-standard character marks.

Rulemaking Requirements

Executive Order 13132: This rule does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

Executive Order 12866: This rule has been determined not to be significant for purposes of Executive Order 12866 (Sept. 30, 1993).

Regulatory Flexibility Act: As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 (or any other law), neither a regulatory flexibility analysis nor a certification under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are required. See 5 U.S.C. 603.

Paperwork Reduction Act: This notice involves information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collections of information involved in this notice have been reviewed and previously approved by OMB under OMB control numbers 0651–0009 and 0651–0050. This notice proposes to amend 37 CFR 2.37 to require a description of the mark in all applications to register a mark not in standard characters. The USPTO is not resubmitting information collection packages to OMB for its review and approval because the changes in this proposed rule do not affect the information collection requirements associated with OMB control numbers 0651–0009 and 0651–0050.

The estimated annual reporting burden for OMB control number 0651–0009 Applications for Trademark Registration is 253,801 responses and 74,593 burden hours. The estimated time per response ranges from 15 to 23 minutes, depending on the nature of the information. The time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information is included in the estimate. The collection is approved through September of 2008.

The estimated annual reporting burden for OMB control number 0651–0050 Electronic Response to Office Action and Preliminary Amendment Forms is 117,400 responses and 19,958 burden hours. The estimated time per response is 10 minutes. The time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information is included in the estimate. The collection is approved through April of 2009.

Comments are invited on: (1) Whether the collection of information is necessary for proper performance of the functions of the agency; (2) the accuracy of the agency's estimate of the burden; (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 to respondents.

Interested persons are requested to send comments regarding these information collections, including suggestions for reducing this burden, to the Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313–1451 (Attn: Cynthia C. Lynch), and to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10202, 725 17th Street, NW., Washington, DC 20503 (Attn: Desk Officer for the Patent and Trademark Office).

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

List of Subjects in 37 CFR Part 2

Administrative practice and procedure, Trademarks.

For the reasons stated, 37 CFR part 2 is proposed to be amended as follows:

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

1. The authority citation for 37 CFR part 2 continues to read as follows:

Authority: 15 U.S.C. 1123, 35 U.S.C. 2, unless otherwise noted.

2. Revise § 2.37 to read as follows:

§ 2.37 Description of mark.

A description of the mark must be included if the mark is not in standard characters. In an application where the mark is in standard characters, a description may be included and must be included if required by the trademark examining attorney.

3. Add § 2.32(a)(8) to read as follows:

§ 2.32 Requirements for a complete application.

(a) * * *

(8) If the mark is not in standard characters, a description of the mark.

* * * * *

4. Revise § 2.52(b)(5) to read as follows:

§ 2.52 Types of drawings and format for drawings.

* * * * *

(b) * * *

(5) *Description of mark.* A description of the mark must be included.

* * * * *

Dated: October 19, 2007.

Jon W. Dudas,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. E7–21075 Filed 10–24–07; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 2

RIN 1090–AA61

Amendment to the Freedom of Information Act Regulations

AGENCY: Office of the Secretary, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule: Clarifies the time limit that requesters have for filing FOIA appeals; clarifies that requesters must include the required documentation with their appeals or their appeals may be rejected by the FOIA Appeals Officer; clarifies that requesters must file a FOIA request with each separate bureau/office from which they are seeking records; changes the language regarding requests for expedited processing to be consistent with the language used in the FOIA and deletes a paragraph in that section pertaining to ''due process rights;'' makes the use of multitrack processing mandatory for all bureaus and offices; advises requesters that they may contact the bureau/office's FOIA Requester Service Center and the FOIA Public Liaison concerning the status of their requests; and includes current contact information for DOI's FOIA and Public Affairs/Office of Communications Contacts and its reading rooms (Headquarters).

DATES: We will accept comments from all interested parties until December 24, 2007.

ADDRESSES: You may submit comments, identified by the number 1090–AA61, by any of the following methods:

—*Federal rulemaking portal: http://www.regulations.gov* [Follow the instructions for submitting comments]

—*Mail or hand delivery:* OCIO/DOI, 1849 C Street, NW., Room 5312–MIB, Washington, DC 20240

FOR FURTHER INFORMATION CONTACT: Alexandra Mallus by telephone at (202) 208–5342.

SUPPLEMENTARY INFORMATION: The Department of the Interior published a final rule in the **Federal Register** on October 21, 2002, revising its regulations implementing the FOIA, 43 CFR Part 2. In this publication, the language used in § 2.21(d) (6), ''How will the bureau respond to my request?'' and the language used in § 2.29, ''How long do I have to file an appeal?'' were inconsistent with each other concerning the timeframe for filing an appeal. This proposed rule clarifies the 2002 final rule by noting that appeals must be received by the FOIA Appeals Officer no later than 30 workdays from the date of the final response. Additionally, this proposed rule clarifies that a requester's failure to include all correspondence between himself/herself and the bureau concerning his/her FOIA request will result in the Department's rejection of the appeal unless the FOIA Appeals Officer determines that good cause exists to accept the defective appeal.

This proposed rule also changes § 2.22, ''What happens if a bureau receives a request for records it does not have or did not create?'' to eliminate paragraph (a)(1) of § 2.22, which has been construed by some courts to require bureaus that had received a FOIA request to refer the request to another bureau for a search of its records, regardless of whether the bureau that received the request had responsive records. The result of this change is that FOIA requesters must submit their requests in accordance with § 2.10, which requires that the FOIA requester specify which bureau's records are being sought or, at a minimum, specify that the FOIA requester is seeking the records of more than one bureau.

Consistent with EO 13392, this proposed rule adds a new paragraph (c) to § 2.12, ''When can I expect the response?'' advising requesters that they may contact the bureau/office's FOIA Requester Service Center and the FOIA Public Liaison concerning the status of their requests. Additionally, the language in sections 2.3 and 2.14 regarding expedited processing has been amended to reflect the statutory language. The term ''exceptional need'' has been replaced with ''compelling need,'' and paragraph (a)(3) in § 2.14 pertaining to ''due process rights'' has been removed.

This proposed rule also revises the language in § 2.26, ''Does the bureau provide multitrack processing of FOIA requests?'' to make the use of multitrack

processing mandatory for all bureaus and offices within the Department and remind the bureaus of the statutory requirement of due diligence. Finally, Appendix A to Part 2, Department of the Interior FOIA and Public Affairs Contacts and Reading Rooms, has been updated to include current contact information for DOI's FOIA and Public Affairs/Office of Communications Contacts and its reading rooms (Headquarters) and to delete the FOIA contacts and reading rooms for the field offices. In the future, bureaus/offices will maintain information pertaining to the field offices on their FOIA Web sites to ensure that their contact information is accurate and current.

Public Comment Policy

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.

Regulatory Planning and Review (E.O. 12866)

The Office of Management and Budget (OMB) has determined that this proposed rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and therefore is not subject to OMB review because it is not 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 or obligations of their recipients; or

(4) Raise novel legal or policy issues.

Regulatory Flexibility Act

DOI certifies that this regulation will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 606(b)). Under the FOIA, agencies may recover only the direct costs of searching for, reviewing, and duplicating the records processed for requesters. Thus, fees assessed by DOI are nominal.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule will not result in an annual effect on the economy of more than $100 million per year; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based companies to compete with foreign-based enterprises. It deals strictly with implementation of the FOIA within DOI.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments, or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments, or the private sector. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*)

Takings (E.O. 12630)

In accordance with Executive Order 12630, this rule does not have any takings implications. It deals strictly with implementation of the FOIA within DOI. Therefore, a takings assessment is not required.

Federalism (E.O. 13132)

In accordance with Executive Order 13132, this rule does not have Federalism implications as it deals strictly with implementation of the FOIA within DOI. Therefore, a Federalism assessment is not required.

Civil Justice Reform (E.O. 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This rule does not contain any information collection requirements for which OMB approval under the Paperwork Reduction Act (44 U.S.C. 3501–3520) is required.

National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act (42 U.S.C. 4321–4347) of 1969 is not required.

Executive Order 13211

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. As this rule is not expected to significantly affect energy supplies, distribution, or use, this action is not a significant energy action and no Statement of Energy Effects is required.

Clarity of This Regulation

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (A ''section'' appears in bold type and is preceded by the symbol ''§'' and a numbered heading; for example, ''§ 2.7 What do I need to know before filing a FOIA request?'') (5) Is the description of the rule in the ''Supplementary Information'' section of the preamble helpful in understanding the proposed rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, 1849 C Street, NW., MS–7229–MIB, Washington, DC 20240.

List of Subjects in 43 CFR Part 2

Administrative practice and procedure, Classified information, Courts, Freedom of information, Government employees, Privacy.

Dated: October 5, 2007.

James E. Cason,

Associate Deputy Secretary.

For the reasons given in the preamble, we propose to amend part 2 of Title 43 of the Code of Federal Regulations, as set forth below:

PART 2—RECORDS AND TESTIMONY: FREEDOM OF INFORMATION ACT

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

Authority: 5 U.S.C. 301, 552 and 552a; 31 U.S.C. 9701; and 43 U.S.C. 1460.

Subpart A—General Information

2. In § 2.3, revise paragraph (i) to read as follows:

§ 2.3 What terms do I need to know?

* * * * *

(i) *Expedited processing* means giving a FOIA request priority, and processing it ahead of other requests pending in the bureau because a requester has shown a compelling need for the records (see § 2.14).

* * * * *

Subpart C—Requests for Records Under the FOIA

3. In § 2.12, add a new paragraph (c) to read as follows:

§ 2.12 When can I get the response?

* * * * *

(c) *Determining the status of your request.* To determine the status of your request, you should call, fax, or email the point of contact provided in the bureau/office's acknowledgment letter to you, referencing the FOIA control number assigned to your request. You may also contact the appropriate FOIA Requester Service Center. If you are dissatisfied with the FOIA Requester Service Center's response, you may contact the bureau/office's FOIA Public Liaison to resolve the issue. (The relevant names and telephone numbers are listed at *http://www.doi.gov/foia/liason.html*).

4. In § 2.14, revise paragraph (a) to read as follows:

§ 2.14 When can I get expedited processing?

(a) A bureau will provide expedited processing when you request it if you demonstrate to the satisfaction of the bureau that there is a compelling need for the records. The following circumstances demonstrate a compelling need:

(1) Where failure to expedite the request could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(2) An urgency to inform the public about an actual or alleged Federal Government activity if the request is made by a person primarily engaged in disseminating information. In most situations, a person primarily engaged in disseminating information will be a representative of the news media. The requested information must be the type of information which has particular value that will be lost if not disseminated quickly, and ordinarily refers to a breaking news story of general public interest. Therefore, information of historical interest only, or information sought for litigation or commercial activities, would not qualify, nor would a news media deadline unrelated to breaking news.

* * * * *

5. In § 2.21, revise paragraph (d)(6) to read as follows:

§ 2.21 How will the bureau respond to my request?

* * * * *

(d) * * *

(6) A statement that the denial may be appealed to the FOIA Appeals Officer (see Appendix A to this Part), in accordance with the requirements in § 2.29.

* * * * *

6. In § 2.22, revise paragraph (a) to read as follows:

§ 2.22 What happens if a bureau receives a request for records it does not have or did not create?

(a) *Consultations/referrals within DOI.* If a bureau (other than the Office of Inspector General) receives a request for records in its possession that another bureau created or is substantially concerned with, it will consult with the other bureau before deciding whether to release or withhold the records. Alternatively, the bureau may refer the request, along with the records, to that bureau for direct response. The bureau that received the request will notify you of the referral in writing, along with the name of a contact in the other bureau(s) to which the referral was made. A referral does not restart the statutory time limit for responding to your request.

* * * * *

7. Revise § 2.26 to read as follows:

§ 2.26 Does the bureau provide multitrack processing of FOIA requests?

(a) All bureaus will use three processing tracks to distinguish between simple, normal, and complex requests based on the amount of time needed to process the request. FOIA requests will be placed in one of the following tracks:

(1) *Simple:* 1–5 workdays;

(2) *Normal:* 20 workdays; or

(2) *Complex:* over 20 workdays.

(b) Bureaus will exercise due diligence in processing requests in accordance with the requirements of the FOIA. Requesters should assume, unless notified by the bureau, that their request is in the ''Normal'' track.

(c) A bureau should, if possible, give requesters in its complex track the opportunity to limit the scope of their request in order to qualify for faster processing. A bureau doing so will contact the requester by telephone (which should be promptly followed up by a written communication) or in writing, whichever is more efficient in each case.

(d) See the Department's FOIA home page at *http://www.doi.gov/foia/policy.html* for details.

Subpart D—FOIA Appeals

8. Revise § 2.29 to read as follows:

§ 2.29 How long do I have to file an appeal?

(a) Appeals covered by § 2.28(a)(1), (2), (4) and (5). Your FOIA appeal must be received by the FOIA Appeals Officer no later than 30 workdays from the date of the bureau/office's letter responding to your request in full or in part.

(b) Appeals covered by § 2.28(a)(3). You may file an appeal any time after the time limit for responding to your request has passed.

(c) Appeals covered by § 2.28(a)(6). Your FOIA appeal must be received by the FOIA Appeals Officer no later than 30 workdays from the date of the letter denying the fee waiver.

(d) Appeals covered by 2.28(a)(7). You should file an appeal as soon as possible.

(e) Appeals arriving or delivered after 5 p.m. E.T., Monday through Friday, will be deemed received on the next workday.

9. In § 2.30, revise paragraph (b) to read as follows:

§ 2.30 How do I file an appeal?

* * * * *

(b) You must include with your appeal copies of all correspondence between you and the bureau concerning your FOIA request, including your request and the bureau's response (if there is one). Failure to include with your appeal all correspondence between you and the bureau will result in the Department's rejection of your appeal, unless the FOIA Appeals Officer determines, in the FOIA Appeal Officer's sole discretion, that good cause exists to accept the defective appeal. The time limits for responding to your appeal will not begin to run until the documents are received.

* * * * *

10. Appendix A to part 2 is revised to read as follows:

Appendix A to Part 2—Department of the Interior FOIA and Public Affairs Contacts, and Reading Rooms

Departmental

Departmental FOIA Officer, Senior FOIA Program Officer, MS–5312–MIB, 1849 C St., NW., Washington, DC 20240, Telephone No. (202) 208–5342, (202) 208–2588, Fax No. (202) 208–6867, (202) 208–6084

Departmental FOIA/Privacy Act, Appeals Officer, MS–6556–MIB, 1849 C St., NW., Washington, DC 20240, Telephone No. (202) 208–5339, Fax No. (202) 208–6677

Departmental Privacy Act Officer, MS–5312–MIB, 1849 C St., NW., Washington, DC 20240, Telephone No. (202) 219–0868, Fax No. (202) 208–6084

Public Affairs Office, Office of Communications, MS–6013, MIB, 1849 C St., NW., Washington, DC 20240, Telephone No. (202) 208–6416, Fax No. (202) 208–3231

Reading Room—DOI's Library, MIB (C Street Entrance), 1849 C St., NW., Washington, DC 20240, Telephone No. (202) 208–5815, Fax No. (202) 208–6773

Office of the Secretary

FOIA Officer, MS–116, SIB, 1951 Constitution Ave., NW., Washington, DC 20240, Telephone No. (202) 208–6045, Fax No. (202) 219–2374

Public Affairs Office, Office of Communications, MS–6013, MIB, 1849 C St., NW., Washington, DC 20240, Telephone No. (202) 208–6416, Fax No. (202) 208–3231

Reading Room—DOI's Library, MIB (C Street Entrance), 1849 C St., NW., Washington, DC 20240, Telephone No. (202) 208–5815, Fax No. (202) 208–6773

Office of Inspector General

FOIA Officer, MS–5341, MIB, 1849 C St., NW., Washington, DC 20240, Telephone No. (703) 487–5436, Fax No. (703) 487–5406

Public Affairs Office, MS–5341 MIB, 1849 C St., NW., Washington, DC 20240, Telephone No. (202) 513–0326, Fax No. (202) 219–3856

Reading Room, Room 5341, MIB, 1849 C St., NW., Washington, DC 20240, Telephone No. (703) 487–5443, Fax No. (703) 487–5400

Office of the Solicitor (SOL) Headquarters

FOIA Officer, MS–6556, MIB, 1849 C St., NW., Washington, DC 20240, Telephone No. (202) 208–6505, Fax No. (202) 208–5206

Public Affairs Office, Office of Communications, MS–6013, MIB, 1849 C St., NW., Washington, DC 20240, Telephone No. (202) 208–6416, Fax No. (202) 208–3231

Reading Room, Room 2328, MIB, 1849 C St., NW., Washington DC 20240, Telephone No. (202) 208–6505, Fax No. (202) 208–5206

Fish & Wildlife Service (FWS) Headquarters

FOIA Officer, Arlington Square, Room 222, 4401 North Fairfax Dr., Arlington, VA 22203, Telephone No. (703) 358–2504, Fax No. (703) 219–2428

Public Affairs Office, MS–3447, MIB, 1849 C St., NW., Washington, DC 20240, Telephone No. (202) 208–5634, Fax No. (202) 208–5850

Reading Room, Arlington Square, Room 224, 4401 North Fairfax Dr., Arlington, VA 22203, Telephone No. (703) 358–1730, Fax No. (703) 358–2269

National Park Service (NPS) Headquarters

FOIA Officer, Office of the CIO, Org Code 2550, 1849 C St., NW., Washington, DC 20240, Telephone No. (202) 354–1925, Fax No. (202) 371–6741

Public Affairs Office, P.O. Box 37127, Washington, DC 20013–7127, Telephone No. (202) 208–6843, Fax No. (202) 219–0910

Reading Room, Administrative Program Center, 1201 Eye St., NW., 12th Floor, Washington, DC 20005, Telephone No. (202) 354–1925, Fax No. (202) 371–6741

Bureau of Land Management (BLM) Headquarters

FOIA Officer, MS–WO–560, 1620 L St., NW., Room 725, Washington, DC 20240, Telephone No. (202) 452–5013, Fax No. (202) 452–5002

Public Affairs Office, MS–WO–610, 1620 L St., NW., Room 406, Washington, DC 20240, Telephone No. (202) 452–5125, Fax No. (202) 452–5124

Reading Room, 1620 L St., NW.—Room 750, Washington, DC 20240, Telephone No. (202) 452–5193, Fax No. (202) 452–0395

Minerals Management Service (MMS) Headquarters

FOIA Officer, 381 Elden St. MS–2200, Herndon, VA 20170–4817, Telephone No. (703) 787–1689, Fax No. (703) 787–1207

Public Affairs Office, Office of Communications, 1849 C St., NW., MS–4230, Washington, DC 20240, Telephone No. (202) 208–3985, Fax No. (202) 208–3968

Reading Room, Public Information Office, 1201 Elmwood Park Blvd., New Orleans, LA 70123–2394, Telephone No. (800) 200–GULF, Fax No. (504) 736–2620

Office of Surface Mining (OSM) Headquarters

FOIA Officer, MS–130, SIB, 1951 Constitution Ave., NW., Washington, DC 20240, Telephone No. (202) 208–2961, Fax No. (202) 219–3092

Office of Communications, MS–262, SIB, 1951 Constitution Ave., NW., Washington, DC 20240, Telephone No. (202) 208–2565, Fax No. (202) 501–0549

Reading Room, Contact: OSM FOIA Officer, Room 263, SIB, 1951 Constitution Ave., NW., Washington, DC 20240, Telephone No. (202) 208–2961, Fax No. (202) 501–4734

U.S. Geological Survey (USGS) Headquarters

FOIA Officer, 12201 Sunrise Valley, Dr., MS–807, Reston, VA 20192, Telephone No. (703) 648–7158, Fax No. (703) 648–6853

Office of Communications, 12201 Sunrise Valley Dr., MS–119, Reston, VA 20192, Telephone No. (703) 648–4460, Fax No. (703) 648–4466

Reading Room, USGS Library, 12201 Sunrise Valley Dr., Reston, VA 20192, Telephone No. (703) 648–4302, Fax No. (703) 648–6373

Bureau of Reclamation (BOR) Headquarters

FOIA Officer, P.O. Box 25007, 84–21300, Denver, CO 80225–0007, Telephone No. (303) 445–2048, Fax No. (303) 445–6575

Public Affairs Office, P.O. Box 25007, 82–40000, Denver, CO 80225–0007, Telephone No. (303) 236–7000, Fax No. (303) 236–9235

Reading Room, Reclamation Library, P.O. Box 25007, 84–27960, Denver, CO 80225–0007, Telephone No. (303) 445–2072, Fax No. (303) 445–6303

Bureau of Indian Affairs (BIA) Headquarters

FOIA Officer, MS–3071, MIB, 1849 C St., NW., Washington, DC 20240, Telephone No. (202) 208–4542, Fax No. (202) 208–6597

Public Affairs Office, MS–3658, MIB, 1849 C St., NW., Washington, DC 20240, Telephone No. (202) 208–3710, Fax No. (202) 501–1516

Reading Room, Room 3071, MIB, 1849 C St., NW., Washington, DC 20240, Telephone No. (202) 513–0883, Fax No. (202) 208–6597

Note: For more information on FOIA, including the most current listing of FOIA Contacts and reading rooms, visit DOI's FOIA Web site at *http://www.doi.gov/foia/*. Henceforth, Appendix A to 43 CFR Part 2 will be maintained and updated on DOI's FOIA Web site. If you do not have access to the Web, please contact the appropriate bureau FOIA Officer or the Departmental FOIA Office.

[FR Doc. E7–21012 Filed 10–24–07; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 379, 381, 385, 390, and 395

[Docket No. FMCSA–1998–3706]

RIN 2126–AA76

Hours of Service of Drivers; Supporting Documents SNPRM; Withdrawal

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Supplemental notice of proposed rulemaking (SNPRM); withdrawal.

SUMMARY: FMCSA withdraws its November 3, 2004, SNPRM that proposed requirements for the collection and use of documents to verify the accuracy of driver records of duty status. The FMCSA intends to publish a new notice of proposed rulemaking (NPRM) at a later date.

DATES: The SNPRM published on November 3, 2004 (69 FR 63997), is withdrawn as of October 25, 2007.

FOR FURTHER INFORMATION CONTACT: David Mancl, Team Leader, Office of Enforcement and Compliance, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001, Telephone: (202) 493–0442. Office hours are from 7:45 a.m. to 4:15 p.m., E.T., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

The FMCSA regulates the number of hours that a driver of a commercial motor vehicle may drive and be on duty, the minimum length of rest periods between tours of duty, and weekly limits. Drivers must keep a log, called the ''record of duty status'' (RODS), that indicates their status (driving, on duty, not driving, off duty, or in a sleeper berth) for every day. These RODS are submitted to the motor carrier, which must retain them for six months.

On November 28, 1982 (47 FR 53383), the Federal Highway Administration (FHWA) (predecessor to FMCSA) promulgated a final rule that required a motor carrier to verify the accuracy of the hours of service (HOS) RODS of each driver and to ensure that drivers record their duty status in a specified format. The rule is codified in § 395.8 of Title 49 of the Code of Federal Regulations. Congress directed FHWA to revise the rule to improve both driver and carrier compliance and the effectiveness and efficiency of HOS enforcement, at a cost reasonable to the motor carrier industry (section 113(a) of the Hazardous Materials Transportation Authorization Act of 1994 (HMTAA) Public Law 103–311, August 26, 1994, 108 Stat. 1673 at 1676). Section 113(b) directs the Agency to specify the number, type, and frequency of ''supporting documents'', that is documents used to verify the accuracy of driver RODS, that must be maintained as well as the identification items that must be a part of the documents.

In response to section 113(a), FHWA published an NPRM on supporting documents in 1998 (63 FR 19457, April 20, 1998). The FMCSA included further proposals on supporting documents in its proposed rule on hours of service in 2000 (65 FR 25540, May 2, 2000). On November 3, 2004, FMCSA published an SNPRM proposing language to clarify the duties of motor carriers and drivers with respect to supporting documents, and requesting further comments on the issue (69 FR 63997).

The SNPRM addressed self-monitoring systems, RODS, supporting documents for use in monitoring and enforcing the HOS, and definitions for ''supporting documents'' and ''employee.'' The FMCSA proposed requiring a motor carrier to maintain HOS supporting documents in a way that let the carrier or a Federal or State investigator readily connect the supporting documents to the RODS that they support. The FMCSA expected the proposed language would clarify a motor carrier's duties under current regulations and increase motor carrier compliance with this requirement. A carrier's ''self-monitoring system'' would be the primary method a motor carrier would use to ensure drivers' compliance with the HOS regulations. The SNPRM listed documents that could serve as supporting documents.

Discussion of Comments

The FMCSA received 197 comments in response to the SNPRM. Comments were received from for-hire and private motor carriers, trade associations, a State enforcement agency, safety advocacy groups, an insurance group, a driving school, wireless equipment businesses, and individuals. Commenters expressed concerns about varying aspects of the proposed rule. The following is a summary of the main comments.

Documentation

Some commenters seemed to have misconstrued the list of supporting documents examples, and they were concerned about the number and quality of supporting documents proposed in the SNPRM. Some commenters believed FMCSA expected motor carriers to have access to or generate all or most of the documents listed. They also stated that many of the examples on the list did not provide data that could be used to verify RODS. Some commenters noted that short-haul operators did not have access to or generate many of the documents listed in the SNPRM. Several commenters noted that small motor carriers could have been at a disadvantage during an audit because they do not maintain a large number of documents with which to reconcile RODS. One association stated that the proposed rule violated drivers' privacy rights. Other commenters were concerned that failure to maintain all documents that supported drivers' RODS would constitute a violation of the proposed rule.

Self-Monitoring System

Commenters were concerned about the lack of specificity in defining the concept of a ''self-monitoring system.'' Some commenters suggested that the use of statistically valid methods of sampling RODS and their supporting documents should indicate an adequate system. Some commenters objected to the use of a 10-percent failure rate in assessing a self-monitoring system because there was no rationale for that percentage.

Burden

Many commenters contended that the requirement to verify, inspect, and maintain all records generated by a driver was unrealistic and burdensome, particularly for small motor carriers. Some commenters stated that FMCSA's assertion that the proposed rule imposed minimal burdens on compliant motor carriers was incorrect and vastly underestimated the actual paperwork burden. Commenters believed the proposed rule was vague and would require them to retain records they did not keep and to devote inordinate amounts of staff time to linking supporting documents to RODS. Drivers, particularly owner-operators operating under leases, complained that they would have to make copies of documents that they need for other purposes so that they could submit the documents to a motor carrier. Motor carriers would also have had to retain multiple copies of some documents because they are needed for other purposes. Some commenters stated that if the records were retained electronically, a requirement to link electronic records to a driver's RODS would entail considerable reprogramming of existing systems. Some commenters indicated that the proposed rule would unfairly burden smaller motor carriers who did not need an electronic tracking system. Cost estimates submitted by a few commenters far exceeded those presented by FMCSA.

Other Issues

Some commenters recommended the use of electronic on-board recorders (EOBRs) in place of supporting documents. Other commenters objected to the use of EOBRs. A substantial number of commenters objected to the definition of supporting documents as being too broad. Some commenters were concerned that FMCSA would require both paper and electronic records. A number of commenters stated the proposed rule did not meet the statutory criteria for supporting documents as defined in the HMTAA.

Other commenters were concerned that applications for exemptions would overwhelm FMCSA resources. Some commenters were worried that the exemptions would be routinely granted, thereby undermining the usefulness of

the rule. Commenters raised issues related to the application of the rule and its enforcement; they questioned whether it was fair to cite a motor carrier for a driver's RODS violations when the carrier had identified and disciplined the driver for those violations. A number of commenters raised concerns about copies of records and documents, location of records, and the retention period, reflecting confusion and uncertainty about the proposed document collection and retention requirements. Commenters also made suggestions about the definitions of ''employee'' and ''falsification.''

FMCSA Decision

The FMCSA has decided to withdraw this rulemaking action. There are issues with the Paperwork Reduction Action of 1995 (PRA) (44 U.S.C. 3501–3520) analysis supporting this action. In response to comments that the Agency's estimated information collection burden associated with the proposed rule significantly underestimated the actual burden the industry would confront, FMCSA reevaluated its analysis of the rule as required by the PRA. The Agency discovered that the PRA analysis proposed for this rule did not account for the supporting document collection and retention burdens associated with the existing driver RODS information collection requirements. This oversight initially occurred in the 1998 NPRM when the Agency relied upon the burden assessment conducted for the 1982 Drivers Log Rule, which captured the paperwork burden for maintaining driver logs but did not capture the burden of collecting and maintaining supporting documents. Accordingly, the Agency withdraws this rulemaking action in order to conduct a comprehensive analysis of the information collection burden associated with the existing supporting documents requirements of the Federal Motor Carrier Safety Regulations.

After the paperwork analysis that accurately identifies the information collection burden associated with the existing supporting documents requirements is complete, the Agency intends to initiate a new rulemaking action to comply with the requirements of Section 113 of the HMTAA. This will ensure that the new rulemaking proposal is based on an accurate and comprehensive understanding of the existing information collection inventory for supporting documents. It will further allow the opportunity for notice and comment on the rulemaking proposal without confusion associated with previous stages of this rulemaking action.

Issued on: October 18, 2007.

John H. Hill,

Administrator.

[FR Doc. E7–20980 Filed 10–24–07; 8:45 am]

BILLING CODE 4910–EX–P

Notices

Federal Register

Vol. 72, No. 206

Thursday, October 25, 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

Black Hills National Forest, Mystic Ranger District, South Dakota, Upper Spring Creek Project Area

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: The Forest Service will prepare an environmental impact statement on a proposal to use multiple vegetation treatments focused on creating a landscape condition more adapted to fire and that reduces potential for high severity wildfire near at-risk communities and in the wildland-urban interface, and reduce the threat to ecosystem components including forest resources from an existing insect epidemic. The proposal is being planned for the 44,100 acre Upper Spring Creek Project Area that includes about 39,700 acres of National Forest System land and about 4,300 acres of interspersed private land. The project area generally extends westward from west of Hill City, South Dakota encompassing the Upper Spring Creek watershed. This project will be conducted as an authorized project under section 102 of the Healthy Forests Restoration Act of 2003 (HFRA). Actions proposed for the Upper Spring Creek Project Area include the following:

- Remove conifers from hardwood stands such as aspen and birch and by restoring meadows (est. 3,800 acres).
- Reduce the amount of fuel that currently exists and that created by vegetation treatment activities. Treatment could include lopping, crushing, piling and burning; creating fuel breaks along roads and adjacent to private property, particularly those properties with houses and subdivisions. Prescribed broadcast burning of up to 14,200 acres is also planned to not only reduce fuel levels, but also benefit big game and other wildlife resources.
- Thin and harvest approximately 23,500 acres of pine stands using a variety of treatments to reduce the overall density of pine trees and create a mosaic of structural stages across the landscape. Both commercial harvest and non-commercial thinning will be sued to reduce the stand density, associated fuel hazard conditions and susceptibility to Mountain Pine Beetle (MPB) infestations.

DATES: Comments concerning the scope of the analysis would be most useful if received by 30-days following the date of this notice. The draft environmental impact statement is expected to be available for public review by February 2008 and the final environmental impact statement is expected to be completed by May 2008.

ADDRESSES: Send written comments to Robert J. Thompson, District Ranger, Black Hills National Forest, Mystic Ranger District, Upper Spring Creek Project Area, 8221 South Highway 16, Rapid City, South Dakota 57702. Telephone Number: (605) 343–1567. E-mail: *comments-rocky-mountain-black-hills-mystic@fs.fed.us* with ''Upper Spring Creek'' as the subject. Electronic comments must be readable in Word, Rich Text or PDF formats.

FOR FURTHER INFORMATION CONTACT: If you have any questions or need additional information please contact Katie Van Alstyne, Team Leader or Robert J. Thompson, District Ranger, at the Mystic Ranger District office in Rapid City at (605) 343–1567.

SUPPLEMENTARY INFORMATION: The actions proposed are in direct response to management direction provided by the Black Hills National Forest Land and Resource Management Plan (Forest Plan). The site specific actions are designed, based on Forest Plan Standards and Guidelines, to move existing resource conditions in the Upper Spring Creek Project Area toward meeting Forest Plan Goals and Objectives. Anticipate issues include: Wildlife and fuels hazards, MPB effects, prescribed fire, activity fuels reduction, vegetation and wildlife habitat diversity, and socioeconomic issues. The range of alternatives analyzed in the EIS is expected to be consistent with Sec. 104 of the HFRA.

Purpose and Need for Action

The purpose of the Upper Spring Creek Project is to:

- Move toward achieving desired land and resource conditions, as provided by the Forest Plan, as amended.
- Restore resource conditions to a healthy, resilient fire-adapted ecosystem.
- Reduce the threat to ecosystem components including forest resources, from the existing insect (mountain pine beetle) epidemic.
- Help protect local communities and resources from catastrophic wildlife.

This project is focused on implementing management actions that move toward achieving:

- Desired conditions and objectives embodied in Goals 2, 3, 7, and 10 of the Forest Plan (as amended).
- Goals and objectives applicable to Forest Plan Management Area (MA) 4.1—Limited Motorized Use and Forest Product Emphasis; MA 5.1—Resource Production Emphasis; and MA 5.4—Big Game Winter Range Emphasis, that lie within U.S.C., described in Chapter III of the Forest Plan (Phase II Amendment).
- Goals of the Healthy Forest Restoration Act (HFRA) of 2003 (HR 1904) and other National level initiatives and policy that provide procedural tools to hasten process focused on reducing the probability and occurrence of severe wildlife in the fire adapted ecosystems, especially near at risk communities (ARC) and in the wildland-urban interface (WUI).

Addressing the existence of insect or disease on public and adjacent private lands. Moreover, it is appropriate that proposed actions be designed in consideration of applicable fuels hazard reduction management recommendations and guidelines provided by the Pennington County Community Wildfire Protection Plan (CWPP) of 2007 and the Custer County CWPP of 2006.

Proposed Action

Proposed actions include the following:

- Restore natural fuel breaks to help reduce the potential for large-scale, intense wildfire spread. Treatment includes removing conifers from hardwood stands such as aspen and birch and by restoring meadows (est. 3,800 acres).

• Reduce the amount of fuel that currently exists and that created by vegetation treatment activities. Treatment could include lopping, chipping, crushing, piling and burning; creating fuel breaks along roads and adjacent to private property, particularly those properties with houses and subdivisions. Prescribed broadcast burning of up to 14,200 acres is also planned to not only reduce fuel levels, but also benefit big game and other wildlife resources.

• Thin and harvest approximately 23,500 acres of pine stands using a variety of treatments to reduce the overall density of pine trees and create a mosaic of structural stages across the landscape. Both commercial and non-commercial sized trees would be removed utilizing multiple contracts including stewardship, timber sale, and service contracts.

Responsible Official

Robert J. Thompson, District Ranger, Mystic Ranger District, Black Hills National Forest, 8221 South Highway 16, Rapid City, SD 57702.

Nature of Decision To Be Made

The decision to be made is whether or not to implement the proposed action or possible alternative at this time.

Scoping Process

Comments and input regarding the proposal will be received via direct mailing from the public, other groups and agencies during the initial public comment period in October and November 2007. If you would like to be more involved, a public meeting is scheduled for Thursday November 8, 2007 from 7 p.m. to 9 p.m. in the City Hall conference room in Hill City, South Dakota. Comments submitted based on this NOI will be most useful if received within 30 days from the date of this notice. Response to the draft EIS will be sought from the interested public beginning in February 2008.

Comment Requested

This NOI provides information that the agency will prepare an environmental impact statement in response to public comment and feedback during the October and November 2007 scoping period. Comments received will assist the planning team to identify key issues and opportunities used to refine the proposal or possible alternatives. Comments on the DEIS will be requested during the 45 day comment period following the Notice of Availability, expected to be published in the **Federal Register** in February 2008 (See discussion below).

Early Notice of Importance of Public Participation in Subsequent Environmental Review: The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 533 (1978).* Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel, 803 F.2d 1016, 1022 (9th Cir. 1986)* and *Wisconsin Heritages, Inc.* v. *Harris, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980).* Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, section 21)

Dated: October 17, 2007.

Craig Bobzien,

Forest Supervisor, Black Hills National Forest.

[FR Doc. 07–5273 Filed 10–24–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Lassen National Forest, California, Lassen National Forest Public Wheeled Motorized Travel Management EIS

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Lassen National Forest (LNF) will prepare an Environmental Impact Statement to disclose the impacts associated with the following proposed actions: 1. The prohibition of wheeled motorized vehicle travel off designated National Forest System (NFS) roads, NFS trails and areas by the public except as allowed by permit or other authorization. 2. The addition of approximately 37 miles of unauthorized routes to the NFS of roads and motorized trails. 3. The addition of approximately 26 acres for open riding (10 areas), where use of wheeled motorized vehicles by the public would be allowed anywhere within the specifically delineated area. 4. Allowing non-highway legal vehicle use on approximately 12 miles of existing NFS roads where such use is currently prohibited.

DATES: The comment period on the proposed action will extend 30 days from the date the Notice of Intent is published in the **Federal Register.**

Completion of the Draft Environmental Impact Statement (DEIS) is expected in March of 2008 and the Final Environmental Impact Statement (FEIS) is expected in June of 2008.

ADDRESSES: Send electronic comments to: *ltmrd@fs.fed.us.* Send written comments to: Travel Management Team, Lassen National Forest, 2550 Riverside Drive, Susanville, CA 96130.

FOR FURTHER INFORMATION CONTACT: Allen Nosler, Lassen National Forest, 2550 Riverside Drive, Susanville, CA 96130. Phone: (530) 252–6637. E-mail: *anosler@fs.fed.us.*

SUPPLEMENTARY INFORMATION:

Background

Over the past few decades, the availability and capability of motorized vehicles, particularly off-highway vehicles (OHVs) and sport utility vehicles (SUVs) has increased tremendously. Nationally, the number of OHV users has climbed sevenfold in the past 30 years, from approximately 5 million in 1972 to 36 million in 2000. The ten states with the largest population also have the most OHV users. California has 4.35 million OHV

users accounting for almost 11% of the U.S. total (Off-Highway Vehicle Recreation in the United States, Regions and States: A National Report from the National Survey on Recreation and the Environment (NSRE), Cordell, Betz, Green and Owens, June 2005). There were 786,914 all terrain vehicles (ATVs) and OHV motorcycles registered in 2004, up 330% since 1980. Annual sales of ATVs and OHV motorcycles in California were the highest in the U.S. for the last 5 years. Four-wheel drive vehicle sales in California also increased by 1500% to 3,046,866 from 1989 to 2002.

OHV recreation provides riding opportunities to some of California's most scenic areas. However, unmanaged OHV use has resulted in unplanned roads and trails, erosion, watershed and habitat degradation, and impacts to cultural resource sites. Compaction and erosion are the primary effects of OHV use on soils. Riparian areas and aquatic dependent species are particularly vulnerable to OHV use. Unmanaged recreation, including impacts from OHVs, is one of ''Four Key Threats Facing the Nation's Forests and Grasslands'' (USDA Forest Service, June 2004).

In January 2001, the Regional Forester issued management direction of all California national forests to prohibit OHV travel off designated routes and areas (FEIS for the Sierra Nevada Framework Project). This direction was re-affirmed in January 2004 with a supplemental FEIS for the Sierra Nevada Framework Project. On August 11, 2003, the Pacific Southwest Region of the Forest Service entered into a Memorandum of Intent (MOI) with the California Off-Highway Motor Vehicle Recreation Commission, and the Off-Highway Motor Vehicle Recreation Division of the California Department of Parks and Recreation. That MOI set in motion a region-wide effort to ''Designate OHV roads, trails, and any specifically defined open areas for motorized wheeled vehicles on maps of the 18 National Forests in California by 2007.''

On November 9, 2005, the Forest Service published final travel management regulations in the **Federal Register** (FR Vol. 70, No. 216—Nov. 9, 2005, pp. 68264–68291). This final Travel Management Rule requires designation of those roads, trails, and areas that are open to motor vehicle use by the public on National Forests. Designations will be made by class of vehicle and, if appropriate, by time of year. The final rule prohibits the use of motor vehicles by the public off the designated system as well as use of motor vehicles on routes and in areas that are not designated.

On some NFS lands, long managed as open to cross-country motor vehicle travel, repeated use has resulted in unplanned and unauthorized roads and trails. These routes generally developed without environmental analysis or public involvement, and do not have the same status as NFS roads and NFS trails included in the forest transportation system. Nevertheless, some unauthorized routes are well-sited, provide excellent opportunities for outdoor recreation by motorized and non-motorized users, and would enhance the National Forest system of designated roads, trails and areas. Other unauthorized routes are poorly located and cause unacceptable impacts. Only NFS roads, NFS trails and open riding areas can be designated for wheeled motorized vehicle use. In order for an unauthorized route to be designated for use by the public, it must be added to the national forest transportation system (NFTS).

In accordance with the MOI, the LNF recently completed an inventory of unauthorized routes on NFS lands and identified approximately 1,145 miles of unauthorized routes. The LNF then used an interdisciplinary process to conduct travel analysis that included working with the public to determine whether any of the unauthorized routes should be proposed for addition to the LNF transportation system. Travel analysis developed a number of routes which could be considered in this or future decisions on the NFTS at the discretion of the Responsible Official. Roads, trails and areas that are currently part of the LNF transportation system and are open to wheeled motorized vehicle travel will remain designated for such use except as described below under the Proposed Action. This proposal focuses only on the prohibition of wheeled motorized vehicle travel off designated routes and areas and other needed changes to the LNF transportation system, including the addition of some user-created routes to the LNF transportation system and minor changes to existing motor vehicle restrictions. The proposed action is being carried forward in accordance with the Travel Management Rule (36 CFR Part 212).

In accordance with the rule, following a decision on this proposal, the Lassen National Forest will publish a Motor Vehicle Use Map (MVUM) identifying all LNF roads, trails and areas that are designated open for motor vehicle use by the public. The MVUM shall specify the classes of vehicles and, if appropriate, the times of year for which use is authorized. The MVUM will be updated and published annually (or more frequently if needed) when changes to the Forest's transportation system are made. Future decisions associated with changes to the MVUM may trigger the need for documentation of additional environmental analysis.

Purpose and Need for Action

The following needs have been identified for this proposal:

1. There is a need for regulation of unmanaged wheeled motorized vehicle travel by the public. Currently, wheeled motorized vehicle travel by the public is temporarily prohibited off existing routes and areas by Forest Order #06–07–1. The Forest Order became effective on July 12, 2007. Prior to that date, wheeled motorized vehicle travel off road was permitted in many LNF areas. In their enjoyment of the National Forest, motorized vehicle recreationists have created numerous unauthorized routes. The number of such routes continues to grow each year with many routes having environmental impacts and safety concerns that have not been addressed. The Travel Management Rule, 36 CFR part 212, provides policy for ending this trend of unauthorized route proliferation and managing the Forest transportation system in a sustainable manner through the designation of motorized NFS roads, trails and areas, and the prohibition of cross-country travel.

2. There is a need for limited changes and additions to the LNF transportation system to:

2.1. Provide wheeled motorized access to dispersed recreation opportunities (camping, hunting, fishing, hiking, horseback riding, etc.)

2.2. Provide a diversity of wheeled motorized recreation opportunities (4X4 vehicles, motorcycles, ATVs, passenger vehicles, etc.)

It is Forest Service policy to provide a diversity of motorized road and trail opportunities for experiencing a variety of environments and modes of travel consistent with the LNF land capability (FSM 2353.03(2)). In meeting these needs the proposed action must also achieve the following purposes:

A. Avoid impacts to cultural resources.

B. Provide for public safety.

C. Provide for a diversity of recreational opportunities.

D. Assure appropriate access to public and private lands.

E. Provide for adequate maintenance and administration of roads, trails and areas based on availability of resources and funding to do so.

F. Minimize damage to soil, vegetation and other forest resources.

G. Minimize impacts to wildlife and significant degradation of wildlife habitat.

H. Minimize conflicts between wheeled motor vehicle use and existing or proposed recreational uses of NFS lands or neighboring federal lands.

I. Minimize conflicts among different classes of wheeled motor vehicle uses of NFS lands or neighboring federal lands.

J. Address compatibility of wheeled motor vehicle use with existing conditions in populated areas, taking into account sound, emissions, etc.

K. Have valid existing rights of use and access (rights-of-way).

L. Minimize trespass on private and other adjacent non-NFS lands.

Proposed Action

1. Prohibition of wheeled motorized vehicle travel off the designated NFS roads, NFS trails and areas by the public except as allowed by permit or other authorization.

2. Additions to the National Forest Transportation System—The LNF currently manages and maintains approximately 3629 miles of NFS roads and 55 miles of NFS motorized trails. Based on the stated purpose and need for action, and as a result of the recent travel analysis process, the LNF proposes to add approximately 30 miles of existing unauthorized routes to its NF road system and approximately 7 miles to its NF motorized trail system. These additions would bring the total NFS roads to approximately 3,659 miles and the NFS motorized trails to 62 miles. The proposed additions to the additional NF road and NF motorized trail systems are listed below along with the permitted vehicle class and season of use.

TABLE 1.—PROPOSED NFS MOTORIZED ROAD ADDITIONS

Route ID	Length (miles)	Permitted vehicle class	Season of use
290407UC01	0.4004	All	Year round.
310716UC01	0.0107	All	Year round.
310716UC02	0.0506	All	Year round.
UBB412	0.0379	All	Year round.
UBB414	0.8733	All	Year round.
UBB416	0.1164	All	Year round.
UBB685	0.0099	All	Year round.
UBB686	0.0021	All	Year round.
UBB707	0.0821	All	Year round.
UBB707A	0.0476	All	Year round.
UBB752	0.0314	All	Year round.
UBB797	0.0347	All	Year round.
UBB798	0.1109	All	Year round.
UBB799	0.0239	All	Year round.
UBB800	0.2112	All	Year round.
UBB806	0.0564	All	Year round.
UBB809	0.82	All	Year round.
UBC022	0.0348	All	Year round.
UBC105	0.2778	All	Year round.
UBC115	0.3238	All	Year round.
ULA106	0.292	All	Year round.
ULA107	0.2375	All	Year round.
ULA113	0.1795	All	Year round.
ULA114	0.2032	All	Year round.
ULA115	0.1555	All	Year round.
ULA120	0.1528	All	Year round.
ULA121	0.3526	All	Year round.
ULA121	0.0168	All	Year round.
ULA121–1	0.1019	All	Year round.
ULA122	0.0486	All	Year round.
ULA123	0.1214	All	Year round.
ULA124	0.1409	All	Year round.
ULA127	0.9703	All	Year round.
ULA136	0.0683	All	Year round.
ULA156	0.1152	All	Year round.
ULA158	0.0802	All	Year round.
ULA163	0.0952	All	Year round.
ULA164	0.0711	All	Year round.
ULA171	0.3349	All	Year round.
ULA252	0.0833	All	Year round.
ULA254	0.0949	All	Year round.
ULA257	0.2861	All	Year round.
ULA272B	0.5626	All	Year round.
ULA488	0.1443	All	Year round.
ULA488–1	0.1367	All	Year round.
ULA489A	0.0996	All	Year round.
ULA489B	0.081	All	Year round.
UMN003	0.0659	All	Year round.
UMN004	0.1862	All	Year round.
UMN005	0.054	All	Year round.
UMN008	0.3266	All	Year round.
UMN009	0.2773	All	Year round.
UMN010	0.0271	All	Year round.

TABLE 1.—PROPOSED NFS MOTORIZED ROAD ADDITIONS—Continued

Route ID	Length (miles)	Permitted vehicle class	Season of use
UMN012	0.0409	All	Year round.
UMN805	0.5868	All	Year round.
UNE080	0.1098	All	Year round.
UNE087	0.0235	All	Year round.
UNH001	1.0481	All	Year round.
UNH006	1.1766	All	Year round.
UNHO19	0.4891	All	Year round.
UNH026	0.5648	All	Year round.
UNH529	0.2216	All	Year round.
UNH533	1.0575	All	Year round.
UNH534	0.6381	All	Year round.
UNH535	0.2756	All	Year round.
UNH541	0.2311	All	Year round.
UNH543	0.7002	All	Year round.
UNH546	0.231	All	Year round.
UNH548	0.7396	All	Year round.
UNH550	0.2728	All	Year round.
UNH552	0.0614	All	Year round.
UNO170	0.8193	All	Year round.
UNO171	0.5343	All	Year round.
UN0178	0.5094	All	Year round.
UNO180	0.3356	All	Year round.
UN0216	0.3619	All	Year round.
UN0219	0.106	All	Year round.
UN0220	0.8504	All	Year round.
UN0221	0.1942	All	Year round.
UN0222	1.1577	All	Year round.
UN0229	1.18	All	Year round.
UN0230	0.1106	All	Year round.
UN0275	0.4896	All	Year round.
UNW100	0.4022	All	Year round.
UNW113	0.2267	All	Year round.
UNW318	0.1526	All	Year round.
UNW337	0.1043	All	Year round.
UNW338	0.7712	All	Year round.
UNW339	0.2989	All	Year round.
UNW340	0.3278	All	Year round.
UNW342	0.1635	All	Year round.
UNW353	0.2301	All	Year round.
UNW355	0.5582	All	Year round.
UNW356	0.443	All	Year round.
UNW358	0.2471	All	Year round.
UNW359	0.2005	All	Year round.
UNW364	0.2813	All	Year round.
UNW506C	0.1385	All	Year round.
UNW602	0.084	All	Year round.
UNW675	0.1212	All	Year round.
UNW676	0.1293	All	Year round.
UNW804	0.2822	All	Year round.
UNW805	0.3495	All	Year round.
Total	30.3383		

TABLE 2.—PROPOSED NFS MOTORIZED TRAIL ADDITIONS

Route ID	Length (miles)	Permitted vehicle class	Season of use
280310UC03	0.2306	All*	Year round.
UAP205	0.0653	Vehicles less than 50 inches in width	Year round.
UAP206	0.6591	Vehicles less than 50 inches in width	Year round.
UBC046	0.0937	All	Year round.
UBC053	0.5811	All	Year round.
UBC057	0.2671	All	Year round.
UBC058	0.3758	All	Year round.
UDC001	0.0379	All	Year round.
UDC002	0.0379	All	Year round.
UDC003	0.0379	All	Year round.
UDC004	0.0379	All	Year round.
UDC009	0.0379	All	Year round.
UDC010	0.0379	All	Year round.

TABLE 2.—PROPOSED NFS MOTORIZED TRAIL ADDITIONS—Continued

Route ID	Length (miles)	Permitted vehicle class	Season of use
UDC011	0.0379	All	Year round.
UDC012	0.0379	All	Year round.
UDC013	0.0379	All	Year round.
UDC014	0.0379	All	Year round.
UDC015	0.0379	All	Year round.
UDC016	0.0379	All	Year round.
UDC017	0.0379	All	Year round.
UDC021	0.0095	All	Year round.
UDC022	0.0095	All	Year round.
UDC023	0.0095	All	Year round.
UDC024	0.0095	All	Year round.
UDC045	0.0095	All	Year round.
UDC046	0.0095	All	Year round.
UDC049	0.0095	All	Year round.
UDC047	0.0095	All	Year round.
UDC048	0.0095	All	Year round.
UDC052	0.0095	All	Year round.
UDC053	0.0095	All	Year round.
UDC054	0.0095	All	Year round.
UDC055	0.0095	All	Year round.
UDC056	0.0095	All	Year round.
UDC057	0.0095	All	Year round.
UDC058	0.0095	All	Year round.
UDC059	0.0095	All	Year round.
UDC060	0.0095	All	Year round.
UDC061	0.0095	All	Year round.
UDC062	0.0095	All	Year round.
UDC063	0.0095	All	Year round.
UDC064	0.0095	All	Year round.
UDC065	0.0095	All	Year round.
UDC066	0.0095	All	Year round.
UDC067	0.0095	All	Year round.
UDC025	0.0095	All	Year round.
UDC026	0.0095	All	Year round.
UDC027	0.0095	All	Year round.
UDC028	0.0095	All	Year round.
UDC034	0.0095	All	Year round.
UDC044	0.0095	All	Year round.
UDC031	0.0095	All	Year round.
UDC032	0.0095	All	Year round.
UDC043	0.0284	All	Year round.
ULA172	0.9473	Vehicles less than 50 inches in width	Year round.
ULA175	0.3724	Vehicles less than 50 inches in width	Year round.
ULA177	0.4268	Vehicles less than 50 inches in width	Year round.
ULA187	0.1228	Motorcycle	Year round.
ULA190	0.9158	All	Year round.
UNE392	0.3182	All	Year round.
UNE394	0.9117	All	Year round.
Total	7.1223		

*All approved motorized trail modes of travel.

3. Motorized Open Riding Area Additions—The Lassen National Forest currently has no areas designated open to wheeled motorized vehicle use. The Lassen National Forest proposes to designate 10 specifically delineated areas open to wheeled motorized vehicle travel for a total of 26 acres. The motorized areas are listed below along with the permitted vehicle class and season of use.

TABLE 3.—PROPOSED NFS MOTORIZED OPEN RIDING AREA ADDITIONS

Area name	Acreage	Permitted vehicle class	Season of use
West Dusty Cinder Pit	1.91	Less than 50 inches	4/1 to 11/1.
Lost Lake Cinder Pit	2.54	Less than 50 inches	4/1 to 11/1.
West Brown Ranch	1.76	Less than 50 inches	4/1 to 11/1.
Sandy Beach West	1.10	Less than 50 inches	4/1 to 11/1.
Sandy Beach East	4.96	Less than 50 inches	4/1 to 11/1.
East McCoy	3.02	All	4/1 to 11/1.
South Old Station	4.29	All	4/1 to 11/1.

TABLE 3.—PROPOSED NFS MOTORIZED OPEN RIDING AREA ADDITIONS—Continued

Area name	Acreage	Permitted vehicle class	Season of use
Potato Butte	4.32	Less than 50 inches	4/1 to 11/1.
Little Antelope Valley Pit	0.85	Less than 50 inches	4/1 to 11/1.
Butte Valley	1.13	Less than 50 inches	4/1 to 11/1.
Total	25.88		

4. Allowing Non-Highway Legal Vehicle Access on NFS Roads That Are Maintained for Use by Highway Legal Vehicles. The LNF believes the roads listed in the table below would enhance wheeled motorized recreation opportunities for the public if they were open to use by all vehicle classes. The LNF will evaluate the safety hazards associated with allowing highway legal and non-highway legal vehicle use by the public on these roads. The LNF may allow segments of these roads as open to all vehicles where it is determined that it will not create a traffic safety hazard or that hazards can be mitigated.

TABLE 4.—NFS ROAD SEGMENTS CURRENTLY OPEN TO HIGHWAY LEGAL VEHICLES ONLY PROPOSED FOR DESIGNATION AS OPEN TO ALL VEHICLES

Route ID	Route segment	Length (miles)	Current permitted vehicle class	Proposed permitted vehicle class	Season of use
31N17/DR17	From 30N17 to 31N45 (Dry Lake)	1.83	Highway legal only	All	Year round.
32N10/DR10	From 32N10A to 31N24 (Silver Lake, Rocky Knoll).	1.69	Highway legal only	All	Year round.
32N10/DR10	From 31N24 to 31N25 (Stephens Camp)	1.15	Highway legal only	All	Year round.
32N10C	(Caribou Lake Spur)	0.18	Highway legal only	All	Year round.
29N03	From 29N20Y to 29N03B (Roxie Peconom)	1.24	Highway legal only	All	Year round.
32N08	From CA 44 to 32N23 (Bogard Work Center)	0.81	Highway legal only	All	Year round.
32N10/DR10	From CA 44 to 32N22 (Bogard Rest Area)	1.34	Highway legal only	All	Year round.
32N10/DR10	From 31N15 to 31N28 (Stephens Camp)	0.14	Highway legal only	All	Year round.
32N22	From 32N53 to UNE394 (Bogard Rest Area)	0.19	Highway legal only	All	Year round.
32N22	From 32N10/DR10 to 32N29 (Bogard Rest Area)	0.14	Highway legal only	All	Year round.
32N60	From 32N73Y to 32N73Y (Grays Flat)	1.76	Highway legal only	All	Year round.
32N12	From 32N42Y to 31N13 (Twin Bridges)	0,28	Highway legal only	All	Year round.
32N12	From 32N38 to 32N42Y (Twin Bridges, Badger Mountain north).	1.60	Highway legal only	All	Year round.
32N13	From 32N12 to 32N12Y (Twin Bridges)	1.46	Highway legal only	All	Year round.
Total		12.81			

Maps and tables describing in detail both the LNF transportation system and the proposed action can found at: *http://www.fs.fed.us/r5/1asses/12rotects/NEPA_proiectshoute/index.php*.

In addition, maps will be available for viewing at:

Lassen National Forest, Region 5, 2550 Riverside Drive, Susanville, CA 96130.

Almanor Ranger District, 900 E. HWY 36, Chester, CA 96020.

Eagle Lake Ranger District, 477–050 Eagle Lake Road, Susanville, CA 96130.

Hat Creek Ranger District, 43225 E. HWY 299, Fall River Mills, CA 96028.

Responsible Official

Jack Walton, Acting Forest Supervisor, Supervisor's Office, Lassen National Forest, Region 5, 2550 Riverside Drive, Susanville, CA 96130.

Nature of Decision To Be Made

The responsible official will decide whether to adopt and implement the proposed action, an alternative to the proposed action, or take no action to make changes to the existing Lassen National Forest Transportation System and prohibit cross country wheeled motorized vehicle travel by the public off the designated system. Once the decision is made, the Lassen National Forest will publish a Motor Vehicle Use Map (MVUM) identifying the roads, trails and areas that are designated as open to the public for motor vehicle use. The MVUM shall specify the classes of vehicles and, if appropriate, the times of year for which use is authorized.

Scoping Process

Public participation will be especially important at several points during the analysis. The Forest Service will be seeking information, comments, and assistance from the federal, state, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action.

The Notice of Intent is expected to be published in the **Federal Register** on October 24, 2007. The comment period on the proposed action will extend 30 days from the date the Notice of Intent is published in the **Federal Register**.

The draft environmental impact statement is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by March 7, 2008. EPA will publish a notice of availability (NOA) of the draft EIS in the **Federal Register**. The comment period on the draft EIS will extend 45 days from the date the EPA publishes the NOA in the **Federal Register**. At that time, copies of the draft EIS will be distributed to interested and affected agencies, organizations, and members of the public for their review and comment. It is very important that those interested in the management of the Lassen National Forest participate at that time. Submission of comments in response to the draft EIS is a

prerequisite for eligibility to appeal under the 36 CFR part 215 regulations.

The final EIS is scheduled to be completed in June 2008. In the final EIS, the Forest Service will respond to comments received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making the decision.

Comment Requested

This notice of intent initiates the scoping process which guides the development of the environmental impact statement. Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft environmental impact statement stage, but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. City of *Angoon* v. *Hodel, 803 F.2d 1016, 1022 (9th Cir. 1986)* and *Wisconsin Heritages, Inc.* v. *Harris, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980).* Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft environmental impact statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, section 21)

Jack T. Walton,

Acting, Lassen National Forest Supervisor.

[FR Doc. 07–5272 Filed 10–24–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Lake Tahoe Basin Federal Advisory Committee

AGENCY: Forest Service, USDA

ACTION: Notice of meeting.

SUMMARY: The Lake Tahoe Basin Federal Advisory Committee will hold a meeting on November 13, 2007 at the US Forest Service Office, 35 College Drive, South Lake Tahoe, CA, 96150. This Committee, established by the Secretary of Agriculture on December 15, 1998 (64 FR 2876), is chartered to provide advice to the Secretary on implementing the terms of the Federal Interagency Partnership on the Lake Tahoe Region and other matters raised by the Secretary.

DATES: The meeting will be held November 13, 2007, beginning at 1 p.m. and ending at 4 p.m.

ADDRESSES: The meeting will be held at the US Forest Service Office, 35 College Drive, South Lake Tahoe, CA, 96150.

FOR FURTHER INFORMATION CONTACT: Arla Haines, Lake Tahoe Basin Management Unit, Forest Service, 35 College Drive, South Lake Tahoe, CA 96150, (530) 543-2773.

SUPPLEMENTARY INFORMATION: Items to be covered on the agenda include: 1) Preliminary presentation by Tahoe Basin agencies of the Southern Nevada Public Land Management Act (SNPLMA) Round 9 hazardous fuels reduction and wildfire prevention projects; 2) Lake Tahoe SNPLMA Round 9 science themes; Lake Tahoe SNPLMA Round 9 project nomination form and Round 9 calendar/timeframes; and 3) Public Comment. All Lake Tahoe Basin Federal Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend at the above address. Issues may be brought to the attention of the Committee during the open public comment period at the meeting or by filing written statements with the secretary for the Committee before or after the meeting. Please refer any written comments to the Lake Tahoe Basin Management Unit at the contact address stated above.

Dated: October 18, 2007.

Terri Marceron,

Forest Supervisor.

[FR Doc. 07–5274 Filed 10–24–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: South Pacific Tuna Act.

Form Number(s): None.

OMB Approval Number: 0648–0218.

Type of Request: Regular submission.

Burden Hours: 199.

Number of Respondents: 22.

Average Hours Per Response License application, 15 minute; regional application/VMS registration, 45 minutes; purse seine transshipment logsheet, 1 hour; and unloading logsheet, 30 minutes.

Needs and Uses: The National Oceanic and Atmospheric Administration collects license, registration, catch, and unloading information from purse seine vessels fishing within a large region of the central and western Pacific Ocean governed by the Treaty of Fisheries between the governments of Certain Pacific Island States and the government of the United States of America. The information collected is required to meet obligations under the Treaty.

Affected Public: Business or other for-profit organizations.

Frequency: Annually and on occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk

Officer, Fax number (202) 395–7285, or *David_Rostker@omb.eop.gov*.

Dated: October 19, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–20986 Filed 10–24–07; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Industry and Security.

Title: Voluntary Self-Disclosure of Antiboycott Violations.

Form Number(s): None.

OMB Control Number: 0694–0132.

Type of Request: Regular submission.

Burden Hours: 1,280.

Number of Respondents: 10.

Average Hours Per Response: 10 to 600 hours.

Needs and Uses: This collection of information supports enforcement of the Antiboycott provisions for the Export Administration Regulations (EAR) by providing a method for industry to voluntarily self-disclose antiboycott violations.

Affected Public: Business and other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285 or via the Internet at *David_Rostker@omb.eop.gov*.

Dated: October 19, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–20989 Filed 10–24–07; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Industry and Security (BIS).

Title: Five-Year Records Retention Period.

Form Number(s): None.

OMB Control Number: 0694–0096.

Type of Request: Regular submission.

Burden Hours: 251.

Number of Respondents: 101,108.

Average Hours per Response: 1 second to 1 minute per response.

Needs and Uses: The Export Administration Regulations (EAR) requires all parties involved in export transactions and the U.S. party involved in the boycott action maintain records of these transactions for a period of five years. The five-year retention period corresponds with the statute of limitations for violations and is necessary to preserve potential evidence for investigations. The requirement enables BIS to detect violations from records up to five years old to correspond with the five-year statute of limitations and prove that a violation did or did not take place. The documents can also provide exculpatory evidence for firms who have been accused of export control violations and are innocent.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285 or via the Internet at *David_Rostker@omb.eop.gov.*

Dated: October 19, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–20990 Filed 10–24–07; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Southeast Region Dealer and Interview Family of Forms.

Form Number(s): None.

OMB Approval Number: 0648–0013.

Type of Request: Regular submission.

Burden Hours: 1,835.

Number of Respondents: 13,767.

Average Hours Per Response: Interviews and quota-managed dealer reports, 10 minutes; dealer no-purchase reports, 3 minutes; rock shrimp, golden crab and coral dealer reports, 15 minutes; and vessel operational inventory, 5 minutes.

Needs and Uses: The National Marine Fisheries Service, Southeast Fisheries Science Center uses these reporting instruments to collect landings statistics and quota monitoring data from commercial seafood dealers and to conduct interviews with fishermen for effort and fishing locations data. This family of forms includes data collection activities for monitoring fishery quotas, routine collections of monthly statistics from seafood dealers, and interviews with fishermen to collect catch/effort and biological data.

Affected Public: Business or other for-profit organizations; State, Local or Tribal Government.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at: *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent

within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Fax number (202) 395–7285, or *David_Rostker@omb.eop.gov.*

Dated: October 19, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–21027 Filed 10–24–07; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the emergency provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Telecommunications and Information Administration (NTIA).

Title: NTIA Message Testing Focus Groups for the Digital-to-Analog Converter Box Coupon Program.

Agency Form Number: None.

Type of Request: Emergency submission.

Burden: 352 hours.

Average Time Per Response: 2 hours.

Needs and Uses: Congress directed the National Telecommunications and Information Administration (NTIA) to create and implement a program to provide coupons for consumers to purchase digital-to-analog converter boxes. (*See* Title III of the Deficit Reduction Act of 2005, Pub. L. No. 109–171, 120 Stat. 4, 21 (Feb. 8, 2006)). These converter boxes are necessary for consumers who wish to continue receiving broadcast programming over the air using analog-only television sets after February 18, 2009—the date that television stations are required by law to cease analog broadcasting. The regulations permit consumers to submit applications to NTIA for coupons beginning January 1, 2008. *See* 47 CFR 301.3(b).

An effective consumer education campaign, including the development of a campaign identity, messages, and consumer materials, is essential to the Coupon Program. Of particular importance is the development of an application for consumers that is easy to understand and to submit to NTIA. In an effort to ensure that the materials and messages developed for the campaign resonate with all target audiences, these items will be tested with representatives from targeted audiences. The targeted audiences, identified as the more reliant on over-the-air television, include the following: (1) Economically disadvantaged households; (2) rural residents; (3) minorities; (4) people with disabilities; and (5) seniors. Representatives from the target audiences will participate in ''focus groups'' to assist NTIA in determining the clarity of the message; identifying difficulty or ease in presenting and receiving pertinent information; and improving the presentation of the information.

Nineteen (19) focus groups are scheduled in eight cities and via teleconference. Five additional participants will be interviewed who are deaf or hard of hearing for a total number of 176 participants. The information will be collected by Ketchum, Inc., a global public relations firm, that is leading the consumer education program as a subcontractor to IBM, NTIA's prime contractor. NTIA awarded a contract to IMB in August 2007 to administer the diverse operational elements of the Coupon Program. The information will be used to develop a consumer application as well as other consumer education materials related to the Coupon Program.

Affected Public: Individuals or households.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Jasmeet K. Seehra, (202) 395–3123.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 7 days of publication of this notice to Jasmeet Seehra, OMB Desk Officer, FAX number (202) 395–5167 or via the Internet at *Jasmeet_K._Seehra@omb.eop.gov.*

Dated: October 19, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–21029 Filed 10–24–07; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Industry and Security (BIS).

Title: Approval of Triangular Transactions involving Commodities covered by a U.S. Import Certificate.

Form Number(s): None.

OMB Control Number: 0694–0009.

Type of Request: Regular submission.

Burden Hours: 1.

Number of Respondents: 1.

Average Hours per Response: 30 minutes.

Needs and Uses: The triangular symbol will be stamped on the certificate as notification that the importer does not intend to import or retain the items in the country issuing the certificate, but that, in any case, the items will not be delivered to any other destination except in accordance with the Export Administration Regulations. If this procedure were not followed, strategic commodities could be delivered to unauthorized destinations.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285 or via the Internet at *David_Rostker@omb.eop.gov.*

Dated: October 19, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–21031 Filed 10–24–07; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the

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

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: NOAA Space-Based Data Collection System (DCS) Agreements.

Form Number(s): None.

OMB Approval Number: 0648–0157.

Type of Request: Regular submission.

Burden Hours: 440.

Number of Respondents: 390.

Average Hours per Response: Geostationary Operational Environmental Satellite Data Collection System Use Agreement, 3 hours; Argos System Use Agreement, 1 hour.

Needs and Uses: NOAA operates two space-based data collection systems (DCS): the Geostationary Operational Environmental Satellite (GOES) DCS and the Argos DSC flown on polar-orbiting satellites. NOAA allows users access to the DCS if they meet certain criteria. The applicants must submit information to ensure they meet these criteria. NOAA does not approve agreements when commercial services are available that fulfill users' requirements.

Affected Public: Not-for-profit institutions; business or other for-profit organizations; State, Local or Tribal Government.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov*.

Dated: October 19, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–21032 Filed 10–24–07; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Manufacturers' Shipments, Inventories, and Orders to the Department of Defense

AGENCY: U.S. Census Bureau, Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration written comments must be submitted on or before December 24, 2007.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *DHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Chris Savage, U.S. Census Bureau, Room 7K071, Washington, DC 20233–6900, (301) 763–4832, or via the Internet at *John.C.Savage@census.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Manufacturers' Shipments, Inventories, and Orders (M3) survey collects monthly data on shipments, inventories, and orders from domestic manufacturing companies. The purpose of the M3 survey is to provide early broad-based monthly statistical data on current economic conditions and indications of future production commitments in the manufacturing sector. The orders, as well as the shipments and inventory data, are used widely and are valuable tools for analysis of business cycle conditions. Major data users include: Members of the Council of Economic Advisers, Bureau of Economic Analysis, Federal Reserve Board, Conference Board, Treasury Department, and the business community.

The monthly M3 reflects primarily the month-to-month changes of companies within the survey. The M3 survey collects data for 89 industry categories of which 13 provide non-defense and defense allocations. Those industries include: Small Arms and Ordnance; Communications Equipment; Search and Navigation Equipment; Aircraft; Aircraft Engine and Parts; Missile, Space Vehicle, and Parts Manufacturing Defense; and Ship and Boat Building.

There is a clear need to perform a periodic benchmark of the M3 estimates to reflect the manufacturing universe levels. The Annual Survey of Manufactures (ASM) provides annual benchmarks for the shipments and inventory data for the M3 survey, however, the ASM does not distinguish between non-defense and defense activities. The last collection instrument used to benchmark non-defense and defense data was the Shipments to Federal Agencies Benchmark Survey (MA–9675) conducted in 1992. Since the defense industries have dramatically changed, it is necessary to have a benchmark instrument to obtain a current allocation of data between non-defense and defense manufacturing activities for the M3 universe levels.

The U.S. Census Bureau is planning a new collection to benchmark the M3 universe levels for the non-defense and defense industries listed above as of the end of 2006 and 2007. The Manufacturers' Shipments, Inventories, and Orders to the Department of Defense (M3DOD) survey will collect shipments, inventories, and unfilled orders data from domestic manufacturing companies that encompass defense manufacturing activities. M3 data will be adjusted based on the M3DOD results on the NAICS basis. This survey will be conducted every five years to provide correct benchmark levels and preserve the integrity of the estimates for the M3 survey, especially for the closely watched non-defense capital goods series.

II. Method of Collection

The U.S. Census Bureau will use mail out/mail back survey forms to collect the data. Companies will be asked to respond to the survey within 45 days of receipt. Survey analysts will telephone non-respondents who have not reported by the deadline for preparing the final survey results.

III. Data

OMB Number: None.

Form Number: M–3DOD.

Type of Review: Regular submission.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 5,000.

Estimated Time Per Response: 30 minutes.

Estimated Total Annual Burden Hours: 2,500.

Estimated Total Annual Cost: $65,650.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13, U.S.C., Sections 131 and 182.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: October 19, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–20985 Filed 10–24–07; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Youth Volunteering, Service, and Civic Engagement Survey

AGENCY: U.S. Census Bureau, Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before December 24, 2007.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Richard A. Schwartz, U.S. Census Bureau, 7H0003N, Washington, DC 20233–8400 at (301) 763–7491 (or via the Internet at *Richard.A.Schwartz@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau plans to request a reinstatement of the clearance used to conduct the 2005 and 2007 rounds of the Youth Volunteering and Civic Engagement Survey. The purpose of this voluntary survey is to provide data on volunteer activities, participation in school-based service-learning, and civic engagement among American teenagers.

The Corporation for National and Community Service is the federal agency that encourages Americans of all ages and backgrounds to engage in community-based service and volunteering to meet the nation's educational, public safety, environmental, homeland security, and other human needs. Conducting a study of a rarely evaluated segment of the volunteering population will provide important data that will inform the work that the Corporation is doing across the country. For example, the Corporation's Learn and Serve American grant program provides resources to schools, higher education institutions, and community-based organizations to involve young people in meaningful service to their community while improving academic, civic, social, and career-related skills. In addition, the Corporation's AmeriCorps program provides service opportunities for Americans, ages 17 and older, to make an ongoing and intensive commitment to service to meet critical community needs. Through these programs, the Corporation seeks to promote a culture of service and civic responsibility.

Teenagers are an important, yet often overlooked, volunteering population. Since volunteering during one's youth is an important predictor of continued volunteer activities, by understanding the unique needs and motivations of the teen population, we can better work to engage them in service to this country now and in the future.

This survey is a continuation of the youth volunteering survey first conducted in 2005. In the 2005 survey we included sample persons 12 to 18 years of age. We are considering limiting this age group to 15 to 18 year olds.

The 2008 round will again collect information on the attitudes and behaviors of teenagers in America around volunteering, service learning, and other forms of community involvement. For the proposed survey we will use retired CPS sample. Specifically, we will select teenagers under the age of 18 living in households that were eligible to participate in prior rounds of the September CPS Volunteer Supplement. Linking the survey sample to the September CPS Volunteer Supplement will not only aid in the processing of the collected data, but also in the subsequent analysis of the collected data. For example, in prior rounds of the National Youth Volunteering and Civic Engagement Survey, the levels of reported volunteering among teens was about 55% which is higher than the levels of volunteering reported in the CPS Volunteer Supplement (~29%). Survey design may account for some portion of the difference, but we are concerned that nonresponse bias may enter in as well. By selecting the sample from households that participated in the CPS Volunteer Supplement we will have additional information on volunteering rates that can be used to assess nonresponse bias in the proposed survey.

The data collected in this survey will include information on youth volunteering activities that have taken place during the year prior to data collection. These activities will include both school-based community service requirements as well as volunteering activities conducted through religious and service groups. Basic demographic data for the sample person will be available from the CPS. Specifically, we will ask about the youth's current academic standing; their experiences with school-based community service and volunteering activities in the previous year; their motivations for volunteering; and the impact of school-based service and volunteering on the youth. We will also collect information on the volunteering activities of the youth's family and their attitudes and behaviors in regard to other forms of civic engagement, such as the likelihood of future volunteering, their sense of personal efficacy, their participation in community collaboration, and their political engagement.

II. Method of Collection

The information will be collected by the Census Bureau's Telephone Centers. Advance letters will be sent out about two weeks prior to data collection. These letters will include a letter to the parent as well as a letter to the respondent informing them of the upcoming survey. We will provide phone numbers and e-mail addresses for sample persons and parents of sample persons to contact with questions regarding the survey. We plan to offer a monetary incentive to youth who agree to participate in the survey. All interviewing will be done using an automated instrument designed for use in a centralized telephone-interviewing site.

III. Data

OMB Control Number: 0607–0913.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Individuals or households.
Estimated Number of Respondents: 3,200.
Estimated Time per Response: 30 minutes.
Estimated Total Annual Burden Hours: 1,600.
Estimated Total Annual Cost: $0.
Respondent's Obligation: Voluntary.
Legal Authority: Title 13 U.S.C. Section 182.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: October 19, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–20991 Filed 10–24–07; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Annual Survey of State and Local Government Finances

AGENCY: U.S. Census Bureau.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before December 24, 2007.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Jennifer Whitaker, Chief, Public Finance Analysis Branch-A, Governments Division, U.S. Census Bureau, Washington, DC 20233–6800 [(301) 763–2823] (or via the Internet at *Jennifer.N.Whitaker@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau plans to request clearance for the forms necessary to conduct the public finance program which consists of an annual collection of information and a quinquennial collection in the census years ending in ''2'' and ''7''. During the upcoming three years, Census intends to conduct the 2008, 2009 and 2010 Annual Survey of Government Finance.

The Annual Survey of State and Local Government Finance collects data on state government finances and estimates of local government revenue, expenditure, debt, and assets, nationally and within state areas. Data are collected for all agencies, departments, and institutions of the fifty state governments and for a sample of all local governments (counties, municipalities, townships, and special districts). Data for school districts are collected under a separate survey. In the census year, equivalent data are collected from all local governments.

This survey is a mail canvass survey with an initial mailing and three follow-up mailings. Telephone follow-up is used to contact non-respondents and, as necessary, to correct apparent errors and incorrect responses. The forms and procedures are the same as those used in previous finance surveys.

Results of this survey are used by the Bureau of Economic Analysis to develop the public sector components of the National Income and Product Accounts. Other Federal agencies that make frequent use of these data include the U.S. Federal Reserve Board, the Congressional Research Service, the General Accounting Office, and the Department of Justice. Other users include state and local government executives and legislators, policy makers, economists, researchers, and the general public.

II. Method of Collection

Canvass methodology primarily consists of a mail out/mail back questionnaire. Responses will be scanned, and then put into an electronic format. Other methods used to collect data and maximize response include collecting local government data from central state sources and compiling from submitted financial audits, comprehensive financial reports, and public Internet outputs. Also, the finance forms can be completed on the Internet.

III. Data

OMB Control Number: 0607–0585.
Form Number: F–11, F–12, F–13, F–25, F–28, F–29, F–32, and F–42.
Type of Review: Regular submission.
Affected Public: State or local government.
Estimated Number of Respondents: 9,753.
Estimated Time per Response: 2,903.
Estimated Total Annual Burden Hours: 29,911.
Estimated Total Annual Cost: $535,918.
Respondent's Obligation: Voluntary.
Legal Authority: Title 13 U.S.C. 161 and 182.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and

clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: October 19, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–20994 Filed 10–24–07; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–856]

Notice of Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: We determine that imports of coated free sheet paper (''CFS paper'') are being, or are likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 735 of the Tariff Act of 1930, as amended (''the Act''). The estimated margins of sales at LTFV are shown in the ''Final Determination'' section of this notice.

EFFECTIVE DATE: October 25, 2007.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore (Moorim Paper Co., Ltd. Moorim SP Co., Ltd. and Moorim USA Inc. (collectively, ''Moorim''); Dennis McClure (EN Paper Mfg. Co., Ltd. and Shinoho USA, Inc. (collectively ''EN Paper''); and (Kyesung Paper Co., Ltd. and Namhan Paper Co. Ltd. (collectively ''Kyesung'')); or Joy Zhang (Hankuk Paper Mfg. Co., Ltd.) (''Hankuk''), and Hansol Paper Co., Ltd.) (''Hansol'')), AD/CVD Operations, Office 3, Import Administration–Room B–099, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3692, (202) 482–5973, or (202) 482–1168, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 4, 2007, the Department published in the **Federal Register** the preliminary determination of sales at LTFV in the antidumping duty investigation of CFS paper from the Republic of Korea. *See Coated Free Sheet Paper from the Republic of Korea: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 72 FR 30766 (June 4, 2007) (''*Preliminary Determination*''). Since the *Preliminary Determination*, the following events have occurred. From July 9, 2007, through August 15, 2007, we verified the sales and cost questionnaire responses of Moorim, EN Paper, Hansol, Hankuk, and Kyesung (hereafter collectively referred to as ''the Korean respondents''). On August 15, 27, 28, 30, and 31, and September 4, 2007, the Department issued its verification reports. We provided the interested parties an opportunity to comment on the *Preliminary Determination* and the Department's verification findings.

On June 29, 2007, the petitioner[1] requested a hearing, and from July 2 through 9, 2007, the Korean respondents also requested a hearing to discuss issues addressed in their case and rebuttal briefs.

On August 28, 2007, the petitioner requested that the Department clarify the scope of the investigation of CFS paper from Korea and placed on the record of this review information to support its request.

On September 10, 2007, the Department responded to the petitioner's targeting allegations that were filed on April 26, 2007. The petitioner alleged that Hansol targeted sales into a region and Moorim and Hankuk targeted specific customers. In the *Preliminary Determination*, the Department stated that although petitioner's allegations were timely, the Department did not have sufficient time to fully analyze them for purposes of the preliminary determination. The Department also stated that it would fully consider this issue for purposes of the final determination. *See Preliminary Determination* 72 FR 30766, 30767. Therefore, these allegations were addressed after the preliminary determination. *See* Memorandum to David M. Spooner, Assistant Secretary for Import Administration, from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, regarding *Antidumping Duty Investigation of Coated Free Sheet Paper from South Korea - Post–Preliminary Analysis on Targeting (''Post–Preliminary Determination'')*, dated September 10, 2007, which is on file in the Central Records Unit (''CRU''), room B–099 of the main Department building. We provided the interested parties an opportunity to comment on the Department's *Post–Preliminary Determination. See also ''Targeted Dumping''* discussion infra.

On September 12, 2007, the petitioner filed its case brief on the scope clarification issue. On September 14, 2007, the Korean respondents filed a rebuttal brief on this issue. A scope hearing was held on September 26, 2007. The hearing comprised a public session, a closed session for the antidumping investigation from Korea, and a closed session for the countervailing duty investigation from the People's Republic of China.

On September 17, 2007, the petitioner and the Korean respondents submitted case briefs. On September 24, 2007, both the petitioner and the Korean respondents submitted rebuttal briefs. On September 25, 2007, a closed hearing was held at the Department.

Targeted Dumping

We find that there is a pattern of export prices for comparable merchandise that differs significantly among purchasers and regions; moreover, such differences cannot be taken into account using the average–to–average comparison methodology. *See* section 777A(d)(1)(B) of the Tariff Act of 1930, as amended (the Act). Accordingly, we used the transaction–to–average methodology for these sales.

In the *Post–Preliminary Determination*, the Department employed the average–to–average comparison methodology used in the *Preliminary Determination* for non–targeted sales. *See Post–Preliminary Determination; see also, Preliminary Determination*, 72 FR 30766, 30768. As required by section 777A(d)(1)(B) of the Act, we determined that the pattern of price differences could not be taken into account using the average–to–average comparison methodology for targeted sales because that methodology, by averaging the high prices with the low prices, has the effect of masking the extent of sales at LTFV. Thus, consistent with 19 CFR 351.414(f)(2), we limited our application of the average–to–transaction methodology to the targeted sales under 19 CFR 351.414(f)(1).

When calculating a respondent's specific weighted–average margin, we combined the margin calculated for the targeted sales using the average–to–transaction methodology with the margin calculated for the non–targeted sales using the average–to-average methodology. In combining the margins

[1] The petitioner in this investigation is NewPage Corporation.

for the targeted and non–targeted U.S. sales databases, we have not offset any margins found among the targeted U.S. sales. We have adopted the methodology established in the *Post–Preliminary Determination* for purposes of our final determination.

Period of Investigation

The period of investigation (''POI'') is October 1, 2005, through September 30, 2006. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs submitted by the parties to this investigation are addressed in the ''Issues and Decision Memorandum'' (''*Decision Memo*'') from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated October 17, 2007, which is hereby adopted by this notice. A list of the issues that parties have raised and to which we have responded, all of which are in the *Decision Memo*, is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this investigation, and the corresponding recommendations in this public memorandum, on file in the CRU. In addition, a complete version of the *Decision Memo* can be accessed directly on the Web at http://ia.ita.doc.gov/frn. The paper copy and electronic version of the *Decision Memo* are identical in content.

Scope of Investigation

The merchandise covered by this investigation includes coated free sheet paper and paperboard of a kind used for writing, printing or other graphic purposes. Coated free sheet paper is produced from not–more–than 10 percent by weight mechanical or combined chemical/mechanical fibers. Coated free sheet paper is coated with kaolin (China clay) or other inorganic substances, with or without a binder, and with no other coating. Coated free sheet paper may be surface–colored, surface–decorated, printed (except as described below), embossed, or perforated. The subject merchandise includes single– and double–side–coated free sheet paper; coated free sheet paper in both sheet or roll form; and is inclusive of all weights, brightness levels, and finishes. The terms ''wood free'' or ''art'' paper may also be used to describe the imported product.

Excluded from the scope are: (1) coated free sheet paper that is imported printed with final content printed text or graphics; (2) base paper to be sensitized for use in photography; and (3) paper containing by weight 25 percent or more cotton fiber.

Coated free sheet paper is classifiable under subheadings 4810.13.1900, 4810.13.2010, 4810.13.2090, 4810.13.5000, 4810.13.7040, 4810.14.1900, 4810.14.2010, 4810.14.2090, 4810.14.5000, 4810.14.7040, 4810.19.1900, 4810.19.2010, and 4810.19.2090 of the Harmonized Tariff Schedule of the United States (HTSUS). While HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Scope Comments

On August 20, August 28, and September 10, 2007, the petitioner requested that the Department clarify the scope of the antidumping and countervailing duty investigations of CFS paper from Indonesia, Korea and the People's Republic of China. Specifically, the petitioner asked the Department to ''clarify that the scope of the investigation includes coated free sheet paper containing hardwood BCTMP.''

Because this was a general issue pertaining to all six investigations, the Department set up a general issues file to handle this scope request. After considering the comments submitted by the parties to these investigations, we have determined not to adopt the scope clarification sought by the petitioner. *See* Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, entitled ''Scope Clarification Request: NewPage Corporation'' dated concurrently with this notice, which is appended to ''Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Coated Free Sheet Paper from the People's Republic of China.''

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we have made certain changes to the margin calculations for the Korean Respondents. For a discussion of these changes, see the ''Margin Calculations'' section of the *Decision Memo*.

Verification

As provided in section 782(i) of the Act, we verified the sales and cost information submitted by the Korean respondents for use in our final determination. We used standard verification procedures including an examination of relevant accounting and production records, and original source documents provided by the Korean respondents. Our sales and cost verification results are outlined in separate verification reports. *See* August 27, 28, and 31, 2007, and September 4, 2007, cost verification reports, and August 15, 30, and 31, 2007, sales verification reports for the Korean respondents.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing U.S. Customs and Border Protection (''CBP'') to continue to suspend liquidation of all imports of subject merchandise with the exception of those exported by Hansol, Moorim, and Hankuk, that are entered or withdrawn from warehouse, for consumption on or after June 4, 2007, the date of publication of the preliminary determination in the **Federal Register**. We will instruct CBP to continue to require a cash deposit or the posting of a bond for all companies for which we have calculated an above *de minimis* margin based on the estimated weighted–average dumping margins shown below. The suspension of liquidation instructions will remain in effect until further notice.

Final Determination Margins

We determine that the following weighted–average dumping margins exist for the period October 1, 2005, thorough September 30, 2006:

Manufacturer/Exporter	Weighted Average Margin (percent)
Hansol	0.97 (*de minimis*)
Hankuk	0.47 (*de minimis*)
Moorim	1.05 (*de minimis*)
EN Paper	12.31
Kyesung	31.55
All Others	18.70

Section 735(c)(5)(A) of the Act provides that the estimated ''All Others'' rate shall be an amount equal to the weighted average of the estimated weighted–average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in

this proceeding in accordance with 19 CFR 351.224(b).

International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our final determination. As our final determination is affirmative, the ITC will determine within 45 days whether imports of the subject merchandise are causing material injury, or threat of material injury, to the industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Return or Destruction of Proprietary Information

This notice will serve as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation. We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i) of the Act.

Dated: October 17, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix—Issues in Decision Memo

Comments

A. General Comments

Targeting

Comment 1: Standard and Appropriate Statistical Techniques
Comment 2: Validity of Certain Pasta from Italy
Comment 3: Statistical Significance Requirement
Comment 4: Whether the Average–to–Average Method Can Account for Targeted Dumping
Comment 5: Statutory Application of Transaction–to–Transaction Methodology
Comment 6: Discretionary Application of Transaction–to–Transaction Methodology
Comment 7: Margin Calculation of Targeted and Non–Targeted Sales
Comment 8: Proposed Transaction–to–Transaction Margin Program

Cost of Production

Comment 9: Application of Partial Facts Available to Hansol, Moorim, and Hankuk's Total Cost of Manufacture
Comment 10: Differences in Merchandise Were Not Verified

B. Company–Specific Comments

Hansol

Comment 1: Treatment of Constructed Export Price (CEP) Offset
Comment 2: Treatment of Indirect Selling Expenses Incurred in Korea (DINDIRSU)
Comment 3: Treatment of Missing U.S. Payment Dates
Comment 4: Treatment of U.S. Repacking
Comment 5: Adjustment of Hansol's Reported U.S. Rebates
Comment 6: Production Quantities Were Not Verified
Comment 7: General and Administrative Expense Rate
Comment 8: Financial Expense Rate

Kyesung

Comment 9: Price Adjustment Related to the U.S. Price
Comment 10: Request to Apply Partial Adverse Facts Available

Moorim

Comment 11: Moorim's Pulp Costs Remain Unexplained

Hankuk

Comment 12: Timeliness of Targeted Dumping Allegation concerning Hankuk Paper
Comment 13: Standard Costs for Hankuk

EN Paper

Comment 14: Credit Balance for Bad Debt Allowance

[FR Doc. E7–21035 Filed 10–24–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–906

Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 25, 2007.

SUMMARY: On June 4, 2007, the Department of Commerce (the ''Department'') published its preliminary determination of sales at less than fair value (''LTFV'') in the antidumping investigation of coated free sheet paper (''CFS'') from the People's Republic of China (''PRC''). The period of investigation (''POI'') is April 1, 2006, through September 30, 2006. We invited interested parties to comment on our preliminary determination of sales at LTFV. Based on our analysis of the comments we received, we have made changes to our calculations for the mandatory respondents. The final dumping margins for this investigation are listed in the ''Final Determination Margins'' section below.

FOR FURTHER INFORMATION CONTACT: Magd Zalok or Drew Jackson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4162 and 482–4406, respectively.

Final Determination

We determine that CFS from the PRC is being, or is likely to be, sold in the United States at LTFV as provided in section 735 of the Tariff Act of 1930, as amended (''the Act''). The estimated margins of sales at LTFV are shown in the ''Final Determination Margins'' section of this notice.

SUPPLEMENTARY INFORMATION:

Background

The Department published its preliminary determination of sales at LTFV on June 4, 2007. *See Preliminary Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 30758 (June 4, 2007) (''*Preliminary Determination*''). Between June 18, 2007, and July 13, 2007, the Department conducted verifications of the collapsed entity Gold East Co. Ltd.(Gold East Paper (Jiangsu) Co. Ltd., Gold Hua Sheng Paper (Suzhou Industry Park) Co. Ltd., and China Union (Macao

Commercial Offshore) Company Ltd.) (collectively ''Gold East'') and its U.S. affiliate, and separate rates applicant Yanzhou Tianzhang Paper Industry Co. Ltd. (''Yanzhou Tianzhang''), and its U.S. importer. *See* the ''Verification'' section below for additional information.

We invited parties to comment on the Preliminary Determination. On August 31, 2007, petitioner,[1] the Bureau of Fair Trade, Ministry of Commerce, People's Republic of China (''BOFT''), Yanzhou Tianzhang, and Gold East filed case briefs. Petitioner and Gold East filed rebuttal briefs on September 7, 2007. Additionally, on September 12, 2007, petitioner, Gold East, Yanzhou Tianzhang, and BOFT, along with other interested parties in concurrent CFS investigations, submitted comments regarding the scope of the instant investigation. These parties filed rebuttal scope comments on September 20, 2007. In response to requests from interested parties, the Department held a hearing on the scope of the investigation on September 26, 2007.

Analysis of Comments Received

With the exception of the scope issue, all issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the ''Investigation of Coated Free Sheet Paper from the People's Republic of China: Issues and Decision Memorandum,'' dated October 17, 2007, which is hereby adopted by this notice (''Issues and Decision Memorandum''). The scope issue is addressed in a separate memorandum. *See* ''Scope Comments'' section, below. A list of the issues which parties raised and to which we respond in the Issues and Decision Memorandum is attached to this notice as an Appendix. The Issue and Decision Memorandum is a public document and is on file in the Central Records Unit (''CRU''), Main Commerce Building, Room B–099, and is accessible on the Web at http://ia.ita.doc.gov/frn. The paper copy and electronic version of the memorandum are identical in content. Additionally, because some of the issues that parties raised and to which we respond contain proprietary information, there is a separate proprietary version of the Issues and Decision Memorandum. *See* ''Investigation of Coated Free Sheet Paper from the People's Republic of China: Issues and Decision Memorandum, Comments and Department of Commerce's Positions Containing Proprietary Information,'' dated October 17, 2007.

[1] Petitioner in this investigation is NewPage Corporation.

Changes Since the Preliminary Determination

Based on our analysis of the comments received, we have changed the margin calculation for Gold East. Those changes include the following:

1. We revised our calculation of the per–unit cost of Gold East's self–produced electricity and did not value steam used in production.
2. Based on verification findings, (a) we revised the average market–economy price reported for a type of pulp; (b) recalculated the net unit price of constructed export price (''CEP'') sales to account for unreported selling expenses; (c) reclassified one export price sale as a CEP sale and adjusted the sale's price to reflect CEP expenses; and (d) based the dumping margin of one unreported sale on adverse facts available (''AFA'').
3. We did not value certain reported factors based on our finding that these factors are used in the maintenance of machines, and are properly classified as overhead items.
4. We revised surrogate values for certain factors of production.
5. We valued certain inputs used by Gold East to treat water.
6. We revised the surrogate values for factory overhead, selling, general and administrative (''SG&A''), and profit.
7. We corrected a ministerial error involving one of Gold East's self–produced inputs.

For a detailed analysis of Gold East's margin calculation, *see* ''Final Determination in the Investigation of Coated Free Sheet Paper from the People's Republic of China: Analysis Memorandum for Gold East'', dated October 17, 2007.

We assigned separate rates applicant Yanzhou Tianzhang the revised final margin calculated for Gold East, the only mandatory respondent to fully participate in this investigation.

We assigned the PRC–wide rate, as total AFA, to Shandong Chenming Paper Holdings Limited (''Chenming'), because it ceased participating in this investigation prior to the scheduled verification and, consequently, did not demonstrate its entitlement to a separate rate.

Scope of Investigation

The merchandise covered by this investigation includes coated free sheet paper and paperboard of a kind used for writing, printing or other graphic purposes. Coated free sheet paper is produced from not–more-than 10 percent by weight mechanical or combined chemical/mechanical fibers. Coated free sheet paper is coated with kaolin (China clay) or other inorganic substances, with or without a binder, and with no other coating. Coated free sheet paper may be surface–colored, surface–decorated, printed (except as described below), embossed, or perforated. The subject merchandise includes single- and double–side-coated free sheet paper; coated free sheet paper in both sheet or roll form; and is inclusive of all weights, brightness levels, and finishes. The terms ''wood free'' or ''art'' paper may also be used to describe the imported product.

Excluded from the scope are: (1) Coated free sheet paper that is imported printed with final content printed text or graphics; (2) base paper to be sensitized for use in photography; and (3) paper containing by weight 25 percent or more cotton fiber. Coated free sheet paper is classifiable under subheadings 4810.13.1900, 4810.13.2010, 4810.13.2090, 4810.13.5000, 4810.13.7040, 4810.14.1900, 4810.14.2010, 4810.14.2090, 4810.14.5000, 4810.14.7040, 4810.19.1900, 4810.19.2010, and 4810.19.2090 of the Harmonized Tariff Schedule of the United States (''HTSUS''). While HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Scope Comments

On August 20, August 28, and September 10, 2007, the petitioner requested that the Department clarify the scope of the antidumping and countervailing duty investigations of CFS paper from Indonesia, Korea and the People's Republic of China. Specifically, the petitioner asked the Department to ''clarify that the scope of the investigation includes coated free sheet paper containing hardwood BCTMP.''

Because this was a general issue pertaining to all six investigations, the Department set up a general issues file to handle this scope request. A hearing on the scope request was held on September 26, 2007. The hearing comprised a public session, a closed session for the antidumping investigation from Korea, and a closed session for the countervailing duty investigation from the PRC. After considering the comments submitted by the parties to these investigations, we have determined not to adopt the scope clarification sought by the petitioner. *See* Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import

Administration, entitled ''Scope Clarification Request: NewPage Corporation'' dated concurrently with this notice, which is appended to ''Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Coated Free Sheet Paper from the People's Republic of China.''

Adverse Facts Available

Section 776(a)(2) of the Act provides that, if an interested party (A) withholds information requested by the Department, (B) fails to provide such information by the deadline, or in the form or manner requested, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination.

Pursuant to section 782(e) of the Act, the Department shall not decline to consider submitted information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

On June 7, 2007, six days before the commencement of verification, counsel for Chenming informed Department officials that Chenming would not continue its participation in the instant investigation. *See* Memorandum to the File through Howard Smith, Program Manager, Office 4, concerning ''Telephone Conversation with Counsel for Shandong Chenming Paper Holdings Co., Ltd.,'' dated June 7, 2007; *see also* Chenming's letter to the Department, concerning, ''Coated Free Sheet Paper from the People's Republic of China; Withdrawal of Shandong Chenming Paper Holdings Limited and Withdrawal of Consent to Access Proprietary Information,'' dated June 11, 2007. Because Chenming ceased participation in the instant investigation, the Department was not able to conduct its scheduled verification of Chenming's responses. Verification is integral to the Department's analysis because it allows the Department to satisfy itself that it is relying upon accurate information and calculating dumping margins as accurately as possible. By failing to participate in verification, Chenming prevented the Department from verifying its reported information, including separate rates information, and significantly impeded the proceeding. Moreover, by not permitting verification, Chenming failed to prove that it is free of government control and entitled to a separate rate. Additionally, Chenming's refusal to participate in verification demonstrates that it failed to cooperate by not acting to the best of its ability to comply with a request from the Department. Section 776(b) of the Act authorizes the Department to use an adverse inference with respect to an interested party if the Department finds that the party failed to cooperate by not acting to the best of its ability to comply with a request for information. *See, e.g., Certain Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review*, 62 FR 53808, 53819–20 (October 16, 1997); *see also Crawfish Processors Alliance v. United States*, 343 F. Supp.2d 1242 (CIT 2004) (approving use of AFA when respondent refused to participate in verification). Therefore, pursuant to sections 776(a)(2)(C) and (D) and 776(b) of the Act, we have, as AFA, treated Chenming as part of the PRC–wide entity and assigned Chenming the PRC–wide rate of 99.65 percent. *See* the sections entitled ''The PRC–Wide Rate'' and ''Corroboration,'' below, for a discussion of the selection and corroboration of the PRC–Wide rate.

Verification

As provided in section 782(i) of the Act, we conducted verifications in the PRC and the United States of the information submitted by the respondent and the separate rate applicant for use in our final determination. *See* the Department's verification reports on the record of this investigation in the CRU with respect to Gold East and Yanzhou Tianzhang. For all verified companies, we used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by respondents.

Surrogate Country

In the *Preliminary Determination*, we stated that we had selected India as the appropriate surrogate country to use in this investigation for the following reasons: (1) it is a significant producer of comparable merchandise; (2) it is at a similar level of economic development pursuant to 773(c)(4) of the Act; and (3) we have reliable data from India that we can use to value the factors of production. *See Preliminary Determination*. For the final determination, we received no comments and made no changes to our findings with respect to the selection of a surrogate country.

Separate Rates

In proceedings involving non–market–economy (''NME'') countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an investigation in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. *See Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (''*Sparklers*''), as amplified by *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (''*Silicon Carbide*''), and Section 351.107(d) of the Department's regulations.

In the *Preliminary Determination*, we found that Gold East and the separate rate applicant, Yanzhou Tianzhang, demonstrated their eligibility for separate–rate status. No party has commented on the eligibility of Gold East or Yanzhou Tianzhang for separate–rate status. For the final determination, we continue to find that the evidence placed on the record of this investigation by Gold East and Yanzhou Tianzhang demonstrate both a *de jure* and *de facto* absence of government control, with respect to their respective exports of the merchandise under investigation and thus are eligible for separate rate status.

The PRC–Wide Rate

In the *Preliminary Determination*, the Department found that certain companies and the PRC–wide entity did not respond to our requests for information. In the *Preliminary Determination*, we treated these PRC producers/exporters as part of the PRC–wide entity because they did not demonstrate that they operate free of government control over their export activities. No additional information has been placed on the record with respect to these entities after the **Preliminary Determination**. The PRC–wide entity has not provided the Department with the requested information; therefore, pursuant to section 776(a)(2)(A) of the Act, the Department continues to find that the use of facts available is appropriate to determine the PRC–wide rate. Section 776(b) of the Act provides that, in selecting from among the facts

otherwise available, the Department may employ an adverse inference if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold–Rolled Flat–Rolled Carbon–Quality Steel Products from the Russian Federation*, 65 FR 5510, 5518 (February 4, 2000). *See also*, ''*Statement of Administrative Action*'' accompanying the URAA, H.R. Rep. No. 103–316, vol. 1, at 870 (1994). We determine that because the PRC–wide entity has failed to cooperate to the best of its ability because it did not respond to our request for information. Therefore, the Department finds that, in selecting from among the facts otherwise available, an adverse inference is appropriate for the PRC–wide entity.

Because we begin with the presumption that all companies within a NME country are subject to government control and because only the companies listed under the ''Final Determination Margins'' section below have overcome that presumption, we are applying a single antidumping rate - the PRC–wide rate - to all other exporters of subject merchandise from the PRC. Such companies did not demonstrate entitlement to a separate rate. *See*, *e.g.*, *Synthetic Indigo from the People's Republic of China: Notice of Final Determination of Sales at Less Than Fair Value*, 65 FR 25706 (May 3, 2000). The PRC–wide rate applies to all entries of subject merchandise except for entries from the respondents which are listed in the ''Final Determination Margins'' section below (except as noted).

Corroboration

At the *Preliminary Determination*, we corroborated our AFA margin by comparing the range of control number–specific dumping margins calculated for the preliminary determination to the dumping margin alleged in the petition. For the final determination, we conducted a similar analysis and continue to find that the margin of 99.65 percent has probative value. See Memorandum to the File: ''Corroboration of the PRC–Wide Facts Available Rate for the Final Determination in the Antidumping Duty Investigation of Coated Free Sheet Paper from the People's Republic of China'', dated October 17, 2007. In addition, no party to this investigation has commented on our selection of this rate as AFA. Accordingly, we find that the rate of 99.65 percent is corroborated within the meaning of section 776(c) of the Act.

Final Determination Margins

We determine that the following weighted–average dumping margins exist for the period April 1, 2006, thorough September 30, 2006:

Manufacturer/Exporter	Weighted Average Margin (percent)
GE's Collapsed Entity:	21.12
(Gold East Paper (Jiangsu) Co. Ltd.-Gold Hua Sheng Paper.	
(Suzhou Industry Park) Co. Ltd.-China Union.	
(Macao Commercial Offshore) Company Ltd.	
Yanzhou Tianzhang Paper Industry Co. Ltd.	21.12
PRC–Wide Rate	99.65

Disclosure

We will disclose to parties the calculations performed within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing U.S. Customs and Border Protection (''CBP'') to continue to suspend liquidation of all imports of subject merchandise that are entered or withdrawn from warehouse, for consumption on or after June 4, 2007, the date of publication of the preliminary determination in the **Federal Register**. We will instruct CBP to continue to require a cash deposit or the posting of a bond for all companies based on the estimated weighted–average dumping margins shown above. The suspension of liquidation instructions will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (''ITC'') of our final determination of sales at LTFV. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will determine whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise within 45 days of this final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to the parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation. This determination and notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: October 17, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix I

Parties' Comments

Comment 1: Whether to Reconsider China's Non–Market Economy (NME) Status and Whether to Treat Certain PRC Companies as Market Oriented Enterprises
Comment 2: Alleged Double Remedy in Concurrent NME AD and CVD Proceedings
Comment 3: The Appropriate Surrogate Financial Statements to use to Calculate Financial Ratios
Comment 4: Whether to Adjust the Financial Ratios by Allocating Wages and Salaries Between Non–manufacturing and Manufacturing Expenses
Comment 5: Whether to Adjust the Financial Ratios by Allocating ''Stores and Spares'' Expenses Between Direct Material Costs and Overhead Expenses
Comment 6: Whether to Value Certain Materials Claimed to be Overhead Expenses
Comment 7: Whether to Value Self–Produced Electricity Used to Produce Electricity
Comment 8: Whether to Value Steam That is a By–Product of Self–Produced Electricity
Comment 9: Whether to Value Certain Inputs used in Treating Water
Comment 10: Whether GE Incorrectly Reported the Unit Price of Certain Purchases
Comment 11: Whether the Department Erred in Calculating the Value of a Self–Produced Input

Comment 12: Whether Certain Pulp Purchases Should be Treated as Market–Economy Purchases
Comment 13: Whether it is Appropriate to Value Labor Using the Expected Wage Rate Calculated by the Department
Comment 14: The Appropriate Surrogate Value For A Ground Calcium Carbonate Input
Comments 15: The Appropriate Surrogate Value for a Proprietary Material
Comment 16: The Appropriate Surrogate Value for a Proprietary Material
Comment 17: The Appropriate Surrogate Value for Hydrochloric Acid
Comment 18: The Appropriate Surrogate Values For Other Paper Chemicals
Comment 19: The Appropriate Surrogate Value For Steam Coal
Comment 20: The Appropriate Surrogate Value for Certain PET Packing Materials
Comment 21: The Appropriate Surrogate Value for a Proprietary Material
Comment 22: How to Account for Certain Unreported Expenses
Comment 23: Whether the Department Should Base the Dumping Margin for One Unreported Sale on Total Adverse Facts Available
Comment 24: Whether to Reclassify One Sale as a CEP Sale
Comment 25: Whether to Adjust the Market–Economy Purchase Price of NBKP

[FR Doc. E7–21041 Filed 10–24–07; 8:45 am]
BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–560–820

Notice of Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from Indonesia

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: We determine that imports of coated free sheet paper (''CFS paper'') are being, or are likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 735 of the Tariff Act of 1930, as amended (''the Act''). The estimated margins of sales at LTFV are shown in the ''Final Determination'' section of this notice.

EFFECTIVE DATE: October 25, 2007.

FOR FURTHER INFORMATION CONTACT: Brian C. Smith or Gemal Brangman, AD/CVD Operations, Office 2, Import Administration–Room B–099, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1766 or (202) 482–3773, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 4, 2007, the Department published in the **Federal Register** the *Preliminary Determination* of sales at LTFV in the antidumping duty investigation of CFS paper from Indonesia. *See Coated Free Sheet Paper from Indonesia: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 72 FR 30753 (June 4, 2007) (''*Preliminary Determination*'').

On June 13, 2007,[1] PT. Pindo Deli Pulp & Paper Mills (''PD''), PT. Pabrik Kertas Tjiwi Kimia, Tbk (''TK''), and their affiliates PT. Cakrawala Mega Indah (''CMI''), PT Indah Kiat Pulp & Paper Tbk (''IK''), PT. Lontar Papyrus Pulp & Paper Industries (''Lontar''), PT Arara Abadi (''AA'') and PT. Wirakarya Sakti (''WKS'') (hereafter collectively referred to as ''the Indonesian Respondents'')[2] submitted a revised cost of production (''COP'') database for TK which incorporated corrections found prior to the start of verification. On June 27, 2007, the Indonesian Respondents submitted a revised COP database for PD which incorporated corrections submitted at the start of PD's cost verification on June 22, 2007.

From June 20 through July 20, 2007, we verified the sales and cost questionnaire responses of the Indonesian Respondents. On August 20, 27, and 28, 2007, the Department issued its verification reports. We provided the interested parties an opportunity to comment on the *Preliminary Determination* and the Department's verification findings.

On June 29, 2007, the petitioner[3] requested a hearing to discuss issues addressed by the interested parties in their case and rebuttal briefs.

On August 28, 2007, the petitioner requested that the Department clarify the scope of the investigation of CFS paper from Indonesia and placed on the record of this review information to support its request.

On September 5, 2007, the petitioner and the Indonesian Respondents submitted case briefs. On September 6, 2007, the petitioner withdrew its request for a hearing. Because the petitioner was the only interested party to request a hearing and it subsequently withdrew its request, no hearing was held on issues raised in the September 5, 2007, case briefs. On September 10, 2007, both the petitioner and the Indonesian Respondents submitted rebuttal briefs.

Also on September 10, 2007, the Department rejected the petitioner's August 28, 2007, scope clarification submission because it contained untimely filed new factual information. The petitioner refiled its submission with the new factual information redacted on September 10, 2007.

On September 12, 2007, the petitioner and Indonesian Respondents filed case briefs on the scope issue. On September 14, 2007, the Department rejected the Indonesian Respondents' case brief on the scope issue because it contained untimely filed new factual information. The Indonesian Respondents refiled this case brief with the new factual information redacted on September 17, 2007.

On September 17, 2007, the Department rejected the Indonesian Respondents' September 10, 2007, rebuttal brief because it contained untimely filed new argument. The Indonesian Respondents refiled their rebuttal brief with the new argument redacted on September 18, 2007.

On September 20, 2007, the petitioner and Indonesian Respondents filed rebuttal briefs on the scope issue. A hearing on the scope issue was held on September 26, 2007.

Period of Investigation

The period of investigation is October 1, 2005, through September 30, 2006. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs submitted by the parties to this investigation are addressed in the ''Issues and Decision Memorandum'' (''*Decision Memo*'') from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated October 17, 2007, which is hereby adopted by this notice. A list of the issues that parties have raised and to which we have responded, all of which are in the *Decision Memo*, is attached to this notice as an appendix. Parties can find a complete

[1] June 13, 2007, is seven days prior to the start of the cost verification.

[2] PD and TK are CFS paper producers, whereas CMI is a reseller of paper products produced by PD and TK. IK and Lontar are pulp producers, whereas AA and WKS are forestry companies.

[3] The petitioner in this investigation is NewPage Corporation.

discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B–099 of the main Department building. In addition, a complete version of the *Decision Memo* can be accessed directly on the Web at http://ia.ita.doc.gov/frn. The paper copy and electronic version of the *Decision Memo* are identical in content.

Scope of Investigation

The merchandise covered by this investigation includes coated free sheet paper and paperboard of a kind used for writing, printing or other graphic purposes. Coated free sheet paper is produced from not–more-than 10 percent by weight mechanical or combined chemical/mechanical fibers. Coated free sheet paper is coated with kaolin (China clay) or other inorganic substances, with or without a binder, and with no other coating. Coated free sheet paper may be surface–colored, surface–decorated, printed (except as described below), embossed, or perforated. The subject merchandise includes single- and double–side-coated free sheet paper; coated free sheet paper in both sheet or roll form; and is inclusive of all weights, brightness levels, and finishes. The terms ''wood free'' or ''art'' paper may also be used to describe the imported product.

Excluded from the scope are: (1) coated free sheet paper that is imported printed with final content printed text or graphics; (2) base paper to be sensitized for use in photography; and (3) paper containing by weight 25 percent or more cotton fiber.

Coated free sheet paper is classifiable under subheadings 4810.13.1900, 4810.13.2010, 4810.13.2090, 4810.13.5000, 4810.13.7040, 4810.14.1900, 4810.14.2010, 4810.14.2090, 4810.14.5000, 4810.14.7040, 4810.19.1900, 4810.19.2010, and 4810.19.2090 of the Harmonized Tariff Schedule of the United States (''HTSUS''). While HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Scope Comments

On August 20, August 28, and September 10, 2007, the petitioner requested that the Department clarify the scope of the antidumping and countervailing duty investigations of CFS paper from Indonesia, Korea and the People's Republic of China. Specifically, the petitioner asked the Department to ''clarify that the scope of the investigation includes coated free sheet paper containing hardwood BCTMP.''

Because this was a general issue pertaining to all six investigations, the Department set up a general issues file to handle this scope request. A hearing on the scope request was held on September 26, 2007. The hearing comprised a public session, a closed session for the antidumping investigation from Korea, and a closed session for the countervailing duty investigation from the PRC. After considering the comments submitted by the parties to these investigations, we have determined not to adopt the scope clarification sought by the petitioner. See Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, entitled ''Scope Clarification Request: NewPage Corporation'' dated concurrently with this notice, which is appended to ''Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Coated Free Sheet Paper from the People's Republic of China.''

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we have made certain changes to the margin calculations for the Indonesian Respondents. For a discussion of these changes, see the ''Margin Calculations'' section of the *Decision Memo*.

Verification

As provided in section 782(i) of the Act, we verified the sales and cost information submitted by the Indonesian Respondents for use in our final determination. We used standard verification procedures including an examination of relevant accounting and production records, and original source documents provided by the Indonesian Respondents. Our sales and cost verification results are outlined in separate verification reports. *See* August 20, 2007, cost verification report, and August 27 and 28, 2007, sales verification reports for the Indonesian Respondents.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing U.S. Customs and Border Protection (''CBP'') to continue to suspend liquidation of all imports of subject merchandise that are entered or withdrawn from warehouse, for consumption on or after June 4, 2007, the date of publication of the *Preliminary Determination* in the **Federal Register**. We will instruct CBP to continue to require a cash deposit or the posting of a bond for all companies based on the estimated weighted–average dumping margins shown below. The suspension of liquidation instructions will remain in effect until further notice.

Final Determination Margins

We determine that the following weighted–average dumping margins exist for the period October 1, 2005, through September 30, 2006:

Manufacturer/Exporter	Weighted Average Margin (percent)
PT. Pabrik Kertas Tjiwi Kimia Tbk, PT. Pindo Deli Pulp and Paper Mills, and PT. Indah Kiat Pulp and Paper Tbk (collectively, PD/TK/IK)	8.63
All Others	8.63

Section 735(c)(5)(A) of the Act provides that the estimated ''All Others'' rate shall be an amount equal to the weighted average of the estimated weighted–average dumping margins established for exporters and producers individually investigated, excluding any zero and de minimis margins, and any margins determined entirely under section 776 of the Act. The collapsed entity PD/TK/IK[4] is the only respondent in this investigation for which the Department has calculated a company–specific rate. Therefore, for purposes of determining the ''All Others'' rate and pursuant to section 735(c)(5)(A) of the Act, we are using the weighted–average dumping margin calculated for PD/TK/IK, as referenced above.

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

[4] In the *Preliminary Determination*, we determined it appropriate to treat PD, TK and IK as one entity for margin calculation purposes because they met the regulatory criteria for collapsing. *See* May 29, 2007, Memorandum from the Team to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, entitled ≥Treatment of Data Reported by Affiliated Parties in the Antidumping Duty Investigation of Coated Free Sheet Paper from Indonesia≥ No party commented on this preliminary determination and we found nothing at verification that would otherwise compel us to reverse this determination. Therefore, we have continued to treat these affiliated companies as one entity in the final determination.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our final determination. As our final determination is affirmative, the ITC will determine within 45 days whether imports of the subject merchandise are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Return or Destruction of Proprietary Information

This notice will serve as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i) of the Act.

Dated: October 17, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix—Issues in Decision Memo

Comments

Issue 1: *Whether to Adjust Export Price for Amounts Paid by TK to an Unaffiliated Company*
Issue 2: *Application of Major Input Rule to Logs Used to Produce Pulp by IK*
Issue 3: *Application of Major Input Rule to Pulp Produced by Lontar*
Issue 4: *Selection of Market Price Used for Testing of Purchases of Pulp from Lontar*
Issue 5: *Application of Transactions Disregarded Rule for Purchases of Electricity*
Issue 6: *Treatment of Miscellaneous Expenses in Financial Expense Calculation*

[FR Doc. E7–21042 Filed 10–24–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–533–840)

Certain Frozen Warmwater Shrimp from India: Amended Final Results of Antidumping Duty Administrative Review and Rescission In Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 25, 2007.

FOR FURTHER INFORMATION CONTACT: Elizabeth Eastwood, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3874.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended (the Act), on September 12, 2007, the Department of Commerce (the Department) published its notice of final results of antidumping duty administrative review on certain frozen warmwater shrimp from India. *See Certain Frozen Warmwater Shrimp from India: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 52055 (Sept. 12, 2007) (*Final Results*). On October 12, 2007, we received an allegation from Lotus Sea Farms (Lotus), a respondent in this proceeding, that the Department made a ministerial error with respect to the rate assigned to it in the final results.

Although we received Lotus's ministerial error allegation after the normal deadline for filing ministerial error allegations (*see* 19 CFR 351.224(c)(2),(4)), we find good cause to extend the deadline for filing a ministerial error allegation to the date we received the request and allegation from Lotus. *See* 19 CFR 351.302(b). After analyzing Lotus's submission, we have determined, in accordance with section 751(h) of the Act, that we made a ministerial error in the final results when we assigned the adverse facts available (AFA) rate to Lotus because we believed that it had failed to submit a response to the Department's quantity and value (Q&V) questionnaire when, in fact, it had done so. Therefore, because: 1) Lotus responded to the Department's request for Q&V information in this administrative review; and 2) the evidence on the record does not indicate that Lotus exported subject merchandise to the United States during the POR, we are rescinding the administrative review for it.

Amended Final Results of Review and Rescission in Part

We have determined, in accordance with section 751(h) of the Act and 19 CFR 351.224(e), that the Department made a ministerial error in the final results by assigning Lotus the AFA rate when Lotus did indeed respond to the Department's request for Q&V information. In addition, because the evidence on the record of this administrative review does not indicate that Lotus exported subject merchandise during the POR, we are rescinding the administrative review for it. For a detailed discussion of this ministerial error, the Department's finding of good cause to extend the deadline for filing a ministerial error allegation, and the Department's analysis, see the October 16, 2007, memorandum to James Maeder from Elizabeth Eastwood entitled, ''Ministerial Error Allegation Regarding Lotus Sea Farms in the Final Results of the 2004–2006 Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from India.''

Therefore, we are amending the final results of administrative review of certain frozen warmwater shrimp from India for the period August 4, 2004, through January 31, 2006. As a result of correcting the ministerial error discussed above, we are rescinding this administrative review with respect to Lotus, and we will notify U.S. Customs and Border Protection of this rescission. For the remaining respondents, the weighted–average dumping margins remain the same. *See Final Results*.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: October 19, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7–21039 Filed 10–24–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–533–810

Stainless Steel Bar from India: Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 25, 2007.

FOR FURTHER INFORMATION CONTACT: Scott Holland and/or Brandon Farlander, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482–1279 or (202) 482–0182, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 28, 2007, the Department of Commerce (''the Department'') published a notice of initiation of an administrative review of the antidumping duty order on stainless steel bar from India covering the period February 1, 2006, through January 31, 2007 (72 FR 14516). The preliminary results for this administrative review are currently due no later than October 31, 2007.

Extension of Time Limits for Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), requires the Department to issue the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an antidumping duty order for which a review is requested and issue the final results within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend these deadlines to a maximum of 365 days and 180 days, respectively.

Due to the complexity of the issues in this case, including affiliation and cost of production, and outstanding supplemental responses, it is not practicable to complete the preliminary results of this review within the original time limit (*i.e.*, October 31, 2007). Therefore, the Department is extending the time limit for completion of the preliminary results to no later than February 28, 2008, in accordance with section 751(a)(3)(A) of the Act.

We are issuing and publishing this notice in accordance with sections 751(a)(3)(A) and 777(i)(1) of the Act.

Dated: October 18, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–21038 Filed 10–24–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–816]

Certain Stainless Steel Butt–Weld Pipe Fittings from Taiwan: Notice of Extension of Time Limit for the Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the final results of the administrative review of the antidumping duty order on certain stainless steel butt–weld pipe fittings from Taiwan. The period of review is June 1, 2005, through May 31, 2006. This extension is made pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act).

EFFECTIVE DATE: October 25, 2007.

FOR FURTHER INFORMATION CONTACT: Judy Lao or John Drury, Office 7, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482–7924 and (202) 482–0195, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 2, 2007, the Department published the preliminary results of the administrative review of the antidumping duty order on certain stainless steel butt–weld pipe fittings from Taiwan covering the period June 1, 2005, through May 31, 2006. *See* Certain Stainless Steel Butt–Weld Pipe Fittings from Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Intent to Rescind in Part, 72 FR 35970 (July 2, 2007). The final results for the antidumping duty administrative review of certain stainless steel butt–weld pipe fittings from Taiwan are currently due no later than October 30, 2007.

Extension of Time Limits for Final Results

Section 751(a)(3)(A) of the Act requires the Department to issue the results in an administrative review within 120 days of the publication of the preliminary results. However, if it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the final results to 180 days (or 300 days if the Department does not extend the time limit for the preliminary results) from the date of publication of the preliminary results.

In accordance with section 751(a)(3)(A) of the Act, and 19 CFR 351.213(h)(2), the Department finds that it is not practicable to complete the review within the original time frame (*i.e.*, by October 30, 2007). Specifically, the Department requires additional time to review complex issues raised in the case briefs. In addition, the Department accepted new factual information late in the proceeding and finds it necessary to take additional time to complete an analysis of that information. Because it is not practicable to complete this administrative review within the time limit mandated by section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2), the Department is extending the time limit for completion of the final results of this administrative review by 45 days, to no later than December 14, 2007.

This notice is published pursuant to sections 751(a)(1) and 777(i)(1) of the Act.

Dated: October 18, 2007.

Stephen J. Clays,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–21037 Filed 10–24–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(C–580–857)

Coated Free Sheet Paper from the Republic of Korea: Notice of Final Affirmative Countervailing Duty Determination

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: We determine that countervailable subsidies are being provided to producers and exporters of coated free sheet paper from the Republic of Korea. For information on the estimated subsidy rates, see the

''Suspension of Liquidation'' section of this notice.

EFFECTIVE DATE: October 25, 2007.

FOR FURTHER INFORMATION CONTACT: Robert Copyak, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; Telephone: 202–482–2209.

SUPPLEMENTARY INFORMATION:

Background

This investigation covers 19 programs and the following manufacturer/exporters: EN Paper Mfg. Co., Ltd. (EN Paper) (formerly Shinho Paper Co., Ltd. (Shinho Paper)), Kyesung Paper Co., Ltd. and its affiliate Namhan Paper Co., Ltd. (collectively, Kyesung), Moorim Paper Co. Ltd. (formerly Shinmoorim Paper Mfg. Co., Ltd.) and its affiliate Moorim SP (collectively, Moorim), and Hansol Paper Co., Ltd. (Hansol) (collectively, respondents).

On April 9, 2007, the Department of Commerce (the Department) published in the **Federal Register** its preliminary affirmative determination in the countervailing duty investigation of coated free sheet paper from the Republic of Korea. *See Coated Free Paper from the Republic of Korea: Preliminary Affirmative Countervailing Duty Determination, 72 FR 17507*, 17520 (April 9, 2007) (*Preliminary Determination*).

On May 8, 2007, the Department published in the **Federal Register** the *Notice of Amended Preliminary Countervailing Duty Determination: Coated Free Sheet Paper from the Republic of Korea*, 72 FR 26074 (May 8, 2007) (*Amended Preliminary Determination*). From June 11 through June 29, 2007, we conducted verification of the questionnaire responses submitted by the Government of Korea and respondents.

In the *Preliminary Determination*, we found that we required additional information in order to determine whether respondents' short–term financing from GOK–owned banks and commercial banks conferred countervailable benefits. Similarly, regarding the Industrial Base Fund (IBF), we found that we required additional information in order to determine whether the program conferred a countervailable subsidy. On September 6, 2007, we issued our preliminary findings regarding these programs. *See* Memorandum to David M. Spooner, Assistant Secretary for Import Administration, through Stephen J. Claeys, Deputy Assistant Secretary for Import Administration (Preliminary Decision Memorandum).

We invited interested parties to comment on the *Preliminary Determination* and Preliminary Decision Memorandum. We received case and rebuttal briefs from petitioner and respondents regarding the *Preliminary Determination* on August 13 and August 22, 2007, respectively.[1] On September 14 and September 19, 2007, we received case and rebuttal briefs from petitioner and respondents regarding the Preliminary Decision Memorandum.

Period of Investigation

The period of investigation (POI) is January 1, 2005, through December 31, 2005.

Scope of Investigation

The merchandise covered by this investigation includes coated free sheet paper and paperboard of a kind used for writing, printing or other graphic purposes. Coated free sheet paper is produced from not–more-than 10 percent by weight mechanical or combined chemical/mechanical fibers. Coated free sheet paper is coated with kaolin (China clay) or other inorganic substances, with or without a binder, and with no other coating. Coated free sheet paper may be surface–colored, surface–decorated, printed (except as described below), embossed, or perforated. The subject merchandise includes single- and double–side-coated free sheet paper; coated free sheet paper in both sheet or roll form; and is inclusive of all weights, brightness levels, and finishes. The terms ''wood free'' or ''art'' paper may also be used to describe the imported product.

Excluded from the scope are: (1) coated free sheet paper that is imported printed with final content printed text or graphics; (2) base paper to be sensitized for use in photography; and (3) paper containing by weight 25 percent or more cotton fiber.

Coated free sheet paper is classifiable under subheadings 4810.13.1900, 4810.13.2010, 4810.13.2090, 4810.13.5000, 4810.13.7040, 4810.14.1900, 4810.14.2010, 4810.14.2090, 4810.14.5000, 4810.14.7040, 4810.19.1900, 4810.19.2010, and 4810.19.2090 of the Harmonized Tariff Schedule of the United States (HTSUS). While HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

[1] Petitioner is the New Page Corporation.

Scope Comments

On August 20, August 28, and September 10, 2007, the petitioner requested that the Department clarify the scope of the antidumping and countervailing duty investigations of CFS paper from Indonesia, Korea and the People's Republic of China. Specifically, the petitioner asked the Department to ''clarify that the scope of the investigation includes coated free sheet paper containing hardwood BCTMP.''

Because this was a general issue pertaining to all six investigations, the Department set up a general issues file to handle this scope request. A hearing on the scope request was held on September 26, 2007. The hearing comprised a public session, a closed session for the antidumping investigation from Korea, and a closed session for the countervailing duty investigation from the PRC. After considering the comments submitted by the parties to these investigations, we have determined not to adopt the scope clarification sought by the petitioner. *See* Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, entitled ''Scope Clarification Request: NewPage Corporation'' dated concurrently with this notice, which is appended to ''Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Coated Free Sheet Paper from the People's Republic of China.''

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the ''Issues and Decision Memorandum'' (Decision Memorandum) dated October 17, 2007, which is hereby adopted by this notice. A list of issues that parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as Appendix I. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit. In addition, a complete version of the Decision Memorandum can be accessed directly on the World Wide Web at http://ia.ita.doc.gov/frn. The paper copy and electronic version of the Decision Memorandum are identical in content.

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i)(I) of the Tariff Act of 1930 (as amended) (the Act), we have

calculated individual rates for the companies under investigation. For the period January 1, 2005, through December 31, 2005, we determine the net subsidy rates for the investigated companies are as follows:

Producer/Exporter	Net Subsidy Rate
EN Paper Mfg. Co., Ltd. (EN Paper)	0.04 percent (*de minimis*)
Kyesung Paper Co., Ltd. and its affiliate Namhan Paper Co., Ltd. (collectively, Kyesung)	1.46 percent *ad valorem*
Moorim Paper Co. Ltd. and its affiliate Moorim SP (collectively, Moorim)	0.00 percent
Hansol Paper Co., Ltd. (Hansol)	0.17 percent (*de minimis*)
All Others Rate	1.46 percent *ad valorem*

Under section 705(c)(5)(A) of the Act, the ''All Others'' rate is equal to the weight–averaged countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates and any rates determined under section 776 of the Act. In this investigation, the ''All Others'' rate is equal to the countervailable net subsidy rate calculated for Kyesung, the only individually investigated respondent with an affirmative net subsidy rate.

In accordance with our *Amended Preliminary Determination*, we instructed U.S. Customs and Border Protection (CBP) to terminate suspension of liquidation of all entries of subject merchandise from Korea on or after April 9, 2007, the date of the publication of our *Preliminary Determination* in the **Federal Register**.

We will reinstate suspension of liquidation under sections 705(c)(1)(C) and 703(d)(2) of the Act for all entries of subject merchandise other than those produced and exported by EN Paper, Hansol, and Moorim and will require a cash deposit or posting of a bond equal to estimated countervailing duties in the amounts indicated above, effective the publication date of our final determination in the **Federal Register**.

If the International Trade Commission (ITC) determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled. If however, the ITC determines that such injury does exist, we will issue a countervailing duty order.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non–privileged and non–proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided that the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Import Administration.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: October 17, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix I

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[FR Doc. E7–21036 Filed 10–24–07; 8:45 am]
BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

C–560–821

Coated Free Sheet Paper from Indonesia: Final Affirmative Countervailing Duty Determination

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) has reached a final determination that countervailable subsidies are being provided to producers and exporters of coated free sheet paper (CFS) from Indonesia. For information on the countervailable subsidy rates, please see the ''Final Determination'' section of this notice.

EFFECTIVE DATE: October 25, 2007.

FOR FURTHER INFORMATION CONTACT: Sean Carey, Nicholas Czajkowski, or Gene Calvert, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3964, (202) 482–1395, or (202) 482–3586, respectively.

SUPPLEMENTARY INFORMATION:

Case History

On April 9, 2007, the Department published *Coated Free Sheet Paper from Indonesia: Notice of Preliminary Affirmative Countervailing Duty Determination*, 72 FR 17498 (April 9, 2007) (*Preliminary Determination*). Since the issuance of the *Preliminary Determination*, the following events have occurred. On April 10 and May 18, 2007, the Department issued supplemental questionnaires to the Government of Indonesia (GOI) and to PT. Pabrik Kertas Tjiwi Kimia Tbk. (TK) and Pindo Deli Pulp and Paper Mills (PD) (the respondent companies). On April 20 and May 24, 2007, the Department issued initial and supplemental questionnaires to the GOI and to the respondent companies regarding the petitioner's December 15, 2007 additional allegations concerning debt forgiveness. Both parties submitted timely responses to all of the Department's questionnaires and supplemental questionnaires.

On May 2, 2007, the Department aligned the final determination in this countervailing duty investigation with the final determination in the companion antidumping duty investigation. *See Coated Free Sheet Paper from Indonesia, the People's Republic of China, and the Republic of Korea: Alignment of Final Countervailing Duty Determinations with Final Antidumping Duty Determinations*, 72 FR 24277 (May 2, 2007). On May 10, 2007, NewPage Corporation (the petitioner) requested a hearing pursuant to 19 CFR 351.310(c) and the Department's *Preliminary Determination*.

On June 18 and June 19, 2007, the petitioner and the respondent companies submitted new factual information concerning the Department's investigation of the ''GOI Provision of Standing Timber for Less than Adequate Remuneration,'' or ''stumpage.'' On June 28, 2007, the petitioner submitted rebuttal comments regarding the respondent companies' new factual information submission.

From June 25 through July 13, 2007, the Department conducted verification of the questionnaire responses provided by the GOI and the respondent companies. On July 13, 2007, the petitioner filed an upstream subsidy allegation, claiming, in accordance with section 771A(a) of the Tariff Act of 1930, as amended, (the Act), that (1) a subsidy, other than an export subsidy, has been paid or bestowed on an input product that is used in the manufacture or production of merchandise subject to a countervailing duty proceeding; (2) the subsidy bestows a competitive benefit on the merchandise; and (3) the subsidy has a significant effect on the cost of manufacturing or producing the merchandise. On July 23, 2007, the respondent companies filed rebuttal comments, and on August 10, 2007, the petitioner filed surrebuttal comments on this allegation.

The Department issued verification reports on August 24, 2007: *see* Memoranda to the File, *Countervailing Duty Investigation of Coated Free Sheet (CFS) Paper from Indonesia: Verification of the Questionnaire Responses Submitted by Ministry of Forestry and the Ministry of Finance; Countervailing Duty Investigation of Coated Free Sheet Paper from Indonesia: Verification of Cross–Ownership and Debt Restructuring for the Asia Pulp and Paper/Sinar Mas Group; Countervailing Duty Investigation of Coated Free Sheet Paper from Indonesia: Verification of PT Pindo Deli Pulp & Paper Mills and PT. Pabrik Kertas Tjiwi Kimia (Paper Producers/Exports) and PT Cakrawala Mega Indah (trading company); Countervailing Duty Investigation of Coated Free Sheet (CFS) Paper from Indonesia: Verification of the Questionnaire Responses Submitted by Pulp Producers PT. Lontar Papyrus Pulp and Paper and Indah Kiat Pulp and Paper Tbk.;* and, *Countervailing Duty Investigation of Coated Free Sheet (CFS) Paper from Indonesia: Verification of the Questionnaire Responses Submitted by Forestry Companies PT. Arara Abadi, PT. Wirakarya Sakti, PT. Finnantara Intiga, and PT. Riau Abadi Lestari.*

On September 5 and September 6, 2007, the petitioner, the GOI, the respondent companies, and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO, CLC

(USW), a domestic interested party to this proceeding, timely filed case briefs regarding our *Preliminary Determination*. On September 11, 2007, the petitioner, the GOI, the respondent companies, and the USW each filed rebuttal comments regarding our *Preliminary Determination*. At the Department's request, the petitioner, the GOI, and the respondent companies removed what the Department determined to be new factual information from their comments and rebuttal comments regarding the Department's *Preliminary Determination*, and resubmitted those comments to the Department on September 18 and September 19, 2007.

On September 7, 2007, the Department issued the interim analysis of two additional subsidy allegations. We explained in the *Preliminary Determination* that because we had only recently initiated investigations of these two programs, there was not sufficient time to gather information and analyze the countervailability of the programs for the purposes of the *Preliminary Determination*. *See* the Memorandum to David M. Spooner, Assistant Secretary for Import Administration from Barbara E. Tillman, Director, Office 6, AD/CVD Operations, *Countervailing Duty Investigation: Coated Free Sheet Paper from Indonesia; Post–Preliminary Analysis of Two New Subsidy Allegations (Post–Preliminary Analysis)*. The Department set a separate briefing schedule for parties to file comments and rebuttal comments on our *Post–Preliminary Analysis*. On September 18, 2007, such comments were filed by the GOI and the respondent companies. The petitioner filed rebuttal comments regarding the Department's *Post–Preliminary Analysis* on September 25, 2007. The petitioner withdrew its request for a hearing on September 10, 2007.

Period of Investigation

The period of investigation (POI) for which we are measuring subsidies is

January 1, 2005 through December 31, 2005, which corresponds to the most recently completed fiscal year for the respondent companies. *See* 19 CFR 351.204(b)(2).

Scope of the Investigation

The merchandise covered by this investigation includes coated free sheet paper and paperboard of a kind used for writing, printing or other graphic purposes. Coated free sheet paper is produced from not–more-than 10 percent by weight mechanical or combined chemical/mechanical fibers. Coated free sheet paper is coated with kaolin (China clay) or other inorganic substances, with or without a binder, and with no other coating. Coated free sheet paper may be surface–colored, surface–decorated, printed (except as described below), embossed, or perforated. The subject merchandise includes single- and double–side-coated free sheet paper; coated free sheet paper in both sheet or roll form; and is inclusive of all weights, brightness levels, and finishes. The terms ''wood free'' or ''art'' paper may also be used to describe the imported product.

Excluded from the scope are: (1) Coated free sheet paper that is imported printed with final content printed text or graphics; (2) base paper to be sensitized for use in photography; and, (3) paper containing by weight 25 percent or more cotton fiber.

Coated free sheet paper is classifiable under subheadings 4810.13.1900, 4810.13.2010, 4810.13.2090, 4810.13.5000, 4810.13.7040, 4810.14.1900, 4810.14.2010, 4810.14.2090, 4810.14.5000, 4810.14.7040, 4810.19.1900, 4810.19.2010, and 4810.19.2090 of the Harmonized Tariff Schedule of the United States (HTSUS). While HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Scope Comments

On January 12, 2007, the respondent companies filed a request to exclude cast–coated free sheet paper from the scope of the investigations of CFS from Indonesia, Korea, and the People's Republic of China. The petitioner submitted comments on the respondent companies' request on January 19, 2007. The Department analyzed both parties' comments and denied the respondent companies' request to exclude cast–coated free sheet paper from the scope of these investigations. *See* the Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, *Request to Exclude Cast–Coated Free Sheet Paper from the Antidumping Duty and Countervailing Duty Investigations on Coated Free Sheet Paper*, dated March 22, 2007, which is on file in the Central Records Unit (CRU), Room B099 of the main Commerce building.

On August 20, August 28, and September 10, 2007, the petitioner requested that the Department clarify the scope of the antidumping and countervailing duty investigations of CFS paper from Indonesia, Korea and the People's Republic of China (PRC). Specifically, the petitioner asked the Department to ''clarify that the scope of the investigation includes coated free sheet paper containing hardwood BCTMP.''

Because this was a general issue pertaining to all six investigations, the Department set up a general issues file to handle this scope request. A hearing on the scope request was held on September 26, 2007. The hearing comprised a public session, a closed session for the antidumping investigation from Korea, and a closed session for the countervailing duty investigation from the PRC. After considering the comments submitted by the parties to these investigations, we have determined not to adopt the scope clarification sought by the petitioner. *See* Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, entitled ''Scope Clarification Request: NewPage Corporation'' dated concurrently with this notice, which is appended to ''Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Coated Free Sheet Paper from the People's Republic of China.''

Initiation and Deferral of Upstream Subsidy Investigation

On July 13, 2007, the petitioner filed an upstream subsidy allegation, claiming, in accordance with section 771A(a) of the Act, that (1) a subsidy, other than an export subsidy, has been paid or bestowed on an input product, *i.e.*, pulpwood, that is used in the manufacture or production of merchandise subject to a countervailing duty proceeding, *i.e.*, CFS paper; (2) the subsidy bestows a competitive benefit on the merchandise; and (3) the subsidy has a significant effect on the cost of manufacturing or producing the merchandise. *See* 19 CFR 351.523. The respondent companies filed rebuttal arguments on July 23, 2007, and the petitioner filed additional comments and clarifications of its allegation on August 13, 2007.

After fully considering all of these submissions, we have determined that the threshold requirements set forth in the Act and the Department's regulations for initiation of an upstream subsidy investigation have been met. However, we have simultaneously decided to defer the conduct of the upstream subsidy investigation until the first administrative review, if a countervailing duty order is issued and such a review is requested. *See* section 703(g)(2)(B)(i) of the Act. A complete discussion of our decisions to both initiate an upstream investigation and defer the conduct of such investigation can be found in the ''Issues and

Decision Memorandum'' from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated concurrently with this notice (*Decision Memorandum*) and hereby adopted by this notice.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised by interested parties in their case briefs and rebuttal briefs on the *Preliminary Determination* and the *Post–Preliminary Analysis*, are discussed in the *Decision Memorandum*. A list of the subsidy programs and of the issues which parties have raised is attached to this notice as Appendix I. Parties can find a complete discussion of all of the subsidy programs, and issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the CRU. A complete version of the *Decision Memorandum* is available at http://www.trade.gov/ia under the heading ''**Federal Register** Notices.'' The paper copy and the electronic version of the *Decision Memorandum* are identical in content.

Final Determination

In accordance with section 705(c)(1)(B)(i) of the Act, we have determined a single subsidy rate for the two cross–owned producers/exporters of the subject merchandise. We determine the total countervailable subsidy rate to be:

Producer/Exporter	Rate
PT. Pabrik Kertas Tjiwi Kimia Tbk./PT. Pindo Deli Pulp and Paper Mills	22.48%
All Others	22.48%

In accordance with sections 703(d) and 705(c)(5)(A) of the Act, we have set the all- others rate as the rate for TK/PD because it was the only producer/exporter under investigation.

Suspension of Liquidation

In accordance with our affirmative *Preliminary Determination*, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of CFS from Indonesia, which were entered or withdrawn from warehouse, for consumption on or after April 9, 2007, the date of the publication of our *Preliminary Determination* in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed CBP to discontinue the suspension of liquidation for merchandise entered on or after August 7, 2007, but to continue the suspension of liquidation of entries made on or after April 9, 2007 and before August 7, 2007.

If the International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a countervailing duty order, reinstate suspension of liquidation under section 706(a) of the Act for all entries, and require a cash deposit of estimated countervailing duties for such entries of merchandise at the rates indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non–privileged and non–proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Import Administration.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with section 351.305(a)(3) of the Department's regulations. Failure to comply is a violation of the APO.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: October 17, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix I: Issues and Decision Memorandum

I. Summary

II. Background

III. Initiation and Deferral of Upstream Subsidy Investigation

IV. Subsidies Valuation Information

A. Cross–Ownership
B. Attribution of Subsidies Provided to Cross–Owned Input Suppliers
C. Allocation Period
D. Loan Benchmark and Discount Rate
E. Creditworthiness

V. Application of Facts Available and Use of an Adverse Inference

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A. Programs Determined to Be Countervailable
1. GOI Provision of Standing Timber for Less Than Adequate Remuneration
2. GOI's Log Export Ban
3. Subsidized Funding for Reforestation (Hutan Tanaman Industria or HTI Program): ''Zero Interest'' Rate Loans
4. Debt Forgiveness Through the GOI's Acceptance of Instruments that Had No Market Value
5. Debt Forgiveness through SMG/APP's the Buyback of Its Own Debt from the GOI

B. Program Determined to Be Not Countervailable
Subsidized Funding for Reforestation (Hutan Tanaman Industria or HTI Program): Government Capital Infusions into Joint Venture Forest Plantation

C. Program Determined To Be Not Used
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VII. Analysis of Comments

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Comment 3: Cross–Ownership of AA and WKS with IK, Lontar, TK and PD
Comment 4: Widjaja Family Interest In Purinusa and Cross–Ownership
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Comment 6: Cross–Ownership Between WKS and Purinusa
Comment 7: Cross–Ownership Between AA and Purinusa
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Comment 11: Use of Malaysian Export Statistics as the Starting Point for Deriving Stumpage Benchmarks
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Comment 26: Whether Respondent Companies Cured Any Deficiency with Respect to Settling Debt with COEs
Comment 27: Specificity of IBRA's Acceptance of BII Shares and COEs for the Repayment of SMG/APP Debt
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Comment 29: Benefit from IBRA's Acceptance of COEs as Settlement of Debt
Comment 30: Whether an Adverse Inference Can be Applied in Determining that Orleans was Affiliated with SMG/APP
Comment 31: Specificity of IBRA's Sale of SMG/APP Debt to an Affiliate of the Original Debtor
Comment 32: Whether the Information the Department Relied Upon Was Speculative and Circumstantial
Comment 33: Procedural Abnormalities in IBRA's Sale of the SMG/APP Debt and Specificity
Comment 34: Effect of the Lack of Reduction in Debt on the Countervailability of the Sale of SMG/APP's Debt to Orleans
Comment 35: The Appropriateness of the Department's Reliance on Facts Available with an Adverse Inference
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VIII. Recommendation

[FR Doc. E7–21040 Filed 10–24–07; 8:45 am]
BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–907]

Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Department) has made a final determination that countervailable subsidies are being provided to producers and exporters of coated free sheet (CFS) paper from the People's Republic of China. For information on the estimated countervailing duty rates, please see the ''Suspension of Liquidation'' section, below.

EFFECTIVE DATE: October 25, 2007.

FOR FURTHER INFORMATION CONTACT: David Layton or David Neubacher, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0371 or (202) 482–5823, respectively.

SUPPLEMENTARY INFORMATION:

Petitioner

The petitioner in this investigation is the NewPage Corporation (petitioner).

Period of Investigation

The period for which we are measuring subsidies, or period of investigation, is January 1, 2005, through December 31, 2005.

Case History

The following events have occurred since the announcement of the preliminary determination on March 30, 2007, and subsequent publication in the **Federal Register** on April 9, 2007. *See Coated Free Sheet Paper from the People's Republic of China: Amended Affirmative Preliminary Countervailing Duty Determination*, 72 FR 17484 (April 9, 2007) (*Preliminary Determination*).

On April 9, 2007, Gold East Paper (Jiangsu) Co., Ltd. (GE) and the petitioner submitted ministerial error allegations relating to the *Preliminary Determination*. We addressed these ministerial error allegations in a May 11, 2007, memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, entitled *Ministerial Error Allegations*, which is on file in the Central Records Unit (CRU), Room B–099 of the main Department building.

On April 12, 2007, the Department requested that GE amend the bracketing and resubmit its March 9, 2007, supplemental questionnaire response, which GE did on April 17, 2007.

We issued a supplemental questionnaire to the Government of the People's Republic of China (GOC) on April 23, 2007, and to GE and Shandong Chenming Paper Holdings Ltd. (Shandong Chenming) on April 20, 2007. We received the GOC's supplemental questionnaire response on May 13, 2007, Shandong Chenming's supplemental questionnaire response on May 18, 2007, and GE's supplemental response on May 25, 2007. On May 25, 2007, we issued a supplemental questionnaire to Shandong Chenming, but did not receive a response. The GOC, GE, the petitioner, and interested parties also submitted factual information, comments, and arguments at numerous instances prior to the final determination based on various deadlines for submissions of factual information and/or arguments established by the Department subsequent to the *Preliminary Determination*.

On May 2, 2007, the Department published notification of alignment of the final determinations in the antidumping and countervailing duty investigations of CFS paper from the People's Republic of China (PRC). *See Coated Free Sheet Paper from Indonesia, the People's Republic of China, and the Republic of Korea: Alignment of Final Countervailing Duty Determinations with Final Antidumping Duty Determinations*, 72 FR 24277 (May 2, 2007). The Department subsequently postponed the final determinations for the antidumping and countervailing investigations of CFS paper from the PRC. *See Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 30758 (June 4, 2007).

On June 13, 2007, we received a letter from Shandong Chenming withdrawing its participation in the investigation and requesting that all of its business proprietary information be removed from the record and destroyed. On June 27, 2007, the Department notified Shandong Chenming that it had

removed and destroyed the company's submitted proprietary information from the record of this investigation and would direct all interested parties under the Administrative Protective Order (APO) to certify its destruction. All interested parties certified destruction of Shandong Chenming's proprietary information.

From July 11 to July 28, 2007, we conducted verification of the questionnaire responses submitted by the GOC and GE.

On August 30, 2007, we issued our preliminary determination regarding the creditworthiness of GE and its cross–owned companies. We addressed our preliminary findings in a August 30, 2007, memorandum to David M. Spooner, Assistant Secretary for Import Administration, entitled *Preliminary Creditworthiness Determination for Gold East Paper (Jiangsu) Co., Ltd. and its Cross–Owned Companies*, which is on file in the CRU.

We received case briefs from the GOC; GE; the petitioner; and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO-CLC on September 7, 2007. The same parties submitted rebuttal briefs on September 12, 2007. We held a hearing for this investigation on September 18, 2007.

Scope of the Investigation

The merchandise covered by this investigation includes coated free sheet paper and paperboard of a kind used for writing, printing or other graphic purposes. Coated free sheet paper is produced from not–more-than 10 percent by weight mechanical or combined chemical/mechanical fibers. Coated free sheet paper is coated with kaolin (China clay) or other inorganic substances, with or without a binder, and with no other coating. Coated free sheet paper may be surface–colored, surface–decorated, printed (except as described below), embossed, or perforated. The subject merchandise includes single- and double–side-coated free sheet paper; coated free sheet paper in both sheet or roll form; and is inclusive of all weights, brightness levels, and finishes. The terms ''wood free'' or ''art'' paper may also be used to describe the imported product.

Excluded from the scope are: (1) coated free sheet paper that is imported printed with final content printed text or graphics; (2) base paper to be sensitized for use in photography; and (3) paper containing by weight 25 percent or more cotton fiber.

Coated free sheet paper is classifiable under subheadings 4810.13.1900, 4810.13.2010, 4810.13.2090, 4810.13.5000, 4810.13.7040, 4810.14.1900, 4810.14.2010, 4810.14.2090, 4810.14.5000, 4810.14.7040, 4810.19.1900, 4810.19.2010, and 4810.19.2090 of the Harmonized Tariff Schedule of the United States (HTSUS). While HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of these investigations is dispositive.

Scope Comments

On August 20, August 28, and September 10, 2007, the petitioner requested that the Department clarify the scope of the antidumping and countervailing duty investigations of CFS paper from Indonesia, Korea and the People's Republic of China. Specifically, the petitioner asked the Department to ''clarify that the scope of the investigation includes coated free sheet paper containing hardwood BCTMP.''

Because this was a general issue pertaining to all six investigations, the Department set up a general issues file to handle this scope request. A hearing on the scope request was held on September 26, 2007. The hearing comprised a public session, a closed session for the antidumping investigation from Korea, and a closed session for the countervailing duty investigation from the PRC. After considering the comments submitted by the parties to these investigations, we have determined not to adopt the scope clarification sought by the petitioner. *See* Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, entitled ''Scope Clarification Request: NewPage Corporation,'' dated concurrently with this notice, which is appended to the ''Issues and Decision Memorandum for Final Determination'' from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated October 17, 2007 (*Decision Memorandum*).

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the *Decision Memorandum*, which is hereby adopted by this notice. Attached to this notice as an Appendix is a list of the issues that parties have raised and to which we have responded in the *Decision Memorandum*. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the CRU. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Internet at http://ia.ita.doc.gov/frn/. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Use of Adverse Facts Available

Sections 776(a)(1) and (2) of the Act provide that the Department shall apply ''facts otherwise available'' if, *inter alia*, necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits and subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides that the Department ''shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all applicable requirements established by the administering authority'' if the information is timely, can be verified, is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information if it can do so without undue difficulties.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Section 776(b) of the Act also authorizes the Department to use as adverse facts available (AFA) information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as ''[i]nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' *See Statement of Administrative Action* (SAA) accompanying the Uruguay Round Agreements Act, H. Doc. No. 316, 103d Cong., 2d Session at 870 (1994). Corroborate means that the Department will satisfy itself that the secondary information to be used has probative value. *See* SAA at 870. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that the Department need not prove that the selected facts available are the best alternative information. *See* SAA at 869.

The Department has concluded that it is appropriate to base the final determination for Shandong Chenming on facts otherwise available. Shandong Chenming failed to respond fully to the Department's questionnaires and did not respond at all to one questionnaire. Also, on June 13, 2007, Shandong Chenming withdrew its proprietary information from the record. Thus, Shandong Chenming withheld information requested by the Department. Consequently, the use of facts otherwise available is warranted under section 776(a)(2)(A) of the Act.

In selecting from among the facts available, the Department has determined that an adverse inference is warranted, pursuant to section 776(b) of the Act because, in addition to not fully responding to all of our requests for information, as of June 13, 2007, Shandong Chenming withdrew from all participation in the investigation and did not provide the Department with the opportunity to verify the information it did submit. Thus, Shandong Chenming failed to cooperate by not acting to the best of its ability, and our final determination is based on total AFA.

Selection of the Adverse Facts Available Rate

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from (1) the petition, (2) a final determination in the investigation, (3) any previous review or determination, or (4) any information placed on the record. It is the Department's practice to select, as AFA, the highest calculated rate in any segment of the proceeding. *See, e.g., Certain In–shell Roasted Pistachios from the Islamic Republic of Iran: Final Results of Countervailing Duty Administrative Review*, 71 FR 66165 (November 13, 2006), and accompanying Issues and Decision Memorandum at ''Analysis of Programs.''

The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse ''as to effectuate the purpose of the facts available role to induce respondents to provide the Department with complete and accurate information in a timely manner.'' *See Notice of Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors From Taiwan*; 63 FR 8909, 8932 (February 23, 1998). The Department's practice also ensures ''that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See* SAA at 870. In choosing the appropriate balance between providing a respondent with an incentive to respond accurately and imposing a rate that is reasonably related to the respondent's prior commercial activity, selecting the highest prior margin ''reflects a common sense inference that the highest prior margin is the most probative evidence of current margins, because, if it were not so, the importer, knowing of the rule, would have produced current information showing the margin to be less.'' *See Rhone Poulenc, Inc. v. United States*, 899 F. 2d 1185, 1190 (Fed. Cir. 1990).

For these reasons the Department is relying on the highest calculated final subsidy rates for income tax, VAT, and policy lending programs of the other producer/exporter of the subject merchandise in this investigation, GE, to calculate the AFA rate for Shandong Chenming. We do not need to corroborate these rates because they are not considered secondary information as they are based on information obtained in the course of this investigation, pursuant to section 776(c) of the Act.

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we have calculated an individual rate for the companies under investigation, GE and Shandong Chenming. According to section 705(c)(5)(A)(i) of the Act, the Department excludes any rates determined entirely under section 776 of the Act. As Shandong Chenming's rate was calculated under section 776 of the Act, we have used the rate for GE as the ''all others'' rate.

Exporter/Manufacturer	Net Subsidy Rate
Gold East Paper (Jiangsu) Co., Ltd.	7.40 %
Shandong Chenming Paper Holdings Ltd.	44.25 %
All Others	7.40 %

As a result of our *Preliminary Determination* and pursuant to section 703(d) of the Act, we instructed the U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of coated free sheet paper from the PRC which were entered or withdrawn from warehouse, for consumption on or after April 9, 2007, the date of the publication of the *Preliminary Determination* in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed CBP to discontinue the suspension of liquidation for countervailing duty purposes for subject merchandise entered on or after August 7, 2007, but to continue the suspension of liquidation of entries made from April 9, 2007, through August 7, 2007.

We will issue a countervailing duty order and reinstate the suspension of liquidation under section 706(a) of the Act if the International Trade Commission (ITC) issues a final affirmative injury determination, and will require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non–privileged and non–proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an APO, without the written consent of the Assistant Secretary for Import Administration.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: October 17, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix

List of Comments and Issues in the Decision Memorandum

Comment 1: Applicability of the CVD Law to China
Comment 2: The Administrative Procedures Act (APA) Claim
Comment 3: The Department's Justification for its Change in Practice from *Sulfanilic Acid from Hungary*
Comment 4: China's WTO Accession Protocol
Comment 5: Retroactive Application of the CVD Law to China
Comment 6: Comparison of the Department's Findings in the *Georgetown Memo* and the *August 30 Market Economy Status Memo*
Comment 7: Application of Adverse Facts Available to the GOC
Comment 8: Policy Lending
Comment 9: Countervailability of Foreign–denominated Loans
Comment 10: Benchmark for Policy Lending
Comment 11: Adjustment for Long–term Interest Rate Benchmark
Comment 12: Creditworthiness of GE and its Cross–owned Companies
Comment 13: Application of a Risk Premium to the Short–term Loan Benchmark
Comment 14: Specificity of Programs for FIEs
Comment 15: Over–calculation of the Two Free/Three Half Benefit
Comment 16: Specificity of VAT Programs
Comment 17: Attribution of GHS' Subsidies to GE
Comment 18: Attribution of Subsidies Bestowed on Input Suppliers
Comment 19: Whether the Department's Cross–ownership Regulations Provide for the Attribution of Upstream Subsidies to Cross–owned Companies
Comment 20: Attribution of Subsidies Bestowed on the Forestry Companies to CFS
Comment 21: Rate Adjustment for GE's *Ad Valorem* Subsidy Rate
Comment 22: Subsidies to Forestry Companies Discovered After the Preliminary Determination
Comment 23: Correction to GE's Domestic Sales Value
Comment 24: Application of Adverse Facts Available to Chenming
Comment 25: Certification of Non–Reimbursement of Duties

[FR Doc. E7–21046 Filed 10–24–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 85–14A18]

Export Trade Certificate of Review

ACTION: Notice of Application (#85–14A18) to Amend the Export Trade Certificate of Review Issued to U.S. Shippers Association.

SUMMARY: Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review. This notice summarizes the proposed amendment and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Jeffrey Anspacher, Director, Export Trading Company Affairs, International Trade Administration, (202) 482–5131 (this is not a toll-free number) or E-mail at: *oetca@ita.doc.gov*.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Export Trading Company Act of 1982 and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five (5) copies, plus two (2) copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Export Trading Company Affairs, International Trade Administration, U.S. Department of Commerce, Room 7021–X H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as ''Export Trade Certificate of Review, application number 85–14A18.''

The U.S. Shippers Association's original Certificate was issued on June 3, 1986 (51 FR 20873, June 9, 1986), and last amended on April 6, 2006 (71 FR 18721, April 12, 2006).

A summary of the current application for an amendment follows.

Summary of the Application:

Applicant: U.S. Shippers Association (''USSA''), 344 Canford Park East, Canton, Michigan 48187.

Contact: John S. Chinn, Project Director, Telephone: (734) 927–4328.

Application No.: 85–14A18.

Date Deemed Submitted: October 18, 2007.

Proposed Amendment: USSA seeks to amend its Certificate to add the following company as a new ''Member'' of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)): Cook Composites and Polymers Co., North Kansas City, Missouri (controlling entity: TOTAL Holdings USA, Inc., Houston Texas).

Dated: October 19, 2007.

Jeffrey C. Anspacher,

Director, Export Trading Company Affairs.

[FR Doc. E7–20972 Filed 10–24–07; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews: Notice of Consent Motion To Terminate Panel Review.

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of Consent Motion to Terminate the Panel Review of the final determination made by the Canadian Border Services Agency respecting ''Unprocessed grain corn, excluding seed corn (for reproductive purposes), sweet corn, and popping corn, originating in or exported from the United States of America'' (Secretariat File No. CDA–USA–2006–1904–01).

SUMMARY: Pursuant to the Notice of Consent Motion to Terminate the Panel Review by the complainants and pursuant to Rule 78(a) of the *Rules of Procedure for Article 1904 Binational Panel Review*, this panel review is terminated as of October 12, 2007.

FOR FURTHER INFORMATION CONTACT: Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686). The panel review in this matter was requested and terminated pursuant to these Rules.

Dated: October 19, 2007.

Caratina L. Alston,

United States Secretary, NAFTA Secretariat.

[FR Doc. E7–20974 Filed 10–24–07; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping Methodologies in Proceedings Involving Certain Non–Market Economies: Market–Oriented Enterprise; Request for Comment

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') requests public comment on whether it should consider granting market–economy treatment to individual respondents in antidumping proceedings involving the People's Republic of China (''China''), the conditions under which individual firms should be granted market–economy treatment, and how such treatment might affect our antidumping calculation for such qualifying respondents.

DATES: Comments must be submitted by November 26, 2007.

ADDRESSES: Written comments (original and six copies) should be sent to David Spooner, Assistant Secretary for Import Administration, U.S. Department of Commerce, Central Records Unit, Room 1870, 14th Street and Constitution Ave., NW., Washington, DC, 20230.

FOR FURTHER INFORMATION CONTACT: Lawrence Norton, Senior International Economist, or Anthony Hill, Senior International Economist, Office of Policy, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC, 20230; telephone 202–482–1579 or 202–482–1843, respectively.

SUPPLEMENTARY INFORMATION:

Background

In antidumping proceedings involving non–market economy (''NME'') countries, it is the Department's usual practice to calculate the normal value for allegedly dumped merchandise being imported into the United States by valuing the NME producer's factors of production using, to the extent possible, prices from a market economy that is at a comparable level of economic development and that is also a significant producer of comparable merchandise. *See* section 773(c)(4) of the Tariff Act of 1930, as amended (''the Act''). Specifically, section 773(c)(1) of the Act provides for the use of factors of production to determine normal value if two conditions are met:

(A) the subject merchandise is exported from an NME country; and

(B) the administering authority finds that available information does not permit the normal value of the subject merchandise to be determined as is done for respondents in market economy countries.

In all past NME proceedings involving China, the Department has found that both conditions of section 773(c)(1) are met and has calculated the normal value based on prices and costs from a surrogate country, in accordance with sections 773(c)(3) and (4) of the Act.

The Department recently affirmed China's NME status. *See* Memorandum for David M. Spooner, Assistant Secretary for Import Administration, Antidumping Duty Investigation of Certain Lined Paper Products from the People's Republic of China's Status as a Non–Market Economy (August 30, 2006) (''August 30th Memorandum'') (on file in the Central Records Unit {''CRU''}, Room–B–099, on the record of case number A–570–901). In conducting this review of China's NME status in accordance with section 771(18)(B) of the Act, the Department concluded that, while China has enacted significant and sustained economic reforms, the Chinese government has preserved a significant role for the state in the economy. The Department concluded that the limits the Chinese government has placed on the role of market forces are sufficient to preclude China's designation as a market economy under the U.S. antidumping law.

Notwithstanding China's continued designation as an NME, the August 30th Memorandum noted that China has undertaken numerous positive reforms. These are discussed more fully in the Department's March 29, 2007 memorandum, *Countervailing Duty Investigation of Coated Free Sheet (''CFS'') Paper from the People's Republic of China - Whether the Analytical Elements of the Georgetown Steel Opinion are Applicable to China's Present-day Economy*, (March 29, 2007) (''Georgetown Steel Memorandum'') (on file in the CRU on the record of case number C–570–907). The Georgetown Steel Memorandum notes that China's economy has evolved significantly over time and its present-day economy ''features both a certain degree of private initiative as well as significant government intervention, combining market processes with continued state guidance.'' *Id.* at 7. Further, the Department found that while private industry now dominates many sectors of the Chinese economy and entrepreneurship is flourishing, China's economy is best characterized as one in which constrained market mechanisms

operate alongside (and sometimes, in spite of) government plans. *Id.* at 9–10. Although the limits the Chinese Government has placed on the role of market forces are not consistent with recognition of China as a market economy under the U.S. antidumping law, the evolution in China's economy nevertheless has led the Department to conclude that it is possible to determine whether the state has bestowed a benefit upon a Chinese producer (*i.e.*, a subsidy can be identified and measured) and whether any such benefit is specific. *Id.* at 9. *See also Coated Free Sheet Paper from the People's Republic of China: Amended Preliminary Affirmative Countervailing Duty Determination*, 72 FR 17484 (April 9, 2007). The Department also stated in the Georgetown Steel Memorandum that the evolution of China's economy, together with the features and characteristics of China's present-day economy, including a growing private sector, suggest that modification of some aspects of the Department's current NME antidumping policy and practice with regard to China might be warranted, such as the conditions under which the Department would grant an individual respondent in China market–economy treatment in some or all respects.

Following the conclusion in the Georgetown Steel Memorandum that the evolution in China's economy might warrant changes to the Department's NME practice, the Department invited public comment on a possible market–oriented enterprise (''MOE'') test that could be introduced in future NME AD proceedings in a **Federal Register** notice published on May 25, 2007 (72 FR 29302). Given the Department's analysis in the Georgetown Steel Memorandum regarding China's present-day economy, the May, 25, 2007 notice requested public comment on the conditions under which the Department might grant market–economy treatment to individual Chinese respondents (as well as possibly other NME respondents), and, if so, how this might affect our antidumping duty calculations for such enterprises. The Department received 39 comments in response to this notice, which are available (along with the May 25, 2007 request for comment) on the Import Administration Web site at *http://ia.ita.doc.gov/download/nme–moe/nme–moe-cmt–20070625–index.html).*

Request for Comment

The Department has carefully considered all of the comments it received in response to its first request for comment. The comments identify two broad competing concerns which the Department now seeks to clarify in this second request for comment. The first is that various parties have argued that there may be prices within China that are sufficiently market–based that they can be used in the calculation of normal value, notwithstanding China's overall status as an NME. The Department has the legal authority to introduce an MOE test, these parties argue, and introducing such a test would recognize the reform efforts that China has undertaken since the Department adopted its current NME methodology. The Department agrees that to the extent that market–based prices exist in China that might be useable in the AD calculation, it would be appropriate to find a way to identify them through an MOE test.

However, other parties argue that the Department has no legal authority to introduce a MOE test. These parties also point out that any MOE test that attempted to identify market–based prices within an NME would be very difficult to administer, particularly since prices within an economy are interconnected. That is, these parties argue, even if the Department could identify which companies manage their operations on a market basis, these firms would still operate in a broader NME environment. In particular, firms' input prices could be affected by non–market considerations. Such a distortion of an otherwise ''market–oriented'' firm's acquisition prices could happen either directly, if these firms purchase inputs from non–profit maximizing SOEs, or indirectly, if macroeconomic NME distortions relating to land or capital affect the relevant input market. It would be impossible, these parties argue, to parse out the numerous distortions that could affect each input price, unless perhaps the Department and parties conducted a laborious analysis of each input price. However, anything less than a full analysis, these parties argue, would rapidly undermine China's overall NME status.

Because there are complex legal and administrative arguments on each side of this issue, the Department is requesting further comment on any potential MOE test. As noted above and described more fully in the August 30th Memorandum, market forces are not yet sufficiently developed in China to warrant market economy status. However, as noted in the Georgetown Steel Memorandum, China's economy has evolved to the point where domestic prices of certain market–oriented firms might be useable in the dumping calculation. In submitting comments, we ask parties to further consider whether there is a legal basis for a MOE test. We also ask parties to consider administrative feasability in proposing how the Department could identify an MOE operating within a broader NME environment. We ask parties also to consider to what extent, and under what conditions, the Department should rely on an MOE's prices and costs, particularly for those inputs that are inextricably linked to the broader operating economic environment, *i.e.*, labor, land and capital. While an enterprise may be market–oriented, the cost of certain inputs obtained in the broader economy may necessarily be determined on a non–market basis. Given such a situation in China, we request parties to consider administrative feasability in proposing the extent and conditions under which a finding of an MOE might be limited. For example, how appropriate and feasible would it be to consider using a respondent's own prices and costs within China in conjunction with certain surrogate prices and costs in our antidumping duty calculations?

Submission of Comments

Persons wishing to comment should file a signed original and six copies of each set of comments by the date specified above. The Department will consider all comments received before the close of the comment period. Comments received after the end of the comment period will be considered, if possible, but their consideration cannot be assured. The Department will not accept comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the persons submitting the comments and will not consider them in the development of any changes to its practice. The Department requires that comments be submitted in written form. The Department recommends submission of comments in electronic form to accompany the required paper copies. Comments filed in electronic form should be submitted either by e–mail to the webmaster below, or on CD–ROM, as comments submitted on diskettes are likely to be damaged by postal radiation treatment.

Comments received in electronic form will be made available to the public in Portable Document Format (PDF) on the Internet at the Import Administration Web site at the following address: *http://ia.ita.doc.gov/*. Any questions concerning file formatting, document conversion, access on the Internet, or other electronic filing issues should be addressed to Andrew Lee Beller, Import

Administration Webmaster, at (202) 482–0866, e-mail address: *webmaster–support@ita.doc.gov*.

Dated: October 17, 2007.

David Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7–21053 Filed 10–24–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Targeted Dumping in Antidumping Investigations; Request for Comment

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') seeks public comment on its development of a methodology for determining whether targeted dumping is occurring in antidumping investigations. The Department seeks input on standards and tests that may be appropriate in a targeted dumping analysis.

DATES: Comments must be submitted within thirty days from the publication of this notice.

ADDRESSES: Written comments (original and six copies) should be sent to David Spooner, Assistant Secretary for Import Administration, U.S. Department of Commerce, Central Records Unit, Room 1870, 14th Street & Constitution Ave., NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Anthony Hill, Economist, Office of Policy, or Michael Rill, Director, Antidumping Policy, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: 202–482–1843 or 202–482–3058, respectively.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to section 777A(d)(1) of the Tariff Act of 1930 (the ''Act''), the Department normally will calculate antidumping duty margins in investigations by comparing weighted–average export prices with weighted–average normal values or transaction–specific export prices with transaction–specific normal values. Section 777A(d)(1)(B) of the Act allows the Department to use an alternative method for determining the existence of margins of dumping in an investigation using what is commonly referred to as the targeted dumping comparison methodology. The alternative method allows the Department to compare transaction–specific export prices to weighted–average normal values. In order to use this alternative method, the Act requires the Department to find that there is a pattern of export prices (or constructed export prices) that differ significantly among purchasers, regions, or periods of time. *See* 777A(D)(1)(B)(i) of the Act. In addition, the Act requires the Department to explain why the differences cannot be taken into account using one of the normal calculation methodologies. *See* 777A(D)(1)(B)(ii) of the Act. The Department's regulations at 19 CFR 351.414(f)(1)(i) further require that a determination of targeted dumping be made ''through the use of, among other things, standard and appropriate statistical techniques.''

The Department's experience with regard to the use of this methodology has been very limited. In the antidumping investigation of certain pasta from Italy, petitioners made an allegation that targeted dumping was occurring, but the Department found that it was unsubstantiated and did not accept the allegation. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Pasta from Italy*, 61 FR 30326 (June 14, 1996). Reviewing that determination, the Court of International Trade found that the Department had dismissed the allegation even though it had not articulated a test by which an allegation should be made. *See Borden, Inc. v. U.S.*, 4 F. Supp. 2d 1221, 1228–31 (CIT March 26, 1998) (''*Borden*''). On remand, the Department created a test (the ''Pasta Test'') to analyze U.S. price data in that case, but found no targeted dumping. *See Borden, Inc. v. U.S.*, 1999 WL 397968, *2 (CIT June 4, 1999) (''*Borden Remand*'') (citing Department's *Remand Redetermination* (''*Remand Redetermination*'') at 17). However, the Department noted that it reserved the discretion to alter its methodology in future cases. *See Borden Remand*, 1999 WL 397968, *1 (citing *Remand Redetermination* at 15).

An allegation of targeted dumping was made in the investigation of fresh tomatoes from Mexico. The Department determined that there was not an adequate basis on which to accept the allegation on the grounds that petitioners used a benchmark of ten percent to claim that price differences were significant even though prices for tomatoes were very volatile, changing by more than ten percent within a day, and petitioners did not establish that there was a pattern of price differences. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Fresh Tomatoes From Mexico*, 61 FR 56608, 56610 (November 1, 1996).

Another allegation of targeted dumping was made in the investigation of stainless steel wire rod from Taiwan. Again, the Department found that the petitioners' analysis failed to meet the basic requirements of the statute. The allegation simply compared average prices to different customers without any further analysis. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Stainless Steel Wire Rod from Taiwan*, 63 FR 10836, 10837 (March 5, 1998).

The Department's most recent experience was in the antidumping investigation of coated free sheet paper from the Republic of Korea. In that proceeding, petitioners alleged that certain respondents were targeting certain customers and regions. The Department accepted this allegation, finding that petitioners had met the statutory requirement for showing that there was a pattern of prices that differ significantly among purchasers and regions while also acknowledging that the Department had not yet established a general set of standards for analyzing an allegation of targeted dumping. *See* Memorandum to David M. Spooner entitled ''Antidumping Duty Investigation of Coated Free Sheet Paper from South Korea - Targeted Dumping,'' from Stephen J. Claeys, dated September 7, 2007.

Request for Comment

Given the Department's limited experience with targeted dumping allegations and analysis and certain undefined terms in the statute and regulations, the Department requests comments and suggestions on what guidelines, thresholds, and tests it should use in determining whether targeted dumping is occurring. For example, while the statute requires a showing that there is a ''pattern'' of price differences, there is no definition or explanation as to what constitutes a pattern. What standards or methods should be used to show a pattern of price differences? Another requirement is that price differences be ''significant.'' What threshold should there be, if any, for showing that price differences are significant? Furthermore, the regulations require the use of ''standard and appropriate statistical techniques.'' What would be the appropriate statistical techniques to use to show targeted dumping?

Submission of Comments

Persons wishing to comment should file a signed original and six copies of

each set of comments by the date specified above. The Department will consider all comments received by the close of the comment period. Comments received after the end of the comment period will be considered, if possible, but their consideration cannot be assured. The Department will not accept comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the persons submitting the comments and will not consider them in its development of a targeted dumping analysis. The Department requires that comments be submitted in written form. The Department also requests submission of comments in electronic form to accompany the required paper copies. Comments filed in electronic form should be submitted either by e–mail to the webmaster below, or on CD–ROM, as comments submitted on diskettes are likely to be damaged by postal radiation treatment.

Comments received in electronic form will be made available to the public in Portable Document Format (PDF) on the Internet at the Import Administration website at the following address: *http://ia.ita.doc.gov*. Any questions concerning file formatting, document conversion, access on the Internet, or other electronic filing issues should be addressed to Andrew Lee Beller, Import Administration Webmaster, at (202) 482–0866, email address: *webmaster–support@ita.doc.gov*.

Dated: October 17, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7–21045 Filed 10–24–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Emergency Beacon Registrations

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before December 24, 2007.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Jeffrey Shoup, 301–817–3806 or *Jeffrey.Shoup@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

An international system exists to use satellites to detect and locate ships, aircraft, or individuals in distress if they are equipped with an emergency radio beacon. Persons purchasing a digital, distress beacon, operating in the frequency range of 406.000 to 406.100 MHz, must register it with NOAA. The data provided by registration can assist in identifying who is in trouble and in suppressing false alarms.

II. Method of Collection

Paper and online registration is available.

III. Data

OMB Number: 0648–0295.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Individuals or households; business or other for profit organizations; not-for-profit institutions; state, local or tribal governments.

Estimated Number of Respondents: 20,000.

Estimated Time per Response: 20 minutes.

Estimated Total Annual Burden Hours: 6,667.

Estimated Total Annual Cost to Public: $8,200.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: October 19, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–21026 Filed 10–24–07; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD48

U.S. Climate Change Science Program Synthesis and Assessment Product Draft Report 4.7 ''Impacts of Climate Change and Variability on Transportation Systems and Infrastructure: Gulf Coast Study''

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of availability and request for public comments.

SUMMARY: The National Oceanic and Atmospheric Administration publishes this notice to announce a 45-day public comment period for the draft report titled, U.S. Climate Change Science Program Synthesis and Assessment Product 4.7: ''Impacts of Climate Change and Variability on Transportation Systems and Infrastructure: Gulf Coast Study.''

This draft document is being released solely for the purpose of pre-dissemination peer review under applicable information quality guidelines. This document has not been formally disseminated by NOAA. It does not represent and should not be construed to represent any Agency policy or determination. After consideration of comments received on the draft report, a revised version along with the comments received will be published on the CCSP web site.

DATES: Comments must be received by December 10, 2007.

ADDRESSES: The draft Synthesis and Assessment Product 4.7: ''Impacts of Climate Change and Variability on Transportation Systems and

Infrastructure: Gulf Coast Study.'' is posted on the CCSP Web site at: *www.climatescience.gov/Library/sap/sap4–7/public-review-draft/default.htm*.

Detailed instructions for making comments on this draft report are provided on the SAP webpage. Comments must be prepared in accordance to these instructions and must be submitted to: *4.7–transport@usgcrp.gov*

FOR FURTHER INFORMATION CONTACT: Dr. Fabien Laurier, Climate Change Science Program Office, 1717 Pennsylvania Avenue NW, Suite 250, Washington, DC 20006, Telephone: (202) 419 3481.

SUPPLEMENTARY INFORMATION: The CCSP was established by the President in 2002 to coordinate and integrate scientific research on global and climate changes sponsored by 13 participating departments and agencies of the U.S. Government. The CCSP is charged with preparing information resources that promote climate-related discussions and decisions, including scientific synthesis and assessment analyses that support evaluation of important policy issues. Synthesis and Assessment Product 4.7 identifies the potential effects of climate variability and change in transportation infrastructure and systems in the central U.S. Gulf coast. The purpose of this study is to develop knowledge and tools that will assist transportation decision makers in incorporating climate-related trend information into transportation system planning, design, engineering, and operational decisions. Implications for all transportation modes–surface, marine, and aviation–are addressed.

Dated: October 17, 2007.

William J. Brennan,

Deputy Assistant Secretary of Commerce for International Affairs, and Acting Director, Climate Change Science Program.

[FR Doc. E7–21048 Filed 10–24–07; 8:45 am]

BILLING CODE 3510–12–S

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 08–24]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 08–24 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: October 19, 2007.

L.M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–M

DEFENSE SECURITY COOPERATION AGENCY
WASHINGTON, DC 20301-2800

OCT 1 1 2007
In reply refer to:
I-07/011486-CFM

The Honorable Nancy Pelosi
Speaker of the House of Representatives
Washington, DC 20515-6501

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding a new Transmittal No. 08-24, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance to Australia for defense articles and services. On 4 October 2007 we notified this sale with an estimated value of $617 million. Subsequently, we discovered some administrative errors in Transmittal No. 08-12. The enclosed Transmittal No. 08-24 supersedes Transmittal No. 08-12. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

Richard J. Millies
Deputy Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Same ltr to:

House	Senate
Committee on Foreign Affairs	Committee on Foreign Relations
Committee on Armed Services	Committee on Armed Services
Committee on Appropriations	Committee on Appropriations

Transmittal No. 08-24

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) **Prospective Purchaser:** Australia

(ii) **Total Estimated Value:**

Major Defense Equipment*	$387 million
Other	$230 million
TOTAL	$617 million

(iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:** 47 AIM-9X SIDEWINDER Tactical Missiles, 20 Captive Air Training Missiles (CATMs), 16 Special Air Training Missiles (NATMs), 4 Tactical WGU-51/B Guidance Units, 8 CATM-9X WGU-51/B Guidance Units, 50 AGM-154 Joint Standoff Weapons (JSOW), 18 AN/ASQ-228 (V2) Advanced Targeting Forward-Looking Infrared (ATFLIR) Pods, 24 AN/ALQ-214 Radio Frequency Countermeasures, 90 Joint Helmet Mounted Cueing Systems (JHMCS), 32 AN/PVS-9 Night Vision Goggles (NVG), 16 Multifunctional Information Distribution System-Low Volume Terminals (MIDS-LVT), system integration and testing, software development/integration, test sets and support equipment, spare and repair parts, publications and technical documents, U.S. Government and contractor technical assistance, and other related elements of logistics and program support.

(iv) **Military Department:** Navy (AYD)

(v) **Prior Related Cases, if any:**
FMS case SBE - $2.1 billion - 1Dec81
FMS case SAF - $2.5 billion - 2May07

(vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** none

(vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** See Annex attached

(viii) **Date Report Delivered to Congress:** OCT 1 1 2007

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Australia – Weapons for F/A-18E/F Super Hornet Aircraft

The Government of Australia has requested a possible sale of 47 AIM-9X SIDEWINDER Missiles, 20 Captive Air Training Missiles (CATMs), 16 Special Air Training Missiles (NATMs), 4 Tactical WGU-51/B Guidance Units, 8 CATM-9X WGU-51/B Guidance Units, 50 AGM-154 Joint Standoff Weapons (JSOW), 18 AN/ASQ-228 (V2) Advanced Targeting Forward-Looking Infrared (ATFLIR) Pods, 24 AN/ALQ-214 Radio Frequency Countermeasures, 90 Joint Helmet Mounted Cueing Systems (JHMCS), 32 AN/PVS-9 Night Vision Goggles (NVG), 16 Multifunctional Information Distribution System-Low Volume Terminals (MIDS-LVT), system integration and testing, software development/integration, test sets and support equipment, spare and repair parts, publications and technical documents, U.S. Government and contractor technical assistance, and other related elements of logistics and program support. The estimated cost is $617 million.

Australia is an important ally in the Western Pacific. The strategic location of this political and economic power contributes significantly to ensuring peace and economic stability in the region. Australia's efforts in peacekeeping and humanitarian operations have made a significant impact to regional political and economic stability and have served U.S. national security interests. This proposed sale is consistent with those objectives and facilitates burden sharing with our allies.

Australia recently purchased 24 F/A-18E/F aircraft, notified to Congress under Section 36(b) of the Arms Export Control Act on 6 February 2007. These weapons systems will be integrated on Australia's F/A-18E/F aircraft. The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractors will be The Boeing Company, St. Louis, Missouri, General Electric Aircraft Engines, Lynn, Massachusetts, and Raytheon Missile Systems, Tucson, Arizona. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this sale will require approximately eight contractor representatives to provide technical and logistics support in Australia for two years. U.S. Government and contractor representatives will also participate in program management and technical reviews for one-week intervals twice annually.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 08-24

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. The AIM-9X SIDEWINDER is a launch-and-leave, air combat missile that uses passive infrared energy for acquisition and tracking, which can be employed in near beyond visual range and within visual range arenas. It has high off-boresight seeker, enhanced countermeasure rejection capability, low drag/high agile airframe with a fifth-generation seeker and thrust-vectoring control, and the ability to integrate the Joint Helmet Mounted Cueing System (JHMCS). The external view of the AIM-9X Sidewinder Missile is Unclassified. The software algorithms are the most sensitive portions of the AIM-9X missile. No software source code or algorithms will be released. The seeker/guidance and control section and the target detector are Confidential and contain sensitive state-of-the-art technology. Specifically, the infrared seeker sensitivity is a significant improvement over the previous AIM-9 variants. Manuals and technical documents for the AIM-9X that support the ability to integrate with aircraft sensors are classified up to Secret. Performance and operating logic of the counter-countermeasures circuits are Secret.

2. The AGM-154 C-1 Joint-Stand-Off Weapon (JSOW) is intended to provide a low cost, highly lethal glide weapon with stand-off capability. The JSOW family of kinematically efficient, air-to-surface glide weapons, in the 1000 lbs class, provides stand-off capabilites from fifteen (15) nautical miles (low altitude launch) to forty (40) nautical miles (high altitude launch). The JSOW is used against a variety of land and sea targets and will operate from ranges outside enemy point defenses. The JSOW is a launch and leave weapon that employs a tightly-coupled global positioning system/ inertial navigation system (GPS/INS), and is capable of day/night and adverse weather operations. The JSOW uses inertial and global positioning services for midcourse navigation and imaging infrared, and data-link for terminal homing. The JSOW is just over thirteen (13) feet in length and weighs between 1000 and 1500 lbs. Extra flexibility has been engineered into the JSOW by its modular design which allows several different sub-munitions, unitary warheads, or non-lethal payloads to be carried. The missiles, components, design, software, publications, technical documentation, operations, supply, maintenance, and training have the highest classification level of Confidential.

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helmet to define helmet pointing positioning. A Helmet Vehicle Interface (HVI) interacts with the aircraft system bus to provide signal generation for the helmet display. This provides significant improvement for close combat targeting and engagement. Hardware is Unclassified; technical data and documents are classified up to Secret.

3. The AN/ASQ-228 Advance Targeting Forward-Looking Infrared (ATFLIR) Pod is a multi-sensor, electro-optical targeting pod incorporating infrared, low-light television camera, laser rangefinder/target designator, and laser spot tracker. It is used to provide navigation and targeting for military aircraft in adverse weather and using precision-guided weapons such as laser-guided bombs. It offers much greater target resolution and image accuracy than previous systems. ATFLIR presently is used only by the US Navy on the F/A-18E/F Super Hornet, although it is compatible with the earlier F/A-18C/D. It is normally carried on one of the fuselage stations otherwise used for AIM-120 AMRAAM missiles.

4. The AN/ALQ-214 is an advanced air-borne Integrated Defensive Electronic Countermeasures (IDECM) programmable modular automated system capable of intercepting, identifying, processing received radar signals (pulsed and continuous) and applying an optimum countermeasures technique in the direction of the radar signal, thereby improving individual aircraft probability of survival from a variety of surface-to-air and air-to-air RF threats. The system operates in a standalone or Electronic Warfare (EW) suite mode. In the EW suite mode, the ALQ-214 operates in a fully coordinated mode with the towed dispensable decoy, Radar Warning Receiver (RWR), various dispensable countermeasures, and the onboard radar in the F/A-18E/F in a coordinated, non-interference manner sharing information for enhanced information. The ALQ-214 was designed to operate in a high-density Electromagnetic Hostile Environment with the ability to identify and counter a wide variety of multiple threats including those with Doppler characteristics. Hardware within the AN/ALQ-214 is classified Confidential.

5. The Joint Helmet Mounted Cueing System (JHMCS) is a modified HGU-55/P helmet that incorporates a visor-projected Heads-Up Display (HUD) to cue weapons and aircraft sensors to air and ground targets. In close combat, a pilot must currently align the aircraft to shoot at a target. JHMCS allows the pilot to simply look at a target to shoot. This system projects visual targeting and aircraft performance information on the back of the helmet's visor, enabling the pilot to monitor this information without interrupting his field of view through the cockpit canopy, the system uses a magnetic transmitter unit fixed to the pilot's seat and a magnetic field probe mounted on the helmet to define helmet pointing positioning. A Helmet Vehicle Interface (HVI) interacts with the aircraft system bus to provide signal generation for the helmet display. This provides significant improvement for close combat targeting and engagement. Hardware is Unclassified; technical data and documents are classified up to Secret.

6. The Multifunctional Informational Distribution System (MIDS) Low Volume Terminal (LVT) is classified Confidential. The MIDS LVT is a secure data and voice communication network using the Link-16 architecture. The system provides enhanced situational awareness, positive identification of participants within the network, secure fighter-to-fighter connectivity, secure voice capability, and ARN-118 TACAN functionality. It provides three major functions: Air Control, Wide Area Surveillance, and Fighter-to-Fighter. The MIDS LVT can be used to transfer data in Air-to-Air, Air-to-Surface, and Air-to-Ground scenarios. MIDS LVT is classified as Confidential. The MIDS enhanced Interference Blanking Unit (EIBU) provides validation and verification of equipment and concept. EIBU enhances input/output signal capacity of the MIDS LVT and addresses parts obsolescence.

7. The AN/PVS-9 Night Vision Goggles provide imagery sufficient for an aviator to complete nighttime missions down to starlight and extreme low light conditions. The AN/PVS-9 is designed to satisfy the F/A-18 mission requirements for covert night combat, engagement, and support. The third generation light amplification tubes provide a high-performance, image-intensification system for optimized F/A-18 night flying at terrain-masking altitudes. The AN/PVS-9 night vision goggles are classified as Unclassified but with restrictions on release of technologies.

8. If a technologically advanced adversary were to obtain knowledge of the specific hardware or software in this proposed sale, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advance capabilities.

[FR Doc. 07–5276 Filed 10–24–07; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary

TRICARE; Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Fiscal Year (FY) 2008 Diagnosis-Related Group (DRG) Updates

AGENCY: Office of the Secretary, Department of Defense (DoD).

ACTION: Notice.

SUMMARY: This notice describes the changes made to the TRICARE DRG-based payment system. It also provides the updated fixed loss cost outlier threshold, cost-to-charge ratios, and the Internet address for accessing the updated adjusted standardized amount and DRG relative weights to be used for FY 2008 under the TRICARE DRG-based payment system.

DATES: *Effective Dates:* This FY 2008 DRG update is effective for admissions occurring on or after October 1.

ADDRESSES: TRICARE Management Activity (TMA), Medical Benefits and Reimbursement Systems, 16401 East Centretech Parkway, Aurora, CO 80011–9066.

FOR FURTHER INFORMATION CONTACT: Ann N. Fazzini, Medical Benefits and Reimbursement Systems, TMA, telephone (303) 676–3803.

Questions regarding payment of specific claims under the TRICARE DRG-based payment system should be addressed to the appropriate contractor.

SUPPLEMENTARY INFORMATION: The final rule published on September 1, 1987 (52 FR 32992), set forth the basic procedures used under the CHAMPUS DRG-based payment system. This was subsequently amended by final rules published August 31, 1988 (53 FR 33461), October 21, 1988 (53 FR 41331), December 16, 1988 (53 FR 50515), May 30, 1990 (55 FR 21863), October 22, 1990 (55 FR 42560), and September 10, 1998 (63 FR 48439).

This notice updates the TRICARE rates and weights in accordance with our previous final rules. The actual changes we are making are detailed below.

I. Changes Which Affect the TRICARE DRG-Based Payment System

A. Under the TRICARE DRG-based payment system, cases are classified into the appropriate DRG by a Grouper program. The Grouper classifies each case into a DRG on the basis of the diagnosis, procedure codes, and demographic information (that is, sex, age, and discharge status). The Grouper used for the TRICARE DRG-based payment system is the same as the FY 2007 Medicare Grouper with two modifications. The TRICARE system has replaced Medicare DRG 435 with two age-based DRGs (900 and 901), and has implemented thirty-four (34) neonatal DRGs in place of Medicare DRGs 385 through 390. For admissions occurring on or after October 1, 2001, DRG 435 has been replaced by DRG 523. The TRICARE system has replaced DRG 523 with the two age-based DRGs (900 and 901). For admissions occurring on or after October 1, 1995, the CHAMPUS grouper hierarchy logic was changed so the age split (age <29 days) and assignments to Major Diagnostic Category (MDC) 15 occur before assignment of the Pre-MDC DRGs. This resulted in all neonate tracheotomies and organ transplants to be grouped to MDC 15 and not to DRGs 480–483 or 495. For admissions occurring on or after October 1, 1998, the CHAMPUS grouper hierarchy logic was changed to move DRG 103 to the PreMDC DRGs and

to assign patients to PreMDC DRGs 480, 103 and 495 before assignment to MDC 15 DRGs and the neonatal DRGs. For admissions occurring on or after October 1, 2001, DRGs 512 and 513 were added to the PreMDC DRGs, between DRGs 480 and 103 in the TRICARE grouper hierarchy logic. For admissions occurring on or after October 1, 2004, DRG 483 was deleted and replaced with DRGs 541 and 542, splitting the assignment of cases on the basis of the performance of a major operating room procedure. The description for DRG 480 was changed to ''Liver Transplant and/or Intestinal Transplant,'' and the description for DRG 103 was changed to ''Heart/Heart Lung Transplant or Implant of Heart Assist System.''

B. Wage Index and Medicare Geographic Classification Review Board Guidelines

TRICARE will continue to use the same wage index amounts used for the Medicare Prospective Payment System (PPS). TRICARE will also duplicate all changes with regard to the wage index for specific hospitals that are re-designated by the Medicare Geographic Classification Review Board. In addition, TRICARE will continue to utilize the out commuting wage index adjustment.

C. Revision of the Labor-Related Share of the Wage Index

TRICARE is adopting the Centers for Medicare and Medicaid Services' (CMS) percentage of labor related share of the standardized amount. For wage index values greater than 1.0, the labor related portion of the Adjusted Standardized Amount (ASA) shall equal 69.7 percent. For wage index values less than or equal to 1.0 the labor related portion of the ASA shall continue to equal 62 percent.

D. Hospital Market Basket

TRICARE will update the adjusted standardized amounts according to the final updated hospital market basket used for the Medicare PPS for all hospitals subject to the TRICARE DRG-based payment system according to CMS's August 22, 2007, final rule.

E. Outlier Payments

Since TRICARE does not include capital payments in our DRG-based payments (TRICARE reimburses hospitals for their capital costs as reported annually to the contractor on a passthrough basis), we will use the FY 2007 (published in CMS' August 18, 2006) fixed loss cost outlier threshold calculated by CMS for paying cost outliers in the absence of capital prospective payments. For TRICARE's FY 2008 update, the fixed loss cost outlier threshold is based on the sum of the applicable DRG-based payment rate plus any amounts payable for IDME plus a fixed dollar amount. Thus, for FY 2008, in order for a case to qualify for cost outlier payments, the costs must exceed the TRICARE DRG base payment rate (wage adjusted) for the DRG plus the IDME payment plus $22,649 (wage adjusted). The marginal cost factor for cost outliers continues to be 80 percent.

F. National Operating Standard Cost as a Share of Total Costs

The FY 2008 TRICARE National Operating Standard Cost as a Share of Total Costs (NOSCASTC) used in calculating the cost outlier threshold is 0.925. TRICARE uses the same methodology as CMS for calculating the NOSCASTC; however, the variables are different because TRICARE uses national cost-to-charge ratios while CMS uses hospital specific cost-to-charge ratios.

G. Indirect Medical Education (IDME) Adjustment

Passage of the MMA of 2003 modified the formula multipliers to be used in the calculation of the indirect medical education IDME adjustment factor. Since the IDME formula used by TRICARE does not include disproportionate share hospitals (DSHs), the variables in the formula are different than Medicare's, however; the percentage reductions that will be applied to Medicare's formula will also be applied to the TRICARE IDME formula. The new multiplier for the IDME adjustment factor for TRICARE for FY 2008 is 1.02.

H. Expansion of the Post-Acute Care Transfer Policy

For FY 2008, TRICARE continues to use the post-acute care transfer policy that was published in CMS' final rule on August 18, 2006.

I. Blood Clotting Factor

For FY 2008, TRICARE is adopting CMS' payment methodology for blood clotting factor according to CMS' final rule published August 18, 2006.

II. Cost-to-Charge Ratio

While CMS uses hospital-specific cost-to-charge ratios, TRICARE uses a national cost-to-charge ratio. For FY 2008, the cost-to-charge ratio used for the TRICARE DRG-based payment system for acute care hospitals and neonates will be 0.3818 which is increased to 0.3888 to account for bad debts. This shall be used to calculate the adjusted standardized amounts and to calculate cost outlier payments, except for children's hospitals. For children's hospital cost outliers, the cost-to-charge ratio used is 0.4198.

III. Updated Rates and Weights

The updated rates and weights are accessible through the Internet at *http://www.tricare.osd.mil* under the sequential headings TRICARE Provider Information, Rates and Reimbursements, and DRG Information. Table 1 provides the ASA rates and Table 2 provides the DRG weights to be used under the TRICARE DRG-based payment system during FY 2008 and which is a result of the changes described above. The implementing regulations for the TRICARE/CHAMPUS DRG-based payment system are in 32 CFR Part 199.

Dated: October 19, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E7–21014 Filed 10–24–07; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Notice of closed meeting

AGENCY: Defense Intelligence Agency, National Defense Intelligence College.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the provisions of Subsection (d) of section 10 of Public Law 92–463, as amended by section 5 of Public Law 94–409, notice is hereby given that a closed meeting of the DIA National Defense Intelligence College Board of Visitors has been scheduled as follows:

DATES: Tuesday, 8 January 2008, 0800 to 1700; and Wednesday, 9 January 2008, 0800 to 1200.

ADDRESSES: National Defense Intelligence College, Washington, DC 20340–5100.

FOR FURTHER INFORMATION CONTACT: Mr. A. Denis Clift, President, DIA National Defense Intelligence College, Washington, DC 20340–5100 (202/231–3344).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed. The Board will discuss several current critical intelligence issues and advise the Director, DIA, as to the successful accomplishment of the mission assigned to the National Defense Intelligence College.

Dated: October 19, 2007.

L.M. Bynum,

OSD Federal Register, Liaison Officer, DOD.

[FR Doc. 07–5275 Filed 10–24–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability of the Final Programmatic Environmental Impact Statement (PEIS) for Army Growth and Force Structure Realignment

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability (NOA).

SUMMARY: The Department of the Army announces the availability of the Final PEIS for the growth and realignment of the U.S. Army. Pursuant to the National Environmental Policy Act (NEPA), the Department of the Army has prepared a PEIS that evaluates the potential environmental and socioeconomic effects associated with alternatives for growing and realigning the Army's force structure. The Army's preferred alternative identified in the Final PEIS is Alternative 3 which will allow the Army to grow and restructure its forces to accommodate modular forces initiatives and critical shortfalls, while adding six Brigade Combat Teams (BCTs) to the Army's end strength. Potential impacts have been analyzed at installations that are being considered for the stationing of 1,000 or more additional Soldiers.

DATES: The waiting period for the final PEIS will end 30 days after publication of an NOA in the **Federal Register** by the U.S. Environmental Protection Agency.

ADDRESSES: To obtain a copy of the Final PEIS contact: Public Affairs Office, U.S. Army Environmental Command, Building E4460, Attention: IMAE–PA 5179 Hoadley Road, Aberdeen Proving Ground, MD 21010–5401. Questions may also be sent to: *PublicComments@aec.apgea.army.mil.*

FOR FURTHER INFORMATION CONTACT: Public Affairs Office at (410) 436–2556; facsimile at (410) 436–1693 (during normal business hours Monday through Friday).

SUPPLEMENTARY INFORMATION: The Proposed Action and analysis within the Final PEIS covers those activities needed to increase the Army's end strength and realign its force structure from Fiscal Year 2008 through Fiscal Year 2013 to a size and composition that is better able to meet national security and defense requirements. The Proposed Action involves stationing decisions to align Army forces in support of military transformation, unit equipment and training readiness, and Soldier and Family quality of life needs. To implement the Proposed Action, new units must be stationed at locations that are able to accommodate unit training, garrison operations, maintenance activities, and Soldiers and their Families. In addition, final stationing locations must support the strategic deployment and mobilization requirements of the nation's Combatant Commanders to ensure they will have the forces necessary to support regional contingency operations and planning requirements.

The Final PEIS examines major Army training installations and their ability to support new unit stationing actions in connection with the growth and realignment of the U.S. Army. The Final PEIS provides the Army senior leadership with a hard look at environmental and socioeconomic impacts associated with the Proposed Action and informs the decision-making process for selecting the final stationing locations for new units. This effort includes analysis of specific actions that will need to be taken (such as the construction of housing and quality of life facilities, the construction of new training ranges and infrastructure, and changes in the intensity of use of maneuver land and firing ranges) to station new units as part of the Army's overall efforts to grow and realign the force.

After reviewing a full range of alternative sites, 17 installations capable of supporting the Army's growth and realignment have been evaluated for their ability to support three action alternatives. The installations carried forward for analysis included: Georgia: Fort Benning and Fort Stewart; Texas: Fort Bliss and Fort Hood: North Carolina: Fort Bragg; Kentucky: Fort Campbell and Fort Knox; Colorado: Fort Carson; New York: Fort Drum; California: Fort Hunter-Liggett and Fort Irwin; Washington: Fort Lewis and Yakima Training Center; Louisiana: Fort Polk; Kansas: Fort Riley; New Mexico: White Sands Missile Range; Arizona: Yuma Proving Ground. Each of these installations could receive 1,000 or more additional soldiers as part of alternatives being examined.

Alternatives carried forward for analysis in the Final PEIS included: (1) Implementing Army force structure modifications between Fiscal Year 2008 and Fiscal Year 2013 to support the Army's Modular Transformation and Global Defense Posture Review (GDPR) decisions; (2) Executing those actions discussed as part of Alternative 1 and, in addition, adding approximately 30,000 Combat Support (CS) and Combat Service Support (CSS) soldiers to the Army to address critical shortfalls in high demand military skills in both Active Army and Reserve components; (3) Executing those actions proposed in Alternatives 1 and 2 and, in addition, grow the Army by up to six Active Duty BCTs. Additional BCTs would be stationed at existing or newly established Army stationing locations within the continental United States. In addition to these alternatives, the No Action Alternative is described and its impacts are fully assessed and considered.

The Army's preferred alternative identified in the Final PEIS is to implement Alternative 3. This alternative allows for full support of Army modularity initiatives by adding necessary CS Soldiers to the Army's Active and Reserve components while increasing the size of the Army by six BCTs. Analysis within the Final PEIS covers those activities required to implement unit stationing actions associated with Army growth and realignment.

Site-specific action that will need to be taken to support the preferred alternative include the construction of housing and quality of life facilities (i.e., gymnasiums, hospitals, shopping areas), the construction of new training ranges and infrastructure, and changes in the intensity of use of maneuver land and firing ranges associated with the increased frequency of training events. Stationing decisions made as part of this effort will also consider strategic military and national security considerations. New stationing actions must take place at locations that, if selected, are capable of supporting the National Security Strategy (2006), the Quadrennial Defense Review (QDR 2006), National Military Strategy, and the Army Campaign Plan (ACP).

Direct, indirect, and cumulative impacts of the Proposed Action have been considered in the Final PEIS and identification of the environmental and socioeconomic impacts associated with various unit stationing actions at each of the 17 installations was carried forward for analysis. Impacts at sites would result from construction and training activities related to the growth and realignment of Army forces. Significant impacts to resources could be direct and long term. Decisions from the PEIS will be tiered into site-specific NEPA analyses at the installation level, as specific stationing decisions are determined. The Final PEIS provides Army planners and decision makers

with critical and timely information on the capacity and condition of each of the installation's environmental and socioeconomic resources preceding specific stationing actions. The No Action Alternative provides the baseline conditions for comparison to proposed alternatives.

A copy of the Final PEIS can be accessed through the U.S. Army Environmental Command's Web site at (*http://www.aec.army.mil*).

Dated: October 18, 2007.

Addison D. Davis, IV,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health).

[FR Doc. 07–5290 Filed 10–24–07; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Board of Visitors, United States Military Academy (USMA)

AGENCY: Department of the Army, DoD.

ACTION: Notice of open meeting.

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name of Committee: Board of Visitors, United States Military Academy.

Date: Friday, November 16, 2007.

Place of Meeting: The Superintendent's Conference Room, Building 600 (Taylor Hall), West Point, NY.

Time of Meeting: Approximately 1 p.m. through 4 p.m.

Board Mission: The Board, under the provisions of 10 U.S.C. 4355, and the Federal Advisory Committee Act of 1972, as amended, shall provide the President of the United States independent advice and recommendations on matters relating to the U.S. Military Academy, to include but not limited to morale and discipline, curriculum, instruction, physical equipment, and academic methods.

Board Membership: The Board is composed of 15 members, 9 of which are members of Congress and 6 persons designated by the President. The 2007 Chairman of the Board is Congressman John McHugh, New York—23rd District.

FOR FURTHER INFORMATION CONTACT: Ms. Cynthia Kramer, United States Military Academy, West Point, NY 10996–5000, (845) 938–5078 or via e-mail: *Cynthia.kramer@usma.edu*.

SUPPLEMENTARY INFORMATION: *Proposed Agenda:* This is the Fall/Annual Meeting of the Board of Visitors. The Board plans to inquire into instruction and physical equipment, accreditation, and the implementation of the Residential Communities Initiative (RCI) Program at West Point. Board members will attend classes with cadets and participate in roundtable discussions. All Board meeting proceedings are open to the public. Picture identifcation is required to enter West Point.

Public Inquiry at Board Meetings: Any member of the public is permitted to file a written statement with the USMA Board of Visitors. Written statements should be sent to the Designated Federal Officer (DFO) at: United States Military Academy, Office of the Secretary of the General Staff (MASG), 646 Swift Road, West Point, NY 10996–1905 or faxed to the Designated Federal Officer (DFO) at (845) 938–3214. Written statements must be received no later than five working days prior to the next meeting in order to provide time for member consideration.

By rule, no member of the public attending open meetings will be allowed to present questions from the floor or speak to any issue under consideration by the Board.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 07–5279 Filed 10–24–07; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of Army

Withdrawal of Mandatory Requirement Provision of Warehouse Performance Bond by Department of Defense Personal Property Storage Transportation Service Providers (TSP) Contractors

AGENCY: Department of Army, DOD.

ACTION: Notice.

SUMMARY: The Military Surface Deployment and Distribution Command (SDDC) as the Program Manager for DOD's Personal Property Non-Temporary Storage Program is withdrawing the proposed Warehouse Performance Bond Requirement Proposal for Non-Temporary Storage Transportation Service Providers. In light of the information and comments provided and considering the other major on-going initiatives such as implementation of Full Replacement Value liability, Phase III of the Families First initiative, etc. within the DOD Personal Property Program, SDDC has decided to withdraw the proposed Warehouse Performance Bond Requirement Proposal.

DATES: *Effective Date:* October 1, 2007.

ADDRESSES: Requests for additional information may be sent to *Centralrsmo@sddc.army.mil;* or by courier to: Department of Army, HQ, SDDC Central RSMO, ATTN: SDDC–PPP–PA–C, P.O. Box 19225, Topeka, KS 66619–0225.

Regulation Flexibility Act

This action is not considered rulemaking within the meaning of Regulatory Flexibility Act, 5 U.S.C. 601–612.

Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. 3051 *et seq.,* does not apply because no information collection or recordkeeping requirements are imposed on contractors, offerors alternatively, members of the public.

James N. Johnson,

Chief, Operations & Analysis Branch.

[FR Doc. 07–5277 Filed 10–24–07; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Performance Review Board Membership

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: Notice is given of the names of members of a Performance Review Board for the Department of the Army.

DATES: *Effective Date:* September 30, 2007.

FOR FURTHER INFORMATION CONTACT: Lucrecia Murdock, Civilian Senior Leader Management Office, 140 Army Pentagon, Washington, DC 20310–0140.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations, one or more Senior Executive Service performance review boards. The boards shall review and evaluate the initial appraisal of senior executives' performance by supervisors and make recommendations to the appointing authority or rating official relative to the performance of these executives.

The members of the Department of the Army Performance Review Boards are:

1. Mr. Richard G. Alpaugh, Deputy, U.S. Army Security Assistance Command, U.S. Army Materiel Command.

2. Mr. Ronald G. Bechtold, Director for Army Architecture Integration Cell, Chief Information Office/G–6, Headquarters, Department of the Army.
3. Ms. Pamela I. Blechinger, Director of Operations, Training and Doctrine Command.
4. Ms. Barbara L. Bonessa, Director of Management and Control, Office of the Secretary of the Army (Financial Management and Comptroller).
5. Dr. Robin B. Buckelew, Director for Missile Guidance, U.S. Army Materiel Command.
6. Mr. Joseph F. Calcara, Director of Real Estate, U.S. Army Corps of Engineers.
7. Mr. Allen E. Chin, Regional Business Director, U.S. Army Corps of Engineers.
8. Mr. Ronald E. Chronister, Executive Director, Integrated Materiel Management Center, U.S. Army Corps of Engineers.
9. Dr. Jeffrey J. Clarke, Director, Center for Military History, Headquarters, Department of the Army.
10. Dr. Craig E. College, Deputy Assistant Chief of Staff for Installation Management, Office of the Chief of Staff of the Army.
11. Ms. Kathryn A. Condon, Executive Deputy to the Commander General, U.S. Army Materiel Command.
12. Mr. Addison D. Davis IV, Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health).
13. BG Genaro Dellarocco, Program Executive Officer Missiles and Space, Army Acquisition Executive.
14. Mr. Clifton L. Dickey, Special Assistant to the Deputy Chief of Staff, G–3/5/7, Office of the Deputy Chief of Staff, G–3/5/7.
15. Mr. John P. Dugan, Deputy to the Commander, U.S. Tank-Automotive and Armaments Life Cycle Management Command, U.S. Army Materiel Command.
16. Mr. Michael P. Fallon, Programs Director, U.S. Army Corps of Engineers.
17. Ms. Sarah H. Finnincum, Director for Supply Policy, Programs and Processes, Office of the Deputy Chief of Staff, G–4.
18. Mr. Patrick J. Fitzgerald, The Auditor General, Headquarters, Department of the Army.
19. BG Russell L. Frutiger, Chief of Staff, Headquarters, U.S. Army, Europe and 7th Army.
20. Mr. Joseph F. Guzowski, Principal Deputy Chief of Legislative Liaison, Office, Chief of Legislative Liaison.
21. Ms. Barbara J. Heffernan, Assistant Chief of Staff for Installation Management, Office of the Chief of Staff of the Army.
22. Ms. Wilhelmenia C. Hinton-Lee, Regional Business Director, Great Lakes & Ohio River Division.
23. Dr. James R. Houston, Director, Engineer Research & Development Center (ERDC).
24. Mr. James B. Johnson, Jr., Executive Director, Army Test and Evaluation Command.
25. MG Ronald L. Johnson, Deputy Commanding General, U.S. Army Corps of Engineers.
26. Ms. Deborah J. Kelley, Director of Information Resource Integration, Chief Information Office/G–6, Headquarters, Department of the Army.
27. Mr. Thomas E. Kelly III, Deputy Under Secretary of the Army, Office of the Under Secretary of the Army.
28. Mr. Douglas W. Lamont, Deputy Assistant Secretary of the Army (Project Planning and Review), Office of the Assistant Secretary of the Army (Civil Works).
29. Mr. David W. Ludwig, Deputy Program Executive Officer, Command and Control Communications Tactical, Army Acquisition Executive.
30. Mr. Mark D. Manning, Special Assistant to the Assistant Secretary of the Army (Manpower and Reserve Affairs), Office of the Assistant Secretary of the Army (Manpower and Reserve Affairs).
31. Mr. John C. Metzler, Jr., Director of Cemetery Operations, Arlington National Cemetery, Military District of Washington.
32. Mr. William F. Moore, Deputy to the Commanding General, Training and Doctrine Command.
33. Ms. Joyce E. Morrow, Administrative Assistant to the Secretary of the Army.
34. MG James R. Myles, Command General, U.S. Army Aviation and Missile Life Cycle Management Command, U.S. Army Materiel Command.
35. Mr. Levator Norsworthy Jr., Deputy General Counsel (Acquisition), Office of the General Counsel, Headquarters, Department of the Army.
36. Mr. Dean E. Pfoltzer, Deputy Director, Program Analysis & Evaluation, Office of the Deputy Chief of Staff, G–8.
37. Mr. Benjamin J. Piccolo, Principal Deputy Auditor General, Army Audit Agency, Headquarters, Department of the Army.
38. Mr. Lloyd D. Pike, Deputy Chief Counsel, U.S. Army Corps of Engineers.
39. Mr. Dean G. Popps, Principal Deputy Assistant Secretary of the Army (Acquisition, Logistics and Technology)/(Director for Iraq Reconstruction and Program Management), Office of the Assistant Secretary of the Army (Acquisition, Logistics and Technology).
40. Mr. Geoffrey G. Prosch, Principal Deputy Assistant Secretary of the Army (Installations, Logistics & Environment), Office of the Assistant Secretary of the Army (Installations and Environment).
41. Ms. Diane M. Randon, Executive Director, U.S. Army Resources and Program Agency, Office of the Administrative Assistant to the Secretary of the Army.
42. Mr. Allan M. Resnick, Director, Requirements Integration, U.S. Army Training and Doctrine Command.
43. MG Don T. Riley, Director, Civil Works, U.S. Army Corps of Engineers.
44. Ms. Patricia A. Rivers, Chief, Military Programs Integration Division, U.S. Army Corps of Engineers.
45. Mr. Mark Sagan, Chief Counsel, U.S. Communication-Electronics Life Cycle Management Command.
46. Mr. Todd L. Schafer, Executive Director for Resources, U.S. Southern Command.
47. BG Joseph Schroedel, Commander, South Atlantic Division, U.S. Army Corps of Engineers.
48. Mr. Brian M. Simmons, Director, Army Evaluation Center, U.S. Army Developmental Test Command.
49. Mr. William R. Smith, Deputy Program Executive Officer for Soldier, Army Acquisition Executive.
50. Mr. Larry Stubblefield, Deputy Administrative Assistant to the Secretary of the Army/Director, Shared Services, Office of the Administrative Assistant to the Secretary of the Army.
51. Ms. Kathryn Szymanski, Chief Counsel, U.S. Army Materiel Command.
52. Mr. Edwin A. Theriot, Chief, Environmental Division, U.S. Army Corps of Engineers.
53. Mr. Edward C. Thomas, Deputy to the Commander/Director, Logistics and Readiness Center, U.S. Army Materiel Command.
54. Dr. Katherine S. Thompson, Director, Programs and Strategy, Office of the Assistant Secretary of the Army (Financial Management and Comptroller).
55. Mr. Donald C. Tison, Assistant Deputy Chief of Staff, G–8, Office of the Deputy Chief of Staff, G–8.
56. Mr. Robert Turzak, Director of Program Development, Office of the Deputy Chief of Staff, G–4.
57. Mr. Scott Welker, Deputy to the Commander, U.S. Army Sustainment Command.
58. Mr. Steven L. Wetzel, Deputy Director, Strategy and Policy, U.S. Southern Command.
59. MG David F. Wherely, Jr., Director, DC National Guard.

60. Mr. David E. Wright, Director, Infrastructure & Logistics Division, North Atlantic Treaty Organization.

The members of the Performance Review Board for the Defense Intelligence Senior Executive Service are:

1. MG John De Freitas, Commanding General, U.S. Army Intelligence and Security Command.
2. Mr. Terrance M. Ford, Assistant Deputy Chief of Staff, G–2, Office of the Deputy Chief of Staff.
3. Mr. Thomas A. Gandy, Director, Army G–2X, Office of the Deputy Chief of Staff, G–2.
4. Mr. Darell G. Lance, Chief of Staff, U.S. Army Intelligence and Security Command.
5. Mr. Maxie L. McFarland, Deputy Chief of Staff for Intelligence, U.S. Army Training and Doctrine Command.
6. Mr. Dean G. Popps, Principal Deputy Assistant Secretary of the Army (Acquisition, Logistics and Technology)/(Director for Iraq Reconstruction and Program Management), Office of the Assistant Secretary of the Army (Acquisition, Logistics and Technology).
7. Mr. Jerry V. Proctor, Deputy for Futures, U.S. Army Training and Doctrine Command.
8. Mr. Ben W.A. Purcell, Deputy Director of Intelligence, United States Forces Korea.
9. Ms. Mary Lynn Schnurr, Director, Army Intelligence Community Information Management, Office of the Deputy Chief of Staff, G–2.
10. Mr. Mark A. Smith, Deputy Director for Intelligence, United States Southern Command.
11. Mr. Robert J. Winchester, Assistant for Intelligence Liaison, Office, Chief of Legislative Liaison.
12. Ms. Patricia F. Zitz, Director, Resource Integration, Office of the Deputy Chief of Staff, G–2.

The members of the Performance Review Board for the Defense Intelligence Senior Level are:

1. Mr. Collin A. Agee, Technical Advisor, Intelligence, Surveillance & Reconnaissance, Office of the Deputy Chief of Staff, G–2.
2. Mr. Stephen Bradner, Special Advisor to Commanders in Chief, UNC, Combined Forces Command.
3. Mr. Stephen R. Covington, Special Assistant to the Supreme Allied Commander, Europe for Strategic Studies of the Former Soviet Union.
4. MG John DeFreitas, III, Commanding General, U.S. Army Intelligence and Security Command.
5. Mr. Terrance M. Ford, Assistant Deputy Chief of Staff, G–2, Office of the Deputy Chief of Staff.
6. Mr. Thomas F. Greco, Special Assistant to the G–2, Headquarters, U.S. Army Europe and 7th Army.
7. Mr. Ernie H. Gurany, Senior General Military Intelligence Analyst, National Ground Intelligence Center.
8. Mr. Peter Kunkel, Principal Deputy Assistant Secretary of the Army (Financial Management and Comptroller)/(Controls), Office of the Assistant Secretary of the Army (Financial Management and Comptroller).
9. Mr. Larry L. Miller, Senior Cryptologic, Operations Officer, U.S. Army Intelligence and Security Command.
10. Mr. Daniel T. Morris, Special Assistant to the Commander, National Ground Intelligence Center.
11. Mr. Robert Reuss, Technical Advisor, Intelligence Surveillance and Reconnaissance and Operational Environment Integration, U.S. Army Training and Doctrine Command.

The members of the Performance Review Board for the Scientific and Technicals, are:

1. Dr. Arthur D. Ballato, Senior Research Scientist (Electromagnetics), U.S. Army Communications and Electronics Research, Development and Engineering Center, U.S. Army Materiel Command.
2. Dr. Todd S. Bridges, Senior Research Scientist (Environmental), U.S. Army Engineering Research and Development Center.
3. Dr. Walter Bryzik, Chief Scientist, U.S. Army Tank Automotive Research, U.S. Army Materiel Command.
4. Dr. Kwong Kit Choi, Senior Research Scientist for Physical Sciences, U.S. Army Research Laboratory.
5. Dr. Henry O. Everitt, III, Senior Research Scientist (Optical Sciences), U.S. Army Research, Development and Engineering Command.
6. Dr. Richard Fong, Senior Research Scientist (Warheads Technology), U.S. Army Armament Research Development and Engineering Center.
7. Dr. Grant R. Gerhart, Senior Research Scientist (Computer Modeling & Simulation), U.S. Army Tank Automotive Research Command.
8. Dr. Claire C. Gordon, Senior Research Scientist (Biological Anthropology), Research, Development & Engineering Command.
9. Dr. Shashi P. Karna, Senior Research Scientist (NanoFunctional Materials), U.S. Army Research Laboratory.
10. Dr. Tomasz R. Letowski, Senior Research Scientist (Soldier Performance), U.S. Army Research Laboratory.
11. Dr. Jester M. Loomis, Senior Research Scientist (Radio Frequency Sensors), U.S. Army Research Development and Engineering Command.
12. Dr. Joseph N. Mait, Senior Research Scientist (Electromagnetics), U.S. Army Research Laboratory.
13. Dr. James W. McCauley, Senior Research Engineer (Ceramic Materials), U.S. Army Research Laboratory.
14. Dr. Robert W. McMillan, Senior Research Scientist (Research Applications), U.S. Army Space and Missiles Defense Command.
15. Dr. Paul F. Mlakar, Senior Research Scientist (Weapons Effects/ Structural Dynamics), U.S. Army Engineering Research and Development Center.
16. Dr. Nasser M. Nasrabadi, Senior Research Scientist (Sensors), U.S. Army Research Laboratory.
17. Dr. John A. Parmentola, Director for Research and Laboratory Management, Office of the Assistant Secretary of the Army (Acquisition, Logistics and Technology).
18. Dr. Arunachalam M. Rajendran, Senior Research Scientist (Applied Mechanics), U.S. Army Research Laboratory.
19. Dr. James A. Ratches, Chief Scientist Night Vision Electro-Optics, U.S. Army Communications and Electronics Research.
20. Dr. Jaques Reifman, Senior Research Scientist (Advanced Medical Technology), U.S. Army Medical Research and Medical Command.
21. Dr. Donald T. Resio, Senior Research Scientists (Coastal Sedimentation), U.S. Army Engineering Research and Development Center.
22. Dr. Paul B. Ruffin, Senior Research Physicist (Micro-Sensors and Systems), U.S. Army Research, Development and Engineering Command.
23. Dr. Jose Luis Sagripanti, Research Scientist (Biochemistry), U.S. Army Edgewood Chemical Biological Center.
24. Dr. Michelle R. Sams, Director, U.S. Army Research Institute and Chief Psychologist, Office of the Deputy Chief of Staff, G–1.
25. Dr. Connie S. Schmalljohn, Senior Research Scientist for Medical Defense Against Infectious Disease Threats, U.S. Army Research Institute of Infectious Diseases.
26. Dr. Edward M. Schmidt, Senior Research Scientist (Ballistics Research), U.S. Army Research Laboratory.
27. Dr. Michael P. Scully, Senior Research Engineer for Rotorcraft (Aerodynamics and Preliminary Design), U.S. Army Research, Development and Engineering Command.
28. Dr. Paul H. Shen, Senior Research Scientist (Nuclear/Electronics

Survivability), U.S. Army Research Laboratory.

29. Dr. Richard W. Stewart, Chief Historian to the Chief of Military History, Center for Military History.

30. Dr. Brian R. Strickland, Chief Scientist (Directed Energy Applications), U.S. Army Space and Missile Defense Command.

31. Dr. Mark B. Tischler, Senior Research Scientist (Rotorcraft Flight Dynamics and Control), U.S. Army Research, Development and Engineering Command.

32. Dr. James J. Valdes, Scientific Advisor for Biotechnology, U.S. Army Edgewood Chemical Biological Center.

33. Dr. Charles E. Wade, Senior Research Scientist Combat Casualty Care, U.S. Army Institute of Surgical Research.

34. Dr. Billy J. Walker, Senior Research Scientist (Computational Fluid Dynamics), U.S. Army Research, Development and Engineering Command.

35. Mr. Roy A. Wallace, Director, Plans and Resources, Office of the Deputy Chief of Staff, G–1.

36. Dr. Bruce J. West, Senior Research Scientist (Mathematical Sciences), U.S. Army Research Laboratory, Army Research Office.

37. Dr. Thomas W. Wright, Senior Research Scientist (Terminal Ballistics), U.S. Army Research Laboratory.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. E7–21004 Filed 10–24–07; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft and Final Second Supplemental Environmental Impact Statement for Reach 1 on the Herbert Hoover Dike Major Rehabilitation Project, Martin and Palm Beach Counties

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: The purpose of the project is to reconstruct and rehabilitate Reach 1 of the Herbert Hoover Dike to prevent catastrophic failure of the system to retain the waters of Lake Okeechobee. On July 8, 2005, the Jacksonville District, U.S. Army Corps of Engineers (Corps) issued a Final Supplemental Environmental Impact Statement (FSEIS) for the Major Rehabilitation actions proposed for Herbert Hoover Dike (HHD), Reach One. Herbert Hoover Dike is the levee that completely surrounds Lake Okeechobee. On September 23, 2005, a Record of Decision was signed adopting the preferred alternative as the Selected Plan for Reach One.

As plans and specifications were developed for Reach 1, it became apparent that the cut-off wall with seepage berm alternative would not work for all of Reach 1. The alternative for Reach 1 will be a combination of one or more of the following features dependent on the geology and adjacent land factors with the cut-off wall: Seepage Berm, Relief Trench, Soil Replacement Wedge, Relief Wells, Drainage Feature and Sand Columns. Reach 1 of the HHD extends for approximately 22.5 miles within Martin and Palm Beach Counties, from the St. Lucie Canal at Port Mayaca, south to the Hillsboro Canal at Belle Glade, FL. This study is a cooperative effort between the Corps and the South Florida Water Management District (SFWMD).

ADDRESSES: U.S. Army Corps of Engineers, Planning Division, Environmental Branch, P.O. Box 4970, Jacksonville, FL 32232–0019.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Allen at (904) 232–3206 or e-mail at *nancy.p.allen@usace.army.mil.*

SUPPLEMENTARY INFORMATION:

a. The proposed action will be the selected plan described in the July 2005 Supplemental Environmental Impact Statement (SEIS) with the additional action of implementing the landslide rehabilitation features as needed based on geology and adjacent land factors. The proposed action will not affect the Regulation Schedule for Lake Okeechobee. Land may have to be acquired outside of the existing right-of-way (ROW) and this EIS will account for any impacts that result due to acquisition of additional real estate.

b. Alternatives to be considered separately for each subdivision of Reach 1 are dependent upon the geology and adjacent land factors with the cut-off wall. Reach 1 is divided into Subreaches A, B, C and D. The alternatives to be implemented include one or more of the following features: Seepage Berm, Relief Trench, Soil Replacement Wedge, Relief Wells, Sand Column and Drainage Feature.

c. A scoping letter will be used to invite comments on alternatives and issues from Federal, State, and local agencies, affected Indian tribes, and other interested private organizations and individuals. The scoping letter will be sent out in October 2007. A scoping meeting is not anticipated.

d. A public meeting will be held after release of the Draft Second Supplemental EIS. The public meeting is anticipated to be held in July 2008 in Clewiston, FL. The exact location, date, and times will be announced in a public notice and local newspapers.

e. A Major Rehabilitation Evaluation Report (MRR) was approved by Congress in the Water Resources Development Act (WRDA) 2000 that addressed the need to repair the aging dike.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 07–5278 Filed 10–24–07; 8:45 am]

BILLING CODE 3710–AJ–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act: Notice of Meeting, Notice of Vote, Explanation of Action Closing Meeting and List of Persons To Attend

October 18, 2007.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: October 25, 2007, 10 a.m.

PLACE: Room 2C, Commission Meeting Room, 888 First Street, NE., Washington, DC 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Non-Public Investigations and Inquiries, Enforcement Related Matters.

CONTACT PERSON FOR MORE INFORMATION: Kimberly D. Bose, Secretary, Telephone (202) 502–8400.

Chairman Kelliher and Commissioners Kelly, Spitzer, Moeller, and Wellinghoff voted to hold a closed meeting on October 25, 2007. The certification of the General Counsel explaining the action closing the meeting is available for public inspection in the Commission's Public Reference Room at 888 First Street, NE., Washington, DC 20426.

The Chairman and the Commissioners, their assistants, the Commission's Secretary, the General Counsel and members of her staff, and a stenographer are expected to attend the meeting. Other staff members from the Commission's program offices who

will advise the Commissioners in the matters discussed will also be present.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–20951 Filed 10–24–07; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R09–OAR–2007–0887; FRL–8487–4

Adequacy Status of Motor Vehicle Budgets in Submitted Eight-Hour Ozone Attainment Plan for the Phoenix-Mesa Nonattainment Area for Transportation Conformity Purposes; Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of adequacy.

SUMMARY: In this notice, EPA is notifying the public that the Agency has found that the motor vehicle emissions budgets in the submitted *Eight-Hour Ozone Plan for the Maricopa Nonattainment Area (June 2007)* (''2007 MAG Eight-Hour Ozone Plan'') are adequate for transportation conformity purposes. The 2007 MAG Eight-Hour Ozone Plan was submitted to EPA on June 15, 2007 by the Arizona Department of Environmental Quality as a revision to the Arizona state implementation plan. As a result of our finding, the Maricopa Association of Governments (MAG) and the Federal Highway Administration must use the motor vehicle emissions budgets from the submitted eight-hour ozone attainment plan for future conformity determinations.

DATES: This finding is effective November 9, 2007.

FOR FURTHER INFORMATION CONTACT: Wienke Tax, U.S. EPA, Region IX, Air Division AIR–2, 75 Hawthorne Street, San Francisco, CA 94105–3901; (520) 622–1622 or *tax.wienke@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

Today's notice is simply an announcement of a finding that we have already made. EPA Region IX sent a letter, dated October 4, 2007, to the Arizona Department of Environmental Quality on October 10, 2007 stating that the motor vehicle emissions budgets for volatile organic compounds (VOC) and oxides of nitrogen (NO_X) in the submitted 2007 MAG Eight-Hour Ozone Plan for 2008 are adequate. The budgets correspond to the Phoenix-Mesa 8-hour ozone nonattainment area, which encompasses roughly half of Maricopa County, including the cities of Phoenix and Mesa, and also the Apache Junction area of Pinal County, in central Arizona. The finding is available at EPA's conformity Web site: *http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm*. The adequate motor vehicle emissions budgets (calculated for a Thursday in 2008) are provided in the following table:

ADEQUATE MOTOR VEHICLE EMISSIONS BUDGETS

[In metric tons per day]

Budget year	VOC motor vehicle emissions budget	NO_X motor vehicle emissions budget
2008	67.9	138.2

Transportation conformity is required by Clean Air Act section 176(c). EPA's conformity rule requires that transportation plans, transportation improvement programs, and projects conform to state air quality implementation plans (SIPs) and establishes the criteria and procedures for determining whether or not they do. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which we determine whether a SIP's motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). The process for determining the adequacy of such budgets is set forth at 40 CFR 93.118(f). Please note that an adequacy review is separate from EPA's completeness review, and should not be used to prejudge EPA's ultimate approval action for the SIP. Even if we find a budget adequate, the SIP could later be disapproved.

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

Dated: October 16, 2007.

Nancy Lindsay,

Acting Regional Administrator, Region IX.

[FR Doc. E7–21073 Filed 10–24–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8487–3]

Clean Water Act Section 303(d): Availability of 34 Total Maximum Daily Loads (TMDL) in Louisiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces the availability for comment of the administrative record files for 34 TMDLs and the calculations for these TMDLs prepared by EPA Region 6 for waters listed in the Red, Sabine, and the Terrebonne Basins of Louisiana, under section 303(d) of the Clean Water Act (CWA). These TMDLs were completed in response to a court order in the lawsuit styled *Sierra Club, et al.* v. *Clifford, et al.*, No. 96–0527, (E.D. La.).

DATES: Comments must be submitted in writing to EPA on or before November 26, 2007.

ADDRESSES: Comments on the 34 TMDLs should be sent to Diane Smith, Environmental Protection Specialist, Water Quality Protection Division, U.S. Environmental Protection Agency Region 6, 1445 Ross Ave., Dallas, TX 75202–2733 or e-mail: *smith.diane@epa.gov.* For further information, contact Diane Smith at (214) 665–2145 or fax 214.665.7373. The administrative record files for the 34 TMDLs are available for public inspection at this address as well. Documents from the administrative record files may be viewed at *http://www.epa.gov/earth1r6/6wq/npdes/tmdl/index.htm,* or obtained by calling or writing Ms. Smith at the above address. Please contact Ms. Smith to schedule an inspection.

FOR FURTHER INFORMATION CONTACT: Diane Smith at (214) 665–2145.

SUPPLEMENTARY INFORMATION: In 1996, two Louisiana environmental groups, the Sierra Club and Louisiana Environmental Action Network (plaintiffs), filed a lawsuit in Federal Court against the EPA, styled *Sierra Club, et al.* v. *Clifford, et al.*, No. 96–0527, (E.D. La.). Among other claims, plaintiffs alleged that EPA failed to establish Louisiana TMDLs in a timely manner. EPA proposes 26 of these TMDLs pursuant to a consent decree entered in this lawsuit.

EPA Seeks Comment on 34 TMDLs

By this notice EPA is seeking comment on the following 34 TMDLs for waters located within Louisiana basins:

Subsegment	Waterbody name	Pollutant
100406	Flat River—Headwaters to Loggy Bayou	Nutrients and Dissolved Oxygen.
100501	Bayou Dorcheat—Arkansas State Line to Lake Bistineau (scenic).	Dissolved Oxygen and Mercury.
100601	Bayou Pierre—Headwaters to Sawing Lake	Nutrients and Dissolved Oxygen.
100602	Boggy Bayou—Headwaters to Wallace Lake	Nutrients and Dissolved Oxygen.
100702	Black Lake Bayou—Webster-Bienville Parish Line	Dissolved Oxygen.
100703	Black Lake and Clear Lake	Dissolved Oxygen.
100803	Saline Bayou—From Saline Lake to Red River	Dissolved Oxygen.
101301	Rigolette Bayou—Headwaters to Red River	Dissolved Oxygen.
101302	Iatt Lake	Dissolved Oxygen.
101604	Lake Concordia	Dissolved Oxygen.
110401	Bayou Toro—Headwaters to LA Hwy. 473	Dissolved Oxygen.
120102	Bayou Poydras	Nutrients and Dissolved Oxygen.
120103	Bayou Choctaw	Nutrients, Nitrogen, Phosphorus, and Dissolved Oxygen.
120105	Chamberlin Canal	Nutrients, Nitrogen, Phosphorus, and Dissolved Oxygen.
120106	Bayou Plaquemine—Plaquemine Lock to Intracoastal Waterway.	Nutrients and Dissolved Oxygen.
120107	Upper Grand River and Lower Flat River—Headwaters to IntracoastalWaterway.	Dissolved Oxygen.
120109	Intracoastal Waterway—Morgan City to Port Allen Route—Port Allen Locks to Bayou Sorrel Locks.	Nutrients and Dissolved Oxygen.
120110	Bayou Cholpe—Headwaters to Bayou Choctaw	Dissolved Oxygen.
120206	Grand Bayou and Little Grand Bayou—Headwaters to Lake Varret.	TSS.
120205	Lake Palourde	pH.
120402	Bayou Chene—From Intracoastal Waterway to Bayou Penchant Navigation Canal to Terrebonne Bay.	pH.

EPA requests that the public provide to EPA any water quality related data and information that may be relevant to the calculations for the 34 TMDLs. EPA will review all data and information submitted during the public comment period and revise the TMDLs where appropriate. EPA will then forward the TMDLs to the Louisiana Department of Environmental Quality (LDEQ). The LDEQ will incorporate the TMDLs into its current water quality management plan.

Dated: October 17, 2007.

William K. Honker,

Deputy Director, Water Quality Protection Division, EPA Region 6.

[FR Doc. E7–21063 Filed 10–24–07; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comment Requested

October 16, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to comment on a proposed collection of information, pursuant to the Paperwork Reduction Act (PRA) of 1995 (PRA), Public Law No. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Subject to the PRA, no person shall be subject to any penalty for failing to comply with a collection of information that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written PRA comments should be submitted on or before December 24, 2007. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit all PRA comments by e-mail or U.S. post mail. To submit your comments by e-mail, send them to *PRA@fcc.gov*. To submit your comments by U.S. mail, mark them to the attention of Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918 or send an e-mail to *PRA@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0095.

Title: Multi-Channel Video Programming Distributors Annual Employment Report.

Type of Review: Extension of a currently approved collection.

Form Number: FCC Form 395–A.

Respondents: Business or other for-profit entities.

Number of Respondents: 2,500.

Estimated Time per Response: 53 minutes.

Frequency of Response: Recordkeeping requirement; Annual reporting requirement.

Total Annual Burden: 2,200 hours.

Total Annual Cost: None.

Nature of Response: Required to obtain or retain benefits.

Confidentiality: No need for confidentiality required.

Privacy Impact Assessment: No impact.

Needs and Uses: FCC Form 395–A, ''The Multi-Channel Video Programming Distributor Annual Employment Report,'' is a data collection device used to assess industry employment trends and provide reports to Congress. The report identifies employees by gender and race/ethnicity in fifteen job categories. FCC Form 395–

A contains a grid which collects data on full and part-time employees and requests a list of employees by job title, indicating the job category and full or part-time status of the position. Every cable entity with 6 or more full-time employees and all Satellite Master Antenna Television Systems (SMATV) serving 50 or more subscribers and having 6 or more full-time employees must complete Form 395–A in its entirety and file it by September 30 each year. However, cable entities with 5 or fewer full-time employees are not required to file but if they do, they need to complete and file only Sections I, II and VIII of the FCC Form 395–A, and thereafter need not file again unless their employment increases.

On June 4, 2004, the FCC released the Third Report and Order and Fourth Notice of Proposed Rulemaking (3rd R&O), In the *Matter of Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies, MM Docket No. 98–204, FCC 04–103*, in which it considers issues relating to the Annual Employment Report forms, including FCC Form 395–A, ''The Multi-Channel Video Programming Distributor Annual Employment Report.'' In the 3rd R&O, the Commission is adopting revised rules for MVPDs to file FCC Form 395–A, which cable and other MVPDs will use to file annual employment reports. The intent of this 3rd R&O is to update rules for MVPDs to file Form 395–A consistent with new rules adopted in the 2nd R&O. The intent of the Fourth Notice of Proposed Rulemaking is to provide time for cable and other MVPDs and the public to address the issue of whether the Commission should keep these forms confidential after they are filed. With the effective date of the rule revisions adopted in the 3rd R&O, MVPDs and broadcasters must start keeping records of their employees so they can prepare their annual employment reports due to be filed on September 30, 2004.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 07–5284 Filed 10–24–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

October 16, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to (PRA) of 1995 (PRA), Public Law No. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Subject to the PRA, no person shall be subject to any penalty for failing to comply with a collection of information that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written PRA comments should be submitted on or before December 24, 2007. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit all PRA comments by e-mail or U.S. post mail. To submit your comments by e-mail, send them to *PRA@fcc.gov.* To submit your comments by U.S. mail, mark them to the attention of Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s), contact Cathy Williams at (202) 418–2918 or send an e-mail to *PRA@fcc.gov.*

SUPPLEMENTARY INFORMATION: *OMB Control Number:* 3060–0390.

Title: Broadcast Station Annual Employment Report.

Form Number: FCC Form 395–B.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions.

Number of Respondents: 14,000.

Estimated Time per Response: 0.88 hours.

Frequency of Response: Annual reporting requirement.

Total Annual Burden: 12,320 hours.

Nature of Response: Required to obtain or retain benefits.

Confidentiality: No need for confidentiality required.

Total Annual Costs: None.

Privacy Impact Assessment: No impact(s).

Needs and Uses: FCC Form 395–B, ''The Broadcast Station Annual Employment Report,'' is used to assess industry employment trends and provide reports to Congress. Licensees with five or more full-time employees are required to file Form 395–B on or before September 30th of each year. The form is a data collection device used to compile statistics on the workforce employed by broadcast licensees/permittees. The report identifies each staff member by gender and race/ethnicity in each of the nine major job categories. On June 4, 2004, the FCC released the Third Report and Order and Fourth Notice of Proposed Rulemaking (3rd R&O), In the *Matter of Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies, MM Docket No. 98–204, FCC 04–103,* in which it considers issues relating to the Annual Employment Report forms, including Form 395–B, ''The Broadcast Station Annual Employment Report.'' In the 3rd R&O, the Commission is adopting revised rules requiring broadcasters and multichannel video programming distributors (MVPDs) to file annual employment reports. Radio and television broadcasters will use Form 395–B to file annual employment reports. The intent of this 3rd R&O is to reinstate and update requirements for broadcasters and MVPDs to file annual employment reports. The intent of the Fourth Notice of Proposed Rulemaking is to provide time for MVPDs, broadcast licensees, and the public to address the issue of whether the Commission should keep these forms confidential after they are filed. With the effective date of the rule revisions adopted in the 3rd R&O, MVPDs and broadcasters must start keeping records of their employees so they can prepare their annual employment reports due to be filed on or before September 30, 2004.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–21019 Filed 10–24–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested.

October 19, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should submit comments December 24, 2007. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), (202) 395–5887, or via fax at 202–395–5167, or via the Internet at *Nicholas_A._Fraser@omb.eop.gov* and to *Judith-B.Herman@fcc.gov,* Federal Communications Commission (FCC), Room 1–B441, 445 12th Street, SW., Washington, DC 20554. To submit your comments by e-mail send them to: *PRA@fcc.gov.* If you would like to obtain or view a copy of this information collection after the 60 day comment period, you may do so by visiting the OMB's ROCIS site at: *http://www.reginfo.gov/public/do/PRAMain.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s) send an e-mail to *PRA@fcc.gov* or contact Judith B. Herman at 202–418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–1059.

Title: Global Mobile Personal Communications by Satellite (GMPCS)/E911 Call Centers.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 25 respondents; 25 responses.

Estimated Time Per Response: 1 hour.

Frequency of Response: Annual reporting requirement and recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 25 hours.

Annual Cost Burden: $5,000.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: This collection will be submitted as an extension (no change in reporting and recordkeeping requirements) after this 60 day comment period to Office of Management and Budget (OMB) in order to obtain the full three year clearance from them. There is no change in the number of respondents/responses, the estimated burden hours and/or annual costs. The information collection requirements under this OMB control number (3060–1059) are used by the Commission under its authority to license commercial satellite services in the United States pursuant to 47 CFR Part 25. Additionally, the Commission has the authority to ensure that Mobile Satellite Service (MSS) providers establish and maintain Emergency Call Center Service pursuant to 47 CFR 25.284. The recordkeeping and reporting requirements include data on MSS call center usage such as the aggregate number of calls that the call centers receive and the number of calls that required forwarding to a local Public Safety Answering Point (PSAP). The Commission uses this data to monitor compliance with the call center requirement and track usage trends. Such information is useful to the Commission in considering whether FCC rules require modification to accommodate the changing market. Without this collection of information that result from these rules, the Commission would not be able to monitor the MSS carriers' establishment of call centers which are essential to provide emergency services, such as handling emergency 911 telephone calls from American citizens.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–21021 Filed 10–24–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comment Requested

October 16, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995 (PRA), Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Subject to the PRA, no person shall be subject to any penalty for failing to comply with a collection of information that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written PRA comments should be submitted on or before December 24, 2007. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit all PRA comments by e-mail or U.S. post mail.

To submit your comments by e-mail, send them to *PRA@fcc.gov.* To submit your comments by U.S. mail, mark them to the attention of Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s), contact Cathy Williams at (202) 418–2918 or send an e-mail to *PRA@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0788.

Title: DTV Showings/Interference Agreements.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit entities; not-for-profit institutions.

Number of Respondents: 300.

Estimated Hours per Response: 5 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 1,500 hours.

Total Annual Cost: $2,400,000.

Nature of Response: Required to obtain or retain benefits.

Confidentiality: No need for confidentiality required.

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 CFR 73.623(c) requires applicants to submit a technical showing to establish that their proposed facilities will not result in additional interference to TV broadcast and DTV operations. The Commission permits broadcasters to agree to proposed DTV facilities that do not conform to the initial allotment parameters, even though they might be affected by potential new interference. The Commission will consider granting applications on the basis of interference agreements if it finds that such grants will serve the public interest. These agreements must be signed by all parties to the agreement. In addition, the Commission needs the following information to enable such public interest determinations: A list of parties predicted to receive additional interference from the proposed facility, a showing as to why a grant based on the agreements would serve the public interest, and technical studies depicting the additional interference. The technical showings and interference agreements will be used by FCC staff to determine if the public interest would be served by the grant of the application and to ensure that the proposed facilities will not result in additional interference.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–21024 Filed 10–24–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted to the Office of Management and Budget, Comment Requested

October 18, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before December 24, 2007. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, (202) 395–5887, or via fax at 202–395–5167 or via internet at *Nicholas_A._Fraser@omb.eop.gov* and to *Judith-B.Herman@fcc.gov,* Federal Communications Commission, Room 1–B441, 445 12th Street, SW., DC 20554 or an e-mail to *PRA@fcc.gov.* If you would like to obtain or view a copy of this information collection after the 60 day comment period, you may do so by visiting the OMB's ROCIS site at: *http://www.reginfo.gov/public/do/PRAMain.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith B. Herman at 202–418–0214 or via the Internet at *Judith-B.Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0057.

Title: Application for Equipment Authorization.

Form No.: FCC Form 731.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 600 respondents; 600 responses.

Estimated Time Per Response: 25 hours.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 250,000 hours.

Total Annual Cost: $11,107,500.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The Commission will submit this revision to the OMB after this 60 day comment period to obtain the full three-year clearance from them. On April 23, 2007, the Commission released a *Second Report and Order,* FCC 07–56, ET Docket No. 03–201. The Commission amended the rules to provide for more efficient equipment authorization of both existing modular transmitter devices and emerging partitioned (or ''split'') modular transmitter devices in Section 15.212. Single modular transmitters consist of a completely self-contained radio frequency transmitter device that is typically incorporated into another product, host or device.

Split modular transmitters consist of two components: a radio front-end with antenna (or radio devices) and a transmitter control element (or specific hardware on which the software that controls the radio operation resides). All single or split modular transmitters are approved with an antenna. The modular transmitter must be labeled with its own FCC ID number, and if the FCC ID number is not visible when the module is installed inside another device, then the outside of the device into which the module is installed must also display a label referring to the enclosed module. This exterior label can use wording such as the following: ''Contains Transmitter Module FCC ID: XYZMODEL1'' or ''Contains FCC ID: XYZMODEL1.'' Any

similar wording that expresses the same meaning may be used. The grantee may either provide such a label, an example of which must be included in the application for equipment authorization (FCC Form 731), or must provide adequate instructions along with the module which explain this requirement. In the latter case, a copy of these instructions must be included in the application for equipment authorization. The modular transmitter must comply with any specific rule or operating requirements applicable to the transmitter and the manufacturer must provide adequate instructions along with the module to explain any such requirements. A copy of these instructions must also be included in the FCC Form 731. FCC Form 731 will be modified to accommodate identification and validation of the specific devices approved by this rulemaking.

The rule change will benefit manufacturers by allowing greater flexibility in certifying equipment and providing relief from the need to obtain a new equipment authorization each time the same transmitter is installed in a different final product. The rule change in the *Second Report and Order* will also enable manufacturers to develop more flexible and more advanced unlicensed transmitter technologies.

In addition to the rule changes noted above, this requirement is being modified to reflect the growth in the use of the Radio Frequency (RF) spectrum for devices subject to equipment authorization. An adjustment is going to be reported to the OMB due to a reduction in the number of respondents filing the FCC Form 731 with the Commission. The number of responses is filed with both the FCC and the Telecommunications Certification Bodies (TCBs) and the total annual cost is reflected in this submission to the OMB.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–21030 Filed 10–24–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 9, 2007.

A. Federal Reserve Bank of Kansas City (Todd Offenbacker, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. The Burns Group consisting of R. Dean Phillips, individually and as a member of the Burns Group; Janice Sauvage, as trustee of the Janice Sauvage Trust No. 2; the Janice Sauvage Trust No. 2, individually and as a member of the Burns Group; and Philip M. Burns, all of Las Vegas, Nevada; to acquire voting shares of First Financial Services, Inc., and thereby indirectly acquire voting shares of First National Bank and Trust Company, both of Falls City, Nebraska.

Board of Governors of the Federal Reserve System, October 22, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–20992 Filed 10–24–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 19, 2007.

A. Federal Reserve Bank of Atlanta (David Tatum, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. Touchstone Bancshares, Inc., Norcross, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Touchstone National Bank, Duluth, Georgia (in organization).

B. Federal Reserve Bank of Kansas City (Todd Offenbacker, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. First National of Nebraska, Inc., and Lauritzen Corporation, both of Omaha, Nebraska; to acquire 100 percent of the voting shares of Mills County Bancorp, and thereby indirectly acquire voting shares of Mills County Bank, National Association, both in Glenwood, Iowa.

Board of Governors of the Federal Reserve System, October 22, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–20993 Filed 10–24–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 16, 2007.

A. Federal Reserve Bank of New York (Anne MacEwen, Bank Applications Officer) 33 Liberty Street, New York, New York 10045-0001:

1. Greater Rochester Bancorp, Inc., to become a bank holding company by acquiring 100 percent of the voting shares of Genesee Regional Bank, both of Rochester, New York.

B. Federal Reserve Bank of Chicago (Burl Thornton, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. NEB Corporation, Fond du Lac, Wisconsin; to acquire 10.07 percent of the voting shares of First Menasha Bancshares, Inc., Neenah, Wisconsin, and thereby indirectly acquire First National Bank-Fox Valley, Neenah, Wisconsin.

C. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. Highland Bancshares, St. Michael, Minnesota; to acquire 100 percent of the voting shares of Ridgedale State Bank, Minnetonka, Minnesota.

Board of Governors of the Federal Reserve System, October 19, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–20995 Filed 10–24–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The information collection requirements described below will be submitted to the Office of Management and Budget (''OMB'') for review, as required by the Paperwork Reduction Act. The Federal Trade Commission (''FTC'') is seeking public comments on its proposal to extend through November 30, 2010 the current OMB clearance for information collection requirements contained in its Prescreen Opt-Out Disclosure Rule. That clearance expires on November 30, 2007.

DATES: Comments must be filed by November 26, 2007.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to ''Prescreen Opt-Out Disclosure Rule: FTC File No. P075417'' to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope and should be mailed or delivered, with two complete copies, to the following address: Federal Trade Commission, Room H 135 (Annex J), 600 Pennsylvania Ave., NW., Washington, DC 20580. Because paper mail in the Washington area and at the Commission is subject to delay, please consider submitting your comments in electronic form, as prescribed below. However, if the comment contains any material for which confidential treatment is requested, it must be filed in paper form, and the first page of the document must be clearly labeled ''Confidential.''[1] The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible.

Comments filed in electronic form should be submitted by using the following weblink: *https://secure.commentworks.com/ftc-PrescreenOpt-Out* (and following the instructions on the Web-based form). To ensure that the Commission considers an electronic comment, you must file it on the Web-based form at the weblink: *https://secure.commentworks.com/ftc-PrescreenOpt-Out*. If this notice appears at *http://www.regulations.gov*, you may also file an electronic comment through that Web site. The Commission will consider all comments that *http://www.regulations.gov* forwards to it.

All comments should additionally be submitted to: Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission. Comments should be submitted via facsimile to (202) 395-6974 because U.S. Postal Mail is subject to lengthy delays due to heightened security precautions.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments will be considered by the Commission and will be available to the public on the FTC website, to the extent practicable, at *http://www.ftc.gov*. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy at *http://www.ftc.gov/ftc/privacy.htm*.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be addressed to Katherine Armstrong, Attorney, Division of Privacy and Identity Protection, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326-3250.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act (''PRA''), 44 U.S.C. 3501-3520, federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. On August 1, 2007, the FTC sought comment on the information collection requirements associated with the FTC's Prescreen Opt-Out Disclosure Rule (''Prescreen Rule'' or ''Rule), 16 CFR Part 642.[2] No comments were received. Pursuant to the OMB regulations that implement the PRA (5 CFR Part 1320), the FTC is providing this second opportunity for public comment while seeking OMB approval to extend the existing paperwork clearance for the Prescreen Rule. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before November 26, 2007.

[1] Commission Rule 4.2(d), 16 CFR 4.2(d). The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* Commission Rule 4.9(c), 16 CFR 4.9(c).

[2] 72 FR 42091 (Aug. 1, 2007).

Section 615(d) of the Fair Credit Reporting Act (''FCRA''), 15 U.S.C. 1681m(d)(1), requires any person who uses a consumer report in order to make an unsolicited firm offer of credit or insurance to a consumer to provide with each written solicitation a clear and conspicuous statement that:

> (A) information contained in the consumer's consumer report was used in connection with the transaction; (B) the consumer received the offer of credit or insurance because the consumer satisfied the criteria for credit worthiness or insurability under which the consumer was selected for the offer; (C) if applicable, the credit or insurance may not be extended if, after the consumer responds to the offer, the consumer does not meet the criteria used to select the consumer for the offer or any applicable criteria bearing on credit worthiness or insurability or does not furnish any required collateral; (D) the consumer has a right to prohibit information contained in the consumer's file with any consumer reporting agency from being used in connection with any credit or insurance transaction that is not initiated by the consumer; and (E) the consumer may exercise the right referred to in subparagraph (D) by notifying a notification system established under section 604(e) [of the FCRA].

Section 615(d)(1) of the FCRA, 15 U.S.C. 1681m(d)(1).

The Fair and Accurate Credit Transactions Act of 2003, Pub. L. 108-159, 117 Stat. 1952 (''FACT Act'') was signed into law on December 4, 2003. Section 213(a) of the FACT Act amended FCRA Section 615(d) to require that the statement mandated by Section 615(d) ''be presented in such format and in such type size and manner as to be simple and easy to understand, as established by the Commission, by rule, in consultation with the Federal banking agencies and the National Credit Union Administration.'' The Commission published the Final Rule implementing this provision in the **Federal Register** on January 31, 2005, and the Rule became effective on August 1, 2005.

The Rule adopted a ''layered'' notice approach that requires a short, simple, and easy-to-understand statement of consumers' opt-out rights on the first page of the prescreened solicitation, along with a longer statement containing additional details elsewhere in the solicitation. Specifically, the Rule requires that a short notice be placed on the front side of the first page of the principal promotional document in the solicitation, or, if provided electronically, on the same page and in close proximity to the principal marketing message. The Rule specifies that the type size be larger than the type size of the principal text on the same page, but in no event smaller than 12-point type. If the notice is provided by electronic means, the entity providing it must take reasonable steps to ensure that the type size is larger than the type size of the principal text on the same page. The Rule further provides that the long notice that appears elsewhere in the solicitation be in a type size that is no smaller than the type size of the principal text on the same page, but in no event smaller than 8-point type. The long notice must begin with the heading ''PRESCREEN & OPT-OUT NOTICE,'' which must be in capital letters and underlined, set apart from other text on the page, and in a type style that is distinct from the principal type style used on the same page. The Rule also includes model notices in English and Spanish.

Burden statement:

Estimated total annual hours burden: 1,000 to 1,500 hours (rounded to the nearest thousand).

Based on public comments received in response to the Commission's 2004 Notice of Proposed Rulemaking,[3] when issuing the final Rule, the Commission estimated that the annual burden to industry would be between 43,600 and 45,600 hours.[4] This estimate was comprised of 500 to 750 companies each spending 8 hours to revise an existing solicitation, plus 100 companies each needing an additional 396 hours to revise multiple solicitations ((500 companies x 8 burden hours + 39,600 burden hours = 43,600 burden hours); (750 companies x 8 burden hours + 39,600 burden hours = 45,600 burden hours)).[5] The Commission further estimated that the total annual cost to industry would be between $1,157,894 and $1,213,329.[6]

The requirements of the Rule have not changed since OMB's 2004 approval of the final Rule. The previous estimates included a one-time burden to reprogram and update systems to revise existing notices and to re-format solicitations to comply with the Rule. Because the Rule has been in effect since August 1, 2005, covered entities have already incurred the one-time costs of transitioning to compliant notice formats. Accordingly, the annual PRA-related burden associated with the Rule is now reduced. FTC staff believes that the primary cost of continuing to comply with the Rule is limited to any legal review each entity determines is necessary to remain in compliance.

FTC staff continues to estimate that between 500 and 750 entities make prescreened solicitations. Because no additional revision or reformatting is necessary, however, staff has lowered the estimate of the burden hours to approximately 2 hours (one quarter of one business day), rather than the estimated 8 hours that was the estimate to revise and reformat solicitations when the Rule was promulgated. Accordingly, the total annual burden is between 1,000 and 1,500 hours (500 to 750 entities x 2 hours of annual burden). FTC staff assumes that in-house legal counsel will handle most of the compliance review and has applied an average hourly wage of $250/hour for their labor. Accordingly, the total cost for all affected entities would be between $250,000 and $375,000 (1000 to 1,500 burden hours x $250 per hour of legal review time).

John D. Graubert,

Acting General Counsel.

[FR Doc. E7–21067 Filed 10–24–07: 8:45 am]

BILLING CODE 6750–01–S

[3] 69 FR 58861 (Oct. 1, 2004).

[4] 70 FR 5022 (Jan. 31, 2005).

[5] The Commission estimated that each of the 100 companies would revise 99 additional solicitations and incur 4 hours of burden per solicitation (100 companies x 99 solicitations x 4 hours of burden = 39,600 burden hours).

[6] This estimate was based on Bureau of Labor Statistics data (as of July, 2002), as follows: 2 hours of managerial/professional time at $31.55 per hour; plus 6 hours of skilled technical labor at $26.44 per hour; multiplied by 500 and 750 companies, for a total of $110,870 and $166,305, respectively. These sums were added to $1,047,024 (39,600 hours of skilled technical labor at $26.44 per hour) for revising multiple solicitations.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–235]

Proposed Substances To Be Evaluated for Set 22 Toxicological Profiles

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Request for comments on the proposed substances to be evaluated for Set 22 toxicological profiles.

SUMMARY: This notice announces the list of proposed substances that will be evaluated for CERCLA Set 22

toxicological profile development. ATSDR's Division of Toxicology and Environmental Medicine is soliciting public nominations from the list of proposed substances to be evaluated for toxicological profile development. ATSDR also will consider the evaluation of any additional substances that may have public health implications.

DATES: Nominations must be submitted within 30 days of the publication of this notice. The 30-day period begins October 26th, 2007 and ends November 26th, 2007.

ADDRESSES: Nominations may be submitted electronically, by mail, or by facsimile. Refer to the section *Submission of Nominations* (below) for specific addresses and/or the facsimile number.

FOR FURTHER INFORMATION CONTACT: Contact Commander Jessilynn B. Taylor, Division of Toxicology and Environmental Medicine, Agency for Toxic Substances and Disease Registry, Mailstop F–32, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone (770) 488–3313.

SUPPLEMENTARY INFORMATION: The Superfund Amendments and Reauthorization Act of 1986 (SARA) [42 U.S.C. 9601 *et seq.*] amended the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA or Superfund) [42 U.S.C. 9601 *et seq.*] by establishing certain requirements for ATSDR and the U.S. Environmental Protection Agency (EPA) with regard to hazardous substances that are most commonly found at facilities on the CERCLA National Priorities List (NPL). Among these statutory requirements is a mandate for the Administrator of ATSDR to prepare toxicological profiles for each substance included on the Priority List of Hazardous Substances. This list has identified 275 hazardous substances that ATSDR and EPA determined pose the most significant potential threat to human health. The availability of the revised list of the 275 priority substances was announced in the **Federal Register** on December 7, 2005 (70 FR 702840). For prior versions of the list of substances, see **Federal Register** notices dated April 17, 1987 (52 FR 12866); October 20, 1988 (53 FR 41280); October 26, 1989 (54 FR 43619); October 17, 1990 (55 FR 42067); October 17, 1991 (56 FR 52166); October 28, 1992 (57 FR 48801); February 28, 1994 (59 FR 9486); April 29, 1996 (61 FR 18744; November 17, 1997 (62 FR 61332); October 21, 1999 (64 FR 56792); October 25, 2001 (66 FR 54014) and November 7, 2003 (68 FR 63098).

Proposed Substances To Be Evaluated for Set 22 Toxicological Profiles

Each year, ATSDR develops a list of priority substances that will be evaluated for toxicological profile development. This list was compiled, on the basis of ATSDR's Priority List of Hazardous Substances, with consideration of the amount of relevance of newly published scientific literature. The following 73 substances will be evaluated:

	Substance name	CAS No.
1	PERFLUOROOCTANOIC ACID	(1)
	PERFLUOROCYL SULFONATES	(1)
2	MERCURY	007439–97–6
	METHYLMERCURY	022967–92–6
	MERCURIC CHLORIDE	007487–94–7
3	POLYCHLORINATED BIPHENYLS	001336–36–3
	AROCLOR 1254	011097–69–1
	AROCLOR 1260	011096–82–5
	AROCLOR 1248	012672–29–6
	AROCLOR 1242	053469–21–9
	AROCLOR	012767–79–2
	AROCLOR 1221	011104–28–2
	AROCLOR 1016	012674–11–2
	AROCLOR 1232	011141–16–5
	AROCLOR 1240	071328–89–7
	TETRACHLOROBIPHENYL	026914–33–0
4	CADMIUM	007440–43–9
5	POLYCYCLIC AROMATIC HYDROCARBONS	130498–29–2
	BENZO(A)PYRENE	000050–32–8
	BENZO(B)FLUORANTHENE	000205–99–2
	DIBENZO(A,H)ANTHRACENE	000053–70–3
	BENZO(A)ANTHRACENE	000056–55–3
	BENZO(K)FLUORANTHENE	000207–08–9
	BENZOFLUORANTHENE	056832–73–6
	FLUORANTHENE	000206–44–0
	CHRYSENE	000218–01–9
	ACENAPHTHENE	000083–32–9
	INDENO(1,2,3-CD)PYRENE	000193–39–5
	BENZOPYRENE	073467–76–2
	PHENANTHRENE	000085–01–8
	PYRENE	000129–00–0
	FLUORENE	000086–73–7
	ANTHRACENE	000120–12–7
	BENZO(A)FLUORANTHENE	000203–33–8
	BENZO(GHI)PERYLENE	000191–24–2
	ACENAPHTHYLENE	000208–96–8
	BENZO(J)FLUORANTHENE	000205–82–3
	BENZO(E)PYRENE	000192–97–2
	BENZOPERYLENE	011057–45–7
	BENZO(B)ANTHRACENE	000092–24–0
	DIBENZ(A,J)ANTHRACENE	000224–41–9
	BENZO(GHI)FLUORANTHENE	000203–12–3
	1-METHYLPYRENE	002381–21–7

	Substance name	CAS No.
6	CHLOROFORM	000067–66–3
7	DDT, P,P′-	000050–29–3
	DDE, P,P′-	000072–55–9
	DDD, P,P′-	000072–54–8
	DDT, O,P′-	000789–02–6
	DDD, O,P′-	000053–19–0
	DDE, O,P′-	003424–82–6
8	TRICHLOROETHYLENE	000079–01–6
9	IELDRIN	000060–57–1
	ALDRIN	000309–00–2
10	CHROMIUM, HEXAVALENT	018540–29–9
	CHROMIUM(VI) OXIDE	001333–82–0
	CHROMIUM	007440–47–3
	CHROMIUM TRIOXIDE	007738–94–5
	CHROMIUM, TRIVALENT	016065–83–1
11	CHLORDANE	000057–74–9
	CIS-CHLORDANE	005103–71–9
	TRANS-CHLORDANE	005103–74–2
	OXYCHLORDANE	027304–13–8
	GAMMA-CHLORDENE	056641–38–4
	CHLORDANE, TECHNICAL	012789–03–6
	ALPHA-CHLORDENE	056534–02–2
	NONACHLOR, TRANS-	039765–80–5
	NONACHLOR, CIS-	005103–73–1
	CHLORDENE	003734–48–3
12	HEXACHLOROBUTADIENE	000087–68–3
13	COAL TAR CREOSOTE	008001–58–9
	COAL TARS	008007–45–2
	COAL TAR PITCH	065996–93–2
14	BENZIDINE	000092–87–5
15	TOXAPHENE	008001–35–2
16	TETRACHLOROETHYLENE	000127–18–4
17	1,2-DIBROMOETHANE	000106–93–4
18	DISULFOTON	000298–04–4
19	3,3′-DICHLOROBENZIDINE	000091–94–1
20	BERYLLIUM	007440–41–7
21	ENDRIN	000072–20–8
	ENDRIN KETONE	053494–70–5
	ENDRIN ALDEHYDE	007421–93–4
22	1,2-DIBROMO–3-CHLOROPROPANE	000096–12–8
	DIBROMOCHLOROPROPANE	067708–83–2
23	PENTACHLOROPHENOL	000087–86–5
24	DI-N-BUTYL PHTHALATE	000084–74–2
25	ENDOSULFAN SULFATE	001031–07–8
	ENDOSULFAN	000115–29–7
	ENDOSULFAN, ALPHA	000959–98–8
	ENDOSULFAN, BETA	033213–65–9
26	METHOXYCHLOR	000072–43–5
27	METHANE	000074–82–8
28	TOLUENE	000108–88–3
29	2-HEXANONE	000591–78–6
30	2,3,7,8-TETRACHLORODIBENZO-P-DIOXIN	001746–01–6
	HEXACHLORODIBENZO-P-DIOXIN	034465–46–8
	HEPTACHLORODIBENZO-P-DIOXIN	037871–00–4
	TETRACHLORODIBENZO-P-DIOXIN	041903–57–5
	PENTACHLORODIBENZO-P-DIOXIN	036088–22–9
	1,2,3,4,6,7,8-HEPTACHLORODIBENZO-P-DIOXIN	035822–46–9
	OCTACHLORODIBENZO-P-DIOXIN	003268–87–9
	1,2,3,6,7,8-HEXACHLORODIBENZO-P-DIOXIN	057653–85–7
	1,2,3,4,7,8-HEXACHLORODIBENZO-P-DIOXIN	039227–28–6
	1,2,3,7,8,9-HEXACHLORODIBENZO-P-DIOXIN	019408–74–3
	1,2,3,7,8-PENTACHLORODIBENZO-P-DIOXIN	040321–76–4
31	DI(2-ETHYLHEXYL)PHTHALATE	000117–81–7
32	1,1-DICHLOROETHENE	000075–35–4
33	METHYLENE CHLORIDE	000075–09–2
34	2,4,6-TRINITROTOLUENE	000118–96–7
35	BROMODICHLOROETHANE	000683–53–4
36	1,2-DICHLOROETHANE	000107–06–2
37	2,4,6-TRICHLOROPHENOL	000088–06–2
	TETRACHLOROPHENOL	025167–83–3
	2,4-DICHLOROPHENOL	000120–83–2
	2,4,5-TRICHLOROPHENOL	000095–95–4
	2-CHLOROPHENOL	000095–57–8
	2,3,4,5-TETRACHLOROPHENOL	004901–51–3

	Substance name	CAS No.
	2,3,5,6-TETRACHLOROPHENOL	000935–95–5
	2,3,4,6-TETRACHLOROPHENOL	000058–90–2
	4-CHLOROPHENOL	000106–48–9
	CHLOROPHENOL	025167–80–0
38	2,4-DINITROPHENOL	000051–28–5
39	BIS(2-CHLOROETHYL) ETHER	000111–44–4
40	ASBESTOS	001332–21–4
	CHRYSOTILE ASBESTOS	012001–29–5
	AMOSITE ASBESTOS	012172–73–5
41	HEXACHLOROBENZENE	000118–74–1
42	RADIUM–226	013982–63–3
	RADIUM	007440–14–4
	RADIUM–228	015262–20–1
	RADIUM–224	013233–32–4
43	2,4-DINITROTOLUENE	000121–14–2
	DINITROTOLUENE	025321–14–6
	2,6-DINITROTOLUENE	000606–20–2
44	ETHION	000563–12–2
45	THORIUM	007440–29–1
	THORIUM–230	014269–63–7
	THORIUM–228	014274–82–9
46	4,6-DINITRO-O-CRESOL	000534–52–1
47	RADON	010043–92–2
	RADON–222	014859–67–7
	RADON–220	022481–48–7
48	CHLOROBENZENE	000108–90–7
49	N-NITROSODI-N-PROPYLAMINE	000621–64–7
50	MANGANESE	007439–96–5
	MANGANESE DIOXIDE	001313–13–9
51	POLONIUM–210	013981–52–7
52	LEAD–210	014255–04–0
53	CHLORPYRIFOS	002921–88–2
54	NEPTUNIUM–237	013994–20–2
55	CHLORDECONE	000143–50–0
	MIREX	002385–85–5
56	S,S,S-TRIBUTYL PHOSPHOROTRITHIOATE	000078–48–8
57	BROMINE	007726–95–6
58	1,2,3-TRICHLOROBENZENE	000087–61–6
59	DICOFOL	000115–32–2
60	PARATHION	000056–38–2
61	TRICHLOROFLUOROETHANE	027154–33–2
62	TRIFLURALIN	001582–09–8
63	4,4′-METHYLENEBIS(2-CHLOROANILINE)	000101–14–4
64	PENTACHLOROBENZENE	000608–93–5
65	1,1-DICHLOROETHANE	000075–34–3
66	1,1,2-TRICHLOROETHANE	000079–00–5
67	1,2,3,4,6,7,8,9-OCTACHLORODIBENZOFURAN	039001–02–0
	HEPTACHLORODIBENZOFURAN	038998–75–3
	2,3,4,7,8-PENTACHLORODIBENZOFURAN	057117–31–4
	HEXACHLORODIBENZOFURAN	055684–94–1
	PENTACHLORODIBENZOFURAN	030402–15–4
	2,3,7,8-TETRACHLORODIBENZOFURAN	051207–31–9
	DIBENZOFURANS, CHLORINATED	042934–53–2
	1,2,3,4,6,7,8-HEPTACHLORODIBENZOFURAN	067562–39–4
	1,2,3,7,8,9-HEXACHLORODIBENZOFURAN	072918–21–9
	TETRACHLORODIBENZOFURAN	030402–14–3
	1,2,3,6,7,8-HEXACHLORODIBENZOFURAN	057117–44–9
	1,2,3,4,7,8-HEXACHLORODIBENZOFURAN	070648–26–9
	2,3,4,6,7,8-HEXACHLORODIBENZOFURAN	060851–34–5
	1,2,3,7,8-PENTACHLORODIBENZOFURAN	057117–41–6
	1,2,3,4,7,8,9-HEPTACHLORODIBENZOFURAN	055673–89–7
68	TRICHLOROETHANE	025323–89–1
69	HEXACHLOROCYCLOPENTADIENE	000077–47–4
70	1,2-DIPHENYLHYDRAZINE	000122–66–7
71	NANOMATERIALS	.....
72	VANADIUM	007440–62–2
73	FORMALDEHYDE	000050–00–0

(1) Various.

Submission of Nominations for the Evaluation Set 22

Proposed Substances: Today's notice also invites voluntary public nominations for substances not listed in this notice. Nominations are most useful if they include the nominator, including full name, title, affiliation, email address, and telephone number.

ATSDR will evaluate all data and information associated with nominated substances and will determine the final list of substances that will be chosen for toxicological profile development. Substances will be chosen according to ATSDR's specific guidelines for selection, found in the *Selection Criteria* announced in the **Federal Register** on May 7th, 1993 (87 FR 27288).

Please submit nominations by one of the following methods:

- *E-mail: jxt1@cdc.gov.*
- *Fax:* 770.488.4178.
- *Mail:* CDR Jessilynn Taylor, 1600 Clifton Rd, NE., MS F32, Atlanta, GA, 30333.

Please ensure that your comments are submitted within the specified nomination period. Nominations received after the closing date will be marked as late and may be considered only if time permits.

Dated: October 19, 2007.

Ken Rose,

Director, Office of Policy, Planning and Evaluation, National Center for Environmental Health/Agency for Toxic Substances and Disease Registry.

[FR Doc. E7–21018 Filed 10–24–07; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 1999N–2337 (formerly Docket No. 99N–2337)]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; CGMP for Blood and Blood Components; Notification of Consignees and Transfusion Recipients Receiving Blood and Blood Components at Increased Risk of Transmitting HCV Infection (''Lookback'')

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''CGMP for Blood and Blood Components; Notification of Consignees and Transfusion Recipients Receiving Blood and Blood Components at Increased Risk of Transmitting HCV Infection (''Lookback'')'' 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 August 24, 2007 (72 FR 48766), 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 0910–0610. The approval expires on October 31, 2010. A copy of the supporting statement for this information collection is available on the Internet at *http://www.fda.gov/ohrms/dockets.*

Dated: October 19, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–21055 Filed 10–24–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006N–0278]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Guidance for Industry on Continuous Marketing Applications: Pilot—Scientific Feedback and Interactions During Development of Fast Track Products Under the Prescription Drug User Fee Act

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled '' Guidance for Industry on Continuous Marketing Applications: Pilot—Scientific Feedback and Interactions During Development of Fast Track Products Under the Prescription Drug User Fee Act'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of the Chief Information Officer (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4816.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 21, 2007 (72 FR 28495), 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 0910–0518. The approval expires on September 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: October 19, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–21056 Filed 10–24–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2007N-0390]

User Fee Program for Advisory Review of Direct-to-Consumer Television Advertisements for Prescription Drug and Biological Products; Request for Notification of Participation and Number of Advertisements for Review

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for notification of participation.

SUMMARY: The Food and Drug Administration (FDA) is issuing this notice to explain the new direct-to-consumer (DTC) user fee program (DTC user fee program) established by the Food and Drug Administration Amendments Act of 2007 (FDAAA) and, as required by the new law, to ask companies to notify FDA within 30 calendar days if they intend to participate in the DTC user fee program during fiscal year (FY) 2008 and, if they do plan to participate, to identify the number of DTC television advertisements for prescription drug and biological products they plan to

submit for advisory review during FY 2008. The information gathered in response to this notice will be used to establish the FY 2008 fee that will be charged for each FY 2008 advisory review submission to FDA and to fund the operating reserve established under FDAAA.

DATES: Submit written responses by November 26, 2007.

ADDRESSES: Submit written responses by overnight courier service to Wayne Amchin, Project Manager, Division of Drug Marketing, Advertising, and Communications (DDMAC), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, rm. 1477, Silver Spring, MD 20993–0002. For companies that use Federal Express or DHL for overnight courier service, the courier will be able to deliver packages directly to DDMAC's office. Other courier services will need to call 301–796–1200 to request that the DDMAC project manager meet the courier at the security desk for package pickup. In addition, fax a copy of your response to 301–796–9878 or e-mail a copy to *dtcp@fda.hhs.gov*.

FOR FURTHER INFORMATION CONTACT: For questions about the DTC user fee program, contact Wayne Amchin, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, rm. 1477, Silver Spring, MD 20993–0002, 301–796–1200, FAX: 301–796–9878, e-mail: *dtcp@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

On September 27, 2007, the President signed into law FDAAA (Public Law 110–85). Title I of this statute reauthorized the Prescription Drug User Fee Act (PDUFA) for FYs 2008 to 2012. In addition, Title I also created new section 736A of the Federal Food, Drug, and Cosmetic Act (the act), which authorizes a new and separate user fee program for the advisory review of DTC prescription drug television advertisements. Participation in the program is voluntary. Sponsors can decide, at their own discretion, whether to seek FDA advisory review of DTC prescription drug television advertisements in advance of publicly broadcasting them. However, under the new law, if a sponsor decides to seek FDA advisory review of a DTC television advertisement, the sponsor must pay a required fee for that review. FDA has agreed to use the resources collected under this program to meet certain performance goals set forth in an enclosure to letters dated September 27, 2007, from the Secretary of Health and Human Services (the Secretary) to the Chairmen and Ranking Minority Members of the Senate Committee on Health, Education, Labor, and Pensions and the House of Representatives Committee on Energy and Commerce. The letters are posted at *http://www.fda.gov/cder/pdufa*.

FDA is issuing this **Federal Register** notice to explain the new program and to ask companies to notify FDA by November 26, 2007: (1) If they intend to participate in the FY 2008 DTC user fee program and (2) if they do plan to participate, to identify the number of DTC television advertisements they plan to submit for advisory review during FY 2008 to DDMAC in the Center for Drug Evaluation and Research or the Advertising and Promotional Labeling Branch in the Center for Biologics Evaluation and Research. The information gathered in response to this notice will be used to establish the fees that will be charged for each advisory review submission to FDA during FY 2008 and to create an operating reserve.

II. Background

FDA's prescription drug advertising regulations give companies the option of submitting proposed television advertisements to FDA for advisory review before publicly disseminating them. In this way, companies can benefit from FDA's advice on whether or not the advertisements are accurate, balanced, and adequately supported. The submission of advertisements for advisory review gives sponsors the opportunity to address any problems before the advertisements are shown to the public and can improve the quality of the advertisements. Companies have recognized the benefits of this advisory review mechanism, and between 2000 and 2006, FDA received an average of approximately 150 television advertisements for advisory review each year. Recognizing the value of this review, the Pharmaceutical Research and Manufacturers of America (PhRMA) recently stated in its voluntary guiding principles on DTC advertising (see ''PhRMA Guiding Principles; Direct to Consumer Advertisements About Prescription Medicines'' at *http://www.phrma.org/files/DTCGuidingprinciples.pdf*) that companies should submit all new DTC television advertisements to FDA before broadcasting them. In addition, FDAAA provides that FDA may require the submission of drug television advertisements for review before dissemination. However, this provision does not take effect until 180 days after FDAAA's enactment, and does not affect this user fee program, which only applies to voluntary submissions for advisory review.

As FDA's DTC advisory review workload has grown, FDA's ability to keep pace with the demands for reviews has decreased, and the time it takes to review DTC materials submitted for advisory review, including television advertisements, has been increasing. The lack of timely, predictable FDA review times for DTC television advertisements has hindered companies' ability to accurately set timeframes for their marketing campaigns and has discouraged companies from taking advantage of the DTC advisory review process.

III. DTC User Fee Program

The DTC user fee program is available to companies interested in voluntarily submitting to FDA for advisory review a DTC television advertisement for any product that qualifies as a ''prescription drug product,'' as defined in 21 U.S.C. 379g(3). Under this program, a company that chooses to submit a DTC television advertisement for advisory review will be assessed two types of fees: (1) A fee for each proposed DTC television advertisement submitted for advisory review prior to its initial public dissemination (''advisory review fee'') and (2) a fee paid during the company's first year of participation in the program to establish a reserve fund (''operating reserve fee'').

The decision to seek an advisory review from FDA remains voluntary. However, FDA will not accept for review any prescription drug DTC television advertisements voluntarily submitted by a company for advisory review unless the company has paid both fees.

The payment of an advisory review fee under new section 736A of the act entitles a company to submit for advisory review by FDA one proposed predissemination DTC television advertisement, and one resubmission of the same proposed DTC television advertisement, after receipt of FDA advisory comments on the initial submission. It should be noted that fees will not be assessed for advertisements required to be submitted to FDA prior to initial public dissemination, such as advertisements for accelerated approval drugs (21 CFR 314.550 and 314.640 (subparts H and I)), biologics (21 CFR 601.45 and 601.94 (subparts E and H)), and submissions required by the Secretary under section 901 of FDAAA (as it amends the act to add section 503B, ''Prereview of Television Advertisements''), unless the sponsor voluntarily designates the required

submission as a submission for advisory review under this program. Fees also will not be assessed for advisory reviews of advertising or promotional material other than DTC television advertisements (e.g., print advertisements or promotional labeling).

The user fees associated with this program are structured to provide incentives for companies to join the program in FY 2008 and to pay all fees on time, as this will give FDA the funding it needs to hire sufficient staff to review the identified number of advisory submissions in FY 2008. FDA will recruit staff to conduct reviews based upon the expected number of submissions for FY 2008 that are identified in response to this participation notice. Fees for FY 2008 must be paid in a timely manner to allow FDA to actually obtain these staffing resources to conduct timely reviews and meet performance metrics during this year. In addition, the program contains incentives for timely participation and payment. Participants who do not pay their fees on time or who join the program late in a fiscal year must pay individual fees that are 50 percent greater than the established individual fees for participants who both join the program and pay on time.

IV. Establishing the Advisory Review Fee

A. Process

Congress directed FDA to issue a **Federal Register** notice, not later than 30 days after enactment of FDAAA, asking companies to indicate whether they intend to participate in the DTC user fee program by voluntarily submitting for FDA advisory review DTC television advertisements for prescription drugs during FY 2008. Companies that indicate they intend to participate must specify the number of advertisements they intend to submit in FY 2008. Once companies have responded to this notice, FDA will issue another **Federal Register** notice establishing the fee for each advisory review submission for FY 2008.

B. Basis for the Fee

The fee will be based on the number of advertisements identified in response to this participation notice. The advisory review fees in FY 2008 will be set at a level to generate target revenues of $6.25 million in the first year of the program. Individual fees will be determined by dividing the target revenue, established in the statute, by the number of proposed television advertisements that all companies have indicated (in response to the participation notice) that they intend to submit during FY 2008. For example, if companies indicate that they intend to submit 150 total advertisements, the fee for each advisory review submission will be $41,667 ($6.25 million divided by 150). The statute limits this fee to no more than $83,000 per submission for FY 2008. This limitation is one of several provisions in the statute that help ensure individual sponsors will not individually bear a disproportionate share of the cost of the program. The target revenue figures will be adjusted annually for inflation and workload in subsequent years. In each subsequent fiscal year of the program, FDA will issue a new request for notice of participation by June 1 of the previous fiscal year and a second notice by August 1 of the previous fiscal year establishing the fees for the fiscal year beginning October 1.

C. Additional Submissions

If, in response to this notice, a participant notifies FDA that it plans to submit a certain number of advertisements for FY 2008 and then exceeds that number of advertisements, the participant will be assessed a fee for each additional submission. The fee will be 50 percent greater than the established individual fee. In addition, a participant who does not pay the fees for which it is billed within the timeframe specified by the Secretary once the fees are set for FY 2008 will be assessed a penalty that is 50 percent greater than the established individual fee.

D. Year-to-Year Carry Overs

If a company identifies and pays for more advisory reviews than it submits in a given fiscal year, the company may carry over one paid submission for advisory review to the next fiscal year. This means that a submission for advisory review for which the fee was paid in 1 fiscal year can be submitted for advisory review in the following fiscal year. Companies cannot carry over more than one such submission to the next fiscal year; for unused submissions over and above the one available for carryover, the paid user fee will not be refunded, waived, exempted, or reduced. However, resubmissions are not subject to a fiscal year limitation. For example, a company can submit an advertisement for advisory review in fiscal year 2008 and resubmit a revised version of that same advertisement for advisory review in fiscal year 2009, at no additional cost.

E. Operating Reserves

To establish operating reserves for the program, in the first year of their participation in the program, participants will be assessed a one-time participation fee that will be based on the number of anticipated submissions the participant identifies for that year. In this way, FDA will collect additional revenues of $6.25 million to be placed in reserve from which funds can be drawn if target revenues fluctuate downward in subsequent years. For companies responding by November 26, 2007, the operating reserve fee for each participant in FY 2008 will be an amount equal to the total amount that company is charged for its annual advisory review fees for FY 2008. For companies who respond by November 26, 2007, but do not pay the assessed operating reserve fee within the timeframe specified by the Secretary, their operating reserve fee will be 50 percent higher than what they would have owed had they paid on time. For participants who join the program late in FY 2008, i.e., those who do not notify FDA of their intent to participate until after November 26, 2007, the operating reserve fee will be 50 percent higher than what they would have owed had they both notified FDA and paid on time. Companies who join the program in subsequent fiscal years (FYs 2009 to 2012) will be assessed an amount for the operating reserve fee that will be at least as much as the amount they would have been assessed if they had joined the program at the start of FY 2008. Specifically, in subsequent years, the operating reserve fee for new participants will be the higher of: (1) The total amount of advisory review fees for all of the new participant's proposed DTC television advertisements in the fiscal year they join the program or (2) the total amount of advisory review fees that would have been assessed in FY 2008 for that number of proposed DTC television advertisements. This statutory fee structure limits the incentive for companies to join the program late, which could prevent the program from receiving sufficient funding in the initial year and place a disproportionate share of the cost of the program on those participants who join the program in its initial year of operation.

F. Effect of Inadequate Funding

The statute provides that if FDA fails to receive sufficient funding from companies within 120 days after enactment of FDAAA, the program will not commence. Sufficient funding consists of a combined total amount of

at least $11.25 million from advisory review fees and operating reserve fees. In the event that insufficient funding is received and the program does not commence, all collected fees will be refunded to the companies that paid.

G. FDA Commitment

The fees will be used to fund approximately 27 additional staff for predissemination advisory review of DTC television advertisements. These additional resources will enable FDA to provide more timely reviews of DTC television advertisements. FDA has committed to phased-in performance metrics. For example, assuming 150 submissions in FY 2008, FDA will review and provide advisory comments to the sponsor within 45 days on 50 percent of the 150 original submissions. In addition, FDA is committed to reviewing 50 percent of resubmissions within 30 days. The performance metrics will be phased in over the 5 years of the program, with each year including more stringent performance goals.

V. Request for Notice of Participation

FDA is asking companies that intend to submit advertisements to FDA for advisory review in FY 2008 to notify FDA by November 26, 2007 of: (1) Their intent to submit advertisements for advisory review and (2) the number of DTC television advertisements they plan to submit for advisory review during FY 2008.

Notification of participation without specifying the number of DTC television advertisements to be submitted in FY 2008 will be considered an incomplete notification, and subsequent notification of intent to submit advertisements after November 26, 2007 would be treated as late.

The agency requests that all companies submit their written responses within 30 calendar days (see **DATES**) by overnight courier service to Wayne Amchin (see **ADDRESSES**) and fax or e-mail a copy of their response (see **ADDRESSES**).

A. What Should Those Wishing To Participate Submit in Their Written Notification?

The following information should be included in a company's DTC television advertisement written notification:

- A statement that they will submit DTC television advertisements to FDA for advisory review during FY 2008,
- The number of proposed DTC television advertisements they will submit for advisory review under the DTC user fee program in FY 2008, and
- The name, title, billing address, and contact information (phone, e-mail, fax) of the company representative who will be the primary person for FDA to contact concerning the company's participation in the program.

B. What Does Written Notification to FDA Mean?

Each company's written notification to FDA of the number of DTC television advertisements it intends to submit for advisory review in FY 2008 is a legally binding commitment by that company to pay the FY 2008 advisory review fee for each submission (see section 736A(a)(1)(D)(ii) of the act). Each person who is assessed an advisory review fee is also required to pay an operating reserve fee for those submissions (a one-time fee in the first year of participation to fund the operating reserve) (see section 736A(a)(2) of the act). FDA will send invoices to each company for all submissions identified in response to this notice, and the advisory review fee and the operating reserve fee for all these submissions are due and payable on the date specified in the invoices. FDA will also assign each participant a series of unique user fee ID numbers to correspond with the number of advisory reviews that the participant identified in response to this notice. For example, a company identifying 10 advisory reviews will receive 10 unique user fee ID numbers in its invoice. Each submission of a DTC television advertisement for FDA advisory review will be identified with a user fee ID number to show that the fee has been paid. A company's request for advisory review will be considered incomplete and submissions will not be accepted for review until all fees owed by the company for all advisory reviews and the operating reserve fee have been paid (see section 736A(e) of the act).

C. Can a Company Transfer or Sell its Remaining Balance of User Fee Credits to Another Company?

For each advisory review fee paid by a person for a fiscal year, section 736A(a)(1)(F)(i) of the act provides that the person is entitled to acceptance for advisory review of one DTC advertisement and acceptance of one resubmission for advisory review of the same advertisement. Section 736A(a)(1)(F)(i) of the act further provides that the advertisement shall be submitted for review in the fiscal year for which the fee was assessed, except that a person may carry over not more than one paid advisory review submission to the next fiscal year. FDA will administratively keep track of these submissions as advisory review credits. Each credit for an advisory review will expire at the end of the fiscal year for which the user fees were paid, except that one unused credit can be carried over from the fiscal year in which it was purchased to the next fiscal year. Advisory review credits are not transferable, except to a successor in interest (see section 736A(a)(1)(F)(iv) of the act). If unexpired credits are transferred to a successor in interest, the successor company and former owner should notify FDA to ensure that future billing of the successor company reflects prior contributions to the DTC user fee program reserve fund and the unexpired credit balance. Evidence of a successor in interest could include a copy of the documentation required under 21 CFR 314.72. Please contact Wayne Amchin (see **FOR INFORMATION CONTACT**) concerning successor in interest issues.

Successors in interest with an unexpired credit balance should also be aware of the following:

- One unused credit can be carried over from the fiscal year in which it was purchased to the next fiscal year.
- In responding to the annual **Federal Register** notice for company participation, the successor company must indicate its intent to use the unexpired carryover credit in the upcoming fiscal year.

D. How Do I Send in DTC Television Advertisements for Advisory Review Under the DTC User Fee Program?

FDA intends to issue guidance to industry explaining how to submit DTC advisory review packages for review under the DTC user fee program. The guidance document will provide details on the contents, format, and procedures that FDA recommends be followed. The guidance will also explain how and where to submit advisory review packages to start the DTC user fee program performance clock. FDA will issue a **Federal Register** notice to announce the availability of this guidance.

E. What Happens if I Send in a DTC Television Advertisement for Advisory Review After October 1, 2007, but Before I'm Invoiced by FDA for My FY 2008 Fees?

The effective date for the assessment and collection of fees for DTC television advertisements under this program is October 1, 2007. Therefore, any DTC television advertisement submitted for advisory review in FY 2008 is subject to the previously discussed fees under this program. FDA recognizes that, because of the timing of the enactment of FDAAA, the advisory review and operating reserve fees for FY 2008 were

not established and billed before October 1, 2007, and that there will be a gap between the start of the fiscal year and the date that fees are due. However, the voluntary submission of a DTC television advertisement for FDA advisory review on or after October 1, 2007, but before November 26, 2007 will be considered by FDA as notification that the company who submitted the advertisement wishes to participate in the program and agrees to pay the advisory review fee and operating reserve fee for each such submission in a timely manner once the fees for FY 2008 are established and the company is invoiced. Companies who submit DTC television advertisements for advisory review in this period should respond to this participation notice, and include any such submissions in their count of the total number of advisory submissions they intend to submit in FY 2008. FDA will also contact companies who submit DTC television advertisements in this time period to request written confirmation from these companies of their commitment to pay these fees; if companies do not agree to make this commitment, FDA will request that they withdraw their submission(s), and such submissions will not be reviewed. For companies who do agree, FDA will begin its advisory review of a complete submission of a DTC television advertisement for advisory review on the date that it receives written confirmation of the company's commitment to pay the fees associated with the submission in a timely manner once the company is invoiced.

For information on how FDA will treat DTC television advertisement advisory review submissions not identified in response to this notice that are submitted after November 26, 2007, see sections IV.C ''Additional Submissions'' and IV.E ''Operating Reserves'' of this document.

Dated: October 19, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 07–5282 Filed 10–24–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Immune Correlates of Protection Against Influenza A Viruses in Support of Pandemic Vaccine Development; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

The Food and Drug Administration (FDA) is announcing a public workshop entitled '' Immune Correlates of Protection against Influenza A Viruses in Support of Pandemic Vaccine Development.'' The purpose of the public workshop is to identify the gaps in our knowledge and abilities in addressing the unique challenges encountered in the development and evaluation of vaccines intended to protect against pandemic influenza.

Date and Time: The public workshop will be held on December 10, 2007, from 8:30 a.m. to 5:30 p.m. and December 11, 2007, from 8 a.m. to 5:15 p.m.

Location: The public workshop will be held at the Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814. For directions, see the hotel Web site at: *http://www.bethesda.hyatt.com* or call the hotel at 301–657–1234.

Contact Person: Maureen Hess, Center for Biologics Evaluation and Research (HFM–405), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–5113, FAX: 301–827–9781, e-mail: *maureen.hess@fda.hhs.gov*.

Registration: E-mail or fax your registration information (including name, title, firm name, address, telephone, fax number and e-mail address) to the contact person by November 19, 2007. There is no registration fee for the public workshop. Early registration is recommended because seating is limited. There will be no onsite registration.

If you need special accommodations due to a disability, please contact Ms. Maureen Hess (see *Contact Person*) at least 7 days in advance.

SUPPLEMENTARY INFORMATION: FDA's Center for Biologics Evaluation and Research, in cooperation with the National Institutes of Health's Division of Intramural Research within the National Institute of Allergy and Infectious Diseases and the World Health Organization, is holding this public workshop. The public workshop will include discussions on: (1) Current knowledge regarding correlates of protection against seasonal influenza, (2) immune responses to avian influenza infections and vaccines for novel influenza viruses in humans, (3) assays to evaluate vaccine immunogenicity, and (4) evaluation of avian influenza vaccine efficacy. The goals of the public workshop are to: (1) Identify the gaps in our knowledge and abilities in addressing the unique challenges encountered in the development and evaluation of vaccines intended to protect against pandemic influenza, and (2) facilitate implementation of a global research agenda to improve efficacy assessment of pandemic influenza vaccines.

Transcripts: Transcripts of the public workshop may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 6–30, Rockville, MD 20857, approximately 15 working days after the public workshop at a cost of 10 cents per page. A transcript of the public workshop will be available on the Internet at *http://www.fda.gov/cber/minutes/workshop-min.htm*.

Dated: October 18, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–20981 Filed 10–24–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2007D–0396]

Draft Guidance for Industry on Drug-Induced Liver Injury: Premarketing Clinical Evaluation; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Drug-Induced Liver Injury: Premarketing Clinical Evaluation.'' This guidance is intended to assist the pharmaceutical industry and others engaged in new drug development in the assessment of the potential of a drug to cause severe drug-induced liver injury (DILI). This guidance defines severe DILI as injury that is fatal or requires liver transplantation. This guidance does not address the postmarketing evaluation of DILI.

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 December 24, 2007.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane,

Rockville, MD 20857; or the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, MD 20852–1448. The draft guidance may also be obtained from the Center for Biologics Evaluation and Research by mail by calling 1–800–835–4709 or 301–827–1800. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments* or *http://www.regulations.gov*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT:

Tom Moreno, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, rm. 5143, Silver Spring, MD 20993–0002, 301–796–0878; or

Bruce Schneider, Center for Biologics Evaluation and Research (HFM–755), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–5102.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Drug-Induced Liver Injury: Premarketing Clinical Evaluation.'' Idiosyncratic hepatotoxicity is an important cause of drug withdrawal and has led to considerable FDA attention to the subject, beginning with a conference on hepatotoxicity at the National Institutes of Health in 1978. The science of detecting and evaluating DILI during drug development is evolving, and FDA is working with industry, academia, and other government groups toward better understanding of the problems and what to do about them.

Even drugs that prove to be significant hepatotoxins (e.g, bromfenac and troglitazone) are unlikely to show cases of severe DILI during a drug development program with at most several thousand exposed subjects. Therefore, it is critical during drug development to discover less severe DILI that may indicate a potential for the drug to cause severe DILI. There are a number of signals of liver injury that have varying levels of sensitivity and specificity in predicting potential for severe DILI. An increased rate of elevated aminotransferase (AT) levels compared to control is a highly sensitive indicator of potential severe hepatotoxicity, but many drugs that do not cause severe injury show AT elevations, so the specificity of this test as a predictor of a potential for severe hepatotoxicity is poor. Specificity is increased when the signal used is the occurrence of more marked AT elevation (to 5-, 10-, 20xULN), but the most specific finding to date is an overall pattern of AT elevation together with elevated bilirubin (and no evidence of bile obstruction) in a small number of subjects.

This guidance describes the sensitivity and specificity of various indicators of hepatotoxic potential, as well as the observations needed to evaluate those indicators, including detection, confirmation, and monitoring of liver test abnormalities, close evaluation and exclusion of other causes, and careful supportive care and followup to normality or return to baseline status.

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 premarketing clinical evaluation of drug-induced liver injury. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. The Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information that 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 parts 312, 314, and 600 have been approved under OMB control numbers 0910–0014, 0910–0001, and 0910–0338, respectively.

III. 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.

IV. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.fda.gov/cder/guidance/index.htm*, *http://www.fda.gov/cber/guidelines.htm*, or *http://www.fda.gov/ohrms/dockets/default.htm*.

Dated: October 19, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–21060 Filed 10–24–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2007D–0387]

Draft Guidance for Industry and Food and Drug Administration Staff; In Vitro Diagnostic Device Studies—Frequently Asked Questions; 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 ''Draft Guidance for Industry and FDA Staff; In Vitro Diagnostic (IVD) Device Studies—Frequently Asked Questions.'' This draft guidance document contains information to assist manufacturers in developing and conducting studies for IVD devices, particularly those exempt from most of the Investigational Device Exemption (IDE) regulations. This draft guidance is neither final nor is it in effect at this time.

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 before it begins work on the final version of the guidance, submit written or electronic comments on the draft guidance by January 23, 2008.

ADDRESSES: Submit written requests for single copies of the draft guidance document entitled ''Draft Guidance for Industry and FDA Staff; In Vitro Diagnostic (IVD) Device Studies—Frequently Asked Questions'' 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 either *http://www.fda.gov/dockets/ecomments* or *http://www.regulations.gov*. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT:

Sally Hojvat, Center for Devices and Radiological Health (HFZ–312), Food and Drug Administration,2098 Gaither Rd, Rockville, MD 20850, 301–594–5940, ext. 114; or

Stephen M. Ripley, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

This draft guidance is intended to facilitate the movement of new IVD technology from the investigational stage to the marketing stage by providing information about the development and conduct of IVD studies that will be submitted to the agency to support premarket notifications and applications. Because many IVD studies are exempt from most of the IDE regulations at part 812 (21 CFR part 812) (§ 812.2(c)(3)), both industry sponsors and FDA staff often have questions concerning the relevant requirements and appropriate methods for such studies. This draft guidance provides information about such studies as well as general information about the development, conduct, and responsibilities associated with all IVD studies. The Center for Devices and Radiological Health (CDRH) and the Center for Biologics Evaluation and Research (CBER) both have regulatory oversight of IVD devices. Information in this draft guidance is relevant to IVD devices regulated by either center under subchapter H of 21 CFR Chapter I.

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 IVD device studies. 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 ''Draft Guidance for Industry and FDA Staff; In Vitro Diagnostic (IVD) Device Studies—Frequently Asked Questions'' 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 1587 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 CBER Internet site at *http://www.fda.gov/cber/guidelines.htm* or 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 PRA). The collections of information in 21 CFR parts 50 and 56 have been approved under OMB control number 0910–0130; the collections of information in 21 CFR part 803 have been approved under OMB control number 0910–0437; the collections of information in 21 CFR 807.87 have been approved under OMB control number 0910–0120; the collections of information in 21 CFR 809.10 have been approved under OMB control number 0910–0485; the collections of information in 21 CFR part 810 have been approved under OMB control number 0910–0432; the collections of information under part 812 have been approved under OMB control number 0910–0078; the collections of information in part 814 (21 CFR part 814), subparts B and E, have been approved under OMB control number 0910–0231; the collections of information in part 814, subpart H, have been approved under OMB control number 0910–0332; and the collections of information in 21 CFR part 820 have been approved under OMB control number 0910–0073.

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: October 18, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–20982 Filed 10–24–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2007D–0168]

Publication of Guidances for Industry Describing Product-Specific Bioequivalence Recommendations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of draft and revised draft product-specific bioequivalence (BE) recommendations. The recommendations provide product-specific guidance on the design of BE studies to support abbreviated new drug applications (ANDAs). In the **Federal Register** of May 31, 2007 (72 FR 30388), FDA announced the availability of a draft guidance for industry, ''Bioequivalence Recommendations for Specific Products,'' explaining the process that would be used to make product-specific BE recommendations available to the public on FDA's Web

site. The BE recommendations identified in this document were developed using the process described in that guidance.

DATES: Submit written or electronic comments on the draft product-specific BE recommendations by January 23, 2008. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the individual BE guidances to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft product-specific BE recommendations to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to either *http://www.fda.gov/dockets/ecomments* or *http://www.regulations.gov*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Doan T. Nguyen, Center for Drug Evaluation and Research (HFD–600), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0495.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of May 31, 2007 (72 FR 30388), FDA announced the availability of a draft guidance for industry, ''Bioequivalence Recommendations for Specific Products,'' that explained the ''process'' that would be used to make product-specific BE recommendations available to the public on FDA's Web site at *http://www.fda.gov/CDER/GUIDANCE/bioequivalence/default.htm*. As described in that draft guidance, FDA adopted this process as a means to develop and disseminate product-specific BE recommendations and provide a meaningful opportunity for the public to consider and comment on those recommendations.

In that same issue of the **Federal Register** (72 FR 30386), FDA also announced that 200 product-specific BE recommendations were being made available on FDA's Web site at *http://www.fda.gov/CDER/GUIDANCE/bioequivalence/default.htm*. However, a number of the recommendations listed in that notice were not posted on the Web site. In addition, some of the recommendations posted on the Web site were omitted from the **Federal Register** notice. Finally, four recommendations announced in the May 31, 2007, notice and posted on the Web site were incorrect and have now been corrected. This document clarifies the notice of May 31, 2007 (72 FR 30386), as follows:

A. Recommendations Listed in the May 31, 2007, **Federal Register** *Notice That Were Not Posted on the Web Site*

(1) Ganciclovir
(2) Ibuprofen; Pseudoephedrine HCl
(3) Felbamate (multiple dosage forms)
(4) Leflunomide

These drugs are now available on the Web site.

B. Recommendations Posted on the Web Site That Were Not Listed in the May 31, 2007, **Federal Register** *Notice*

(1) Fosinopril Sodium
(2) Hydrochlorothiazide and Irbesartan
(3) Levonorgestrel
(4) Lidocaine
(5) Loratadine
(6) Phenytoin Sodium (multiple RLDs)
(7) Phenytoin
(8) Terazosin HCl

C. Recommendations Listed in the May 31, 2007, **Federal Register** *Notice and Posted on the Web Site That Were Incorrect*

(1) Mycophenolate mofetil tablet 50723, corrected the analytes to measure
(2) Mycophenolate mofetil capsule 50722, corrected the analytes to measure
(3) Erlotinib HCl tablet, deleted the IND requirement
(4) Hydrochlorothiazide and losartan potassium tablets, added waiver strength 12.5 mg/100mg

The recommendations listed in sections I.A, B, and C of this document are available for comment by (see **DATES**).

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments on any of the specific BE recommendations posted on FDA's Web site. Two copies of mailed comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance, notices, and received comments are available for public examination in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain these BE recommendations at either *http://www.fda.gov/cder/guidance/index.htm* or *http://www.fda.gov/ohrms/dockets/default.htm*.

Dated: October 19, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–21062 Filed 10–24–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; 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: National Institute on Aging Special Emphasis Panel, Reverse Site Visit.
Date: November 26–27, 2007.
Time: 5 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Louise L. Hsu, PhD, Health Scientist Administrator, Scientific Review Office, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–7705, *hsul@exmur.nia.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel, ''Aging Brain Vasculature''.
Date: November 30, 2007.
Time: 12 p.m. to 3:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, 2C212, Bethesda, MD 20814, (Telephone Conference Call).
Contact Person: William Cruce, PhD, Health Scientist Administrator, Scientific Review Office, National Institute on Aging, National Institutes of Health, Room 2C212,

7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7704, *crucew@nia.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel, Comparative Longitudinal Studies.

Date: December 6–7, 2007.

Time: 6 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Wilbur C. Hadden, PhD, Health Scientist Administrator, National Institute on Aging, Gateway Building, Room 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, *haddenw@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: October 19, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5285 Filed 10–24–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; 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 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 Child Health and Human Development Special Emphasis Panel Training Program in Social Development.

Date: November 13, 2007.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01E, Rockville, MD 20852. (Virtual Meeting)

Contact Person: Carla T. Walls, PhD., Scientific Review Administrator, Division of Scientific Review National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, (301) 435–6898, *wallsc@mail.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.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: October 19, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5287 Filed 10–24–07; 8:45am]

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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel NHP Models for HIV Therapeutics and Microbiocides.

Date: November 16, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Holiday Inn Capitol, 550 C Street, SW., Saturn/Venus Room, Washington, DC 20024.

Contact Person: Lucy A. Ward, DVM, PhD., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID/DHHS, 6700B Rockledge Drive, Bethesda, MD 20892–7616, 301–496–2550, *lward@niaid.nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel Clinical Pharmacology Quality Assurance and Quality Control.

Date: November 16, 2007.

Time: 11 a.m. to 4 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, 3147, Bethesda, MD 20817. (Telephone Conference Call)

Contact Person: Mary J. Homer, PhD., Scientific Review Administrator, Scientific Review Program, National Institute of Allergy and Infectious Diseases, DEA/NIH/DHHS, 6700–B Rockledge Drive MSC 7616 Room 3147, Bethesda, MD 20892, 301–496–7042, *mjhomer@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: October 19, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5289 Filed 10–24–07; 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, Review of HIV/AIDS SBIR Applications.

Date: November 13, 2007.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Mark P. Rubert, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, (301) 435–1775, *rubertm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Neural Control of Cardiovascular Function.

Date: November 14, 2007.

Time: 10 a.m. to 12 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: Anshumali Chaudhari, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7802, Bethesda, MD 20892, (301) 435–1210, *chaudhaa@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.356, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 19, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5286 Filed 10–24–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Institutes of Health Peer Review Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Institutes of Health Peer Review Advisory Committee.

Date: December 3, 2007.

Time: 8:30 a.m. to 5 p.m.

Agenda: Provide technical and scientific advice to the Director, National Institutes of Health (NIH), the Deputy for Extramural Research, NIH, and the Director, Center for Scientific Review (CSR), on matters relating broadly to review procedures and policies for the evaluation of scientific and technical merit of applications for grants and awards.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Rooms E1–E2, Bethesda, MD 20892.

Contact Person: Cheryl A. Kitt, PhD, Executive Secretary, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3030, MSC 7776, Bethesda, MD 20892, 301–435–1112, *kittc@csr.nih.gov.*

Any interested personal may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance on to the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(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: October 19, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5288 Filed 10–24–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2007–0027]

Towing Safety Advisory Committee; Charter Renewal

AGENCY: Coast Guard, DHS.

ACTION: Notice of charter renewal.

SUMMARY: Under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92–463), the Secretary of Homeland Security has renewed the charter for the Towing Safety Advisory Committee (TSAC) for a 2-year period, from August 30, 2007 until August 30, 2009. This Committee advises the Coast Guard on matters related to shallow-draft inland and coastal waterway navigation and towing safety.

ADDRESSES: A copy of this notice and the Committee charter is available in our online docket, USCG–2007–0027, at *http://www.regulations.gov.* You may request a copy of the charter by writing Mr. Gerald Miante; Ass't. Executive Director of TSAC; U.S. Coast Guard Headquarters; CG–5521, Room 1210; 2100 Second St., SW., Washington, DC 20593.

FOR FURTHER INFORMATION CONTACT: Mr. Miante at 202–372–1401 or via e-mail at *gerald.p.miante@uscg.mil.*

Dated: October 18, 2007.

Howard L. Hime,

Acting Director of Commercial Regulations and Standards.

[FR Doc. E7–20979 Filed 10–24–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2007–0018]

National Offshore Safety Advisory Committee

AGENCY: Coast Guard, DHS.

ACTION: Notice of meeting.

SUMMARY: The National Offshore Safety Advisory Committee (NOSAC) will meet in Galveston, TX, to discuss various issues relating to offshore safety and security. The meeting will be open to the public.

DATES: NOSAC will meet on Friday, November 16, 2007, from 9 a.m. to 3 p.m. The meeting may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before November 2, 2007. Requests to have a copy of your material distributed to each member of the committee should reach the Coast Guard on or before November 2, 2007.

ADDRESSES: NOSAC will meet in the Davidson Ballroom North of the Tremont House Hotel, 2300 Ship's Mechanic Row, Galveston, Texas. Send written material and requests to make oral presentations to Commander J.M. Cushing, Commandant (CG–5222), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001. This notice is available on our online docket, USCG–2007–0018, at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Commander J.M. Cushing, Executive Director of NOSAC, or Mr. Jim Magill, Assistant Executive Director, telephone 202–372–1414, fax 202–372–1926.

SUPPLEMENTARY INFORMATION: Notice of the meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App.

Agenda of Meeting

The agenda for the November 16, 2007 committee meeting includes the following:

(1) Report on issues concerning the International Maritime Organization (IMO) and the International Organization for Standardization.

(2) Revision of 46 CFR, Subchapter V, Subpart B—Commercial Diving Operations.

(3) MARPOL Annex II Implementation for Offshore Supply Vessels (OSVs).

(4) Revision of IMO Mobile Offshore Drilling Units (MODU) Code.

(5) Sandblasting standard for OCS facilities.

(6) Production industry sector activities.

(7) Transportation Worker Identification Credential (TWIC) impact on offshore facilities.

(8) Revision of 33 CFR, Subchapter N, Outer Continental Shelf Activities.

Procedural

The meeting is open to the public. Please note that the meeting may close early if all business is finished. At the Chair's discretion, members of the public may make oral presentations during the meeting. If you would like to make an oral presentation at the meeting, please notify the Executive Director no later than November 2, 2007. Written material for distribution at the meeting should reach the Coast Guard no later than November 2, 2007. If you would like a copy of your material distributed to each member of the committee in advance of the meeting, please submit 25 copies to the Executive Director no later than November 2, 2007.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the Executive Director as soon as possible.

Dated: October 17, 2007.

H.L. Hime,

Acting Director of Commercial Regulations and Standards.

[FR Doc. E7–20977 Filed 10–24–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5117–N–93]

Notice of Submission of Proposed Information Collection to OMB; 24 CFR Part 55, Floodplain Management

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.

24 CFR part 55 implements decision making procedures prescribed by E.O.11988 with which applicants must comply before HUD financial assistance can be approved for projects that are located within floodplains. Records of compliance must be kept.

DATES: *Comments Due Date:* November 26, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2506–0151) 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) 402–8048. 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: 24 CFR part 55, Floodplain Management.

OMB Approval Number: 2506–0151.

Form Numbers: None.

Description of the Need for the Information and Its Proposed Use: 24 CFR part 55 implements decisionmaking procedures prescribed by E.O. 11988 with which applicants must comply before HUD financial assistance can be approved for projects that are located within floodplains. Records of compliance must be kept.

Frequency of Submission: On occasion.

	Number of respondents	×	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	300		1		9		2,700

Total Estimated Burden Hours: 2,700.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: October 18, 2007.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E7–21022 Filed 10–24–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5117–N–94]

Notice of Submission of Proposed Information Collection to OMB; Public Housing Assessment System (PHAS) Memorandum of Agreement (MOA), MOA Monthly Report, and Improvement Plan (IP)

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.

A Public Housing Agency (PHA) which is designated troubled or substandard under the Public Housing Assessment System (PHAS) must enter into a Memorandum of Agreement (MOA) with HUD to outline its planned improvements. Similarly, a PHA which is a standard performer, but receives a total PHAS score of less than 70% but not less than 60% is required to submit an improvement Plan (IP). These plans are designed to address deficiencies in a PHA's operations found through the PHAS assessment process (management, financial, physical, or resident related) and any other deficiencies identified by HUD through independent assessments or other methods.

DATES: *Comments Due Date:* November 26, 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 (2577–0237) 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) 402–8048. 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 Assessment System (PHAS) Memorandum of Agreement (MOA), MOA Monthly Report, and Improvement Plan (IP).

OMB Approval Number: 2577–0237.

Form Numbers: Forms HUD–53336–A, 53336–Bi, 53336–B, 53337, 53337i and 53338.

Description of the Need for the Information and Its Proposed Use: A Public Housing Agency (PHA) which is designated troubled or substandard under the Public Housing Assessment System (PHAS) must enter into a Memorandum of Agreement (MOA) with HUD to outline its planned improvements. Similarly, a PHA which is a standard performer, but receives a total PHAS score of less than 70% but not less than 60% is required to submit an improvement Plan (IP). These plans are designed to address deficiencies in a PHA's operations found through the PHAS assessment process (management, financial, physical, or resident related) and any other deficiencies identified by HUD through independent assessments or other methods.

Frequency of Submission: Monthly, Quarterly, Other When designated troubled.

	Number of respondents	×	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	375		1		85.093		31,910

Total Estimated Burden Hours: 31,910.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: October 18, 2007.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E7–21023 Filed 10–24–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5103-N–02]

Notice of Certain Operating Cost Adjustment Factors for 2008

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Publication of the 2008 Operating Cost Adjustment Factors (OCAFs) for in some instances adjusting and in others establishing Section 8 rents under the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA), as amended, and under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA) Projects assisted with Section 8 Housing Assistance Payments.

SUMMARY: This notice establishes annual factors used in calculating renewal rents and rent adjustments under certain provisions of MAHRA and LIHPRHA.

DATES: *Effective Date:* February 11, 2008.

FOR FURTHER INFORMATION CONTACT: Judith May, Director, Office of Evaluation, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 402–3239 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Operating Cost Adjustment Factors (OCAFs)

Section 514(e)(2) of MAHRA requires HUD to establish guidelines for rent adjustments based on an operating cost adjustment factor (OCAF). The legislation requiring HUD to establish OCAFs for LIHPRHA projects and projects with contract renewals or adjustments under section 524 of MAHRA is similar in wording and intent. HUD has therefore developed a single factor to be applied uniformly to all projects utilizing OCAFs as the method by which renewal rents are established or adjusted.

Additionally, MAHRA gives HUD broad discretion in setting OCAFs—referring, for example, in sections 524(a)(4)(C)(i), 524(b)(1)(A), 524(b)(3)(A) and 524(c)(1) simply to ''an operating cost adjustment factor established by the Secretary.'' The sole limitation to this grant of authority is a specific requirement in each of the foregoing provisions that application of an OCAF ''shall not result in a negative adjustment.'' OCAFs are to be applied uniformly to all projects utilizing OCAFs as the method by which rents are established or adjusted. OCAFs are applied to project contract rent less debt service.

In prior years, HUD developed OCAFs by combining price change indices for nine categories of project operating costs derived mostly from national data—only three of the nine price change indices were available at the state level. Furthermore, several of the price indices used to develop past OCAFs were indirect measures of project operating costs. For FY 2008, HUD has decided to develop OCAFs from the most current actual project operating cost data at the state level, and this eliminates the need to break the costs into categories and to rely on national data which serve as surrogate measures for project operating costs.

Extensive research into the OCAF methodology determined that HUD's administrative data provides the best source of data detailing the operating costs experienced by properties submitting financial statement reports to HUD. Therefore, in order to more closely align OCAFs with actual changes in operating expenses as reported to HUD by those properties filing Annual Financial Statement (AFS) data, HUD is using the AFS information as the basis for FY 2008 OCAFs.

Specifically, HUD calculated the average, per unit, change in operating costs (excluding debt service and bad debt expense), by state, for all projects submitting consecutive valid financial statement reports with Fiscal Year end dates between July 31, 2005 and July 31, 2007. The projects comprise all multifamily properties excluding nursing homes and hospitals. Furthermore, data for projects with unusually high or low expenses due to unusual circumstances were deleted from the analysis. These changes in actual operating costs experienced by properties within HUD's portfolio have become the FY 2008 OCAFs.

OCAFs continue to be published at the state level. States are the lowest level of geographical aggregation at which there are enough projects to permit statistically reliable analysis. Additionally, no data were available for the Western Pacific Islands. Data for Hawaii was therefore used to generate OCAFs for these areas.

II. MAHRA and LIHPRHA OCAF Procedures

MAHRA, as amended, created the Mark-to-Market Program to reduce the cost of Federal housing assistance, enhance HUD's administration of such assistance, and to ensure the continued affordability of units in certain multifamily housing projects. Section 524 of MAHRA authorizes renewal of Section 8 project-based assistance contracts for projects without Restructuring Plans under the Mark-to-Market Program, including projects that are not eligible for a Plan and those for which the owner does not request a Plan. Renewals must be at rents not exceeding comparable market rents except for certain projects. As an example, for Section 8 Moderate Rehabilitation projects, other than single room occupancy projects (SROs) under the McKinney-Vento Homeless Assistance Act (McKinney Act, 42 U.S.C. 11301 *et seq.*), that are eligible for renewal under section 524(b)(3) of MAHRA, the renewal rents are required to be set at the lesser of: (1) The existing rents under the expiring contract, as adjusted by the OCAF; (2) fair market rents (less any amounts allowed for tenant-purchased utilities; or (3) comparable market rents for the market area.

LIHPRHA (see, in particular, section 222(a)(2)(G)(i), 12 U.S.C. 4112 (a)(2)(G) and the regulations at 24 CFR 248.145(a)(9)) require that future rent adjustments for LIHPRHA projects be made by applying an annual factor to be determined by the Secretary to the portion of project rent attributable to operating expenses for the project and, where the owner is a priority purchaser, to the portion of project rent attributable to project oversight costs.

III. Findings and Certifications

Environmental Impact

This issuance sets forth rate determinations and related external administrative requirements and procedures that do not constitute a development decision affecting the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Executive Order 13132, Federalism

This final rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of Executive Order 13132 (entitled ''Federalism'').

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number for this program is 14.187.

Dated: October 17, 2007.

Brian D. Montgomery,

Assistant Secretary for Housing—Federal Housing Commissioner.

Appendix—Operating Cost Adjustment Factors for 2008

	Percent
ALABAMA	5.0
ALASKA	3.9
ARIZONA	6.8
ARKANSAS	6.8
CALIFORNIA	5.3
COLORADO	2.7
CONNECTICUT	3.5
DELAWARE	8.2
DIST. OF COLUMBIA	6.8
FLORIDA	7.0
GEORGIA	3.5
HAWAII	9.2
IDAHO	6.1
ILLINOIS	3.4
INDIANA	2.6
IOWA	3.7
KANSAS	3.8
KENTUCKY	3.6
LOUISIANA	5.7
MAINE	8.0
MARYLAND	4.3
MASSACHUSETTS	4.7
MICHIGAN	2.8
MINNESOTA	0.5
MISSISSIPPI	5.7
MISSOURI	2.9
MONTANA	3.4
NEBRASKA	1.8
NEVADA	7.3
NEW HAMPSHIRE	3.0
NEW JERSEY	4.6
NEW MEXICO	1.5
NEW YORK	2.7

	Percent
N. CAROLINA	4.8
N. DAKOTA	1.6
OHIO	2.6
OKLAHOMA	4.2
OREGON	3.3
PENNSYLVANIA	3.6
RHODE ISLAND	3.2
S. CAROLINA	5.5
S. DAKOTA	2.2
TENNESSEE	3.7
TEXAS	5.1
UTAH	2.2
VERMONT	0.9
VIRGINIA	5.3
WASHINGTON	6.0
W. VIRGINIA	3.1
WISCONSIN	3.2
WYOMING	5.2
PACIFIC ISLANDS	9.2
PUERTO RICO	7.4
VIRGIN ISLANDS	6.6
U.S. AVERAGE	4.1

[FR Doc. E7–21020 Filed 10–24–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection Sent to the Office of Management and Budget (OMB) for Approval; OMB Control Number 1018–0070; Incidental Take of Marine Mammals During Specified Activities

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (Fish and Wildlife Service) have sent an Information Collection Request (ICR) to OMB for review and approval. The ICR, which is summarized below, describes the nature of the collection and the estimated burden and cost. This ICR is scheduled to expire on October 31, 2007. We 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. However, under OMB regulations, we may continue to conduct or sponsor this information collection while it is pending at OMB.

DATES: You must submit comments on or before November 26, 2007.

ADDRESSES: Send your comments and suggestions on this ICR to the Desk Officer for the Department of the Interior at OMB-OIRA at (202) 395–6566 (fax) or OIRA_DOCKET@OMB.eop.gov (e-mail). Please provide a copy of your comments to Hope Grey, Information Collection Clearance Officer, Fish and Wildlife Service, MS 222–ARLSQ, 4401 North Fairfax Drive, Arlington, VA 22203 (mail); (703) 358–2269 (fax); or hope_grey@fws.gov (e-mail).

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, contact Hope Grey by mail, fax, or e-mail (see ADDRESSES) or by telephone at (703) 358–2482.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 1018–0070.

Title: Incidental Take of Marine Mammals During Specified Activities, 50 CFR 18.27 and 50 CFR 18, Subpart J.

Service Form Numbers: None.

Type of Request: Revision of currently approved collection.

Affected Public: Oil and gas industry companies.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Activity	Number of annual respondents	Number of annual responses	Completion time per response	Annual burden hours
One-time application for procedural regulations	1 (per term of regulations)	1	300 hours	300
LOA requests	10	12	24 hours	288
Onsite monitoring and observation reports	10	72	1.5 hours	108
Final monitoring report	10	12	8 hours	96
Totals	31	97		792

Abstract: The Marine Mammal Protection Act (MMPA) of 1972, as amended (16 U.S.C. 1361 et seq.) imposed, with certain exceptions, a moratorium on the taking of marine mammals. Section 101(a)(5)(A) of the MMPA directs the Secretary of the Interior to allow, upon request by citizens of the United States, the taking of small numbers of marine mammals incidental to specified activities (other than commercial fishing) if the Secretary makes certain findings and prescribes specific regulations that, among other things, establish permissible methods of taking. Once we issue specific regulations, applicants seeking to conduct activities must request a Letter of Authorization (LOA) for the specific activity and submit onsite monitoring reports and a final report of the activity to the Secretary. Regulations at 50 CFR 18.27 outline the procedures and requirements for submitting a request. Specific regulations governing authorized activities in the Beaufort Sea are in 50 CFR 18, subpart J.

Comments: On June 1, 2007, we published a proposed rule in the Federal Register (72 FR 30670) to establish regulations on incidental take of marine mammals in the Chukchi Sea. Because activities and requirements are nearly identical for the Beaufort and Chukchi Seas, we planned to combine the information collections in one ICR. However, we do not expect the final rule for the Chukchi Sea to publish prior to the expiration date of the information collection for the Beaufort Sea requirements, and have separated the requests for approval. This request for approval includes requirements to cover only activities in the Beaufort Sea. The proposed rule for incidental take regulations in the Chukchi Sea invited interested members of the public and affected agencies to comment on the proposed information collection and recordkeeping activities for both the Chukchi and Beaufort Seas. The comment period was open for 60 days, and we did not receive any comments relating to the Beaufort Sea information collection requirements.

We again invite comments concerning this information collection on:

(1) whether or not the collection of information is necessary, including whether or not the information will have practical utility;

(2) the accuracy of our estimate of the burden for this collection of information;

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

(4) ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. 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 OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: August 23, 2007.

Hope Grey,

Information Collection Clearance Officer, Fish and Wildlife Service.

FR Doc. E7–21010 Filed 10–24–07; 8:45 am

BILLING CODE 4310–55–S

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–310–0777–XG]

Notice of Public Meeting: Northwest California Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 (FLPMA), and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Northwest California Resource Advisory Council will meet as indicated below.

DATES: The meeting will be held Wednesday and Thursday, Dec. 5 and 6, 2007. On December 5, the council members convene at 9 a.m. in the Abalone Room at the Little River Inn, 7751 Highway 1, Little River, CA. Time for public comment has been set aside for 11 a.m. On May 6, the council convenes at 7:30 a.m. at the Little River Inn and departs for a tour to discuss management of the California Coastal National Monument and the Stornetta Public Lands. Members of the public are welcome on the tour, but they must provide their own transportation and lunch.

FOR FURTHER INFORMATION CONTACT: Rich Burns, BLM Ukiah Field Office manager, (707) 468–4000; or BLM Public Affairs Officer Joseph J. Fontana, (530) 252–5332.

SUPPLEMENTARY INFORMATION: The 12-member council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in Northwest California. At this meeting, agenda topics include an update on management proposals for the Sacramento River Bend, a discussion of funding needs for BLM's northern California projects, status reports on management plan development for Lacks Creek and the Cow Mountain National Recreation Area and a report on legislation affecting the California off highway vehicle recreation program. Members will also hear status reports on activities in the Arcata, Redding and Ukiah field offices and the California Coastal National Monument. All meetings are open to the public. Members of the public may present written comments to the council. Each formal council meeting will have time allocated for public comments. Depending on the number of persons wishing to speak, and the time available, the time for individual comments may be limited. Members of the public are welcome on field tours, but they must provide their own transportation and lunch. Individuals who plan to attend and need special assistance, such as sign language interpretation and other reasonable accommodations, should contact the BLM as provided above.

Dated: October 19, 2007.

Joseph J. Fontana,

Public Affairs Officer.

[FR Doc. 07–5280 Filed 10–24–07; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–310–1310–PP–24 1A]

Oil and Gas Leasing: Onshore Oil and Gas Operations—Fees, Rentals, and Royalty

AGENCY: Bureau of Land Management, Interior.

ACTION: Notification to terminate the heavy oil royalty reductions program.

SUMMARY: The Bureau of Land Management (BLM) is providing the six-month notification to terminate all royalty reductions for the production of heavy oil and to terminate the availability of further heavy oil relief under regulations at 43 CFR 3103.4–3.

DATES: The termination of the heavy oil royalty reductions program is effective on May 1, 2008.

FOR FURTHER INFORMATION CONTACT: Rudy Baier, Division of Fluid Minerals, BLM, (202) 452–5024. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339, 24 hours a day, 7 days a week, except holidays, for assistance in reaching Mr. Baier.

SUPPLEMENTARY INFORMATION: Under 43 CFR 3103.4–3(b)(6)(i), the BLM may suspend or terminate all heavy oil royalty reductions and terminate the availability of further heavy royalty relief ''upon 6 month's notice in the **Federal Register** when BLM determines that the average oil price has remained above $24 per barrel over a period of 6 consecutive months [based on the West Texas Intermediate (WTI) Crude average posted prices and adjusted for inflation using the implicit price deflator for gross national product with 1991 as the base year).'' The adjusted threshold for the third quarter of calendar year 2004 was $30.83 and for the fourth quarter $31.00.

By **Federal Register** notice (70 FR 21810) dated April 27, 2005, this royalty reduction program was suspended effective November 1, 2005. In that notice, the BLM requested comments on the conditions under which the suspension should be removed. The BLM received three comments.

The WTI crude average posted oil prices have continued to exceed the adjusted threshold at all times since the April 27, 2005 notice. Therefore, considering the price of crude oil since the April 27, 2005 notice and current price projections for the near future, the BLM decided that this royalty reduction program should be terminated. As authorized by 43 CFR 3103.4–3(b)(6)(i), this serves as notice that the BLM will terminate the heavy oil royalty reductions program effective on May 1, 2008.

Should conditions change so as to warrant relief, the BLM has authority to grant royalty rate reductions on a case-by-case basis (see 43 CFR 3103.4–1).

James Abbott,

Assistant Director, Minerals, Realty, and Resource Protection.

[FR Doc. E7–20970 Filed 10–24–07; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–060–08–1430–EQ; MTM 044187]

Notice of Realty Action: Non-Competitive Lease of Public Land in Pondera County, MT

AGENCY: Bureau of Land Management, Lewistown Field Office, Interior.

ACTION: Designation of public lands in Pondera County, Montana, for FLPMA lease.

SUMMARY: The public land proposed for lease includes about five acres which has a long history of use by the family that owns the improvements on it. The historic cabin and other limited improvements are associated with adjacent private land that was homesteaded and patented in 1907. The previous lessee passed away unbeknownst to BLM and the lease expired. However, the family continued to pay the rent in the interim. Members of the family are now seeking to lease the land again because they own the improvements and have long-standing historical family ties to the property. The five-acre tract is adjacent to the applicant's private land and is part of the applicant's BLM grazing allotment. Disposal of the land at this time via public sale is not an option because it is within a retention zone per the Land Use Plan for that area.

The following described public lands are suitable for lease under Section 302 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1732:

Principal Meridian Montana

T. 29 N., R. 9 W.,
Section 35, E½W½SW¼ and W½E½SW¼ of Lot 13.

Containing about 5 acres.

DATES: The effective date of this Notice of Realty Action is the publication date of this notice in the **Federal Register**.

For a period of 30 days from the date of this notice, interested parties may submit written comments to June Bailey, Lewistown Field Manager, Bureau of Land Management, P.O. Box 1160, Lewistown, Montana 59457. Any adverse comments will be evaluated by the BLM Lewistown Field Manager who may sustain, vacate, or modify this realty action.

FOR FURTHER INFORMATION CONTACT: Information related to the proposed lease is available by contacting Willy Frank at the BLM Lewistown Field Office, P.O. Box 1160, Lewistown, Montana 59457.

SUPPLEMENTARY INFORMATION: This lease is consistent with Bureau of Land Management policies and planning. The public interest will be served by the issuance of this lease since it will allow for continued clean up of the immediate area and the stabilization and preservation of the historic cabin.

Dated: October 19, 2007.

Scott Haight,

Associate Lewistown Field Manager.

[FR Doc. E7–20996 Filed 10–24–07; 8:45 am]

BILLING CODE 4310–$$–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–565]

In the Matter of Certain Ink Cartridges and Components Thereof; Notice of Final Determination; Issuance of General Exclusion Order, Limited Exclusion Order, and Cease and Desist Orders; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has found a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) based on the infringement of certain asserted claims of eleven asserted patents and has issued a general exclusion order, limited exclusion order, and cease and desist orders in the above-captioned investigation. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Michael Haldenstein, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3041. Copies of all nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on March 23, 2006, based on a complaint filed by Epson Portland, Inc. of Oregon; Epson America, Inc. of California; and Seiko Epson Corporation of Japan. 71 FR 14720 (March 23, 2006). The complaint, as amended, alleged violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain ink cartridges and components thereof by reason of infringement of claim 7 of U.S. Patent No. 5,615,957 (''the '957 patent''); claims 18, 81, 93, 149, 164, and 165 of U.S. Patent No. 5,622,439 (''the '439 patent''); claims 83 and 84 of U.S. Patent No. 5,158,377 (''the '377 patent''); claims 19 and 20 of U.S. Patent No. 5,221,148 (''the '148 patent''); claims 29, 31, 34, and 38 of U.S. Patent No. 5,156,472 (''the '472 patent''); claim 1 of U.S. Patent No. 5,488,401 (''the '401 patent''); claims 1–3 and 9 of U.S. Patent No. 6,502,917 (''the '917 patent''); claims 1, 31, and 34 of U.S. Patent No. 6,550,902 (''the '902 patent''); claims 1, 10, and 14 of U.S. Patent No. 6,955,422 (''the '422 patent''); claim 1 of U.S. Patent No. 7,008,053 (''the '053 patent''); and claims 21, 45, 53, and 54 of U.S. Patent No. 7,011,397 (''the '397 patent''). The complaint further alleged that an industry in the United States exists as required by subsection (a)(2) of section 337. The complainants requested that the Commission issue a general exclusion order and cease and desist orders. The Commission named as respondents twenty-four companies located in China, Germany, Hong Kong, Korea, and the United States. Several respondents have been found in default.

On March 30, 2007, the presiding ALJ issued a final ID in the investigation finding a violation of section 337 and recommending the issuance of a general exclusion order and cease and desist orders. Respondents and the IA filed petitions for review of the ID on April 13, 2007. Responses were filed on April 20, 2007.

The Commission determined to review those portions of the ALJ's final ID concerning: (1) The claim construction of the terms ''contacts'' (claims 1, 2, 3, and 9 of the '917 patent; claims 1, 31, and 34 of the '902 patent); ''overhang''(definition and location) (claims 1, 31, and 34 of the '902 patent); and ''ink supply tank'' (claim 7 of the '957 patent, claims 19 and 20 of the '148 patent, claims 83 and 84 of the '377 patent, and claim 164 of the '439 patent); (2) infringement of claims employing those terms by those products for which review was sought, *viz.* infringement of claims 1, 2, 3, and 9 of the '917 patent (representative cartridges RC–6 and RC–10); claims 1, 31, and 34 of the '902 patent (representative cartridges RC–2 and RC–6 to RC–10); and of claim 7 of the '957 patent, claims 19 and 20 of the '148 patent, claims 83 and 84 of the '377 patent, and claim 164 of the '439 patent (representative cartridge RC–2); (3) invalidity for obviousness of claims 1, 2, 3, and 9 of the '917 patent; claim 1 of the '053 patent; and claim 1 of the '422 patent. The parties filed briefs concerning the issues under review and remedy, the public interest, and

bonding on July 13, 2007 and July 20, 2007.

Having examined the record in this investigation, including the submissions on review and responses thereto, the Commission has determined that there is a violation of section 337 with respect to claim 7 of the '957 patent; claims 18, 81, 93, 149, and 164 of the '439 patent, claims 83 and 84 of the '377 patent; claims 19 and 20 of the '148 patent; claim 1 of the '401 patent; claims 1, 2, 3, and 9 of the '917 patent; claims 1, 31, and 34 of the '902 patent; claims 1, 10, and 14 of the '422 patent; claim 1 of the '053 patent; and claim 21 of the '397 patent.

The Commission has also made determinations on the issues of remedy, the public interest, and bonding, as well as relief against defaulting respondents. The Commission determined that the appropriate form of relief in this investigation is a general exclusion order, limited exclusion order, and cease and desist orders.

The general exclusion order prohibits the unlicensed entry of ink cartridges for consumption covered by one or more of claim 7 the '957 patent; claims 18, 81, 93, 149, and 164 of the '439 patent; claims 83 and 84 of the '377 patent; claims 19 and 20 of the '148 patent; claim 1 of the '401 patent; claims 1, 2, 3, and 9 of the '917 patent; claims 1, 31, and 34 of the '902 patent; claims 1, 10, and 14 of the '422 patent; claim 1 of the '053 patent; and claim 21 of the '397 patent.

The limited exclusion order prohibits the unlicensed entry for consumption of certain ink cartridges that are covered by one or more of claim 165 of the '439 patent and claims 29, 31, 34, and 38 of the '472 patent that are manufactured abroad by or on behalf of, or imported by or on behalf of defaulting respondents Glory South Software Mfg., Butterfly Image Corp., Mipo International (''Mipo''), Mipo America Ltd. (''Mipo America''), AcuJet USA, Tully Imaging Supplies, Ltd. (''Tully''), Wellink Trading Co., Ltd. (''Wellink''), and Ribbon Tree (Macao) Trading Co. (''Ribbon Tree Macao'') or any of their affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns. The limited exclusion order also prohibits the unlicensed entry for consumption of certain ink cartridges that are covered by one or more of claims 45, 53, and 54 of the '397 patent that are manufactured abroad by or on behalf of, or imported by or on behalf of Mipo, Mipo America, Tully, Wellink, and Ribbon Tree Macao or any of their affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns.

The Commission has also determined to issue cease and desist orders covering claim 7 of the '957 patent; claims 18, 81, 93, 149, and 164 of the '439 patent; claims 83 and 84 of the '377 patent; claims 19 and 20 of the '148 patent; claim 1 of the '401 patent; claims 1, 2, 3 and 9 of the '917 patent; claims 1, 31 and 34 of the '902 patent; claims 1, 10 and 14 of the '422 patent; claim 1 of the '053 patent; and claim 21 of the '397 patent and directed to domestic respondents Ninestar U.S., Town Sky, Dataproducts, and MMC.

The Commission has further determined to issue cease and desist orders covering claim 7 of the '957 patent; claims 18, 81, 93, 149, 164, and 165 of the '439 patent; claims 83 and 84 of the '377 patent; claims 19 and 20 of the '148 patent; claims 29, 31, 34, and 38 of the '472 patent; claim 1 of the '401 patent; claims 1, 2, 3 and 9 of the '917 patent; claims 1, 31 and 34 of the '902 patent; claims 1, 10 and 14 of the '422 patent; claim 1 of the '053 patent; and claims 21, 45, 53, and 54 of the '397 patent (Mipo America only) and directed to defaulting domestic respondents Glory South Manufacturing, Mipo America, and AcuJet U.S.A.

The Commission has determined that the public interest factors enumerated in 19 U.S.C. § 1337(d), (f), and (g) do not preclude issuance of the aforementioned remedial orders, and that the bond during the Presidential period of review shall be set at $13.60 per cartridge for covered ink cartridges.

The authority for the Commission's determinations is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in sections 210.45–210.51 of the Commission's Rules of Practice and Procedure (19 CFR 210.45–210.51).

By order of the Commission.

Issued: October 19, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–20983 Filed 10–24–07; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application

Pursuant to 21 U.S.C. 958(i), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedule I or II and prior to issuing a registration under 21 U.S.C. 952(a)(2) authorizing the importation of such substances, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with 21 CFR 1301.34(a), this is notice that on April 13, 2007, Research Triangle Institute, Kenneth H. Davis Jr., Hermann Building East Institute Drive, P.O. Box 12194, Research Triangle Park, North Carolina 27709, made application by renewal to the Drug Enforcement Administration (DEA) for registration as an importer of the basic classes of controlled substances listed in schedule I and II:

Drug	Schedule
1-(1-Phenylcyclohexyl)pyrrolidine (7458).	I
1-[1-(2-Thienyl)cyclohexy]piperidine (7470).	I
1-[1-(2-Thienyl)cyclohexyl]pyrrolidine (7473).	I
1-Methyl-4-phenyl-4-propionoxypiperidine (9661).	I
1-(2-Phenylethyl)-4-phenyl-4-acetoxypiperidine (9663).	I
2,5-Dimethoxy-4-(n)-propylthiophenethylamine (7348).	I
2,5-Dimethoxy-4-ethylamphetamine (7399).	I
2,5-Dimethoxyamphetamine (7396).	I
3,4,5-Trimethoxyamphetamine (7390).	I
3,4-Methylenedioxyamphetamine (7400).	I
3,4-Methylenedioxymethamphetamine (7405).	I
3,4-Methylenedioxy-N-ethylamphetamine (7404).	I
3-Methylfentanyl (9813)	I
3-Methylthiofentanyl (9833)	I
4-Bromo-2,5-dimethoxyamphetamine (7391).	I
4-Bromo-2,5-dimethoxyphenethylamine (7392).	I
4-Methyl-2,5-dimethoxyamphetamine (7395).	I
4-Methylaminorex (cis isomer) (1590).	I
4-Methoxyamphetamine (7411)	I
5-Methoxy-3,4-methylenedioxyamphetamine (7401).	I
5-Methoxy-N,N-diisopropyltryptamine (7439).	I
Acetorphine (9319)	I
Acetyl-alpha-methylfentanyl (9815).	I
Acetyldihydrocodeine (9051)	I
Acetylmethadol (9601)	I
Allylprodine (9602)	I
Alphacetylmethadol except levo-alphacetylmethadol (9603).	I

Drug	Schedule
Alpha-ethyltryptamine (7249)	I
Alphameprodine (9604)	I
Alphamethadol (9605)	I
Alpha-methylfentanyl (9814)	I
Alpha-methylthiofentanyl (9832)	I
Alpha-methyltryptamine (7432)	I
Aminorex (1585)	I
Benzethidine (9606)	I
Benzylmorphine (9052)	I
Betacetylmethadol (9607)	I
Beta-hydroxy-3-methylfentanyl (9831).	I
Beta-hydroxyfentanyl (9830)	I
Betameprodine (9608)	I
Betamethadol (9609)	I
Betaprodine (9611)	I
Bufotenine (7433)	I
Cathinone (1235)	I
Clonitazene (9612)	I
Codeine methylbromide (9070)	I
Codeine-N-Oxide (9053)	I
Cyprenorphine (9054)	I
Desomorphine (9055)	I
Dextromoramide (9613)	I
Diampromide (9615)	I
Diethylthiambutene (9616)	I
Diethyltryptamine (7434)	I
Difenoxin (9168)	I
Dihydromorphine (9145)	I
Dimenoxadol (9617)	I
Dimepheptanol (9618)	I
Dimethylthiambutene (9619)	I
Dimethyltryptamine (7435)	I
Dioxaphetyl butyrate (9621)	I
Dipipanone (9622)	I
Drotebanol (9335)	I
Ethylmethylthiambutene (9623)	I
Etonitazene (9624)	I
Etorphine except HCl (9056)	I
Etoxeridine (9625)	I
Fenethylline (1503)	I
Furethidine (9626)	I
Gamma Hydroxybutyric Acid (2010).	I
Heroin (9200)	I
Hydromorphinol (9301)	I
Hydroxypethidine (9627)	I
Ibogaine (7260)	I
Ketobemidone (9628)	I
Levomoramide (9629)	I
Levophenacylmorphan (9631)	I
Lysergic acid diethylamide (7315)	I
Marihuana (7360)	I
Mecloqualone (2572)	I
Mescaline (7381)	I
Methaqualone (2565)	I
Methcathinone (1237)	I
Methyldesorphine (9302)	I
Methyldihydromorphine (9304)	I
Morpheridine (9632)	I
Morphine methylbromide (9305)	I
Morphine methylsulfonate (9306)	I
Morphine-N-Oxide (9307)	I
Myrophine (9308)	I
N,N-Dimethylamphetamine (1480)	I
N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (9834).	I
N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (9818).	I
N-Benzylpiperazine (7493)	I
N-Ethyl-3-piperidyl benzilate (7482).	I
N-Ethylamphetamine (1475)	I
N-Ethyl-l-phencylcyclohexylamine (7455).	I
N-Hydroxy-3,4-methylenedioxyamphetamine (7402).	I
Nicocodeine (9309)	I
Nicomorphine (9312)	I
N-Methyl-3-piperidyl benzilate (7484).	I
Noracymethadol (9633)	I
Norlevorphanol (9634)	I
Normethadone (9635)	I
Normorphine (9313)	I
Norpipanone (9636)	I
Para-Fluorofentanyl (9812)	I
Parahexyl (7374)	I
Peyote (7415)	I
Phenadoxone (9637)	I
Phenampromide (9638)	I
Phenomorphan (9647)	I
Phenoperidine (9641)	I
Pholcodine (9314)	I
Piritramide (9642)	I
Proheptazine (9643)	I
Properidine (9644)	I
Propiram (9649)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
Racemoramide (9645)	I
Tetrahydrocannabinols (7370)	I
Thebacon (9315)	I
Thiofentanyl (9835)	I
Thiophene analog of phencyclidine (7470).	I
Tilidine (9750)	I
Trimeperidine (9646)	I
1-Phenylcyclohexylamine (7460)	II
1-Piperidinocyclohexanecarbonitrile (8603).	II
Alfentanil (9737)	II
Alphaprodine (9010)	II
Amobarbital (2125)	II
Amphetamine (1100)	II
Anileridine (9020)	II
Bezitramide (9800)	II
Carfentanil (9743)	II
Codeine (9050)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Dihydrocodeine (9120)	II
Dihydroetorphine (9334)	II
Diphenoxylate (9170)	II
Ethylmorphine (9190)	II
Etorphine Hcl (9059)	II
Fentanyl (9801)	II
Glutethimide (2550)	II
Hydrocodone (9193)	II
Hydromorphone (9150)	II
Isomethadone (9226)	II
Levo-alphacetylmethadol (9648)	II
Levomethorphan (9210)	II
Levorphanol (9220)	II
Lisdexamfetamine (1205)	II
Meperidine (9230)	II
Meperidine intermediate-A (9232)	II
Meperidine intermediate-B (9233)	II
Meperidine intermediate-C (9234)	II
Metazocine (9240)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II
Metopon (9260)	II
Moramide intermediate (9802)	II
Morphine (9300)	II
Nabilone (7379)	II
Opium, raw (9600)	II
Opium extracts (9610)	II
Opium fluid extract (9620)	II
Opium tincture(9630)	II
Opium, granulated (9640)	II
Oxycodone (9143)	II
Oxymorphone (9652)	II
Pentobarbital (2270)	II
Phenazocine (9715)	II
Phencyclidine (7471)	II
Phenmetrazine (1631)	II
Phenylacetone (8501)	II
Piminodine (9730)	II
Powdered opium (9639)	II
Racemethorphan (9732)	II
Racemorphan (9733)	II
Remifentanil (9739)	II
Secobarbital (2315)	II
Sufentanil (9740)	II
Thebaine (9333)	II

The company plans to import small quantities of the listed controlled substances for the National Institute of Drug Abuse (NIDA) for research activities.

Any manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic classes of controlled substances may file comments or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR 1301.43 and in such form as prescribed by 21 CFR 1316.47.

Any such comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), Washington, DC 20537; or any being sent via express mail should be sent to, Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 2401 Jefferson-Davis Highway, Alexandria, Virginia 22301; and must be filed no later than November 26, 2007.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975, (40 FR 43745–46), all applicants for registration to import a basic class of any controlled substances in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a); 21 U.S.C. 823(a); and 21 CFR 1301.34(b), (c), (d), (e), and (f) are satisfied.

Dated: October 19, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–21009 Filed 10–24–07; 8:45 am]

BILLING CODE 4410–09–P

NATIONAL COUNCIL ON DISABILITY

Cultural Diversity Advisory Committee Meeting (Teleconference)

AGENCY: National Council on Disability (NCD). Pursuant to the Federal Advisory Committee Act, Public Law 92–463, NCD gives notice that the Cultural Diversity Advisory Committee will hold a meeting on the date and time noted below. The Committee will meet by conference call.

Date and Time: Thursday, November 15, 2007, 2 p.m. Eastern Standard Time.

Place: National Council on Disability, 1331 F Street, NW., Suite 850, Washington, DC 20004.

Status: All parts of this conference call will be open to the public. People interested in participating on this call should contact the appropriate staff member listed below. Due to limited resources, only a few telephone lines will be available for the conference call.

Agenda: Roll call, announcements, reports, new business, adjournment. A detailed agenda will be posted 10 days before each meeting at *http://www.ncd.gov/newsroom/advisory/cultural/cultural.htm.*

Contact Person for More Information: To obtain information on the meeting, including the call-in number, please contact Mark Seifarth or Stacey Brown, NCD, 1331 F Street NW., Suite 850, Washington, DC 20004, 202–272–2004 (voice), 202–272–2074 (TTY), 202–272–2022 (fax), *cultural-diversity@ncd.gov* (e-mail).

Cultural Diversity Advisory Committee Mission: The purpose of NCD's Cultural Diversity Advisory Committee is to provide advice and recommendations to NCD on issues affecting people with disabilities from culturally diverse backgrounds. Specifically, the committee will help identify issues, expand outreach, infuse participation, and elevate the voices of underserved and unserved segments of this nation's population that will help NCD develop federal policy that will address the needs and advance the civil and human rights of people from diverse cultures.

Accommodations: People needing reasonable accommodations should notify NCD at least two weeks before these meetings.

Dated: October 16, 2007.

Michael C. Collins,

Executive Director.

[FR Doc. E7–21034 Filed 10–24–07; 8:45 am]

BILLING CODE 6820–MA–P

NATIONAL COUNCIL ON DISABILITY

Youth Advisory Committee Meetings (Teleconferences)

AGENCY: National Council on Disability (NCD).

Pursuant to the Federal Advisory Committee Act, P. L. 92–463, NCD gives notice that the Youth Advisory Committee will hold meetings on the dates and times noted below. The Committee will meet by conference call. All meetings are open to the public.

DATES AND TIMES:

Thursday, November 15, 2007, 4 p.m. EST.

Thursday, January 17, 2008, 4 p.m. EST.

Thursday, April 17, 2008, 4 p.m. EDT.

Place: National Council on Disability, 1331 F Street, NW., Suite 850, Washington, DC

Status: All parts of these conference calls will be open to the public. People interested in observing on conference calls should contact the appropriate staff member listed below. Due to limited resources, only a few telephone lines will be available for each conference call.

Agenda: Roll call, announcements, reports, new business, adjournment. A detailed agenda will be posted 10 days before each meeting at *http://www.ncd.gov/newsroom/advisory/youth/youth.htm.*

FOR FURTHER INFORMATION CONTACT: Gerrie Drake Hawkins, Ph.D., Senior Program Analyst, National Council on Disability, 1331 F Street, NW., Suite 850, Washington, DC 20004; 202–272–2004 (voice), 202–272–2074 (TTY), 202–272–2022 (fax), *youth@ncd.gov* (e-mail).

Accommodations: People needing reasonable accommodations should notify NCD at least two weeks before this meeting.

Youth Advisory Committee Mission: The purpose of NCD's Youth Advisory Committee is to provide input into NCD activities consistent with the values and goals of the Americans with Disabilities Act.

Dated: October 16, 2007.

Michael C. Collins,

Executive Director.

[FR Doc. E7–21033 Filed 10–24–07; 8:45 am]

BILLING CODE 6820–MA–P

NUCLEAR REGULATORY COMMISSION

Final Regulatory Guides: Issuance, Availability

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance, Availability of Regulatory Guides 1.84, 1.147, and 1.193.

FOR FURTHER INFORMATION CONTACT: Wallace E. Norris, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6796 or e-mail to *WEN@nrc.gov.*

SUPPLEMENTARY INFORMATION: The U.S. Nuclear Regulatory Commission (NRC) has issued revisions to existing guides in the agency's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information such as methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

Revision 34 of Regulatory Guide 1.84, ''Design, Fabrication, and Materials Code Case Acceptability, ASME Section III,'' lists all Section III Code Cases that the NRC has approved for use. For Revision 34 of the guide, the NRC staff reviewed the Section III Code Cases listed in Supplements 7–12 to the 2001 Edition of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel (BPV) Code and Supplement 1 to the 2004 Edition. Appendix A to this guide lists the supplements reviewed, the applicable edition, and the date on which each supplement was approved by the ASME Board on Nuclear Codes and Standards. Appendix B is a list of the Section III Code Cases addressed in the seven supplements. Finally, Appendix C is a current list of all Section III Code Cases.

In October 2006, the NRC published a draft of this guide as Draft Regulatory Guide (DG)–1133. The public comment period closed on January 2, 2007. The staff's responses to the public comments are located in the NRC's Agencywide Documents Access and Management System (ADAMS), Accession Number ML072080205.

For Revision 15 of Regulatory Guide 1.147, ''Inservice Inspection Code Case Acceptability, ASME Section XI, Division I,'' the NRC staff reviewed the Section XI Code Cases listed in Supplements 7–12 to the 2001 Edition, and Supplement 1 to the 2004 Edition of the ASME BPV Code. Appendix A to

this guide lists the supplements reviewed, the edition, the supplement number, and the date on which the supplement was approved by the ASME Board on Nuclear Codes and Standards. Appendix B is a list of the Section XI Code Cases published by the ASME in the seven supplements. Finally, Appendix C is a current list of all Section XI Code Cases.

Code cases approved by the NRC may be used voluntarily by licensees as an alternative to compliance with ASME Code provisions incorporated by reference into Title 10 of the Code of Federal Regulations (10 CFR) Section 50.55a.

In October 2006, the NRC published proposed Revision 15 as DG–1134. The public comment period closed on January 2, 2007. The staff's responses to the public comments are located in the NRC's ADAMS, Accession Number ML072080205.

Revision 2 of Regulatory Guide 1.193, ''ASME Code Cases Not Approved for Use,'' lists the code cases that the NRC determined unacceptable for use on a generic basis. Licensees may request NRC approval to implement one or more of the code cases listed in Revision 2 of Regulatory Guide 1.193, as provided in 10 CFR 50.55a(a)(3), which permits the use of alternatives to the code requirements referenced in 10 CFR 50.55a, provided the proposed alternatives result in an acceptable level of quality and safety. To do so licensees must submit a plant-specific request that addresses the NRC's concerns about the code case at issue.

On May 19, 2006, the NRC published a draft of this guide as DG–1135. The public comment period closed on July 14, 2006, and no comments were received. However, changes made to Regulatory Guides 1.84 and 1.147 resulted in changes to Regulatory Guide 1.193.

Electronic copies of Regulatory Guides 1.84, 1.147 and 1.193 are available through the NRC's public Web site under ''Regulatory Guides'' at *http://www.nrc.gov/reading-rm/doc-collections/.*

In addition, regulatory guides are available for inspection at the NRC's Public Document Room (PDR), which is located at 11555 Rockville Pike, Rockville, Maryland. The PDR's mailing address is USNRC PDR, Washington, DC 20555–0001. The PDR can also be reached by telephone at (301) 415–4737 or (800) 397–4209, by fax at (301) 415–3548, and by e-mail to *PDR@nrc.gov.*

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

Dated at Rockville, Maryland, this 5th day of October, 2007.

For the Nuclear Regulatory Commission.

Brian W. Sheron,

Director, Office of Nuclear Regulatory Research.

[FR Doc. E7–21017 Filed 10–24–07; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Public Comments on the Caribbean Basin Economic Recovery Act and the Caribbean Basin Trade Partnership Act: Report to Congress

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and request for public comment.

SUMMARY: The Trade Policy Staff Committee (TPSC) is seeking the views of interested parties on the operation of the Caribbean Basin Economic Recovery Act (CBERA), as amended by the Caribbean Basin Trade Partnership Act (CBTPA) (19 U.S.C. 2701 *et seq.*). Section 212(f) of the CBERA, as amended, requires the President to submit a report to Congress regarding the operation of the CBERA and CBTPA (together commonly referred to as the Caribbean Basin Initiative, or CBI) on or before December 31, 2001, and every two years thereafter. The TPSC invites written comments concerning the operation of the CBI, including comments on the performance of each CBERA and CBTPA beneficiary country, as the case may be, under the criteria described in sections 212(b), 212(c), and 213(b)(5)(B) of the CBERA, as amended. This information will be used in the preparation of a report to the U.S. Congress on the operation of the program.

DATES: Public comments are due at USTR no later than 5 p.m., November 16, 2007.

ADDRESSES: Submissions by electronic mail: *FR0803@ustr.eop.gov.* Submissions by facsimile: Kent Shigetomi, Office of the Americas, at (202) 395–9675. The public is strongly encouraged to submit documents electronically rather than by facsimile. See requirements for submissions below.

FOR FURTHER INFORMATION CONTACT: Kent Shigetomi, Office of the Americas, Office of the United States Trade Representative, 600 17th Street, NW., Room 523, Washington, DC 20508. The telephone number is (202) 395–3412.

SUPPLEMENTARY INFORMATION: Interested parties are invited to submit comments on any aspect of the program's operation, including the performance of CBERA and CBTPA beneficiary countries, as the case may be, under the criteria described in sections 212(b), 212(c), and 213(b)(5)(B) of the CBERA, as amended, and provided below. Other issues to be examined in this report include: the CBI's effect on the volume and composition of trade and investment between the United States and the Caribbean Basin beneficiary countries; and its effect in advancing U.S. trade policy goals as set forth in the CBTPA. The following countries are both CBERA and CBTPA beneficiary countries: Barbados, Belize, Costa Rica, Guyana, Haiti, Jamaica, Panama, Saint Lucia, and Trinidad and Tobago. Antigua and Barbuda, Aruba, The Bahamas, British Virgin Islands, Dominica, Grenada, Montserrat, Netherlands Antilles, Saint Kitts and Nevis, Saint Vincent and the Grenadines currently receive benefits only under CBERA. The Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua ceased to be designated as beneficiary countries when the Dominican Republic—Central America—United States Free Trade Agreement (CAFTA–DR) entered into force for each country. The CAFTA–DR entered info for El Salvador on March 1, 2006; for Honduras on April 1, 2006; for Nicaragua on April 1, 2006; for Guatemala on July 1, 2006; and for the Dominican Republic on March 1, 2007. Comments on these five former beneficiary countries should pertain to the time period when each country was still a beneficiary country. When the CAFTA-DR enters into force for Costa Rica, that country will cease to be designated as a CBERA and CBTPA beneficiary country.

Eligibility Criteria for CBTPA Beneficiary Countries (Section 213(b)(5)(B) of CBERA)

In determining whether to designate a country as a CBTPA beneficiary country, the President must take into account the criteria contained in sections 212(b) and (c) of CBERA, and other appropriate criteria, including the following:

(1) Whether the beneficiary country has demonstrated a commitment to undertake its obligations under the WTO under or ahead of schedule and participate in negotiations toward the completion of the FTAA or another free trade agreement.

(2) The extent to which the country provides protection of intellectual

property rights consistent with or greater than the protection afforded under the Agreement on Trade-Related Aspects of Intellectual Property Rights.

(3) The extent to which the country provides internationally recognized worker rights including—

(I) The right of association;

(II) The right to organize and bargain collectively;

(III) A prohibition on the use of any form of forced or compulsory labor;

(IV) A minimum age for the employment of children; and

(V) Acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

(4) Whether the country has implemented its commitments to eliminate the worst forms of child labor.

(5) The extent to which the country has met U.S. counter-narcotics certification criteria under the Foreign Assistance Act of 1961.

(6) The extent to which the country has taken steps to become a party to and implement the Inter-American Convention Against Corruption.

(7) The extent to which the country applies transparent, nondiscriminatory and competitive procedures in government procurement, and contributes to efforts in international fora to develop and implement rules on transparency in government procurement.

Additionally, before a country can receive benefits under the CBTPA, the President must also determine that the country has satisfied the requirements of section 213(b)(4)(A)(ii) of CBERA (19 U.S.C. 2703(b)(4)(A)(ii)) relating to the implementation of procedures and requirements similar in all material aspects to the relevant procedures and requirements contained in chapter 5 of the North American Free Trade Agreement.

Requirements for Submissions

Comments must be submitted in English by the deadline indicated above. In order to facilitate prompt processing of submissions, the Office of the United States Trade Representative strongly urges and prefers electronic (e-mail) submissions in response to this notice. In the event that an e-mail submission is impossible, submissions should be made by facsimile. Hand-delivered submissions will not be accepted.

Persons making submissions by e-mail should use the following subject line: ''CBI Report to Congress.'' Documents should be submitted as either WordPerfect, MSWord, Adobe PDF, or text (.TXT) files. Spreadsheets submitted as supporting documentation are acceptable as Quattro Pro or Excel files. Persons who make submissions by e-mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. To the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

Written comments, notice of testimony, and testimony will be placed in a file open to public inspection pursuant to 15 CFR 2003.5, except business confidential information exempt from public inspection in accordance with 15 CFR 2003.6. Business confidential information submitted in accordance with 15 CFR 2003.6 must be clearly marked ''BUSINESS CONFIDENTIAL'' at the top of each page, including any cover letter or cover page, and must be accompanied by a non-confidential version indicating where confidential information was redacted by inserting asterisks where material was deleted, as well as a non-confidential summary of the confidential information. If any document submitted electronically contains business confidential information, the file name of the business confidential version should begin with the characters ''BC-,'' and the file name of the public version should begin with the characters ''P-.'' The ''P-'' or ''BC-'' should be followed by the name of the submitter. All public documents and non-confidential summaries shall be available for public inspection in the USTR Reading Room. The USTR Reading Room is open to the public, by appointment only, from 10 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday. An appointment to review the file must be scheduled at least 48 hours in advance and may be made by calling (202) 395–6186.

Carmen Suro-Bredie,

Chairman, Trade Policy Staff Committee.

[FR Doc. E7–21064 Filed 10–24–07; 8:45 am]

BILLING CODE 3190–W8–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56680; File No. SR–CBOE–2007–59]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change To Amend the Minimum Quote Size Requirements for Hybrid Opening System Rotations

October 19, 2007.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 17, 2007, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its minimum quote size requirements that are applicable to trading rotations conducted via the Hybrid Opening System (''HOSS''). The text of the proposed rule change is available at the Exchange, on the Exchange's Web site (*http://www.cboe.org/Legal*), 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend CBOE Rule 6.2B, *Hybrid Opening System* (''HOSS''), which pertains to trading rotations for series trading on the CBOE Hybrid Trading System (''Hybrid''), in order to modify the minimum quote size requirements applicable to Market-Makers, Remote Market-Makers, Designated Primary Market-Makers, Electronic Designated Primary Market-Makers and Lead Market-Makers (collectively referred to as ''Market-Makers'').[3]

With respect to Market-Makers' quote sizes generally, CBOE Rule 8.7 (''Obligations of Market-Makers'') currently provides that the initial size a Market-Maker electronically quotes must be at least ten contracts (undecremented size) (the ''10-up'' requirement); however, if the underlying primary market disseminates a 100-share best bid or offer quote (which is the equivalent of one option contract), a Market-Maker's undecremented quote may be for as low as one contract (''1-up'').[4] The proposed revisions to CBOE Rule 6.2B would revise these parameters only with respect to opening rotations in Hybrid classes. In particular, the existing minimum quote size requirements would continue to apply, except that a Market-Maker would be permitted to enter an opening quote for as low as one contract if the underlying primary market disseminates less than a 1000-share best bid or offer quote (which is the equivalent of ten contracts) immediately prior to an option series opening.[5]

Generally, the Exchange believes that the existing quote size requirement imposes a reasonable obligation on Market-Makers, who, in turn for satisfying this and other obligations, are entitled to receive market maker margin treatment. Nevertheless, the Exchange believes that there are instances where requiring Market-Makers to quote 10-up during an opening rotations imposes a heightened and inappropriate level of risk upon them. Accordingly, in the Exchange's view, the purpose of this filing is to adopt a limited exception to the 10-up minimum quoting requirement to provide relief in one such specific instance.

The Exchange believes that, when the underlying primary market disseminates less than a 1000-share quote, it substantially restricts the amount of liquidity available in that security on that particular side of the market. The Exchange notes that options exchanges are derivative markets. In this regard, the Exchange believes that, with a minimum quote size requirement of ten contracts over multiple series, an options exchange provides exponentially more liquidity than is available in an underlying primary stock market that is disseminating less than a 1000-share quote.[6] Additionally, according to the Exchange, Market-Makers must hedge their transactions by buying and/or selling stock, and when the underlying primary stock exchange posts less than a 1000-share quote during the opening, it restricts the Market-Maker's ability to hedge, which does nothing but increase the Market-Maker's financial exposure and risk. This exposure and risk is intensified during the opening, which tends to be one of the busiest periods of the trading day. For these reasons, the Exchange believes that Market-Makers in this instance should have the ability to lower their Hybrid opening quote sizes to as low as one contract if they choose, thereby being more consistent with the amount of liquidity provided by the underlying primary market.[7]

The Exchange states that it is also cognizant of the desire to continue to maintain fair and orderly openings. CBOE does not think that this proposal would detract from that objective because, irrespective of the size associated with a Market-Maker's quotes, the options class would continue to open in the same automated fashion and, to the extent there may be

[3] Currently, Designated Primary Market-Makers, Electronic Designated Primary Market-Makers and Lead Market-Makers are required to enter opening quotes in accordance with CBOE Rule 6.2B in 100% of the series of each appointed class; whereas, other Market-Makers and Remote Market-Makers are permitted, but not required, to enter opening quotes in accordance with CBOE Rule 6.2B. *See* CBOE Rules 6.2B, 8.15A (''Lead Market-Makers in Hybrid Classes'') (subparagraph (b)(iv) of this rule has been interpreted by the Exchange to require an LMM to enter opening quotes in 100% of the series of each appointed class), 8.85 (''DPM Obligations''), and 8.93 (''e-DPM Obligations''). The Exchange notes, however, that it has submitted a separate proposed rule change that would modify the opening quote obligations of Designated Primary Market-Makers, Electronic Primary Market-Makers, and Lead Market-Makers. *See* SR–CBOE–2007–87.

[4] *See, e.g.*, CBOE Rule 8.7(d)(ii)(B).

[5] Under CBOE Rule 6.2B, the HOSS rotation process for an option class is initiated when the underlying market opens. When the underlying market ''opens'' is determined, on a class-by-class basis, to be either the opening trade and/or opening quote (or whichever occurs first). In addition, the Commission notes that CBOE recently modified the parameters for determining when the underlying market opens. *See* Securities Exchange Act Release No. 56600 (October 2, 2007), 72 FR 57619 (October 10, 2007) (SR–CBOE–2007–88). Once the underlying market open occurs, HOSS initiates the overlying option class opening and sends a Rotation Notice to market participants. Thereafter, HOSS will open the series of a class in a random order. The Exchange notes that the underlying primary market's last reported quotation information may change between the time that the underlying market opens and the time that an overlying option series opens. For purposes of the proposed ''1-up'' quoting relief, the Exchange proposes that a Market-Maker only look to the underlying primary market's last reported quotation information that exists immediately prior to time the Market-Maker enters its opening quotes. Thus, for example, if an underlying primary market has ''opened'' with a best bid of 1000 shares and best offer of 1000 shares and, subsequent to that time but immediately prior to the time the Market-Maker enters its opening quotes, the underlying primary market's last reported best bid was 500 shares and best offer was 500 shares (*i.e.*, 500×500), a Market-Maker would be permitted to enter a minimum opening quote for one contract on both the bid and offer sides of a call or put series (*i.e.*, 1×1). If, however, the underlying primary market's best bid was 500 shares and best offer was 1000 shares immediately prior to the time the Market-Maker enters its opening quotes (*i.e.*, 500×1000), to the extent required to quote, a Market-Maker would be permitted to enter a minimum opening quote for one contract on the bid side and required to enter a minimum opening quote for ten contracts on the offer side for a call series (*i.e.*, 1×10). Similarly, to the extent required to quote, a Market-Maker would be required to enter a minimum opening quote for ten contracts on the bid side and permitted to enter a minimum opening quote for one contract on the offer side for a put series (*i.e.*, 10×1). This ability to enter an opening quote for as low as one contract under CBOE Rule 6.2B would take precedence over any other Exchange rules regarding initial size. *See* proposed CBOE Rule 6.2B.02. In this regard, the Exchange notes that, as compared to the intra-day quoting requirements in CBOE Rule 8.7, there would be no requirement that the opening quote process be automated and the Market-Maker's quote size automatically return to at least 10-up when the underlying primary market no longer disseminates less than a 1000-share quote. Instead, once a 1-up opening quote is entered by a Market-Maker, the Market-Maker may maintain the quote until it is decremented or the Market-Maker determines to update it. Once an option series is opened and a Market-Maker's quote is decremented or the Market-Maker determines to update the quote, such updated quote would be subject to the electronic quotation size obligations set forth in CBOE Rule 8.7, which as discussed above requires that the initial size a Market-Maker electronically quotes must be at least ten contracts (undecremented size). For intra-day quoting, CBOE Rule 8.7 also provides that, if the underlying primary market disseminates a 100-share quote, a Market-Maker's undecremented quote may be for as low as one contract, provided the process is automated and the quote automatically returns to at least 10-up when the underlying primary market no longer disseminates a 100-share quote. *See supra,* note 4.

[6] According to the Exchange, an options exchange may list 20 or more options series for an underlying stock. Thus, for example, if just a single Market-Maker posts 10-up markets in twenty series, that Market-Maker alone would be providing liquidity equivalent to 20,000 shares, which would dwarf the underlying primary market's size commitment of less than 1000 shares.

[7] The Exchange also believes that nothing in this proposal would affect a Market-Maker's obligation to honor its firm quote requirements imposed by CBOE Rule 8.51 (''Firm Disseminated Market Quotes''). Accordingly, for example, if a Market-Maker disseminates a one contract market, its firm quote obligation would be one contract.

any market order imbalance on the opening, such imbalances would continue to be addressed in the same manner.[8]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with section 6(b) of the Act,[9] in general, and furthers the objectives of section 6(b)(5) of the Act,[10] in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest. The Exchange believes that the proposal provides for a very limited exception to the general requirement that Market-Maker's quotes be for a minimum ten contracts. The Exchange believes that this exception, which in the Exchange's view is narrowly-tailored, will provide a measure of protection to Market-Makers when the underlying primary market disseminates less than a 1000-share quote during the opening. Accordingly, the Exchange believes the proposal serves to enhance the incentives of Market-Makers to quote competitively during Hybrid opening rotations and reduces the disincentives to quote competitively.

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 solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2007–59 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–CBOE–2007–59. 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 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 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–CBOE–2007–59 and should be submitted on or before November 15, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–21028 Filed 10–24–07; 8:45 am]

BILLING CODE 8011–01–P

[8] HOSS will not open an option series if the opening trade would leave a market order imbalance (*i.e.*, there are more market orders to buy or to sell for the particular series than can be satisfied by the limit orders, quotes and market orders on the opposite side). If this condition occurs, a notification will be sent to market participants indicating the size and direction (buy or sell) of the market order imbalance. HOSS will not open the series until the market order imbalance is satisfied and will repeat this process until the series is open. *See* CBOE Rule 6.2B(e)(iii) and (f). Upon receipt of these messages, generally the Designated Primary Market-Maker and Electronic Designated Primary Market-Maker(s) or Lead Market-Maker, as applicable, other Market-Makers with an appointment in the class, and/or other market participants, would take steps to address and resolve the market order imbalance (which steps may include, for example, a Market-Maker adding more size to his quotes). *See also* CBOE Rule 8.7(b) (which provides, among other things, that a Market-Maker has a continuous obligation to engage, to a reasonable degree under the existing circumstances, in dealings for his own account when there exists, or it is reasonably anticipated that there will exist, a temporary disparity between the supply of and demand for a particular option contract) and CBOE Rule 7.5 (''Obligation for Fair and Orderly Market'') (which provides, among other things, that Market-Makers with an appointment in a class that are present on the floor of the Exchange may be called upon to make bids and/or offers that contribute to meeting the standards set forth in CBOE Rule 8.7).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56677; File No. SR–FINRA–2007–005]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Granting Approval of a Proposed Rule Change Relating to NASD Rule 11870 (Customer Account Transfer Contracts) and NYSE Rule 412 (Customer Account Transfer Contracts) To Make the Time Frames in the Rules for Validating or Taking Exception to an Instruction To Transfer a Customer's Securities Account Consistent With the Time Frames in the Automated Customer Account Transfer Service

October 19, 2007.

I. Introduction

On August 8, 2007, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on September 13,

[1] 15 U.S.C. 78s(b)(1).

2007.[2] The Commission received four comment letters in response to the proposed rule change.[3] For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description

FINRA is amending National Association of Securities Dealers, Inc. (''NASD'') Rule 11870 (''Customer Account Transfer Contracts'') and New York Stock Exchange (''NYSE'') Rule 412 (''Customer Account Transfer Contracts'') to make the time frames in the rules for validating or taking exception to an instruction to transfer a customer's securities account assets and for completing the transfer of the assets consistent with the time frames in the National Securities Clearing Corporation's (''NSCC'') Automated Customer Account Transfer Service (''ACATS'') transfer cycle.[4]

NASD Rule 11870 and NYSE Rule 412 regulate the transfer of customer accounts from one member (''carrying firm'') to another (''receiving firm''). Such transfers generally occur through ACATS, an electronic transfer system developed by NSCC to automate and standardize the transfer of accounts. Currently, NASD Rule 11870(b) and NYSE Rule 412(b)(1) require carrying members to validate or to take exception to an instruction to transfer securities account assets within three business days following receipt of a Transfer Initiation Form (''TIF'') or transfer instruction. NASD Rule 11870(e) and NYSE Rule 412(b)(3) require carrying members to complete the transfer within three business days following the validation of a transfer instruction.

FINRA is amending NASD Rule 11870(b) and (e) and NYSE Rule 412(b)(1) and (b)(3) to reduce the validation period from three business days to one business day and to provide that the time frames in NASD Rule 11870(b) and (e) and NYSE Rule 412(b)(1) and (b)(3) will change if and when NSCC modifies those requirements in the future.[5] FINRA will also announce any such future changes in time frames to its members in a Regulatory Notice and other appropriate communications.

III. Comment Letters

The Commission received four comment letters in response to the proposed rule change.[6] Two of the comment letters supported the proposed rule change and one comment letter, while not specifically opposing the proposed change, did not believe that the proposed changes would alone be sufficient to reduce delays in the account transfer process. A fourth comment letter supported the proposed rule change while also suggesting that further action be taken to reduce other delays in the account transfer process.

Two of the supporting comment letters, written on behalf of the Customer Account Transfer Division of the Securities Industry and Financial Markets Association (''SIFMA'') and Edward D Jones & Co., LP (''Edward Jones'') both expressed the belief that the proposed reduction to the account transfer time frame by two business days will significantly improve the experience of investors when transferring assets. The SIFMA letter also addressed the concerns reported by FINRA of some introducing brokers to the proposed rule change. SIFMA expressed its view that based on its experience working with members of the Customer Account Transfer Division on the proposed changes to ACATS, the changes would not result in hardship of any one group of clients or member firms.

The comment letter written on behalf of Lincoln Investment Planning, Inc. expressed doubt that reducing the validation period alone will alleviate delays in the transfer of securities. Rather, the commenter states that such a reduction should be accompanied by specific time frames by which customers are informed by their receiving firms of exceptions taken in the transfer process so that such exceptions can be rectified consistent with firms' obligation to ''promptly'' resolve any exceptions.[7] The comment letter from R. Clements expressed support for the reduced account transfer time frame but also suggests that further action be taken to reduce the amount of time for delivering firms to transfer proceeds from sales of account assets that are liquidated rather than transferred through ACATS.

IV. Discussion

Section 15A(b)(6) of the Act[8] requires, among other things, that FINRA rules must be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change is designed to accomplish these ends by making the time frames in NASD Rule 11870(b) and (e) and NYSE Rule 412(b)(1) and (b)(3) consistent with the time frames established by NSCC for validating or taking exception to an account transfer instruction and for completing the transfer thereby creating greater efficiency in the securities account transfer process. The rule change, therefore, takes an important step to improving the account transfer process.

V. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 15A of the Act and the rules and regulations thereunder.[9]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–FINRA–2007–005) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–20988 Filed 10–24–07; 8:45 am]

BILLING CODE 8011–01–P

[2] Securities Exchange Act Release No. 56373 (September 7, 2007), 72 FR 52414.

[3] Deirdre B. Koerick, Chief Compliance Officer, Lincoln Investment Planning, Inc. (October 2, 2007); Ron Marino, President, Customer Account Transfer Division, Securities Industry and Financial Markets Association (October 4, 2007); Kristie Thompson, Group Leader, Customer Account Transfer, Edward D. Jones & Co., LP (October 5, 2007); and R. Clements (October 17, 2007).

[4] In a companion rule filing, NSCC is eliminating two business days from the validation period for both full and partial transfers. Securities Exchange Act Release No. 56678 (October 19, 2007) (order approving proposed rule change) [File No. SR–NSCC–2007–13].

[5] Should FINRA need to change the time frames because of a change in NSCC Rules, FINRA will file a proposed rule change to make such change.

[6] *Supra* note 3.

[7] *See* NASD Rule 11870(b)(2) and NYSE Rule 412(b)(2).

[8] 15 U.S.C. 78o–3(b)(6).

[9] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56678; File No. SR–NSCC–2007–13]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Granting Approval of a Proposed Rule Change To Amend Its Rules and Procedures With Regard to the Automated Customer Account Transfer Service (ACATS) and ACATS Fund/SERV Processing

October 19, 2007.

I. Introduction

On August 15, 2007, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on September 13, 2007.[2] No comment letters were received.[3] For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description

NSCC is modifying its Rules to shorten the account transfer time frame for Automated Customer Account Transfer Service (''ACATS'') and ACATS Fund/SERV transfers.[4]

(1) Background

ACATS enables members of NSCC to effect automated transfers of customer accounts among themselves. In operation since 1985, ACATS was designed to facilitate compliance with New York Stock Exchange (''NYSE'') Rule 412 and National Association of Securities Dealers (''NASD'')[5] Uniform Practice Code section 11870 that require NYSE and NASD members to use clearing agency automated customer account transfer services and to effect customer account transfers within specified time frames. ACATS has been modified over time, with its most significant redesign in 1999, to provide NSCC members with a more seamless and timely customer account transfer process.[6]

(2) Modifications

NSCC, its members, the Customer Account Division of the Securities Industry and Financial Markets Association (''SIFMA''), NYSE, and NASD believe that because technology and processing has improved since the 1999 redesign additional modifications to ACATS processing can be made that will further enhance the timeliness and efficiency of customer account transfers. FINRA has submitted a comparable rule filing on behalf of the NYSE and NASD with the Commission.[7]

(a) Standard ACATS Transfers

Standard ACATS transfers currently include a three business day ''Request'' period. The proposed change reduces the ''Request'' time frame from three business days to one business day. The time frame within which an account transfer may be responded to (*i.e.*, accepted or rejected) is accordingly shortened.[8]

(b) Nonstandard ACATS Transfers—Partial Transfer Receiver

In a ''partial transfer,'' the Receiving Member (Partial Transfer Receiver or ''PTR'') currently has a two business day ''Request'' period. The proposed change reduces the ''Request'' time frame from two business days to one business day. The time within which an account transfer may be responded to (*i.e.*, accepted or rejected) is accordingly shortened.[9]

(c) ACATS Fund/SERV

In an ACATS transfer that includes mutual fund assets, during the ''Review'' period the Receiving Member (or if applicable its ACATS-Fund/SERV Agent) requests the reregistration of mutual fund assets by submitting a Fund Registration input record through ACATS to the Fund Member/Mutual Fund Processor. The Fund Member/Mutual Fund Processor then has four business days to either reject or acknowledge the request. NSCC has found that the majority of Fund Member/Mutual Fund Processors act upon such requests during the first day of receipt. Therefore, NSCC is reducing the time frame for Fund Member/Mutual Fund Processors to either reject or acknowledge the request from four business days to one business day.

(3) Technical Correction to Rule 50

NSCC is also making a technical correction to Rule 50, section 13. Section 13 (which addresses Receiving Member initiated Partial Transfers) states that a Delivering Member may respond to a request at any time by following the procedure set forth in section 12. However, section 12 addresses actions taken with respect to Delivering Member initiated transactions. NSCC is correcting this text accordingly.

(4) Implementation of the Proposed Changes

NSCC is coordinating implementation of the changes with FINRA and SIFMA. NSCC anticipates that implementation of the changes set forth in this rule filing will take place in October of 2007. Members will be advised of the implementation through an NSCC Important Notice.

III. Discussion

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a clearing agency be designed to remove impediments to and to perfect the mechanism of a national system for prompt and accurate clearance and settlement of securities transactions.[10] By reducing the time frame for the transfer of customer accounts between NSCC members, the rule change will bring enhanced efficiency to members and will benefit investors. As such, the rule change is consistent with NSCC's statutory obligation to remove impediments to and perfect the mechanism of a national system for prompt and accurate clearance and settlement of securities transactions.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular section 17A of the Act and the rules and regulations thereunder.[11]

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 56372 (September 7, 2007), 72 FR 52416.

[3] *But see* comment letters to a similar rule change submitted by Financial Industry Regulatory Authority, Inc. Securities Exchange Act Release No. 56677 (October 19, 2007) [File No. SR–FINRA–2007–005].

[4] Rule 50 (Automated Customer Account Transfer Service) is generally nonspecific with respect to account transfer time frames. Rule 52 (Mutual Fund Services), *section* 16 (ACAT/Transfers) is nonspecific with respect to account transfer time frames and does not require modification.

[5] Rule 50 (Automated Customer Account Transfer Service) is generally nonspecific with respect to account transfer time frames. Rule 52 (Mutual Fund Services), Section 16 (ACAT/Transfers) is nonspecific with respect to account transfer time frames and does not require modification.

[6] The NASD is now known as The Financial Industry Regulatory Authority, Inc. (''FINRA'').

[7] Securities Exchange Act Release No. 56677 (October 19, 2007) (order approving proposed rule change) [File No. SR–FINRA–2007–005].

[8] In addition to changes to the ''Request'' period, NSCC is modifying the ACATS ''Status'' time frames for Request-Adjust, Request-Adjust Past, Request-Past, and Review-Error from a maximum of three business days to a maximum of one business day. Rule 50 is nonspecific with respect to these time frames.

[9] Other non-standard transfers are: Fail reversals, reclaims and residual credits (see Rule 50, Sec. 12). PTD's do not have a ''Request'' status.

[10] 15 U.S.C. 78q–1(b)(3)(F).

[11] In approving the proposed rule change, the Commission considered the proposal's impact on

Continued

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–NSCC–2007–13) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–20987 Filed 10–24–07; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

8(a) Business Development Program Regulation Changes; Tribal Consultation

AGENCY: U.S. Small Business Administration.

ACTION: Notice of tribal consultation meeting.

SUMMARY: The U.S. Small Business Administration (SBA) announces that it is holding a tribal consultation meeting in Denver, Colorado on the topic of the 8(a) Business Development (BD) program regulations. Testimony presented at this tribal consultation meeting will become part of the administrative record for SBA's consideration when the Agency deliberates on approaches to changes in the regulations pertaining to the 8(a) BD program.

DATES: The Tribal Consultation meeting date is Sunday, November 11, 2007, 9 a.m. to 4 p.m. (MST), Denver, Colorado. The Tribal Consultation meeting pre-registration deadline date is November 5, 2007.

ADDRESSES:

1. The Tribal Consultation meeting address is the Hyatt Regency Denver at the Colorado Convention Center, Centennial C Room, 650 15th Street, Denver, CO 80202.

2. Send pre-registration requests to attend and/or testify to Ms. Delcine Montgomery of SBA's Office of Native American Affairs, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416; or *Delcine.Montgomery@SBA.gov*; or Facsimile to 202/481–1597.

3. Send all written comments to Mr. Joseph Loddo, Associate Administrator for Business Development, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416; *Joseph.Loddo@SBA.gov*; or Facsimile to 202/481–2740.

FOR FURTHER INFORMATION CONTACT: Delcine Montgomery, Business Development Specialist for SBA's Office of Native American Affairs, at *Delcine.Montgomery@SBA.gov* or 202/205–6195 or by facsimile 202/481–1597.

SUPPLEMENTARY INFORMATION:

Background

SBA is in the process of reassessing its rules relating to the 8(a) BD program, particularly those directly affecting tribally-owned and ANC-owned 8(a) firms. 13 CFR 124.506, 124.513, and 124.519. Part of SBA's analysis pertains to a recent report issued by the Government Accountability Office (GAO) titled ''Increased Use of Alaska Native Corporations' Special 8(a) Provisions Calls for Tailored Oversight'' (GAO–06–399). This GAO report concluded that SBA needs to tailor its regulations and policies to provide greater oversight over its ANCs' 8(a) procurements. GAO determined that without sufficient oversight, there is the potential for unintended consequences or abuse.

In response, SBA is considering regulatory changes to the 8(a) BD program to address the issues and concerns raised in the report, particularly those relating to ANC and tribal participation in the 8(a) BD mentor/protégé program. It is SBA's intent that any changes contemplated and instituted will incorporate the business development intent and mission of the 8(a) BD program as established by the Small Business Act. This notice provides information for the purpose, format, scheduling, and registration for the tribal consultation meeting.

Tribal Consultation Meeting

The purpose of this tribal consultation meeting is to conform to the requirements of Executive Order 13175, Tribal Consultations; to provide interested parties with an opportunity to discuss their views on the issues; and for SBA to obtain the views of these SBA's stakeholders on approaches to the 8(a) BD program regulations. SBA considers tribal consultation meetings a valuable component of its deliberations and believes that this tribal consultation meeting will allow for constructive dialogue with the Tribal community, Tribal Leaders, Tribal Elders, elected members of Alaska Native Villages or their appointed representatives, and principals of tribally-owned and ANC-owned 8(a) firms.

The format will consist of a panel of SBA representatives who will represent the Agency and moderate the discussions. Oral and written testimony will become part of the record for SBA's consideration. Written testimony may be submitted in lieu of oral testimony. SBA will analyze the testimony, both oral and written, along with any written comments received. SBA officials may ask questions of a presenter to clarify or further explain the testimony. The purpose of the tribal consultation meeting is to assist SBA with gathering information to potentially develop new proposals. SBA respectfully requests that the testimony focus on the issues as discussed in the GAO report, general issues as they pertain to the 8(a) BD program regulations and the mentor/protégé program, or the unique concerns of the tribal communities. SBA respectfully requests that presenters do not raise issues pertaining to other SBA small business programs. Presenters may provide a written copy of their testimony. SBA will accept written material that the presenter wishes to provide that further supplements his or her testimony. Electronic or digitized copies are encouraged.

The tribal consultation meeting will be held for one day. The meeting will begin at 9 a.m. and end at 4 p.m. (MST), with a break from 12 p.m. to 1 p.m. SBA will adjourn early if all those scheduled have delivered their testimony.

VENUE INFORMATION

Location	Address	Date	Registration closing date
Denver, Colorado	Hyatt Regency Denver at the Colorado Convention Center, Centennial C Room, 650 15th Street, Denver, CO 80202.	November 11, 2007	November 5, 2007.

efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

Registration

SBA respectfully requests that any elected or appointed representative of the tribal communities or principal of a tribally-owned or ANC-owned 8(a) firm that is interested in attending please pre-register in advance and indicate whether you would like to testify at the hearing. Registration requests should be received by SBA at least 5 business days prior to the tribal consultation meeting date. Please contact Ms. Delcine Montgomery of SBA's Office of Native American Affairs in writing at *Delcine.Montgomery@SBA.gov* or by facsimile to 202/481–1597. If you are interested in testifying please include the following information relating to the person testifying: Name, Organization affiliation, Address, Telephone number, E-mail address and Fax number. SBA will attempt to accommodate all interested parties that wish to present testimony. Based on the number of registrants it may be necessary to impose time limits to ensure that everyone who wishes to testify has the opportunity to do so. SBA will confirm in writing the registration of presenters and attendees.

(Authority: 15 U.S.C. 634)

Stephen D. Kong,

Deputy General Counsel.

[FR Doc. E7–21049 Filed 10–24–07; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Audit and Financial Management Advisory (AFMAC) Committee Meeting

Pursuant to the Federal Advisory Committee Act, Appendix 2 of Title 5, United States Code, Public Law 92–463, notice is hereby given that the U.S. Small Business Administration, Audit and Financial Management Advisory AFMAC (Committee) will host a public meeting on Tuesday, November 6, 2007 at 1 p.m. The meeting will take place at the U.S. Small Business Administration, 409 3rd Street, SW., Office of the Chief Financial Officer Conference Room, 6th Floor, Washington, DC 20416. The purpose of the meeting is to discuss the SBA's FY 2007 Financial Statements, FY 2007 Financial and Information Systems Audits, Credit Subsidy Modeling, FMFIA Assurance and A–123 Internal Control Program Results, FY 2007 Financial Report, FY 2007 Agency Performance Report and Information Systems Controls. The AFMAC was established by the Administrator of the SBA to provide recommendation and advice regarding the Agency's financial management, including the financial reporting process, systems of internal controls, audit process and process for monitoring compliance with relevant laws and regulations.

Anyone wishing to attend must contact Jennifer Main in writing or by fax. Jennifer Main, Chief Financial Officer, 409 3rd Street, SW., 6th Floor, Washington, DC 20416, phone: (202) 205–6449, fax: (202) 205–6969, e-mail: *Jennifer.Main@sba.gov.*

Matthew Teague,

Committee Management Officer.

[FR Doc. E7–21043 Filed 10–24–07; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2007–0081]

Office of the Commissioner; Cost-of-Living Increase and Other Determinations for 2008

AGENCY: Social Security Administration.

ACTION: Notice.

SUMMARY: The Commissioner has determined—

(1) A 2.3 percent cost-of-living increase in Social Security benefits under title II of the Social Security Act (the Act), effective for December 2007;

(2) An increase in the Federal Supplemental Security Income (SSI) monthly benefit amounts under title XVI of the Act for 2008 to $637 for an eligible individual, $956 for an eligible individual with an eligible spouse, and $319 for an essential person;

(3) The student earned income exclusion to be $1,550 per month in 2008 but not more than $6,240 in all of 2008;

(4) The dollar fee limit for services performed as a representative payee to be $35 per month ($68 per month in the case of a beneficiary who is disabled and has an alcoholism or drug addiction condition that leaves him or her incapable of managing benefits) in 2008;

(5) The dollar limit on the administrative-cost assessment charged to attorneys representing claimants to be $79 in 2008;

(6) The national average wage index for 2006 to be $38,651.41;

(7) The Old-Age, Survivors, and Disability Insurance (OASDI) contribution and benefit base to be $102,000 for remuneration paid in 2008 and self-employment income earned in taxable years beginning in 2008;

(8) The monthly exempt amounts under the Social Security retirement earnings test for taxable years ending in calendar year 2008 to be $1,130 and $3,010;

(9) The dollar amounts (''bend points'') used in the primary insurance amount benefit formula for workers who become eligible for benefits, or who die before becoming eligible, in 2008 to be $711 and $4,288;

(10) The dollar amounts (''bend points'') used in the formula for computing maximum family benefits for workers who become eligible for benefits, or who die before becoming eligible, in 2008 to be $909, $1,312, and $1,711;

(11) The amount of taxable earnings a person must have to be credited with a quarter of coverage in 2008 to be $1,050;

(12) The ''old-law'' contribution and benefit base to be $75,900 for 2008;

(13) The monthly amount deemed to constitute substantial gainful activity for statutorily blind individuals in 2008 to be $1,570, and the corresponding amount for non-blind disabled persons to be $940;

(14) The earnings threshold establishing a month as a part of a trial work period to be $670 for 2008; and

(15) Coverage thresholds for 2008 to be $1,600 for domestic workers and $1,400 for election workers.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Kunkel, Office of the Chief Actuary, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–3013. Information relating to this announcement is available on our Internet site at *http://www.socialsecurity.gov/OACT/COLA/index.html.* For information on eligibility or claiming benefits, call 1–800–772–1213, or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the Act, the Commissioner must publish within 45 days after the close of the third calendar quarter of 2007 the benefit increase percentage and the revised table of ''special minimum'' benefits (section 215(i)(2)(D)). Also, the Commissioner must publish on or before November 1 the national average wage index for 2006 (section 215(a)(1)(D)), the OASDI fund ratio for 2007 (section 215(i)(2)(C)(ii)), the OASDI contribution and benefit base for 2008 (section 230(a)), the amount of earnings required to be credited with a quarter of coverage in 2008 (section 213(d)(2)), the monthly exempt amounts under the Social Security retirement earnings test for 2008 (section 203(f)(8)(A)), the formula for computing a primary insurance amount for workers who first become eligible for benefits or die in 2008 (section 215(a)(1)(D)), and the formula

for computing the maximum amount of benefits payable to the family of a worker who first becomes eligible for old-age benefits or dies in 2008 (section 203(a)(2)(C)).

Cost-of-Living Increases

General

The next cost-of-living increase, or automatic benefit increase, is 2.3 percent for benefits under titles II and XVI of the Act. Under title II, OASDI benefits will increase by 2.3 percent for individuals eligible for December 2007 benefits, payable in January 2008. This increase is based on the authority contained in section 215(i) of the Act (42 U.S.C. 415(i)).

Under title XVI, Federal SSI payment levels will also increase by 2.3 percent effective for payments made for the month of January 2008 but paid on December 31, 2007. This is based on the authority contained in section 1617 of the Act (42 U.S.C. 1382f).

Automatic Benefit Increase Computation

Under section 215(i) of the Act, the third calendar quarter of 2007 is a cost-of-living computation quarter for all the purposes of the Act. The Commissioner is, therefore, required to increase benefits, effective for December 2007, for individuals entitled under section 227 or 228 of the Act, to increase primary insurance amounts of all other individuals entitled under title II of the Act, and to increase maximum benefits payable to a family. For December 2007, the benefit increase is the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers from the third quarter of 2006 to the third quarter of 2007.

Section 215(i)(1) of the Act provides that the Consumer Price Index (CPI) for a cost-of-living computation quarter shall be the arithmetic mean of this index for the 3 months in that quarter. In accordance with 20 CFR 404.275, we round the arithmetic mean, if necessary, to the nearest 0.001.

The Department of Labor publishes CPIs to 3 decimal places. It published CPIs to 1 decimal place for months prior to January 2007. The CPI for Urban Wage Earners and Clerical Workers for each month in the quarter ending September 30, 2006, is: For July 2006, 199.2; for August 2006, 199.6; and for September 2006, 198.4. The arithmetic mean for this calendar quarter is 199.067. The corresponding CPI for each month in the quarter ending September 30, 2007, is: for July 2007, 203.700; for August 2007, 203.199; and for September 2007, 203.889. The arithmetic mean for this calendar quarter is 203.596. Thus, because the CPI for the calendar quarter ending September 30, 2007, exceeds that for the calendar quarter ending September 30, 2006 by 2.3 percent (rounded to the nearest 0.1), a cost-of-living benefit increase of 2.3 percent is effective for benefits under title II of the Act beginning December 2007.

Section 215(i) also specifies that an automatic benefit increase under title II, effective for December of any year, will be limited to the increase in the national average wage index for the prior year if the ''OASDI fund ratio'' for that year is below 20.0 percent. The OASDI fund ratio for a year is the ratio of the combined assets of the Old-Age and Survivors Insurance and Disability Insurance Trust Funds at the beginning of that year to the combined expenditures of these funds during that year. (The expenditures in the ratio's denominator exclude transfer payments between the two trust funds, and reduce any transfers to the Railroad Retirement Account by any transfers from that account into either trust fund.) For 2007, the OASDI fund ratio is assets of $2,048,112 million divided by estimated expenditures of $593,483 million, or 345.1 percent. Because the 345.1-percent OASDI fund ratio exceeds 20.0 percent, the automatic benefit increase for December 2007 is not limited.

Title II Benefit Amounts

In accordance with section 215(i) of the Act, in the case of workers and family members for whom eligibility for benefits (i.e., the worker's attainment of age 62, or disability or death before age 62) occurred before 2008, benefits will increase by 2.3 percent beginning with benefits for December 2007 which are payable in January 2008. In the case of first eligibility after 2007, the 2.3 percent increase will not apply.

For eligibility after 1978, benefits are generally determined using a benefit formula provided by the Social Security Amendments of 1977 (Pub. L. 95–216), as described later in this notice.

For eligibility before 1979, we determine benefits by means of a benefit table. The table is available on the Internet at *http://www.socialsecurity.gov/OACT/ProgData/tableForm.html,* or by writing to: Social Security Administration, Office of Public Inquiries, Windsor Park Building, 6401 Security Boulevard, Baltimore, MD 21235.

Section 215(i)(2)(D) of the Act requires that, when the Commissioner determines an automatic increase in Social Security benefits, the Commissioner will publish in the **Federal Register** a revision of the range of the primary insurance amounts and corresponding maximum family benefits based on the dollar amount and other provisions described in section 215(a)(1)(C)(i). We refer to these benefits as ''special minimum'' benefits. These benefits are payable to certain individuals with long periods of relatively low earnings. To qualify for such benefits, an individual must have at least 11 ''years of coverage.'' To earn a year of coverage for purposes of the special minimum benefit, a person must earn at least a certain proportion of the ''old-law'' contribution and benefit base (described later in this notice). For years before 1991, the proportion is 25 percent; for years after 1990, it is 15 percent. In accordance with section 215(a)(1)(C)(i), the table below shows the revised range of primary insurance amounts and corresponding maximum family benefit amounts after the 2.3 percent automatic benefit increase.

SPECIAL MINIMUM PRIMARY INSURANCE AMOUNTS AND MAXIMUM FAMILY BENEFITS PAYABLE FOR DECEMBER 2007

Number of years of coverage	Primary insurance amount	Maximum family benefit
11	$34.90	$53.10
12	71.00	107.50
13	107.40	161.70
14	143.30	215.60
15	179.10	269.60
16	215.40	324.10
17	251.60	378.60
18	287.70	432.60
19	323.70	486.80
20	359.90	540.70
21	396.20	595.30
22	432.00	649.40
23	468.70	704.30
24	504.70	758.10
25	540.70	811.70
26	577.40	866.90
27	613.00	920.90
28	649.20	974.90
29	685.30	1,029.40
30	721.40	1,083.00

Title XVI Benefit Amounts

In accordance with section 1617 of the Act, maximum SSI Federal benefit amounts for the aged, blind, and disabled will increase by 2.3 percent effective January 2008. For 2007, we derived the monthly benefit amounts for an eligible individual, an eligible individual with an eligible spouse, and for an essential person—$623, $934, and $312, respectively—from corresponding yearly unrounded Federal SSI benefit amounts of $7,479.50, $11,217.99, and $3,748.32. For 2008, these yearly

unrounded amounts increase by 2.3 percent to $7,651.53, $11,476.00, and $3,834.53, respectively. Each of these resulting amounts must be rounded, when not a multiple of $12, to the next lower multiple of $12. Accordingly, the corresponding annual amounts, effective for 2008, are $7,644, $11,472, and $3,828. Dividing the yearly amounts by 12 gives the corresponding monthly amounts for 2008—$637, $956, and $319, respectively. In the case of an eligible individual with an eligible spouse, we equally divide the amount payable between the two spouses.

Title VIII of the Act provides for special benefits to certain World War II veterans residing outside the United States. Section 805 provides that ''[t]he benefit under this title payable to a qualified individual for any month shall be in an amount equal to 75 percent of the Federal benefit rate [the maximum amount for an eligible individual] under title XVI for the month, reduced by the amount of the qualified individual's benefit income for the month.'' Thus the monthly benefit for 2008 under this provision is 75 percent of $637, or $477.75.

Student Earned Income Exclusion

A blind or disabled child, who is a student regularly attending school, college, or university, or a course of vocational or technical training, can have limited earnings that are not counted against his or her SSI benefits. The maximum amount of such income that may be excluded in 2007 is $1,510 per month but not more than $6,100 in all of 2007. These amounts increase based on a formula set forth in regulation 20 CFR 416.1112.

To compute each of the monthly and yearly maximum amounts for 2008, we increase the corresponding unrounded amount for 2007 by the latest cost-of-living increase. If the amount so calculated is not a multiple of $10, we round it to the nearest multiple of $10. The unrounded monthly amount for 2007 is $1,513.29. We increase this amount by 2.3 percent to $1,548.10, which we then round to $1,550. Similarly, we increase the unrounded yearly amount for 2007, $6,100.08, by 2.3 percent to $6,240.38 and round this to $6,240. Thus the maximum amount of the income exclusion applicable to a student in 2008 is $1,550 per month but not more than $6,240 in all of 2008.

Fee for Services Performed as a Representative Payee

Sections 205(j)(4)(A)(i) and 1631(a)(2)(D)(i) of the Act permit a qualified organization to collect from an individual a monthly fee for expenses incurred in providing services performed as such individual's representative payee. Currently the fee is limited to the lesser of: (1) 10 percent of the monthly benefit involved; or (2) $34 per month ($66 per month in any case in which the individual is entitled to disability benefits and the Commissioner has determined that payment to the representative payee would serve the interest of the individual because the individual has an alcoholism or drug addiction condition and is incapable of managing such benefits). The dollar fee limits are subject to increase by the automatic cost-of-living increase, with the resulting amounts rounded to the nearest whole dollar amount. Thus we increase the current amounts by 2.3 percent to $35 and $68 for 2008.

Attorney Assessment Fee

Under sections 206(d) and 1631(d) of the Act, whenever a fee for services is required to be paid to an attorney who has represented a claimant, the Commissioner must impose on the attorney an assessment to cover administrative costs. Such assessment shall be no more than 6.3 percent of the attorney's fee or, if lower, a dollar amount that is subject to increase by the automatic cost-of-living increase. We derive the dollar limit for December 2007 by increasing the unrounded limit for December 2006, $77.47, by 2.3 percent, which gives $79.25. We then round $79.25 to the next lower multiple of $1. The dollar limit effective for December 2007 is thus $79.

National Average Wage Index for 2006

General

Under various provisions of the Act, several amounts increase automatically with annual increases in the national average wage index. The amounts are: (1) The OASDI contribution and benefit base; (2) the exempt amounts under the retirement earnings test; (3) the dollar amounts, or ''bend points,'' in the primary insurance amount and maximum family benefit formulas; (4) the amount of earnings required for a worker to be credited with a quarter of coverage; (5) the ''old-law'' contribution and benefit base (as determined under section 230 of the Act as in effect before the 1977 amendments); (6) the substantial gainful activity amount applicable to statutorily blind individuals; and (7) the coverage threshold for election officials and election workers. Also, section 3121(x) of the Internal Revenue Code requires that the domestic employee coverage threshold be based on changes in the national average wage index.

In addition to the amounts required by statute, two amounts increase automatically under regulatory requirements. The amounts are (1) the substantial gainful activity amount applicable to non-blind disabled persons, and (2) the monthly earnings threshold that establishes a month as part of a trial work period for disabled beneficiaries.

Computation

The determination of the national average wage index for calendar year 2006 is based on the 2005 national average wage index of $36,952.94 announced in the **Federal Register** on October 26, 2006 (71 FR 62636), along with the percentage increase in average wages from 2005 to 2006 measured by annual wage data tabulated by the Social Security Administration (SSA). The wage data tabulated by SSA include contributions to deferred compensation plans, as required by section 209(k) of the Act. The average amounts of wages calculated directly from these data were $35,448.93 and $37,078.27 for 2005 and 2006, respectively. To determine the national average wage index for 2006 at a level that is consistent with the national average wage indexing series for 1951 through 1977 (published December 29, 1978, at 43 FR 61016), we multiply the 2005 national average wage index of $36,952.94 by the percentage increase in average wages from 2005 to 2006 (based on SSA-tabulated wage data) as follows, with the result rounded to the nearest cent.

Amount

Multiplying the national average wage index for 2005 ($36,952.94) by the ratio of the average wage for 2006 ($37,078.27) to that for 2005 ($35,448.93) produces the 2006 index, $38,651.41. The national average wage index for calendar year 2006 is about 4.60 percent greater than the 2005 index.

OASDI Contribution and Benefit Base

General

The OASDI contribution and benefit base is $102,000 for remuneration paid in 2008 and self-employment income earned in taxable years beginning in 2008.

The OASDI contribution and benefit base serves two purposes:

(a) It is the maximum annual amount of earnings on which OASDI taxes are paid. The OASDI tax rate for remuneration paid in 2008 is 6.2 percent for employees and employers,

each. The OASDI tax rate for self-employment income earned in taxable years beginning in 2008 is 12.4 percent. (The Hospital Insurance tax is due on remuneration, without limitation, paid in 2008, at the rate of 1.45 percent for employees and employers, each, and on self-employment income earned in taxable years beginning in 2008, at the rate of 2.9 percent.)

(b) It is the maximum annual amount of earnings used in determining a person's OASDI benefits.

Computation

Section 230(b) of the Act provides the formula used to determine the OASDI contribution and benefit base. Under the formula, the base for 2008 shall be the larger of: (1) The 1994 base of $60,600 multiplied by the ratio of the national average wage index for 2006 to that for 1992; or (2) the current base ($97,500). If the resulting amount is not a multiple of $300, it shall be rounded to the nearest multiple of $300.

Amount

Multiplying the 1994 OASDI contribution and benefit base amount ($60,600) by the ratio of the national average wage index for 2006 ($38,651.41 as determined above) to that for 1992 ($22,935.42) produces the amount of $102,124.81. We round this amount to $102,000. Because $102,000 exceeds the current base amount of $97,500, the OASDI contribution and benefit base is $102,000 for 2008.

Retirement Earnings Test Exempt Amounts

General

We withhold Social Security benefits when a beneficiary under the normal retirement age (NRA) has earnings in excess of the applicable retirement earnings test exempt amount. (NRA is the age of initial benefit entitlement for which the benefit, before rounding, is equal to the worker's primary insurance amount. The NRA is age 65 for those born before 1938, and it gradually increases to age 67.) A higher exempt amount applies in the year in which a person attains his/her NRA, but only with respect to earnings in months prior to such attainment, and a lower exempt amount applies at all other ages below NRA. Section 203(f)(8)(B) of the Act, as amended by section 102 of Public Law 104–121, provides formulas for determining the monthly exempt amounts. The corresponding annual exempt amounts are exactly 12 times the monthly amounts.

For beneficiaries attaining NRA in the year, we withhold $1 in benefits for every $3 of earnings in excess of the annual exempt amount for months prior to such attainment. For all other beneficiaries under NRA, we withhold $1 in benefits for every $2 of earnings in excess of the annual exempt amount.

Computation

Under the formula applicable to beneficiaries who are under NRA and who will not attain NRA in 2008, the lower monthly exempt amount for 2008 shall be the larger of: (1) The 1994 monthly exempt amount multiplied by the ratio of the national average wage index for 2006 to that for 1992; or (2) the 2007 monthly exempt amount ($1,080). If the resulting amount is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

Under the formula applicable to beneficiaries attaining NRA in 2008, the higher monthly exempt amount for 2008 shall be the larger of: (1) the 2002 monthly exempt amount multiplied by the ratio of the national average wage index for 2006 to that for 2000; or (2) the 2007 monthly exempt amount ($2,870). If the resulting amount is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

Lower Exempt Amount

Multiplying the 1994 retirement earnings test monthly exempt amount of $670 by the ratio of the national average wage index for 2006 ($38,651.41) to that for 1992 ($22,935.42) produces the amount of $1,129.10. We round this to $1,130. Because $1,130 is larger than the corresponding current exempt amount of $1,080, the lower retirement earnings test monthly exempt amount is $1,130 for 2008. The corresponding lower annual exempt amount is $13,560 under the retirement earnings test.

Higher Exempt Amount

Multiplying the 2002 retirement earnings test monthly exempt amount of $2,500 by the ratio of the national average wage index for 2006 ($38,651.41) to that for 2000 ($32,154.82) produces the amount of $3,005.10. We round this to $3,010. Because $3,010 is larger than the corresponding current exempt amount of $2,870, the higher retirement earnings test monthly exempt amount is $3,010 for 2008. The corresponding higher annual exempt amount is $36,120 under the retirement earnings test.

Computing Benefits After 1978

General

The Social Security Amendments of 1977 provided a method for computing benefits which generally applies when a worker first becomes eligible for benefits after 1978. This method uses the worker's ''average indexed monthly earnings'' to compute the primary insurance amount. We adjust the computation formula each year to reflect changes in general wage levels, as measured by the national average wage index.

We also adjust, or ''index,'' a worker's earnings to reflect the change in general wage levels that occurred during the worker's years of employment. Such indexation ensures that a worker's future benefit level will reflect the general rise in the standard of living that will occur during his or her working lifetime. To compute the average indexed monthly earnings, we first determine the required number of years of earnings. Then we select that number of years with the highest indexed earnings, add the indexed earnings, and divide the total amount by the total number of months in those years. We then round the resulting average amount down to the next lower dollar amount. The result is the average indexed monthly earnings.

For example, to compute the average indexed monthly earnings for a worker attaining age 62, becoming disabled before age 62, or dying before attaining age 62, in 2008, we divide the national average wage index for 2006, $38,651.41, by the national average wage index for each year prior to 2006 in which the worker had earnings. Then we multiply the actual wages and self-employment income, as defined in section 211(b) of the Act and credited for each year, by the corresponding ratio to obtain the worker's indexed earnings for each year before 2006. We consider any earnings in 2006 or later at face value, without indexing. We then compute the average indexed monthly earnings for determining the worker's primary insurance amount for 2008.

Computing the Primary Insurance Amount

The primary insurance amount is the sum of three separate percentages of portions of the average indexed monthly earnings. In 1979 (the first year the formula was in effect), these portions were the first $180, the amount between $180 and $1,085, and the amount over $1,085. We call the dollar amounts in the formula governing the portions of the average indexed monthly earnings the ''bend points'' of the formula. Thus, the bend points for 1979 were $180 and $1,085.

To obtain the bend points for 2008, we multiply each of the 1979 bend-point amounts by the ratio of the national average wage index for 2006 to that average for 1977. We then round

these results to the nearest dollar. Multiplying the 1979 amounts of $180 and $1,085 by the ratio of the national average wage index for 2006 ($38,651.41) to that for 1977 ($9,779.44) produces the amounts of $711.42 and $4,288.26. We round these to $711 and $4,288. Accordingly, the portions of the average indexed monthly earnings to be used in 2008 are the first $711, the amount between $711 and $4,288, and the amount over $4,288.

Consequently, for individuals who first become eligible for old-age insurance benefits or disability insurance benefits in 2008, or who die in 2008 before becoming eligible for benefits, their primary insurance amount will be the sum of

(a) 90 percent of the first $711 of their average indexed monthly earnings, plus

(b) 32 percent of their average indexed monthly earnings over $711 and through $4,288, plus

(c) 15 percent of their average indexed monthly earnings over $4,288.

We round this amount to the next lower multiple of $0.10 if it is not already a multiple of $0.10. This formula and the rounding adjustment described above are contained in section 215(a) of the Act (42 U.S.C. 415(a)).

Maximum Benefits Payable to a Family

General

The 1977 amendments continued the long established policy of limiting the total monthly benefits that a worker's family may receive based on his or her primary insurance amount. Those amendments also continued the then existing relationship between maximum family benefits and primary insurance amounts but did change the method of computing the maximum amount of benefits that may be paid to a worker's family. The Social Security Disability Amendments of 1980 (Pub. L. 96–265) established a formula for computing the maximum benefits payable to the family of a disabled worker. This formula applies to the family benefits of workers who first become entitled to disability insurance benefits after June 30, 1980, and who first become eligible for these benefits after 1978. For disabled workers initially entitled to disability benefits before July 1980, or whose disability began before 1979, we compute the family maximum payable the same as the old-age and survivor family maximum.

Computing the Old-Age and Survivor Family Maximum

The formula used to compute the family maximum is similar to that used to compute the primary insurance amount. It involves computing the sum of four separate percentages of portions of the worker's primary insurance amount. In 1979, these portions were the first $230, the amount between $230 and $332, the amount between $332 and $433, and the amount over $433. We refer to such dollar amounts in the formula as the ''bend points'' of the family-maximum formula.

To obtain the bend points for 2008, we multiply each of the 1979 bend-point amounts by the ratio of the national average wage index for 2006 to that average for 1977. Then we round this amount to the nearest dollar. Multiplying the amounts of $230, $332, and $433 by the ratio of the national average wage index for 2006 ($38,651.41) to that for 1977 ($9,779.44) produces the amounts of $909.03, $1,312.17, and $1,711.35. We round these amounts to $909, $1,312, and $1,711. Accordingly, the portions of the primary insurance amounts to be used in 2008 are the first $909, the amount between $909 and $1,312, the amount between $1,312 and $1,711, and the amount over $1,711.

Consequently, for the family of a worker who becomes age 62 or dies in 2008 before age 62, we will compute the total amount of benefits payable to them so that it does not exceed

(a) 150 percent of the first $909 of the worker's primary insurance amount, plus

(b) 272 percent of the worker's primary insurance amount over $909 through $1,312, plus

(c) 134 percent of the worker's primary insurance amount over $1,312 through $1,711, plus

(d) 175 percent of the worker's primary insurance amount over $1,711.

We then round this amount to the next lower multiple of $0.10 if it is not already a multiple of $0.10. This formula and the rounding adjustment described above are contained in section 203(a) of the Act (42 U.S.C. 403(a)).

Quarter of Coverage Amount

General

The amount of earnings required for a quarter of coverage in 2008 is $1,050. A quarter of coverage is the basic unit for determining whether a worker is insured under the Social Security program. For years before 1978, we generally credited an individual with a quarter of coverage for each quarter in which wages of $50 or more were paid, or with 4 quarters of coverage for every taxable year in which $400 or more of self-employment income was earned. Beginning in 1978, employers generally report wages on an annual basis instead of a quarterly basis. With the change to annual reporting, section 352(b) of the Social Security Amendments of 1977 amended section 213(d) of the Act to provide that a quarter of coverage would be credited for each $250 of an individual's total wages and self-employment income for calendar year 1978, up to a maximum of 4 quarters of coverage for the year.

Computation

Under the prescribed formula, the quarter of coverage amount for 2008 shall be the larger of: (1) The 1978 amount of $250 multiplied by the ratio of the national average wage index for 2006 to that for 1976; or (2) the current amount of $1,000. Section 213(d) further provides that if the resulting amount is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

Quarter of Coverage Amount

Multiplying the 1978 quarter of coverage amount ($250) by the ratio of the national average wage index for 2006 ($38,651.41) to that for 1976 ($9,226.48) produces the amount of $1,047.30. We then round this amount to $1,050. Because $1,050 exceeds the current amount of $1,000, the quarter of coverage amount is $1,050 for 2008.

''Old-Law'' Contribution and Benefit Base

General

The ''old-law'' contribution and benefit base for 2008 is $75,900. This is the base that would have been effective under the Act without the enactment of the 1977 amendments.

The ''old-law'' contribution and benefit base is used by:

(a) The Railroad Retirement program to determine certain tax liabilities and tier II benefits payable under that program to supplement the tier I payments which correspond to basic Social Security benefits,

(b) the Pension Benefit Guaranty Corporation to determine the maximum amount of pension guaranteed under the Employee Retirement Income Security Act (as stated in section 230(d) of the Social Security Act),

(c) Social Security to determine a year of coverage in computing the special minimum benefit, as described earlier, and

(d) Social Security to determine a year of coverage (acquired whenever earnings equal or exceed 25 percent of the ''old-law'' base for this purpose only) in computing benefits for persons who are also eligible to receive pensions based on employment not covered under section 210 of the Act.

Computation

The ''old-law'' contribution and benefit base shall be the larger of: (1) The 1994 ''old-law'' base ($45,000) multiplied by the ratio of the national average wage index for 2006 to that for 1992; or (2) the current ''old-law'' base ($72,600). If the resulting amount is not a multiple of $300, it shall be rounded to the nearest multiple of $300.

Amount

Multiplying the 1994 ''old-law'' contribution and benefit base amount ($45,000) by the ratio of the national average wage index for 2006 ($38,651.41) to that for 1992 ($22,935.42) produces the amount of $75,835.26. We round this amount to $75,900. Because $75,900 exceeds the current amount of $72,600, the ''old-law'' contribution and benefit base is $75,900 for 2008.

Substantial Gainful Activity Amounts

General

A finding of disability under titles II and XVI of the Act requires that a person, except for a title XVI disabled child, be unable to engage in substantial gainful activity (SGA). A person who is earning more than a certain monthly amount (net of impairment-related work expenses) is ordinarily considered to be engaging in SGA. The amount of monthly earnings considered as SGA depends on the nature of a person's disability. Section 223(d)(4)(A) of the Act specifies a higher SGA amount for statutorily blind individuals under title II while Federal regulations (20 CFR 404.1574 and 416.974) specify a lower SGA amount for non-blind individuals. Both SGA amounts increase in accordance with increases in the national average wage index.

Computation

The monthly SGA amount for statutorily blind individuals under title II for 2008 shall be the larger of: (1) Such amount for 1994 multiplied by the ratio of the national average wage index for 2006 to that for 1992; or (2) such amount for 2007. The monthly SGA amount for non-blind disabled individuals for 2008 shall be the larger of: (1) Such amount for 2000 multiplied by the ratio of the national average wage index for 2006 to that for 1998; or (2) such amount for 2007. In either case, if the resulting amount is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

SGA Amount for Statutorily Blind Individuals

Multiplying the 1994 monthly SGA amount for statutorily blind individuals ($930) by the ratio of the national average wage index for 2006 ($38,651.41) to that for 1992 ($22,935.42) produces the amount of $1,567.26. We then round this amount to $1,570. Because $1,570 is larger than the current amount of $1,500, the monthly SGA amount for statutorily blind individuals is $1,570 for 2008.

SGA Amount for Non-Blind Disabled Individuals

Multiplying the 2000 monthly SGA amount for non-blind individuals ($700) by the ratio of the national average wage index for 2006 ($38,651.41) to that for 1998 ($28,861.44) produces the amount of $937.44. We then round this amount to $940. Because $940 is larger than the current amount of $900, the monthly SGA amount for non-blind disabled individuals is $940 for 2008.

Trial Work Period Earnings Threshold

General

During a trial work period, a beneficiary receiving Social Security disability benefits may test his or her ability to work and still be considered disabled. We do not consider services performed during the trial work period as showing that the disability has ended until services have been performed in at least 9 months (not necessarily consecutive) in a rolling 60-month period. In 2007, any month in which earnings exceed $640 is considered a month of services for an individual's trial work period. In 2008, this monthly amount increases to $670.

Computation

The method used to determine the new amount is set forth in our regulations at 20 CFR 404.1592(b). Monthly earnings in 2008, used to determine whether a month is part of a trial work period, is such amount for 2001 ($530) multiplied by the ratio of the national average wage index for 2006 to that for 1999, or, if larger, such amount for 2007. If the amount so calculated is not a multiple of $10, we round it to the nearest multiple of $10.

Amount

Multiplying the 2001 monthly earnings threshold ($530) by the ratio of the national average wage index for 2006 ($38,651.41) to that for 1999 ($30,469.84) produces the amount of $672.31. We then round this amount to $670. Because $670 is larger than the current amount of $640, the monthly earnings threshold is $670 for 2008.

Domestic Employee Coverage Threshold

General

The minimum amount a domestic worker must earn so that such earnings are covered under Social Security or Medicare is the domestic employee coverage threshold. For 2008, this threshold is $1,600. Section 3121(x) of the Internal Revenue Code provides the formula for increasing the threshold.

Computation

Under the formula, the domestic employee coverage threshold amount for 2008 shall be equal to the 1995 amount of $1,000 multiplied by the ratio of the national average wage index for 2006 to that for 1993. If the resulting amount is not a multiple of $100, it shall be rounded to the next lower multiple of $100.

Domestic Employee Coverage Threshold Amount

Multiplying the 1995 domestic employee coverage threshold amount ($1,000) by the ratio of the national average wage index for 2006 ($38,651.41) to that for 1993 ($23,132.67) produces the amount of $1,670.86. We then round this amount to $1,600. Accordingly, the domestic employee coverage threshold amount is $1,600 for 2008.

Election Worker Coverage Threshold

General

The minimum amount an election worker must earn so that such earnings are covered under Social Security or Medicare is the election worker coverage threshold. For 2008, this threshold is $1,400. Section 218(c)(8)(B) of the Act provides the formula for increasing the threshold.

Computation

Under the formula, the election worker coverage threshold amount for 2008 shall be equal to the 1999 amount of $1,000 multiplied by the ratio of the national average wage index for 2006 to that for 1997. If the amount so determined is not a multiple of $100, it shall be rounded to the nearest multiple of $100.

Election Worker Coverage Threshold Amount

Multiplying the 1999 election worker coverage threshold amount ($1,000) by the ratio of the national average wage index for 2006 ($38,651.41) to that for 1997 ($27,426.00) produces the amount

of $1,409.30. We then round this amount to $1,400. Accordingly, the election worker coverage threshold amount is $1,400 for 2008.

(Catalog of Federal Domestic Assistance: Program Nos. 96.001 Social Security—Disability Insurance; 96.002 Social Security—Retirement Insurance; 96.004 Social Security—Survivors Insurance; 96.006 Supplemental Security Income).

Dated: October 19, 2007.

Michael J. Astrue,

Commissioner of Social Security.

[FR Doc. E7–21070 Filed 10–24–07; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2007–0083]

Notice of Senior Executive Service Performance Review Board Membership

AGENCY: Social Security Administration.

Title 5, U.S. Code 4314(c)(4), requires that the appointment of Performance Review Board members be published in the **Federal Register** before service on said Board begins.

The following persons will serve on the Performance Review Board, which oversees the evaluation of performance appraisals of Senior Executive Service members of the Social Security Administration:

JoEllen Felice*, Rogelio Gomez, Pete Herrera*, Lewis Kaiser*, Eileen McDaniel*, Marcia Mosley*, Gregory Pace, Ronald Raborg, Ramona Schuenemeyer*, Donna Siegel, Roy Snyder*, Tom Tobin, Tina Waddell*.

*New Member.

Dated: October 18, 2007.

Reginald F. Wells,

Deputy Commissioner for Human Resources.

[FR Doc. E7–21066 Filed 10–24–07; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 5974]

60-Day Notice of Proposed Information Collection: DS 4053, Department of State Mentor-Protégé Program Application, OMB 1405–0161

ACTION: Notice of request for public comments.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

Title of Information Collection: Department of State Mentor-Protégé Program Application.

OMB Control Number: OMB 1405–0161.

Type of Request: Extension of a Currently Approved Collection.

Originating Office: Bureau of Administration, Office of Small and Disadvantaged Business Utilization—A/SDBU.

Form Number: DS–4053.

Respondents: Small and large for-profit companies planning to team together in an official mentor-protégé capacity to improve the likelihood of winning DOS contracts.

Estimated Number of Respondents: 14 respondents per year.

Estimated Number of Responses: 14 per year.

Average Hours Per Response: 21.

Total Estimated Burden: 294.

Frequency: On occasion.

Obligation to Respond: Required to Obtain Benefit.

DATES: The Department will accept comments from the public up to 60 days from October 25, 2007.

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

- *E-mail: culbrethpb@state.gov.*
- *Mail (paper, disk, or CD–ROM submissions*): A/SDBU, Patricia Culbreth, SA–6, Room L–500, Washington, DC 20522–0602.
- *Fax:* 703–875–6825.
- *Hand Delivery or Courier:* 1701 North Ft. Myer Drive, Arlington, Virginia 22209.

You must include the DS form number, information collection title, and OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection and supporting documents, to Patricia Culbreth, A/SDBU, Patricia Culbreth, SA–6, Room L–500, Washington, DC 20522–0602 who may be reached on 703–875–6881. E-mail: *culbrethpb@state.gov.*

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper performance of our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of proposed collection: This information collection facilitates continuation of a mentor-protégé program that encourages business agreements between small and large for-profit companies planning to team together in an official mentor-protégé capacity to improve the likelihood of winning DOS contracts. This program assists the State Department OSDBU office in reaching its small business goals.

Methodology: Respondents may submit the information by e-mail using DS–4053, or by letter using fax or postal mail.

Additional Information: None.

Dated: October 10, 2007.

Gregory N. Mayberry,

Operations Director, Office of Small and Disadvantaged Business Utilization, Department of State.

[FR Doc. E7–21044 Filed 10–24–07; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Cessation of Printing and Hard Copy Distribution of Advisory Circulars Issued by the Aircraft Certification Service

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of cessation of printing and hard copy distribution of advisory circulars (AC) issued by the Aircraft Certification Service.

SUMMARY: This notice announces the cessation of printing and distribution of advisory circulars issued by the Aircraft Certification Service. Technology currently allows advisory circulars to be posted to a public Web site, the Regulator and Guidance Library, *http://rgl.faa.gov/* for easy public access. Because of this easy public access, the Aircraft Certification Service determined that it is no longer necessary to print and distribute a hard copy of advisory circulars as it has done in the past. This will not only make it easier for the public to have access to advisory circulars issued by the Aircraft Certification Service almost

immediately upon issuance, it will also result in a cost savings.

DATES: This cessation of printing and distribution of advisory circulars issued by the Aircraft Certification Service is effective October 1, 2007.

FOR FURTHER INFORMATION CONTACT: Roberta Katson, Acting Manager, Planning and Program Management Division, AIR–500, FAA, 800 Independence Avenue, SW., Washington, DC 20591, phone: 202–493–4633, e-mail: *roberta.katson@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

In the past, the only way for the public to see advisory circulars issued by the Aircraft Certification Service was to receive a printed copy in the mail. The FAA provided means for anyone in the public to be placed on a mailing list to receive (or have the opportunity to purchase, if the advisory circular was larger than a certain size) copies of these documents. Technology now allows us to make advisory circulars immediately available to the public upon issuance, via an easily-accessible Web site, the Regulatory and Guidance Library, *http://rgl.faa.gov.* Because of the ease of access of this Web site, and because not printing our advisory circulars would be a cost-saving measure for the government, we decided to cease printing advisory circulars issued by the Aircraft Certification Service of the FAA, effective October 1, 2007.

Issued in Washington, DC on October 15, 2007.

Dorenda D. Baker,

Deputy Director, Aircraft Certification Service.

[FR Doc. 07–5263 Filed 10–24–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Airport Level Designation for John F. Kennedy International Airport for the Summer 2008 Scheduling Season

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

ACTION: Notice of schedule coordination.

SUMMARY: Under this notice, the FAA announces that New York's John F. Kennedy International Airport (JFK) has been designated a Level 3 Coordinated Airport for the summer 2008 scheduling season in accordance with the International Air Transport Association (IATA) Worldwide Scheduling Guidelines. This notice supercedes the September 24, 2007, notice that designated JFK a Level 2 Schedules Facilitated Airport. 72 FR 54317. Based on a recently completed capacity analysis, a review of last summer's demand, the projections for summer 2008, and the agency's decision to seek voluntary schedule reductions from domestic air carriers, the FAA has determined that a Level 3 airport declaration is warranted. The primary coordination constraint is runway/air traffic control capacity.

JFK is experiencing increased congestion and delay. Comparing the period of October 2006 through July 2007 to the same period in the previous year, the average daily operations at JFK increased 23 percent; the average daily arrivals with delays greater than one hour increased 114 percent; and on-time gate arrivals within 15 minutes of scheduled time decreased from 69.7 percent to 61.2 percent. The average taxi-out delay increased 19 percent from 30 to almost 36 minutes. On-time departures within 15 minutes of scheduled time declined from 74.7 percent to 65.2 percent. Much of this delay is attributed to volume and is not likely to be entirely mitigated by short-term air traffic control procedural enhancements, airport or airspace efficiency gains, or airport infrastructure changes. For example, from February 2007 through July 2007, JFK's average airport capacity was 81 operations per hour while demand during the busiest hour, 4 p.m., was over 110 scheduled arrivals and departures during summer 2007. Adjacent hours had fewer scheduled flights but still above the average hourly capacity rate.

Under a preliminary review of the schedule submissions for summer 2008, the FAA notes that there are proposed schedule increases by domestic carriers and foreign flag carriers. These proposed schedules will result in a significant increase of operations at JFK. While JFK has available capacity for additional flights during some periods of the day, certain hours are currently beyond capacity and would get only worse if the schedules were implemented as proposed. Thus, based on the level of congestion experienced this past summer season, the planned increases for next summer, and the decision to seek voluntary reductions of existing schedules from domestic operators through a scheduling reduction meeting,[1] an immediate Level 3 designation is warranted.

The FAA has established a target of 80 total operations per hour at JFK from 6 a.m. through 9:59 p.m., local time, except for the hours between 3 p.m. and 7:59 p.m., when the target will be 81 total operations per hour. A copy of the notice including additional details of the FAA analyses and the airport's capacity is available on the FAA Web site at *http://www.faa.gov* and in Docket No. FAA–2007–29320.

Under this Level 3 designation, the FAA will accept the schedule information previously submitted to the FAA. The FAA will grant historic status for the operations of foreign flag air carriers based on their summer 2007 flights if requested for summer 2008. For domestic air carriers, the base level of operations, both international and domestic, will be determined as part of the scheduling reduction meeting process. The FAA will continue to seek voluntary solutions to accommodate flight requests but overall demand must be within the airport's practical capacity if there is to be a successful reduction of delays. Carriers with new flights planned for peak hours should consider alternative schedules, especially for those planned in the late afternoon and evening hours.

ADDRESSES: Any change to schedule information for summer 2008 may be submitted by mail to Slot Administration Office, AGC–240, Office of the Chief Counsel, 800 Independence Ave., SW., Washington, DC 20591; facsimile: 202–267–7277; ARINC: DCAYAXD; or by e-mail to: *7-AWA-slotadmin@faa.gov.*

FOR FURTHER INFORMATION CONTACT: Komal K. Jain, Regulations Division, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone number: 202–267–3073.

Issued in Washington, DC on October 19, 2007.

Rebecca B. MacPherson,

Assistant Chief Counsel for Regulations.

[FR Doc. 07–5269 Filed 10–22–07; 9:30 am]

BILLING CODE 4910–13–M

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[1] In accordance with 49 U.S.C. 41722, the FAA Acting Administrator and the Secretary of Transportation have determined that a scheduling reduction meeting is needed to address peak hour schedules that exceed capacity. The meeting will begin on October 23, 2007. Notice of the meeting was published in the **Federal Register** on October 22, 2007.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In August 2007, there were three applications approved. This notice also includes information on one application, approved in July 2007, inadvertently left off the July 2007 notice. Additionally, 23 approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph (d) of § 158.29.

PFC Applications Approved

Public Agency: Broward County Aviation Department, Fort Lauderdale, Florida.

Application Number: 07–08–C–00–FLL.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $72,409,477.

Earliest Charge Effective Date: September 1, 2013.

Estimated Charge Expiration Date: October 1, 2014.

Class of Air Carriers Not Required To Collect PFCs:

Non-scheduled/on-demand air carriers.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Fort Lauderdale-Hollywood International Airport.

Brief Description of Projects Approved for Collection and Use at a $4.50 PFC Level:

Runway implementation plan.

Reconstruct runway 9L/27R and taxiway B west; install engineered materials arresting system.

Near term in-line baggage handling systems, terminals 1, 2, and 3.

Brief Description of Projects Approved for Collection and Use at a $3.00 PFC Level:

Terminal roof replacement (Terminals 2, 3, and 4).

Airport information management system.

Flight information display systems replacements for Terminals 1, 2, and 3.

Decision Date: July 31, 2007.

For Further Information Contact: Susan Moore, Orlando Airports District Office, (407) 812–6331.

Public Agency: Santa Maria Public Airport District, Santa Maria, California.

Application Number: 07–01–C–00–SMX.

Application Type: Impose and use a PFC.

Total PFC Revenue Approved in this Decision: $5,380,346.

PFC Level: $4.50.

Earliest Charge Effective Date: October 1, 2007.

Estimated Charge Expiration Date: October 1, 2028.

Class of Air Carriers Not Required To Collect PFC's:

Non-scheduled on-demand air carriers filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Santa Maria Public/G. Allan Hancock Field Airport.

Brief Description of Projects Approved for Collection and Use:

Terminal building design and construction (expansion of baggage claim area and passenger hold room).

Environmental assessment for runway extension

Decision Date: August 3, 2007.

For Further Information Contact: David Delshad, Los Angeles Airports District Office, (310) 725–3627.

Public Agency: County of Westchester, Mount Vernon, New York.

Application Number: 07–03–U–00–HPN.

Application Type: Use PFC revenue.

PFC Level: $4.50.

Total PFC Revenue to be Used in This Decision: $12,300,000.

Charge Effective Date: January 1, 2004.

Estimated Charge Expiration Date: December 1, 2008.

Class of Air Carriers Not Required To Collect PFC's:

No change from previous decision.

Brief Description of Project Approved for Use:

Reconstruction of terminal ramp/deicing areas.

Decision Date: August 9, 2007.

For Further Information Contact: Dan Vornea, New York Airports District Office, (516) 227–3812.

Public Agency: County of Buncomb and City of Asheville, Asheville, North Carolina.

Application Number: 07–04–C–00–AVL.

Application Type: Impose and use a PFC.

Total PFC Revenue Approved in This Decision: $3,521,375.

PFC Level: $4.50.

Earliest Charge Effective Date: October 1, 2007.

Estimated Charge Expiration Date: May 1, 2010.

Class of Air Carriers Not Required To Collect PFC's:

Non-scheduled/on-demand air taxi operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Asheville Regional Airport.

Brief Description of Projects Approved for Collection and Use:

Terminal renovations phase 1—construction.

Regional boarding ramp improvements.

Aircraft lavatory cart facility.

Pre-conditioned air.

Runway 16/34 rehabilitation/reconstruction—design.

Decision Date: August 15, 2007.

For Further Information Contact: John Marshall, Atlanta Airports District Office, (404) 305–7153.

AMENDMENTS TO PFC APPROVALS

Amendment No. city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
92–01–C–03–AOO Altoona, PA	07/24/07	$127,054	$110,500	02/01/96	02/01/96
96–02–C–03–AOO	07/24/07	124,620	116,620	10/01/99	10/01/99

AMENDMENTS TO PFC APPROVALS—Continued

Amendment No. city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
Altoona, PA 96–02–C–04–AOO	07/24/07	116,620	116,620	10/01/99	10/01/99
Altoona, PA 00–03–C–03–AOO	07/24/07	135,340	89,950	08/01/02	08/01/02
Altoona, PA 02–04–U–01–AOO	07/24/07	NA	NA	08/01/02	08/01/02
Altoona, PA 95–01–C–03–BFD	07/27/07	288,090	206,793	05/01/03	05/01/03
Bradford, PA 92–01–I–09–PHL	07/27/07	98,863,016	98,765,785	08/01/95	08/01/95
Philadelphia, PA 93–02–U–02–PHL	07/27/07	NA	NA	08/01/95	08/01/95
Philadelphia, PA 98–06–C–06–PHL	07/27/07	23,560,410	19,534,950	10/01/98	10/01/98
Philadelphia, PA 94–01–C–02–RDG	07/27/07	480,000	392,031	07/01/98	07/01/98
Reading, PA 97–02–U–01–RDG	07/27/07	NA	NA	07/01/98	07/01/98
Reading, PA 92–01–I–04–RFD	07/30/07	410,286	385,681	10/01/96	10/01/96
Rockford, IL 93–02–U–02–RFD	07/30/07	NA	NA	10/01/96	10/01/96
Rockford, IL 93–01–C–02–JST	07/30/07	150,202	148,269	12/01/96	12/01/96
Johnstown, PA 96–02–C–01–JST	07/30/07	14,250	14,106	12/01/96	12/01/96
Johnstown, PA 95–03–C–05–PHL	07/30/07	9,994,274	9,994,273	03/01/97	03/01/97
Philadelphia, PA 03–06–C–02–DSM	07/31/07	11,060,000	11,700,000	04/01/08	04/01/08
Des Moines, IA 05–08–C–01–DSM	07/31/07	2,750,000	2,250,000	01/01/12	01/01/12
Des Moines, IA 92–01–C–06–HPN	08/03/07	17,252,918	15,546,537	05/01/04	05/01/04
White Plains, NY 01–08–C–02–PDX	08/08/07	551,129,000	551,230,600	05/01/16	05/01/16
Portland, OR 06–08–C–01–ATL	08/14/07	177,974,163	227,606,163	08/01/19	01/01/20
Atlanta, GA 02–06–C–05–MSY	08/14/07	252,936,769	255,936,769	01/01/16	09/01/16
New Orleans, LA 01–07–C–01–RHI	08/15/07	34,405	36,348	01/01/05	01/01/05
Rhinelander, WI					

Issued in Washington, DC, on October 18, 2007.

Joe Hebert,

Manager, Financial Analysis and Passenger Facility Charge Branch.

[FR Doc. 07–5261 Filed 10–24–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2007–0016]

Agency Information Collection Activities; Revision of an Approved Information Collection: Hazardous Materials Safety Permits (Formerly Hazardous Materials Permit)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for review and approval. This information collection concerns the requirement that companies holding permits for transporting certain hazardous materials to develop a communications plan that allows for the periodic tracking of the shipment. A record of the communications may be kept by either the driver (*e.g.*, recorded in the log book) or the company that contains the time of the call and location of the shipment. These records must be kept, either physically or electronically, for at least six months at the company's principal place of business or readily available to employees at the company's principal place of business. On July 20, 2007, FMCSA published a **Federal Register** notice allowing for a 60-day

comment period on the ICR. One comment was received.

DATES: Please send your comments by November 26, 2007. OMB must receive your comments by this date in order to act quickly on the ICR.

ADDRESSES: All comments should reference Docket No. FMCSA–2007–0016. You may submit comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street, NW., Washington, DC 20503, Attention: DOT/FMCSA Desk Officer.

FOR FURTHER INFORMATION CONTACT: Mr. James O. Simmons, Hazardous Materials Division, phone (202) 366–6121; FAX (202) 366–3921; or e-mail *james.simmons@dot.gov*; Federal Motor Carrier Safety Administration, DOT, 1200 New Jersey Avenue, SE., Washington, DC 20590. Office hours are from 8 a.m. to 4:30 p.m. EST, Monday through Friday, except Federal Holidays.

SUPPLEMENTARY INFORMATION:

Title: Hazardous Materials Safety Permits (formerly Hazardous Materials Permit).

OMB Control Number: 2126–0030.

Type of Request: Revision of a currently approved collection.

Respondents: Motor Carriers; Drivers.

Estimated Number of Respondents: 2,515 motor carriers of property (Forms MCS–150B).

Estimated Time per Response: 5 minutes. The communication between motor carriers and their drivers must take place at least two times per day and it is estimated that it will take 5 minutes to maintain a daily communication record for each driver.

Expiration Date: October 31, 2007.

Frequency of Response: On occasion. The changes will occur at the time of renewal, update or change of information.

Estimated Total Annual Burden: 130,780 hours. 52 annual hours per carrier [5 minutes/60 minutes per trip × 1,570,391 estimated annual trips for carriers/2,515 carriers = 52 hours]. 130,780 total annual burden hours [52 annual hours per carrier × 2,515 carriers = 130,780 hours].

Background: The Secretary of Transportation (Secretary) is responsible for implementing regulations to issue safety permits for transporting certain hazardous materials in accordance with 49 U.S.C. 5101 *et seq.* The HM Safety Permit regulations (49 CFR part 385) require carriers to complete a ''Combined Motor Carrier Identification Report and HM Safety Permit Application''—form number MCS–150B. The HM Safety Permit regulations also require carriers to have a security program. As part of the HM Safety Permit regulations, carriers are required to develop and maintain route plans so that law enforcement officials can verify the correct location of the HM shipment. FMCSA requires companies holding permits to develop a communications plan that allows for the periodic tracking of the shipment. This information collection covers the records of the communications that contain the time of the call and location of the shipment. The records may be kept by either the driver (*e.g.*, recorded in the log book) or the company. These records must be kept, either physically or electronically, for at least six months at the company's principal place of business or readily available to employees at the company's principal place of business.

On July 20, 2007, (72 FR 39878) FMCSA published a **Federal Register** notice allowing for a 60-day comment period on the proposed revision of this ICR. One comment was received from a motor carrier that asked the Agency to consider exempting drivers of trucks equipped with satellite tracking and monitoring systems from the requirement to call in. The commenter did not discuss the revised burden hours and costs aspects of the Hazardous Materials Safety Permits information collection.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for the FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information.

Terry Shelton,

Associate Administrator for Research and Information Technology.

[FR Doc. E7–20975 Filed 10–24–07; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designations of Individuals Pursuant to Executive Order 13310

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the names of eleven newly-designated individuals whose property and interests in property are blocked pursuant to Executive Order 13310 of July 28, 2003, ''Blocking Property of the Government of Burma and Prohibiting Certain Transactions.''

DATES: The designation by the Director of OFAC of eleven individuals identified in this notice, pursuant to Executive Orders 13310, is effective October 19, 2007.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue, NW., (Treasury Annex), Washington, DC 20220, Tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

Information about this designation and additional information concerning OFAC are available from OFAC's Web site (*http://www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, Tel.: 202/622–0077.

Background

On July 28, 2003, the President issued Executive Order 13310 (the ''Order'') pursuant to, inter alia, the International Emergency Economic Powers Act (50 U.S.C. 1701–06). In the Order, the President took additional steps with respect to the national emergency declared in Executive Order 13047 of May 20, 1997, to address the Government of Burma's continued repression of the democratic opposition. The President identified four entities as subject to the economic sanctions in the Annex to the Order.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in, or hereafter come within, the United States, or within the possession or control of United States persons, of the persons listed in the Annex, as well as those persons determined by the Secretary of the Treasury, in consultation with the Secretary of State, to satisfy any of the criteria set forth in subparagraphs (b)(i) and b(ii) of Section 1. On October 19, 2007, the Director of OFAC exercised the Secretary of the Treasury's authority to designate, pursuant to one or more of the criteria set forth in Section 1, subparagraphs (b)(i) and (b)(ii) of the Order, the following eleven individuals, whose names have been added to the list of Specially Designated Nationals and whose property and interests in

property are blocked pursuant to Executive Order 13310:

1. MYINT, KYAW (a.k.a. DR. KYAW MYINT); Burma; DOB 1940; citizen Burma; nationality Burma; Minister of Health (individual) [BURMA].

2. NYEIN, CHAN (a.k.a. DR. CHAN NYEIN; a.k.a. DR. CHANG NYEIN); Burma; DOB 1944; citizen Burma; nationality Burma; Minister of Education (individual) [BURMA].

3. LIN, AUNG THEIN (a.k.a. LYNN, AUNG THEIN); Burma; DOB 1952; citizen Burma; nationality Burma; Brigadier General, Mayor and Chairman of Yangon City (Rangoon) City Development Committee (individual) [BURMA].

4. LWIN, SAW; Burma; DOB 1939; citizen Burma; nationality Burma; Major General, Minister of Industry 2 (individual) [BURMA].

5. MIN, ZAW; Burma; DOB 10 Jan 1949; citizen Burma; nationality Burma; Colonel, Minister of Electric Power 1 (individual) [BURMA].

6. THA, SOE; Burma; DOB 1945; citizen Burma; nationality Burma; Minister of National Planning and Economic Development (individual) [BURMA].

7. THAUNG (a.k.a. U THAUNG); Burma; DOB 6 Jul 1937; citizen Burma; nationality Burma; Minister of Labor; Minister of Science & Technology (individual) [BURMA].

8. THEIN, TIN NAING; Burma; DOB 1955; citizen Burma; nationality Burma; Brigadier General, Minister of Commerce (individual) [BURMA].

9. TUN, HLA; Burma; DOB 11 Jul 1951; citizen Burma; nationality Burma; Major General, Minister of Finance and Revenue (individual) [BURMA].

10. TUN, SAW; Burma; DOB 8 May 1935; citizen Burma; nationality Burma; Major General, Minister of Construction (individual) [BURMA].

11. ZAW, THEIN; Burma; DOB 20 Oct 1951; citizen Burma; nationality Burma; Brigadier General, Minister of Telecommunications, Post, & Telegraph (individual) [BURMA].

Dated: October 19, 2007.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. E7–21074 Filed 10–24–07; 8:45 am]

BILLING CODE 4811–42–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designation of Individuals and Pursuant to Executive Order 13224

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the names of three newly-designated individuals whose property and interests in property are blocked pursuant to Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism.''

DATES: The designation by the Director of OFAC of the three individuals identified in this notice, pursuant to Executive Order 13224, is effective on October 10, 2007.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

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

Background

On September 23, 2001, the President issued Executive Order 13224 (the ''Order'') pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701–1706, and the United Nations Participation Act of 1945, 22 U.S.C. 287c. In the Order, the President declared a national emergency to address grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the September 11, 2001, terrorist attacks in New York, Pennsylvania, and at the Pentagon. The Order imposes economic sanctions on persons who have committed, pose a significant risk of committing, or support acts of terrorism. The President identified in the Annex to the Order, as amended by Executive Order 13268 of July 2, 2002, 13 individuals and 16 entities as subject to the economic sanctions. The Order was further amended by Executive Order 13284 of January 23, 2003, to reflect the creation of the Department of Homeland Security.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in or hereafter come within the United States or the possession or control of United States persons, of: (1) Foreign persons listed in the Annex to the Order; (2) foreign persons determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, to have committed, or to pose a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States; (3) persons determined by the Director of OFAC, in consultation with the Departments of State, Homeland Security and Justice, to be owned or controlled by, or to act for or on behalf of those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order; and (4) except as provided in section 5 of the Order and after such consultation, if any, with foreign authorities as the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, deems appropriate in the exercise of his discretion, persons determined by the Director of OFAC, in consultation with the Departments of State, Homeland Security and Justice, to assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of, such acts of terrorism or those persons listed in the Annex to the Order or determined to be subject to the Order or to be otherwise associated with those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order.

On October 10, 2007, the Director of OFAC, in consultation with the Departments of State, Homeland Security, Justice and other relevant agencies, designated, pursuant to one or more of the criteria set forth in subsections 1(b), 1(c) or 1(d) of the Order, three individuals whose property and interests in property are blocked pursuant to Executive Order 13224.

The list of additional designees is as follows:

1. AL-KHASHIBAN, Fahd Muhammad 'Abd Al-'Aziz (a.k.a. AL-KHASHAYBAN, Fahd Muhammad 'Abd Al-'Aziz; a.k.a. AL-KHASHIBAN, Fahad; a.k.a. AL-KHASHIBAN, Fahad H.A.; a.k.a. AL-KHOSHIBAN, Fahad Mohammad A.; a.k.a. AL-KHOSHIBAN, Fahad Muhammad A.; a.k.a. AL-KHOSIBAN, Fahad H.A.; a.k.a. AL-KHUSHAYBAN, Fahd Muhammad 'Abd al-'Aziz; a.k.a. KHASHAYBAN, Fahad H.A.; a.k.a. KHASIBAN, Fahad H.A.; a.k.a. KHESHAIBAN, Fahad H.A.; a.k.a. KHESHAYBAN, Fahad H.A.; a.k.a. KHUSHAIBAN, Fahd; a.k.a. ''RAHMAN, Abdur Abu''; a.k.a. ''RAHMAN, Abu

Abdur''; a.k.a. ''THABET, Shaykh''; a.k.a. ''THABIT, Abu''; a.k.a. ''THABIT, Shaykh Abu''); DOB 16 Oct 1966; POB 'Aniza, Saudi Arabia; nationality Saudi Arabia.

2. AL-TALHI, Abdul Rahim (a.k.a. AL NAJI, Abu Al Bara'a; a.k.a. AL TAHI, Abdulrahim; a.k.a. AL TAHLI, Abd Al-Rahim; a.k.a. AL-TALAHI, Abe Al-Rahim; a.k.a. AL-TALHI, 'Abd al-Rahim; a.k.a. AL-TALHI, Abd' Al-Rahim Hamad; a.k.a. AL-TALHI, 'Abdul-Rahim Hammad; a.k.a. ALTALHI, Abdulrheem Hammad A; a.k.a. AL-TALJI, 'Abd-Al-Rahim; a.k.a. AL-TALJI, Abdulrahim; a.k.a. JUNAYD, Shuwayb; a.k.a. RAHIM, Abdul), Buraydah, Saudi Arabia; DOB 8 Dec 1961; POB Al-Taif, Saudi Arabia; nationality Saudi Arabia; Passport F275043 (Saudi Arabia) issued 29 May 2004 expires 5 Apr 2009.

3. SUGHAYR, Muhammad 'Abdallah Salih (a.k.a. AL-SAGHIR, Mohd; a.k.a. AL-SUGAIR, Muhammad 'Abdallah Salih; a.k.a. AL-SUGAYER, Muhammad; a.k.a. AL-SUGHAIER, Muhammad 'Abdallah Salih; a.k.a. AL-SUGHAIR, Muhammad 'Abdallah Salih; a.k.a. AL-SUGHAYER, Muhammad 'Abdallah Salih; a.k.a. AL-SUGHAYIR, Muhammad 'Abdallah Salih; a.k.a. AL-SUQAYR, Muhammad 'Abdallah Salih; a.k.a. ''ABDULLAH, Abu''; a.k.a. ''BAKR, Abu''); DOB 20 Aug 1972; alt. DOB 10 Aug 1972; POB Al-Karawiya, Saudi Arabia; nationality Saudi Arabia.

Dated: October 10, 2007.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. E7–21050 Filed 10–24–07; 8:45 am]

BILLING CODE 4811–45–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designation of Individuals and Entities Pursuant to Executive Order 13224

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the names of two newly designated individuals and five newly designated entities whose property and interests in property are blocked pursuant to Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism.''

DATES: The designation by the Director of OFAC of the two individuals and seven entities identified in this notice, pursuant to Executive Order 13224, is effective on July 24, 2007.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

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

Background

On September 23, 2001, the President issued Executive Order 13224 (the ''Order'') pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701–1706, and the United Nations Participation Act of 1945, 22 U.S.C. 287c. In the Order, the President declared a national emergency to address grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the September 11, 2001, terrorist attacks in New York, Pennsylvania, and at the Pentagon. The Order imposes economic sanctions on persons who have committed, pose a significant risk of committing, or support acts of terrorism. The President identified in the Annex to the Order, as amended by Executive Order 13268 of July 2, 2002, 13 individuals and 16 entities as subject to the economic sanctions. The Order was further amended by Executive Order 13284 of January 23, 2003, to reflect the creation of the Department of Homeland Security.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in or hereafter come within the United States or the possession or control of United States persons, of: (1) Foreign persons listed in the Annex to the Order; (2) foreign persons determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, to have committed, or to pose a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States; (3) persons determined by the Director of OFAC, in consultation with the Departments of State, Homeland Security and Justice, to be owned or controlled by, or to act for or on behalf of those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order; and (4) except as provided in section 5 of the Order and after such consultation, if any, with foreign authorities, as the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, deems appropriate in the exercise of his discretion, persons determined by the Director of OFAC, in consultation with the Departments of State, Homeland Security and Justice, to assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of, such acts of terrorism or those persons listed in the Annex to the Order or determined to be subject to the Order or to be otherwise associated with those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order.

On July 24, 2007 the Director of OFAC, in consultation with the Departments of State, Homeland Security, Justice and other relevant agencies, designated, pursuant to one or more of the criteria set forth in subsections 1(b), 1(c) or 1(d) of the Order, two individuals and five entities whose property and interests in property are blocked pursuant to Executive Order 13224.

The list of additional designees is as follows:

1. AL–SHAMI, AHMAD; DOB 1965; POB Beirut, Lebanon.

2. ALIQ, QASIM (a.k.a. ALEIK, KASSEM; a.k.a. 'ALIQ, HAJJ QASIM; a.k.a. 'ALIQ, QASEM; a.k.a. 'ULAYQ, QASIM); DOB 1956; POB Lebanon.

3. AL–QARD AL–HASSAN ASSOCIATION (a.k.a. AL–QUARD AL–HASSAN ASSOCIATION; a.k.a. AL–QUARDH AL–HASSAN ASSOCIATION; a.k.a. KARADH AL–HASSAN), Beirut, Lebanon.

4. GOODWILL CHARITABLE ORGANIZATION, INC. (f.k.a. AL–SHAHID SOCIAL ASSOCIATION; f.k.a. EDUCATIONAL DEVELOPMENT ASSOCIATION), 13106 Warren Ave. Suite #4, Dearborn, MI 48126; PO Box 1794, Dearborn, MI 48126.

5. MARTYRS FOUNDATION (a.k.a. AL–SHAHID ASSOCIATION FOR MARTYRS AND INTERNEES FAMILIES; a.k.a. AL–SHAHID CORPORATION; a.k.a. BONYAD SHAHID; a.k.a. BONYAD–E SHAHID; a.k.a. BONYAD–E SHAHID VA ISARGARAN; a.k.a. ES–SHAHID; a.k.a. IRANIAN MARTYRS FUND; a.k.a. SHAHID FOUNDATION; a.k.a. SHAHID FOUNDATION OF THE ISLAMIC

REVOLUTION), P.O. Box 15815–1394, Tehran 15900, Iran.

6. MARTYRS FOUNDATION IN LEBANON (a.k.a. AL–MUA'ASSAT AL–SHAHID; a.k.a. AL–SHAHID CHARITABLE AND SOCIAL ORGANIZATION; a.k.a. AL–SHAHID FOUNDATION; a.k.a. AL–SHAHID ORGANIZATION; a.k.a. HIZBALLAH MARTYRS FOUNDATION; a.k.a. ISLAMIC REVOLUTION MARTYRS FOUNDATION; a.k.a. LEBANESE MARTYR ASSOCIATION; a.k.a. LEBANESE MARTYR FOUNDATION; a.k.a. MARTYRS INSTITUTE), Biqa' Valley, Lebanon; P.O. Box 110 24, Bir al-Abed, Beirut, Lebanon.

7. PALESTINIAN MARTYRS FOUNDATION (a.k.a. AL–SHAHID FOUNDATION–PALESTINIAN BRANCH; a.k.a. MUASSASAT SHAHID FILISTIN; a.k.a. PALESTINIAN MARTYRS INSTITUTION GROUP; a.k.a. SHAHID FUND), Lebanon.

Dated:August 7, 2007.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. E7–21051 Filed 10–24–07; 8:45 am]

BILLING CODE 4811–42–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designation of Individual and Entity Pursuant to Executive Order 13224

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the names of one newly-designated individual and one newly-designated entity whose property and interests in property are blocked pursuant to Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism.''

DATES: The designation by the Director of OFAC of the one individual and one entity identified in this notice, pursuant to Executive Order 13224, is effective on August 7, 2007.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

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

Background

On September 23, 2001, the President issued Executive Order 13224 (the ''Order'') pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701–1706, and the United Nations Participation Act of 1945, 22 U.S.C. 287c. In the Order, the President declared a national emergency to address grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the September 11, 2001, terrorist attacks in New York, Pennsylvania, and at the Pentagon. The Order imposes economic sanctions on persons who have committed, pose a significant risk of committing, or support acts of terrorism. The President identified in the Annex to the Order, as amended by Executive Order 13268 of July 2, 2002, 13 individuals and 16 entities as subject to the economic sanctions. The Order was further amended by Executive Order 13284 of January 23, 2003, to reflect the creation of the Department of Homeland Security.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in or hereafter come within the United States or the possession or control of United States persons, of: (1) Foreign persons listed in the Annex to the Order; (2) foreign persons determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, to have committed, or to pose a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States; (3) persons determined by the Director of OFAC, in consultation with the Departments of State, Homeland Security and Justice, to be owned or controlled by, or to act for or on behalf of those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order; and (4) except as provided in section 5 of the Order and after such consultation, if any, with foreign authorities as the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, deems appropriate in the exercise of his discretion, persons determined by the Director of OFAC, in consultation with the Departments of State, Homeland Security and Justice, to assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of, such acts of terrorism or those persons listed in the Annex to the Order or determined to be subject to the Order or to be otherwise associated with those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order.

On August 7, 2007 the Director of OFAC, in consultation with the Departments of State, Homeland Security, Justice and other relevant agencies, designated, pursuant to one or more of the criteria set forth in subsections 1(b), 1(c) or 1(d) of the Order, one individual and one entity whose property and interests in property are blocked pursuant to Executive Order 13224.

The list of additional designees is as follows:

1. AL-KURD, Ahmad Harb (a.k.a. AL KURD, Ahmed; a.k.a. AL-KARD, Ahmad; a.k.a. AL-KIRD, Ahmad; a.k.a. ALKURD, Ahmad; a.k.a. AL-KURD, Ahmed Hard; a.k.a. EL-KURD, Ahmed), Deir Al-Balah, Gaza, Palestinian; DOB circa 1949; alt. DOB circa 1951; POB Deir Al-Balah, Gaza.

2. AL-SALAH SOCIETY (a.k.a. AL-SALAH; a.k.a. AL-SALAH ASSOCIATION; a.k.a. AL-SALAH ISLAMIC ASSOCIATION; a.k.a. AL-SALAH ISLAMIC COMMITTEE; a.k.a. AL-SALAH ISLAMIC FOUNDATION; a.k.a. AL-SALAH ISLAMIC SOCIETY; a.k.a. AL-SALAH ORGANIZATION; a.k.a. ISLAMIC AL SALAH SOCIETY; a.k.a. ISLAMIC RIGHTEOUSNESS SOCIETY; a.k.a. ISLAMIC SALAH FOUNDATION; a.k.a. ISLAMIC SALAH SOCIETY; a.k.a. ISLAMIC SALVATION SOCIETY; a.k.a. JAMI'A AL-SALAH; a.k.a. JAMI'AT AL-SALAH AL-ISLAMI; a.k.a. JAMMEAT EL-SALAH; a.k.a. SALAH CHARITABLE ASSOCIATION; a.k.a. SALAH ISLAMIC ASSOCIATION; a.k.a. SALAH WELFARE ORGANIZATION), P.O. Box 6035, Beshara Street, Deir Al-Balah, Gaza, Palestinian; Deir Al-Balah Camp, Gaza, Palestinian; Athalatheeniy Street, Gaza, Palestinian; Gaza City, Gaza, Palestinian; Bureij, Gaza, Palestinian; Al-Maghazi, Gaza, Palestinian; Rafah, Gaza, Palestinian.

Dated: August 7, 2007.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. E7–21052 Filed 10–24–07; 8:45 am]

BILLING CODE 4811–42–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–18: OTS Nos. 01348 and H–4210]

Bradford Bank, Baltimore, MD, and Bradford Bancorp, Inc., Baltimore, MD; Approval of Conversion Application

Notice is hereby given that on October 19, 2007, the Office of Thrift Supervision approved the application of Bradford Bank, Baltimore, Maryland, to convert to the stock form of organization. Copies of the application are available for inspection by appointment (phone number: 202–906–5922 or e-mail: *Public.Info@OTS.Treas.gov*) at the Public Reading Room, 1700 G Street, NW., Washington, DC 20552, and the OTS Southeast Regional Office, 1475 Peachtree Street, NE., Atlanta, Georgia 30309.

Dated: October 19, 2007.

By the Office of Thrift Supervision.

Sandra E. Evans,

Federal Register Liaison Officer.

[FR Doc. 07–5281 Filed 10–24–07; 8:45 am]

BILLING CODE 6720–01–M

Corrections

Federal Register

Vol. 72, No. 206

Thursday, October 25, 2007

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974: New System of Records

Correction

In notice document E7–20797 beginning on page 60041 in the issue of Tuesday, October 23, 2007, make the following correction:

The above document should not have printed in the **Federal Register** of Tuesday, October 23, 2007.

[FR Doc. Z7–20797 Filed 10–24–07; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Thursday,
October 25, 2007

Part II

Department of Transportation

Federal Transit Administration

Federal Fiscal Year 2008 Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements; Notice

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Federal Fiscal Year 2008 Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice.

SUMMARY: Pursuant to 49 U.S.C. 5323(n), FTA is authorized to consolidate the certifications and assurances required by Federal law or regulations for its programs into a single document. FTA is also required by 49 U.S.C. 5323(n) to publish a list of those certifications and assurances annually.

Appendix A of this Notice contains the comprehensive compilation of FTA's Certifications and Assurances for Federal Fiscal Year (Federal FY) 2008 applicable to the various Federal assistance programs that FTA will administer during that fiscal year. FTA's Certifications and Assurances for Federal FY 2008 reflect Federal statutory, regulatory, and programmatic changes that have now become effective.

EFFECTIVE DATE: These FTA Certifications and Assurances are effective on October 1, 2007, the first day of Federal FY 2008.

FOR FURTHER INFORMATION CONTACT: FTA staff in the appropriate FTA Regional Office or FTA Metropolitan Office listed below. For copies of other related documents, see the FTA Web site at *http://www.fta.dot.gov* or contact FTA's Office of Administration at telephone # 202–366–4022.

Region 1: Boston

States served: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, Telephone # 617–494–2055.

Region 2: New York

States served: New York, and New Jersey, Telephone # 212–668–2170.

Region 3: Philadelphia

States served: Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia, Telephone # 215–656–7100.

Region 4: Atlanta

States served: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, and the Virgin Islands, Telephone # 404–865–5605.

Region 5: Chicago

States served: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin, Telephone # 312–353–2789.

Region 6: Dallas/Ft. Worth

States served: Arkansas, Louisiana, New Mexico, Oklahoma, and Texas, Telephone # 817–978–0550.

Region 7: Kansas City

States served: Iowa, Kansas, Missouri, and Nebraska, Telephone # 816–329–3920.

Region 8: Denver

States served: Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming, Telephone # 720–963–3300.

Region 9: San Francisco

States served: Arizona, California, Hawaii, Nevada, Guam, American Samoa, and the Northern Mariana Islands, Telephone # 415–744–3133.

Region 10: Seattle

States served: Alaska, Idaho, Oregon, and Washington, Telephone # 206–220–7954.

New York Metropolitan Office

Area served: New York Metropolitan Area, Telephone # 212–668–2201.

Philadelphia Metropolitan Office

Area served: Philadelphia Metropolitan Area, Telephone # 215–656–7070.

Washington DC Metropolitan Office

Area served: Washington DC Metropolitan Area, Telephone # 202–219–3562/219–3565.

Chicago Metropolitan Office

Area served: Chicago Metropolitan Area, Telephone # 312–886–1616.

Los Angeles Metropolitan Office

Area served: Los Angeles Metropolitan Area, Telephone # 213–202–3950.

SUPPLEMENTARY INFORMATION:

1. Purposes

The purposes of this Notice are to:

- Publish FTA's Federal FY 2008 Certifications and Assurances for Applicants for Federal assistance administered by FTA and the Projects for which they seek Federal assistance.
- Highlight new changes to the Certifications and Assurances now in effect.
- Identify locations where these Certifications and Assurances may be viewed, and
- Provide directions for submitting these Certifications and Assurances.

2. Background

a. *FTA's Responsibilities.* Since Federal FY 1995, FTA has been consolidating the various certifications and assurances that may be required of its Applicants and their projects into a single document for publication in the **Federal Register**. FTA intends to continue publishing this document annually, when feasible in conjunction with its publication of the FTA annual apportionment notice, which sets forth the allocations of funds made available by the latest U.S. Department of Transportation (U.S. DOT) annual appropriations act. Because U.S. DOT's appropriations for Federal FY 2008 were not signed into law on October 1, 2007 (the first day of Federal FY 2008), and have not yet been signed into law, FTA is proceeding with publication of its Certifications and Assurances for FY 2008.

b. *Applicant's Responsibilities.* Irrespective of whether a project will be financed under the authority of 49 U.S.C. chapter 53, Title 23, United States Code, or another Federal statute, the Applicant must submit Federal FY 2008 Certifications and Assurances to FTA applicable to all projects for which the Applicant seeks funding during Federal FY 2008.

FTA requests the Applicant to submit all of the twenty-four (24) categories of the Certifications and Assurances that may be needed for all projects for which the Applicant intends to or might seek Federal assistance in the Federal FY 2008. Selecting and submitting these Certifications and Assurances to FTA signifies the Applicant's intent and ability to comply with all applicable provisions thereof.

To assure FTA that the Applicant is authorized under State and local law to certify compliance with the FTA Certifications and Assurances it has selected, FTA requires the Applicant to obtain a current (Federal FY 2008) affirmation signed by the Applicant's attorney affirming the Applicant's legal authority to certify its compliance with the FTA Certifications and Assurances the Applicant has selected. The Applicant's attorney must sign this affirmation during Federal fiscal year 2008. Irrespective of whether the Applicant makes a single selection of all twenty-four (24) categories of FTA Certifications and Assurances or selects individual categories from the FTA Certifications and Assurances, the Affirmation of Applicant's Attorney from a previous fiscal year is not acceptable, unless FTA expressly determines otherwise in writing.

c. *Effect of Subrecipient Participation.* Absent a written determination by FTA to the contrary, the Applicant itself is ultimately responsible for compliance with the FTA Certifications and Assurances it has selected even though the Project may be carried out in whole or in part by one or more subrecipients. Thus, if subrecipients will be participating in the Project, when the Applicant submits its FTA Certifications and Assurances, the Applicant is also signifying that it will be responsible for compliance both by itself and by each of its subrecipients with the provisions of the FTA Certifications and Assurances it has selected. Thus, in providing Certifications and Assurances that necessarily involve the compliance of any prospective subrecipient, FTA strongly recommends that the Applicant take the appropriate measures, including but not limited to obtaining sufficient documentation from each subrecipient, to assure the validity of the Applicant's Certifications and Assurances to FTA.

3. Significant Information About FTA's Certifications and Assurances for Federal FY 2008

a. *Legal Implications.*

(1) *Binding Commitments.* Because the Applicant is required by Federal law and regulations to comply with the applicable provisions of all FTA Certifications and Assurances it submits, it is important that the Applicant be familiar with the provisions of all twenty-four (24) categories of FTA's Certifications and Assurances for Federal FY 2008. The text of those Certifications and Assurances is contained in Appendix A of this Notice, and also appears at *http://www.fta.dot.gov/documents/2008–Certs-Appendix.A.pdf,* and in FTA's electronic award and management system, TEAM–Web, *http://ftateamweb.fta.dot.gov,* at the ''Cert's & Assurances'' tab of the ''View/Modify Recipients'' page in the ''Recipients'' option. Provisions of this Notice supersede conflicting statements in any FTA circular containing a previous version of FTA's annual Certifications and Assurances. The Certifications and Assurances contained in those FTA circulars are merely examples, and are not acceptable or valid for Federal FY 2008.

An Applicant's annual Certifications and Assurances to FTA generally remain in effect for either the duration of the Grant or Cooperative Agreement supporting the Project until the Project is closed out or for the duration of the Project or Project property when a useful life or industry standard is in effect, whichever occurs later. If, however, the Applicant provides Certifications and Assurances to FTA in a later year that differ from the Certifications and Assurances previously provided, the later Certifications and Assurances will apply to the Grant, Cooperative Agreement, Project, or Project property, except to the extent FTA permits otherwise in writing.

(2) *Penalties for Noncompliance.* If the Recipient makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation to the Federal Government or includes a false, fictitious, or fraudulent statement or representation in any agreement with the Federal Government in connection with a Project authorized under 49 U.S.C. chapter 53 or any other Federal law, the Federal Government reserves the right to impose on the Recipient the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801 *et seq.*, and implementing U.S. DOT regulations, ''Program Fraud Civil Remedies,'' 49 CFR Part 31, or the penalties of 49 U.S.C. 5323(l) invoking the criminal fraud provisions of 18 U.S.C. 1001, or other applicable Federal law to the extent the Federal Government deems appropriate.

(3) *FTA's Certifications and Assurances Constitute Only a Partial List of Federal Requirements.* FTA cautions that the FTA Certifications and Assurances required by Federal law and regulations do not address all the Federal requirements that will apply to the Applicant and its Project. FTA's Certifications and Assurances are generally pre-award requirements, i.e., those requirements of Federal law and regulations the Applicant must fulfill before FTA is legally authorized to make an award of Federal financial assistance.

(4) *Other Federal Requirements.* Because FTA's Certifications and Assurances do not encompass all Federal requirements that will apply to the Applicant and its Project, FTA strongly encourages the Applicant to review the Federal authorizing legislation, regulations, and directives pertaining to the program or programs for which the Applicant seeks Federal assistance. The FTA Master Agreement for Federal FY 2008 at *http://www.fta.dot.gov/documents/14–Master.pdf* identifies a substantial number of those Federal laws, regulations, and directives that apply to Applicants and their various projects.

b. *Importance of FTA's Certifications and Assurances for Federal FY 2008.* Following publication of these Certifications and Assurances, FTA may not award Federal financial assistance through a Federal Grant or Cooperative Agreement until the Applicant submits all of the FTA Certifications and Assurances for Federal FY 2008 pertaining to itself and its project as required by Federal laws and regulations. The Applicant's Certifications and Assurances Federal Fiscal Year 2008 will be applicable to all projects for which it seeks Federal assistance during Federal FY 2008 and through the next fiscal year until FTA issues its annual Certifications and Assurances for Federal FY 2009.

c. *Federal FY 2008 Changes.* Apart from minor editorial revisions, FTA's Certifications and Assurances for Federal FY 2008 have been modified to permit use in nearly all FTA assisted programs. Significant changes are set forth below:

(1) In the Introductory paragraphs preceding the text of FTA's Certifications and Assurances, the FTA Web site for the FTA Master Agreement for Federal FY 2008 is identified as *http://www.fta.dot.gov/documents/14-Master.pdf.*

(2) Subcategory 01.C, the Intergovernmental Review Assurance has been modified to exempt an Indian tribe applying for Tribal Transit Program assistance authorized by 49 U.S.C. 5311(c)(1) from intergovernmental reviews by States.

(3) Category 08 setting forth the Charter Service Agreement has been amended to exempt the Job Access and Reverse Commute Program authorized by 49 U.S.C. 5316 from FTA's charter service restrictions.

(4) The title of Category 18 has been modified to emphasize that the Nonurbanized Area Formula Program certifications and assurances therein apply to FTA's State Program, and not FTA's Tribal Transit Program.

(5) A new Category 22 has been added for special certifications and assurances required of applicants for the Tribal Transit Assistance Program authorized by 49 U.S.C. 5311(c)(1). Former Categories 22 and 23 of FTA Certifications and Assurances have been re-numbered Categories 23 and 24, respectively.

d. *When to Submit.* All Applicants for FTA formula program or capital program assistance, and current FTA Grantees with an active project financed with FTA formula program or capital program assistance, are expected to provide their FTA Certifications and Assurances for Federal FY 2008 within 90 days from the date of this publication or as soon as feasible after their first application for Federal assistance authorized or made available during

Federal FY 2008, whichever is earlier. In addition, FTA encourages Applicants seeking Federal financial assistance for other projects to submit their Certifications and Assurances to FTA as soon as possible to expedite awards of FTA assistance.

4. Ways To Submit FTA's Certifications and Assurances

As further explained, FTA will accept an Applicant's Certifications and Assurances submitted either in TEAM–Web at *http://ftateamweb.fta.dot.gov*, or on paper that contains the text set forth on the Signature Page(s) of Appendix A of this Notice. In order of preference, FTA permits:

a. *Electronic Submission in Team–Web.* An Applicant registered in TEAM–Web must submit its Certifications and Assurances, as well as its applications for Federal assistance in TEAM–Web. FTA prefers that other Applicants for Federal assistance submit their FTA Certifications and Assurances through TEAM–Web.

The TEAM–Web ''Recipients'' option at the ''Cert's & Assurances'' tab of the ''View/Modify Recipients'' page contains fields for selecting among the twenty-four (24) categories of FTA Certifications and Assurances to be submitted. There is also a field for entering a single selection covering all twenty-four (24) categories of FTA Certifications and Assurances.

Within the ''Cert's & Assurances'' tab is a field for the Applicant's authorized representative to enter his or her personal identification number (PIN), which constitutes the Applicant's electronic signature for the FTA Certifications and Assurances it has selected. In addition, there is a field for the Applicant's attorney to enter his or her PIN, affirming the Applicant's legal authority to make and comply with the FTA Certifications and Assurances the Applicant has selected. The Applicant's authorized representative may enter his or her PIN in lieu of the Attorney's PIN, provided that the Applicant has on file a current Affirmation of Applicant's Attorney as set forth in Appendix A of this Notice, written and signed by the attorney in Federal FY 2008.

For more information, the Applicant may contact the appropriate FTA Regional Office or Metropolitan Office listed in this Notice or the TEAM–Web Helpdesk.

b. *Paper Submission.* Only if the Applicant is unable to submit its FTA Certifications and Assurances in TEAM–Web may the Applicant submit its FTA Certifications and Assurances on paper.

If an Applicant is unable to submit its FTA Certifications and Assurances electronically, it must mark the categories of FTA Certifications and Assurances it is making on the Signature Page(s) in Appendix A of this Notice and submit them to FTA. The Applicant may signify compliance with all categories by placing a single mark in the appropriate space or select the categories applicable to itself and its projects.

The Applicant must enter its signature on the Signature Page(s) and must provide an Affirmation of Applicant's Attorney pertaining to the Applicant's legal capacity to make and comply with the Certifications and Assurances the Applicant has selected. The Applicant may enter its signature in lieu of its Attorney's signature in the Affirmation of Applicant's Attorney section of the Signature Page(s), provided that the Applicant has on file the Affirmation of Applicant's Attorney as set forth in Appendix A of this Notice, written and signed by the attorney and dated in Federal FY 2008.

For more information, the Applicant may contact the appropriate FTA Regional Office or Metropolitan Office listed in this Notice.

Authority: 49 U.S.C. chapter 53; the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU); Title 23, United States Code (Highways); other Federal laws administered by FTA; U.S. DOT and FTA regulations at Title 49, Code of Federal Regulations; and FTA Circulars.

Dated: October 22, 2007.

James S. Simpson,

Administrator.

BILLING CODE 4910–57–P

APPENDIX A

FEDERAL FISCAL YEAR 2008 CERTIFICATIONS AND ASSURANCES FOR FEDERAL TRANSIT ADMINISTRATION ASSISTANCE PROGRAMS

PREFACE

In accordance with 49 U.S.C. 5323(n), the following certifications and assurances have been compiled for Federal Transit Administration (FTA) assistance programs. FTA requests each Applicant to provide as many certifications and assurances as needed for all programs for which the Applicant intends to seek FTA assistance during Federal Fiscal Year 2008. Category 01 applies to all Applicants. Category 02 applies to all applications for Federal assistance in excess of $100,000. Categories 03 through 24 will apply to and be required for some, but not all, Applicants and projects. FTA's annual certifications and assurances permit the Applicant to select a single certification which can cover all the programs for which it anticipates submitting an application. FTA requests the Applicant to read each certification and assurance carefully and select all certifications and assurances that may apply to the programs for which it expects to seek Federal assistance.

FTA and the Applicant understand and agree that not every provision of these certifications and assurances will apply to every Applicant or every project for which FTA provides Federal financial assistance through a Grant Agreement or Cooperative Agreement. The type of project and the section of the statute authorizing Federal financial assistance for the project will determine which provisions apply. The terms of these certifications and assurances reflect applicable requirements of FTA's enabling legislation currently in effect.

The Applicant also understands and agrees that these certifications and assurances are special pre-award requirements specifically prescribed by Federal law or regulation and do not encompass all Federal laws, regulations, and directives that may apply to the Applicant or its project. A comprehensive list of those Federal laws, regulations, and directives is contained in the current FTA Master Agreement MA(14) for Federal Fiscal Year 2008 at the FTA website http://www.fta.dot.gov/documents/14-Master.pdf. The certifications and assurances in this document have been streamlined to remove most provisions not covered by statutory or regulatory certification or assurance requirements.

Because many requirements of these certifications and assurances will require the compliance of the subrecipient of an Applicant, we strongly recommend that each Applicant, including a State, that will be implementing projects through one or more subrecipients, secure sufficient documentation from each subrecipient to ensure compliance, not only with these certifications and assurances, but also with the terms of the Grant Agreement or Cooperative Agreement for the project, and the Master Agreement or an alternative Master Agreement for its project, if applicable, incorporated therein by reference. Each Applicant is ultimately responsible for compliance with the provisions of the certifications and assurances applicable to itself or its project irrespective of participation in the project by any subrecipient.

FTA strongly encourages each Applicant to submit its certifications and assurances through TEAM-Web, FTA's electronic award and management system, at http://ftateamweb.fta.dot.gov.

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Twenty-four (24) Categories of certifications and assurances are listed by numbers 01 through 24 in the TEAM-Web "Recipients" option at the "Cert's & Assurances" tab of "View/Modify Recipients." Should the Applicant choose not to submit its certifications and assurances through TEAM-Web, the Applicant can submit indicate the certifications and assurances it is making on the opposite side of the Signature Page(s) at the end of this document.

01. ASSURANCES REQUIRED FOR EACH APPLICANT

Each Applicant for FTA assistance must provide all assurances in this Category "01." Except to the extent that FTA expressly determines otherwise in writing, FTA may not award any Federal assistance until the Applicant provides the following assurances by selecting Category "01."

A. Assurance of Authority of the Applicant and Its Representative

The authorized representative of the Applicant and the attorney who sign these certifications, assurances, and agreements affirm that both the Applicant and its authorized representative have adequate authority under applicable State, local, or Indian tribal law and regulations, and the Applicant's by-laws or internal rules to:

(1) Execute and file the application for Federal assistance on behalf of the Applicant;
(2) Execute and file the required certifications, assurances, and agreements on behalf of the Applicant binding the Applicant; and
(3) Execute grant agreements and cooperative agreements with FTA on behalf of the Applicant.

B. Standard Assurances

The Applicant ensures that it will comply with all applicable Federal statutes and regulations in carrying out any project supported by an FTA grant or cooperative agreement. The Applicant agrees that it is under a continuing obligation to comply with the terms and conditions of the grant agreement or cooperative agreement issued for its project with FTA. The Applicant recognizes that Federal laws and regulations may be modified from time to time and those modifications may affect project implementation. The Applicant understands that Presidential executive orders and Federal directives, including Federal policies and program guidance may be issued concerning matters affecting the Applicant or its project. The Applicant agrees that the most recent Federal laws, regulations, and directives will apply to the project, unless FTA issues a written determination otherwise.

C. Intergovernmental Review Assurance

Except if the Applicant is an Indian tribal government seeking assistance authorized by 49 U.S.C. 5311(c)(1), the Applicant ensures that each application for Federal assistance it submits to FTA has been submitted or will be submitted for intergovernmental review to the appropriate State and local agencies as determined by the State. Specifically, the Applicant ensures that it has fulfilled or will fulfill the obligations imposed on FTA by U.S. Department of Transportation (U.S. DOT) regulations, "Intergovernmental Review of Department of Transportation Programs and Activities," 49 CFR part 17. This assurance does not apply to

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Applicants for Federal assistance derived from FTA's Tribal Transit Program, 49 U.S.C. 5311(c)(1).

D. Nondiscrimination Assurance

As required by 49 U.S.C. 5332 (which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity), by Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, and by U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act," 49 CFR part 21 at 21.7, the Applicant ensures that it will comply with all requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21, so that no person in the United States, on the basis of race, color, national origin, creed, sex, or age will be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any program or activity (particularly in the level and quality of transportation services and transportation-related benefits) for which the Applicant receives Federal assistance awarded by the U.S. DOT or FTA.

Specifically, during the period in which Federal assistance is extended to the project, or project property is used for a purpose for which the Federal assistance is extended or for another purpose involving the provision of similar services or benefits, or as long as the Applicant retains ownership or possession of the project property, whichever is longer, the Applicant ensures that:

(1) Each project will be conducted, property acquisitions will be undertaken, and project facilities will be operated in accordance with all applicable requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21, and understands that this assurance extends to its entire facility and to facilities operated in connection with the project.
(2) It will promptly take the necessary actions to effectuate this assurance, including notifying the public that complaints of discrimination in the provision of transportation-related services or benefits may be filed with U.S. DOT or FTA. Upon request by U.S. DOT or FTA, the Applicant ensures that it will submit the required information pertaining to its compliance with these provisions.
(3) It will include in each subagreement, property transfer agreement, third party contract, third party subcontract, or participation agreement adequate provisions to extend the requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d and 49 CFR part 21 to other parties involved therein including any subrecipient, transferee, third party contractor, third party subcontractor at any level, successor in interest, or any other participant in the project.
(4) Should it transfer real property, structures, or improvements financed with Federal assistance provided by FTA to another party, any deeds and instruments recording the transfer of that property shall contain a covenant running with the land assuring nondiscrimination for the period during which the property is used for a purpose for which the Federal assistance is extended or for another purpose involving the provision of similar services or benefits.
(5) The United States has a right to seek judicial enforcement with regard to any matter arising under the Act, regulations, and this assurance.

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(6) It will make any changes in its Title VI implementing procedures as U.S. DOT or FTA may request to achieve compliance with the requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21.

E. Assurance of Nondiscrimination on the Basis of Disability

As required by U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," at 49 CFR 27.9, the Applicant ensures that, as a condition to the approval or extension of any Federal assistance awarded by FTA to construct any facility, obtain any rolling stock or other equipment, undertake studies, conduct research, or to participate in or obtain any benefit from any program administered by FTA, no otherwise qualified person with a disability shall be, solely by reason of that disability, excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any program or activity receiving or benefiting from Federal assistance administered by the FTA or any entity within U.S. DOT. The Applicant ensures that project implementation and operations so assisted will comply with all applicable requirements of U.S. DOT regulations implementing the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, *et seq.*, and the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 *et seq.*, and implementing U.S. DOT regulations at 49 CFR parts 27, 37, and 38, and any other applicable Federal laws that may be enacted or Federal regulations that may be promulgated.

F. U.S. Office of Management and Budget (OMB) Assurances

Consistent with OMB assurances set forth in SF-424B and SF-424D, the Applicant ensures that, with respect to itself or its project, the Applicant:

(1) Has the legal authority to apply for Federal assistance and the institutional, managerial, and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in its application;

(2) Will give FTA, the Comptroller General of the United States, and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives;

(3) Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain;

(4) Will initiate and complete the work within the applicable project time periods following receipt of FTA approval;

(5) Will comply with all applicable Federal statutes relating to nondiscrimination including, but not limited to:

(a) Title VI of the Civil Rights Act, 42 U.S.C. 2000d, which prohibits discrimination on the basis of race, color, or national origin;

(b) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 through 1683, and 1685 through 1687, and U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial

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Assistance," 49 CFR part 25, which prohibit discrimination on the basis of sex;

(c) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, which prohibits discrimination on the basis of disability;

(d) The Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 through 6107, which prohibits discrimination on the basis of age;

(e) The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. 1101 *et seq.*, relating to nondiscrimination on the basis of drug abuse;

(f) The Comprehensive Alcohol Abuse and Alcoholism Prevention Act of 1970, as amended, 42 U.S.C. 4541 *et seq.* relating to nondiscrimination on the basis of alcohol abuse or alcoholism;

(g) The Public Health Service Act of 1912, as amended, 42 U.S.C. 201 *et seq.*, relating to confidentiality of alcohol and drug abuse patient records;

(h) Title VIII of the Civil Rights Act, 42 U.S.C. 3601 *et seq.*, relating to nondiscrimination in the sale, rental, or financing of housing; and

(i) Any other nondiscrimination statute(s) that may apply to the project;

(6) To the extent applicable, will comply with, or has complied with, the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (Uniform Relocation Act) 42 U.S.C. 4601 *et seq.*, which, among other things, provide for fair and equitable treatment of persons displaced or persons whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes and displacement caused by the project regardless of Federal participation in any purchase. As required by sections 210 and 305 of the Uniform Relocation Act, 42 U.S.C. 4630 and 4655, and by U.S. DOT regulations, "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs," 49 CFR 24.4, the Applicant ensures that it has the requisite authority under applicable state and local law to comply with the requirements of the Uniform Relocation Act, 42 U.S.C. 4601 *et seq.*, and U.S. DOT regulations, "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs," 49 CFR part 24, and will comply with that Act or has complied with that Act and those implementing regulations, including but not limited to the following:

(a) The Applicant will adequately inform each affected person of the benefits, policies, and procedures provided for in 49 CFR part 24;

(b) The Applicant will provide fair and reasonable relocation payments and assistance as required by 42 U.S.C. 4622, 4623, and 4624; 49 CFR part 24; and any applicable FTA procedures, to or for families, individuals, partnerships, corporations, or associations displaced as a result of any project financed with FTA assistance;

(c) The Applicant will provide relocation assistance programs offering the services described in 42 U.S.C. 4625 to such displaced families, individuals, partnerships, corporations, or associations in the manner provided in 49 CFR part 24;

(d) Within a reasonable time before displacement, the Applicant will make available comparable replacement dwellings to displaced families and individuals as required by 42 U.S.C. 4625(c)(3);

(e) The Applicant will carry out the relocation process in such manner as to provide displaced persons with uniform and consistent services, and will make available

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replacement housing in the same range of choices with respect to such housing to all displaced persons regardless of race, color, religion, or national origin;

(f) In acquiring real property, the Applicant will be guided to the greatest extent practicable under state law, by the real property acquisition policies of 42 U.S.C. 4651 and 4652;

(g) The Applicant will pay or reimburse property owners for necessary expenses as specified in 42 U.S.C. 4653 and 4654, with the understanding that FTA will provide Federal financial assistance for the Applicant's eligible costs of providing payments for those expenses, as required by 42 U.S.C. 4631;

(h) The Applicant will execute such amendments to third party contracts and subagreements financed with FTA assistance and execute, furnish, and be bound by such additional documents as FTA may determine necessary to effectuate or implement the assurances provided herein; and

(i) The Applicant agrees to make these assurances part of or incorporate them by reference into any third party contract or subagreement, or any amendments thereto, relating to any project financed by FTA involving relocation or land acquisition and provide in any affected document that these relocation and land acquisition provisions shall supersede any conflicting provisions;

(7) To the extent applicable, will comply with the Davis-Bacon Act, as amended, 40 U.S.C. 3141 *et seq.*, the Copeland "Anti-Kickback" Act, as amended, 18 U.S.C. 874, and the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. 3701 *et seq.,* regarding labor standards for federally assisted projects;

(8) To the extent applicable, will comply with the flood insurance purchase requirements of section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012a(a), requiring the Applicant and its subrecipients in a special flood hazard area to participate in the program and purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more;

(9) To the extent applicable, will comply with the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4831(b), which prohibits the use of lead-based paint in the construction or rehabilitation of residence structures;

(10) To the extent applicable, will not dispose of, modify the use of, or change the terms of the real property title or other interest in the site and facilities on which a construction project supported with FTA assistance takes place without permission and instructions from FTA;

(11) To the extent required by FTA, will record the Federal interest in the title of real property, and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to ensure nondiscrimination during the useful life of the project;

(12) To the extent applicable, will comply with FTA provisions concerning the drafting, review, and approval of construction plans and specifications of any construction project supported with FTA assistance. As required by U.S. DOT regulations, "Seismic Safety," 49 CFR 41.117(d), before accepting delivery of any building financed with FTA assistance, it will obtain a certificate of compliance with the seismic design and construction requirements of 49 CFR part 41;

(13) To the extent applicable, will provide and maintain competent and adequate engineering supervision at the construction site of any project supported with FTA assistance to ensure that the complete work conforms with the approved plans and specifications, and will furnish progress reports and such other information as may be required by FTA or the state;

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(14) To the extent applicable, will comply with any applicable environmental standards that may be prescribed to implement the following Federal laws and executive orders:
- (a) Institution of environmental quality control measures under the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 through 4335 and Executive Order No. 11514, as amended, 42 U.S.C. 4321 note;
- (b) Notification of violating facilities pursuant to Executive Order No. 11738, 42 U.S.C. 7606 note;
- (c) Protection of wetlands pursuant to Executive Order No. 11990, 42 U.S.C. 4321 note;
- (d) Evaluation of flood hazards in floodplains in accordance with Executive Order No. 11988, 42 U.S.C. 4321 note;
- (e) Assurance of project consistency with the approved state management program developed pursuant to the requirements of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 through 1465;
- (f) Conformity of Federal actions to State (Clean Air) Implementation Plans under section 176(c) of the Clean Air Act of 1955, as amended, 42 U.S.C. 7401 through 7671q;
- (g) Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300f through 300j-6;
- (h) Protection of endangered species under the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 through 1544; and
- (i) Environmental protections for Federal transportation programs, including, but not limited to, protections for parks, recreation areas, or wildlife or waterfowl refuges of national, state, or local significance or any land from a historic site of national, State, or local significance to be used in a transportation project as required by 49 U.S.C. 303(b) and 303(c);
- (j) Protection of the components of the national wild and scenic rivers systems, as required under the Wild and Scenic Rivers Act of 1968, as amended, 16 U.S.C. 1271 through 1287; and
- (k) Provision of assistance to FTA in complying with section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470f; with the Archaeological and Historic Preservation Act of 1974, as amended, 16 U.S.C. 469 through 469c ; and with Executive Order No. 11593 (identification and protection of historic properties), 16 U.S.C. 470 note;

(15) To the extent applicable, will comply with the requirements of the Hatch Act, 5 U.S.C. 1501 through 1508 and 7324 through 7326, which limit the political activities of State and local agencies and their officers and employees whose primary employment activities are financed in whole or part with Federal funds including a Federal loan, grant agreement, or cooperative agreement except, in accordance with 49 U.S.C. 5307(k)(2) and 23 U.S.C. 142(g), the Hatch Act does not apply to a nonsupervisory employee of a public transportation system (or of any other agency or entity performing related functions) receiving FTA assistance to whom that Act does not otherwise apply;

(16) To the extent applicable, will comply with the National Research Act, Pub. L. 93-348, July 12, 1974, as amended, 42 U.S.C. 289 *et seq.,* and U.S. DOT regulations, "Protection of Human Subjects," 49 CFR part 11, regarding the protection of human subjects involved in research, development, and related activities supported by Federal assistance;

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(17) To the extent applicable, will comply with the Laboratory Animal Welfare Act of 1966, as amended, 7 U.S.C. 2131 *et seq.*, and U.S. Department of Agriculture regulations, "Animal Welfare," 9 CFR subchapter A, parts 1, 2, 3, and 4, regarding the care, handling, and treatment of warm blooded animals held or used for research, teaching, or other activities supported by Federal assistance;

(18) Will have performed the financial and compliance audits as required by the Single Audit Act Amendments of 1996, 31 U.S.C. 7501 *et seq.*, OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," Revised, and the most recent applicable OMB A-133 Compliance Supplement provisions for the U.S. DOT; and

(19) To the extent applicable, will comply with all applicable provisions of all other Federal laws, regulations, and directives governing the project, except to the extent that FTA has expressly approved otherwise in writing.

02. LOBBYING CERTIFICATION

An Applicant that submits or intends to submit an application to FTA for Federal assistance exceeding $100,000 is required to provide the following certification. FTA may not award Federal assistance exceeding $100,000 until the Applicant provides this certification by selecting Category "02."

A. As required by 31 U.S.C. 1352 and U.S. DOT regulations, "New Restrictions on Lobbying," at 49 CFR 20.110, the Applicant's authorized representative certifies to the best of his or her knowledge and belief that for each application to FTA for Federal assistance exceeding $100,000:

(1) No Federal appropriated funds have been or will be paid by or on behalf of the Applicant to any person to influence or attempt to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress regarding the award of Federal assistance, or the extension, continuation, renewal, amendment, or modification of any Federal assistance agreement; and

(2) If any funds other than Federal appropriated funds have been or will be paid to any person to influence or attempt to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any application for Federal assistance, the Applicant ensures that it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," including information required by the instructions accompanying the form, which form may be amended to omit such information as authorized by 31 U.S.C. 1352.

(3) The language of this certification shall be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, subagreements, contracts under grants, loans, and cooperative agreements).

B. The Applicant understands that this certification is a material representation of fact upon which reliance is placed by the Federal Government and that submission of this certification is a prerequisite for providing Federal assistance for a transaction covered by 31 U.S.C. 1352. The Applicant also understands that any person who fails to file a required

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certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

03. PROCUREMENT COMPLIANCE

In accordance with 49 CFR 18.36(g)(3)(ii), each Applicant that is a State, local, or Indian tribal government that is seeking Federal assistance to acquire property or services in support of its project is requested to provide the following certification by selecting Category "03." FTA also requests other Applicants to provide the following certification. An Applicant for FTA assistance to acquire property or services in support of its project that fails to provide this certification may be determined ineligible for award of Federal assistance for the project, if FTA determines that its procurement practices and procurement system fail to comply with Federal laws, regulations and directives governing procurements financed with FTA assistance.

The Applicant certifies that its procurements and procurement system will comply with all applicable third party procurement provisions of Federal laws, regulations, and directives, except to the extent FTA has expressly approved otherwise in writing.

04. PROTECTIONS FOR PRIVATE TRANSPORTATION PROVIDERS

Each Applicant that is a State, local, or Indian tribal government that is seeking Federal assistance authorized under 49 U.S.C. chapter 53 to acquire any property or an interest in the property of a private provider of public transportation or to operate public transportation equipment or facilities in competition with, or in addition to, transportation service provided by an existing private provider of public transportation is required to provide the following certification. FTA may not award Federal assistance for such a project until the Applicant provides this certification by selecting Category "04."

As required by 49 U.S.C. 5323(a)(1), the Applicant certifies that before it acquires the property or an interest in the property of a private provider of public transportation or operates public transportation equipment or facilities in competition with, or in addition to, transportation service provided by an existing public transportation company, it has or will have:

A. Determined that the assistance is essential to carrying out a program of projects as required by 49 U.S.C. 5303, 5304, and 5306;
B. Provided for the participation of private companies engaged in public transportation to the maximum extent feasible; and
C. Paid just compensation under state or local law to the company for any franchise or property acquired.

05. PUBLIC HEARING

An Applicant seeking Federal assistance authorized under 49 U.S.C. chapter 53 for a capital project that will substantially affect a community or a community's public transportation service is required to provide the following certification. FTA may not award Federal assistance for that type of project until the Applicant provides this certification by selecting Category "05."

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As required by 49 U.S.C. 5323(b), the Applicant certifies that it has, or before submitting its application, it will have:

A. Provided an adequate opportunity for public review and comment on the project preceded by adequate prior public notice of the proposed project, including a concise description of the proposed project, published in a newspaper of general circulation in the geographic area to be served;
B. Held a public hearing on the project if the project affects significant economic, social, or environmental interests after providing adequate notice as described above;
C. Considered the economic, social, and environmental effects of the proposed project; and
D. Determined that the proposed project is consistent with official plans for developing the urban area.

06. ACQUISITION OF ROLLING STOCK FOR USE IN REVENUE SERVICE

An Applicant seeking Federal assistance authorized under 49 U.S.C. chapter 53 to acquire any rolling stock for use in revenue service is required to provide the following certification. FTA may not award any Federal assistance to acquire such rolling stock until the Applicant provides this certification by selecting Category "06."

As required by 49 U.S.C. 5323(m) and implementing FTA regulations at 49 CFR 663.7, the Applicant certifies that it will comply with the requirements of 49 CFR part 663 as modified by amendments authorized by section 3023(k) of SAFETEA-LU when procuring revenue service rolling stock. Among other things, the Applicant agrees to conduct or cause to be conducted the requisite pre-award and post-delivery reviews, and maintain on file the certifications required by 49 CFR part 663, subparts B, C, and D.

07. ACQUISITION OF CAPITAL ASSETS BY LEASE

An Applicant that intends to request the use of Federal assistance to acquire capital assets by lease is required to provide the following certifications. FTA may not provide Federal assistance to support those costs until the Applicant provides this certification by selecting Category "07."

As required by FTA regulations, "Capital Leases," at 49 CFR 639.15(b)(1) and 639.21, if the Applicant acquires any capital asset by lease financed with Federal assistance authorized for 49 U.S.C. chapter 53, the Applicant certifies as follows:

(1) It will not use Federal assistance authorized to finance the cost of leasing any capital asset until it performs calculations demonstrating that leasing the capital asset would be more cost-effective than purchasing or constructing a similar asset; and It will complete these calculations before entering into the lease or before receiving a capital grant for the asset, whichever is later; and
(2) It will not enter into a capital lease for which FTA can provide only incremental Federal assistance unless it has adequate financial resources to meet its future obligations under the lease if Federal assistance is not available for capital projects in the subsequent years.

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08. BUS TESTING

An Applicant for Federal assistance appropriated or made available for 49 U.S.C. chapter 53 to acquire any new bus model or any bus model with a new major change in configuration or components is required to provide the following certification. FTA may not provide Federal assistance for the acquisition of any new bus model or bus model with a major change until the Applicant provides this certification by selecting Category "08."

As required by 49 U.S.C. 5318 and FTA regulations, "Bus Testing," at 49 CFR 665.7, the Applicant certifies that, before expending any Federal assistance to acquire the first bus of any new bus model or any bus model with a new major change in configuration or components, or before authorizing final acceptance of that bus (as described in 49 CFR part 665), the bus model:

A. Will have been tested at FTA's bus testing facility; and
B. Will have received a copy of the test report prepared on the bus model.

09. CHARTER SERVICE AGREEMENT

An Applicant seeking Federal assistance authorized under 49 U.S.C. chapter 53 (except 49 U.S.C. 5310, 5316, or 5317), or under 23 U.S.C. 133 or 142 to acquire or operate any public transportation equipment or facilities is required to enter into the following Charter Service Agreement. FTA may not provide Federal assistance authorized under 49 U.S.C. chapter 53 (except 49 U.S.C. 5310, 5316, or 5317), or under 23 U.S.C.133 or 142 for such projects until the Applicant enters into this Charter Service Agreement by selecting Category "09."

A. As required by 49 U.S.C. 5323(d) and (g) and FTA regulations at 49 CFR 604.7, the Applicant understands and agrees that it and each subrecipient, lessee, and third party contractor at any tier may provide charter service for transportation projects that uses equipment or facilities acquired with Federal assistance authorized under the Federal transit laws (except 49 U.S.C. 5310, 5316, or 5317), or under 23 U.S.C. 133 or 142 only in compliance with those laws and FTA regulations, "Charter Service,"49 CFR part 604, the terms and conditions of which are incorporated herein by reference.
B. The Applicant understands and agrees that:
   (1) The requirements of 49 CFR part 604 will apply to any charter service it or its subrecipients, lessees, or third party contractors provide,
   (2) The definitions of 49 CFR part 604 will apply to this Charter Service Agreement, and
   (3) A violation of this Charter Service Agreement may require corrective measures and imposition of penalties, including debarment from the receipt of further Federal assistance for transportation.

10. SCHOOL TRANSPORTATION AGREEMENT

An Applicant that is seeking Federal assistance authorized under 49 U.S.C. chapter 53 or under 23 U.S.C.133 or 142 to acquire or operate public transportation facilities and equipment is required to enter into the following School Transportation Agreement. FTA may not provide Federal assistance authorized under 49 U.S.C. chapter 53 or under 23 U.S.C.133 or 142 for

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such projects until the Applicant enters into this School Transportation Agreement by selecting Category "10."

A. As required by 49 U.S.C. 5323(f) and (g) and FTA regulations at 49 CFR 605.14, the Applicant agrees that it and each subrecipient, lessee, or third party contractor at any tier may engage in school transportation operations in competition with private school transportation operators that uses equipment or facilities acquired with Federal assistance authorized under the Federal transit laws or under 23 U.S.C. 133 or 142, only in compliance with those laws and FTA regulations, "School Bus Operations,"49 CFR part 605, the terms and conditions of which are incorporated herein by reference.

B. The Applicant understands and agrees that:
   (1) The requirements of 49 CFR part 605 will apply to any school transportation service it or its subrecipients, lessees, or third party contractors provide,
   (2) The definitions of 49 CFR part 605 will apply to this School Transportation Agreement, and
   (3) A violation of this School Transportation Agreement may require corrective measures and imposition of penalties, including debarment from the receipt of further Federal assistance for transportation.

11. DEMAND RESPONSIVE SERVICE

An Applicant that operates demand responsive service and applies for direct Federal assistance authorized for 49 U.S.C. chapter 53 to acquire non-rail public transportation vehicles is required to provide the following certification. FTA may not award direct Federal assistance authorized for 49 U.S.C. chapter 53 to an Applicant that operates demand responsive service to acquire non-rail public transportation vehicles until the Applicant provides this certification by selecting Category "11"

As required by U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," at 49 CFR 37.77(d), the Applicant certifies that its demand responsive service offered to individuals with disabilities, including individuals who use wheelchairs, is equivalent to the level and quality of service offered to individuals without disabilities. Viewed in its entirety, the Applicant's service for individuals with disabilities is provided in the most integrated setting feasible and is equivalent with respect to: (1) response time, (2) fares, (3) geographic service area, (4) hours and days of service, (5) restrictions on trip purpose, (6) availability of information and reservation capability, and (7) constraints on capacity or service availability.

12. ALCOHOL MISUSE AND PROHIBITED DRUG USE

If the Applicant is required to provide the following certification concerning its activities to prevent alcohol misuse and prohibited drug use in its public transportation operations, FTA may not provide Federal assistance to that Applicant until it provides this certification by selecting Category "12"

As required by FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in

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Transit Operations," at 49 CFR part 655, subpart I, the Applicant certifies that it has established and implemented an alcohol misuse and anti-drug program, and has complied with or will comply with all applicable requirements of FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR part 655.

13. INTEREST AND OTHER FINANCING COSTS

An Applicant that intends to request the use of Federal assistance for reimbursement of interest or other financing costs incurred for its capital projects financed with Federal assistance under the Urbanized Area Formula Program, the Capital Investment Program, or the Alternative Transportation in Parks and Public Lands Program is required to provide the following certification. FTA may not provide Federal assistance to support those costs until the Applicant provides this certification by selecting Category "13."

As required by 49 U.S.C. 5307(g)(3), 5309(g)(2)(B)(iii), 5309(g)(3)(B)(iii), 5309(i)(2)(C), and 5320(h)(2)(C), the Applicant certifies that it will not seek reimbursement for interest and other financing costs unless it is eligible to receive Federal assistance for those expenses and its records demonstrate that it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, to the extent FTA may require.

14. INTELLIGENT TRANSPORTATION SYSTEMS

An Applicant for FTA assistance for an Intelligent Transportation Systems (ITS) project, defined as any project that in whole or in part finances the acquisition of technologies or systems of technologies that provide or significantly contribute to the provision of one or more ITS user services as defined in the "National ITS Architecture" is requested to provide the following assurance. FTA strongly encourages any Applicant for FTA financial assistance to support an ITS project to provides this assurance by selecting Category "14." An Applicant for FTA assistance for an ITS project that fails to provide this assurance, without providing other documentation assuring the Applicant's commitment to comply with applicable ITS standards and protocols, may be determined ineligible for award of Federal assistance for the ITS project.

As used in this assurance, the term Intelligent Transportation Systems (ITS) project is defined to include any project that in whole or in part finances the acquisition of technologies or systems of technologies that provide or significantly contribute to the provision of one or more ITS user services as defined in the "National ITS Architecture."

A. As provided in SAFETEA-LU section 5307(c), 23 U.S.C. 512 note, "the Secretary shall ensure that intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including funds made available under this subtitle to deploy intelligent transportation system technologies, conform to the national architecture, applicable standards or provisional standards, and protocols developed under subsection (a)." To facilitate compliance with SAFETEA-LU section 5307(c), 23 U.S.C. 512 note, the Applicant ensures it will comply with all applicable provisions of Section V (Regional ITS Architecture) and Section VI (Project Implementation) of FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," at 66 FR 1455 *et seq.*,

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January 8, 2001, and other FTA policies that may be issued in connection with any ITS project it undertakes financed with funds authorized under Title 49 or Title 23, United States Code, except to the extent that FTA expressly determines otherwise in writing.

B. With respect to any ITS project financed with Federal assistance derived from a source other than Title 49 or Title 23, United States Code, the Applicant ensures that it will use its best efforts to ensure that any ITS project it undertakes will not preclude interface with other intelligent transportation systems in the Region.

15. URBANIZED AREA FORMULA PROGRAM

Each Applicant for Urbanized Area Formula Program assistance authorized under 49 U.S.C. 5307 is required to provide the following certifications on behalf of itself and any subrecipients participating in its projects. Unless FTA determines otherwise in writing, the Applicant is ultimately responsible for compliance with its certifications and assurances even though a subrecipient may participate in that project. Consequently, in providing certifications and assurances that involve the compliance of its prospective subrecipients, the Applicant is strongly encouraged to take the appropriate measures, including but not limited to obtaining sufficient documentation from each subrecipient, to ensure the validity of all certifications and assurances the Applicant has made to FTA. If, however a "Designated Recipient" as defined at 49 U.S.C. 5307(a)(2)(A) enters into a Supplemental Agreement with FTA and a Prospective Grantee, that Grantee is recognized as the Applicant for Urbanized Area Formula Program assistance and must provide the following certifications and assurances.

Each Applicant is required by 49 U.S.C. 5307(d)(1)(J) to expend at least one (1) percent of its Urbanized Area Formula Program assistance for public transportation security projects, unless the Applicant has certified to FTA that such expenditures are not necessary. Information about the Applicant's intentions will be recorded in the "Security" tab page of the TEAM-Web "Project Information" window when the Applicant enters its Urbanized Area Formula Program application in TEAM-Web. FTA may not award Urbanized Area Formula Program assistance to any Applicant that is required by 49 U.S.C. 5307(d)(1)(K) to expend one (1) percent of its Urbanized Area Formula Program assistance for eligible transit enhancements unless that Applicant's quarterly report for the fourth quarter of the preceding Federal fiscal year has been submitted to FTA and includes the requisite list or the Applicant attaches in TEAM or includes in its quarterly report information sufficient to demonstrate that the Designated Recipients in its area together have expended one (1) percent of the amount of Urbanized Area Program assistance made available to them for transit enhancement projects.

FTA may not award Federal assistance for the Urbanized Area Formula Program to the Applicant until the Applicant provides these certifications and assurances by selecting Category "15."

As required by 49 U.S.C. 5307(d)(1), the Applicant certifies as follows:

A. In compliance with 49 U.S.C. 5307(d)(1)(A), the Applicant has or will have the legal, financial, and technical capacity to carry out its proposed program of projects, including safety and security aspects of that program;

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B. In compliance with 49 U.S.C. 5307(d)(1)(B), the Applicant has or will have satisfactory continuing control over the use of Project equipment and facilities;

C. In compliance with 49 U.S.C. 5307(d)(1)(C), the Applicant will adequately maintain the Project equipment and facilities;

D. In compliance with 49 U.S.C. 5307(d)(1)(D), the Applicant will ensure that elderly individuals, individuals with disabilities, or any person presenting a Medicare card issued to himself or herself pursuant to title II or title XVIII of the Social Security Act (42 U.S.C. 401 *et seq.* or 42 U.S.C. 1395 *et seq.*), will be charged for transportation during non-peak hours using or involving a facility or equipment of a project financed with Federal assistance authorized for 49 U.S.C. 5307, not more than fifty (50) percent of the peak hour fare;

E. In compliance with 49 U.S.C. 5307(d)(1)(E), the Applicant, in carrying out a procurement financed with Federal assistance authorized under 49 U.S.C. 5307: (1) will use competitive procurement (as defined or approved by the Secretary), (2) will not use exclusionary or discriminatory specifications in its procurements, (3) will comply with applicable Buy America laws, and (4) will comply with the general provisions for FTA assistance of 49 U.S.C. 5323 and the third party procurement requirements of 49 U.S.C. 5325;

F. In compliance with 49 U.S.C. 5307(d)(1)(F), the Applicant has complied with or will comply with the requirements of 49 U.S.C. 5307(c). Specifically, the Applicant: (1) has made available, or will make available, to the public information on the amounts available for the Urbanized Area Formula Program, 49 U.S.C. 5307, and the program of projects it proposes to undertake; (2) has developed or will develop, in consultation with interested parties including private transportation providers, a proposed program of projects for activities to be financed; (3) has published or will publish a proposed program of projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed program and submit comments on the proposed program and the performance of the Applicant; (4) has provided or will provide an opportunity for a public hearing to obtain the views of citizens on the proposed program of projects; (5) has ensured or will ensure that the proposed program of projects provides for the coordination of transportation services assisted under 49 U.S.C. 5336 with transportation services assisted by another Federal Government source; (6) has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final program of projects; and (7) has made or will make the final program of projects available to the public;

G. In compliance with 49 U.S.C. 5307(d)(1)(G), the Applicant has or will have available and will provide the amount of funds required by 49 U.S.C. 5307(e) for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law;

H. In compliance with 49 U.S.C. 5307(d)(1)(H), the Applicant will comply with: 49 U.S.C. 5301(a) (requirements for public transportation systems that maximize the safe, secure, and efficient mobility of individuals, minimize environmental impacts, and minimize transportation-related fuel consumption and reliance on foreign oil); 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly individuals and individuals with disabilities); and 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements);

I. In compliance with 49 U.S.C. 5307(d)(1)(I), the Applicant has a locally developed process

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to solicit and consider public comment before raising a fare or implementing a major reduction of public transportation;

J. In compliance with 49 U.S.C. 5307(d)(1)(J), each fiscal year, the Applicant will spend at least one (1) percent of its funds authorized by 49 U.S.C. 5307 for public transportation security projects, unless the Applicant has certified to FTA that such expenditures are not necessary. Public transportation security projects include increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system, emergency telephone line or lines to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of an existing or planned public transportation; and

K. In compliance with 49 U.S.C. 5307(d)(1)(K), if the Applicant is a Designated Recipient serving an urbanized area with a population of at least 200,000, (1) the Applicant certifies either that it has expended or will expend for transit enhancements as defined at 49 U.S.C. 5302(a)(15) not less than one (1) percent of the amount of the Urbanized Area Formula Assistance it receives this fiscal year, or that at least one Designated Recipient in its urbanized area has certified or will certify that the Designated Recipients within that urbanized area together have expended or will expend for transit enhancements as defined at 49 U.S.C. 5302(a)(15) not less than one (1) percent of the amount of the total amounts the Designated Recipients receive each fiscal year under 49 U.S.C. 5307, and (2) either the Applicant has listed or will list the transit enhancement projects it has carried out with those funds, or at least one Designated Recipient in the Applicant's urbanized area has listed or will list the transit enhancement projects carried out with funds authorized under 49 U.S.C. 5307. If the Designated Recipient's quarterly report for the fourth quarter of the preceding Federal fiscal year includes a list of transit enhancement projects the Designated Recipients in its urbanized area have implemented during that preceding fiscal year using those funds, the information in that quarterly report will fulfill the requirements of 49 U.S.C. 5307(d)(1)(K)(ii), and thus that quarterly report will be incorporated by reference and made part of the Designated Recipient's and Applicant's certifications and assurances.

16. CLEAN FUELS GRANT PROGRAM

Each Applicant for Clean Fuels Grant Program assistance authorized under49 U.S.C. 5308 is required to provide the following certifications on behalf of itself and its subrecipients. Unless FTA determines otherwise in writing, the Applicant is ultimately responsible for compliance with its certifications and assurances even though a subrecipient may participate in that project. Consequently, in providing certifications and assurances that involve the compliance of its prospective subrecipients, the Applicant is strongly encouraged to take the appropriate measures, including but not limited to obtaining sufficient documentation from each subrecipient, to ensure the validity of all certifications and assurances the Applicant has made to FTA. FTA may not award Federal assistance for the Clean Fuels Grant Program until the Applicant provides these certifications by selecting Category "16."

As required by 49 U.S.C. 5308(d)(1), which makes the requirements of 49 U.S.C. 5307 applicable to Clean Fuels Grant Program assistance, and 49 U.S.C. 5307(d)(1), the designated

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recipient or the recipient serving as the Applicant on behalf of the designated recipient, or the state or state organization serving as the Applicant on behalf of the state, certifies as follows:

A. In compliance with 49 U.S.C. 5307(d)(1)(A), the Applicant has or will have the legal, financial, and technical capacity to carry out its proposed program of projects, including safety and security aspects of that program;

B. In compliance with 49 U.S.C. 5307(d)(1)(B), the Applicant has or will have satisfactory continuing control over the use of project equipment and facilities;

C. In compliance with 49 U.S.C. 5307(d)(1)(C), the Applicant will adequately maintain the project equipment and facilities;

D. In compliance with 49 U.S.C. 5307(d)(1)(D), the Applicant will ensure that elderly individuals, individuals with disabilities, or any person presenting a Medicare card issued to himself or herself pursuant to title II or title XVIII of the Social Security Act (42 U.S.C. 401 *et seq.* or 42 U.S.C. 1395 *et seq.*), will be charged for transportation during non-peak hours using or involving a facility or equipment of a project financed with Federal assistance authorized under 49 U.S.C. 5308, not more than fifty (50) percent of the peak hour fare;

E. In compliance with 49 U.S.C. 5307(d)(1)(E), the Applicant, in carrying out a procurement financed with Federal assistance authorized under 49 U.S.C. 5308: (1) will use competitive procurement (as defined or approved by the Secretary), (2) will not use exclusionary or discriminatory specifications in its procurements, (3) will comply with applicable Buy America laws, and (4) will comply with the general provisions for FTA assistance of 49 U.S.C. 5323 and the third party procurement requirements of 49 U.S.C. 5325;

F. In compliance with 49 U.S.C. 5307(d)(1)(F), the Applicant has complied with or will comply with the requirements of 49 U.S.C. 5307(c). Specifically, the Applicant: (1) has made available, or will make available, to the public information on the amounts available for the Clean Fuels Grant Program, 49 U.S.C. 5308, and the projects it proposes to undertake; (2) has developed or will develop, in consultation with interested parties including private transportation providers, the proposed projects to be financed; (3) has published or will publish a list of the proposed projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed projects and submit comments on the proposed projects and the performance of the Applicant; (4) has provided or will provide an opportunity for a public hearing to obtain the views of citizens on the proposed projects; (5) has ensured or will ensure that the proposed projects provide for the coordination of transportation services assisted under 49 U.S.C. 5336 with transportation services assisted by another Federal Government source; (6) has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of projects; and (7) has made or will make the final list of projects available to the public;

G. In compliance with 49 U.S.C. 5307(d)(1)(G), the Applicant has or will have available and will provide the amount of funds required by 49 U.S.C. 5308(d)(2) for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law;

H. In compliance with 49 U.S.C. 5307(d)(1)(H), the Applicant will comply with: 49 U.S.C. 5301(a) (requirements for public transportation systems that maximize the safe, secure, and efficient mobility of individuals, minimize environmental impacts, and minimize transportation-related fuel consumption and reliance on foreign oil); 49 U.S.C. 5301(d)

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(special efforts to design and provide public transportation for elderly individuals and individuals with disabilities); and 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements);

I. In compliance with 49 U.S.C. 5307(d)(1)(I), the Applicant has a locally developed process to solicit and consider public comment before raising a fare or implementing a major reduction of public transportation; and

J. The Applicant certifies that it will use only clean fuels to operate any vehicles financed with Federal assistance provided for the Clean Fuels Grant Program, 49 U.S.C. 5308, and in particular that it will use only ultra-low sulfur diesel fuel to operate "clean diesel" buses financed with Federal assistance provided for the Clean Fuels Grant Program, 49 U.S.C. 5308.

17. ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES FORMULA GRANT PROGRAM AND PILOT PROGRAM

The State or State organization (State) that administers the Elderly Individuals and Individuals with Disabilities Formula Grant Program and, if applicable, the Elderly Individuals and Individuals with Disabilities Pilot Program on behalf of itself and its subrecipients is required to provide the following certifications on behalf of itself and each subrecipient. Unless FTA determines otherwise in writing, the State itself is ultimately responsible for compliance with its certifications and assurances even though a subrecipient may participate in that project. Consequently, in providing certifications and assurances that involve the compliance of its prospective subrecipients, the State is strongly encouraged to take the appropriate measures, including but not limited to obtaining sufficient documentation from each subrecipient, to ensure the validity of all certifications and assurances the State has made to FTA. FTA may not award Federal assistance for the Elderly Individuals and Individuals with Disabilities Formula Program or the Elderly Individuals and Individuals with Disabilities Pilot Program until the State provides these certifications by selecting Category "17."

A. As required by 49 U.S.C. 5310(d), which makes the requirements of 49 U.S.C. 5307 applicable to the Elderly Individuals and Individuals with Disabilities Formula Grant Program to the extent that the Federal Transit Administrator or his or her designee determines appropriate, and 49 U.S.C. 5307(d)(1), the State or State organization serving as the Applicant (State) and that administers, on behalf of the State, the Elderly Individuals and Individuals with Disabilities Program authorized by 49 U.S.C. 5310, and, if applicable, the Elderly Individuals and Individuals with Disabilities Pilot Program authorized by subsection 3012(b) of SAFETEA-LU, 49 U.S.C. 5310 note, certifies and ensures on behalf of itself and its subrecipients as follows:
   (1) In compliance with 49 U.S.C. 5307(d)(1)(A), the Applicant has or will have the legal, financial, and technical capacity to carry out its proposed program of projects, including safety and security aspects of that program;
   (2) In compliance with 49 U.S.C. 5307(d)(1)(B), the Applicant has or will have satisfactory continuing control over the use of project equipment and facilities;
   (3) In compliance with 49 U.S.C. 5307(d)(1)(C), the Applicant will adequately maintain the project equipment and facilities;

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(4) In compliance with 49 U.S.C. 5307(d)(1)(E), the Applicant, in carrying out a procurement financed with Federal assistance authorized under 49 U.S.C. 5310 or subsection 3012(b) of SAFETEA-LU: (1) will use competitive procurement (as defined or approved by the Secretary), (2) will not use exclusionary or discriminatory specifications in its procurements, (3) will comply with applicable Buy America laws, and (4) will comply with the general provisions for FTA assistance of 49 U.S.C. 5323 and the third party procurement requirements of 49 U.S.C. 5325;

(5) In compliance with 49 U.S.C. 5307(d)(1)(G), the Applicant has or will have available and will provide the amount of funds required by 49 U.S.C. 5310(c), and if applicable by section 3012b(3) and (4), for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law; and

(6) In compliance with 49 U.S.C. 5307(d)(1)(H), the Applicant will comply with: 49 U.S.C. 5301(a) (requirements for public transportation systems that maximize the safe, secure, and efficient mobility of individuals, minimize environmental impacts, and minimize transportation-related fuel consumption and reliance on foreign oil); 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly individuals and individuals with disabilities); and 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements);

B. The State ensures that each subrecipient either is recognized under State law as a private nonprofit organization with the legal capability to contract with the State to carry out the proposed project, or is a public body that has met the statutory requirements to receive Federal assistance authorized for49 U.S.C. 5310.

C. The private nonprofit subrecipient's application for 49 U.S.C. 5310 assistance contains information from which the State concludes that the transit service provided or offered to be provided by existing public or private transit operators is unavailable, insufficient, or inappropriate to meet the special needs of the elderly and persons with disabilities.

D. In compliance with 49 U.S.C. 5310(d)(2)(A) and section 3012(b)(2), the State certifies that, before it transfers funds to a project funded under 49 U.S.C. 5336, that project will has been or will have been coordinated with private nonprofit providers of services under 49 U.S.C. 5310;

E. In compliance with 49 U.S.C. 5310(d)(2)(C), the State certifies that allocations to subrecipients of financial assistance authorized under 49 U.S.C. 5310 or subsection 3012(b) of SAFETEA-LU will be distributed on a fair and equitable basis; and

F. In compliance with 49 U.S.C. 5310(d)(2)(B) and Subsection 3012(b)(2) of SAFETEA-LU, the State certifies that: (1) projects it has selected or will select for assistance under that program were derived from a locally developed, coordinated public transit-human services transportation plan; and (2) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

18. NONURBANIZED AREA FORMULA PROGRAM FOR STATES

The provisions of 49 U.S.C. 5311 establishing the Nonurbanized Area Formula Program for States do not impose, as a pre-condition of award, any explicit certification or assurance requirements established specifically for that program. Only a State or a State organization

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acting as the Recipient on behalf of a State (State) may be a direct recipient of this Nonurbanized Area Formula Program assistance. Separate certifications and assurances have been established in Category 24 for an Indian tribe that is an Applicant for Tribal Transit Program assistance authorized by 49 U.S.C. 5311(c)(1).

Before FTA may award Nonurbanized Area Formula Program assistance to a State, the U.S. Secretary of Transportation or his or her designee is required to make the pre-award determinations required by 49 U.S.C. 5311. Because certain information is needed before the Secretary or his or her designee can make those determinations, each State is requested to provide the following assurances on behalf of itself and its subrecipients. Unless FTA determines otherwise in writing, the State itself is ultimately responsible for compliance with its certifications and assurances even though a subrecipient may participate in that project. Consequently, in providing certifications and assurances that involve the compliance of its prospective subrecipients, the State is strongly encouraged to take the appropriate measures, including but not limited to obtaining sufficient documentation from each subrecipient, to ensure the validity of all certifications and assurances the State has made to FTA. A State that fails to provide these assurances on behalf of itself and its subrecipients may be determined ineligible for a grant of Federal assistance under 49 U.S.C. 5311 if FTA lacks sufficient information from which to make those determinations required by Federal laws and regulations governing the Nonurbanized Area Formula Program authorized by 49 U.S.C. 5311. The State is thus requested to select Category "(18)."

The State or State organization serving as the Applicant and that administers, on behalf of the State (State) the Nonurbanized Area Formula Program for States authorized by 49 U.S.C. 5311, ensures on behalf of itself and its subrecipients as follows:

A. The State has or will have the necessary legal, financial, and managerial capability to apply for, receive, and disburse Federal assistance authorized for 49 U.S.C. 5311; and to carry out each project, including the safety and security aspects of that project;
B. The State has or will have satisfactory continuing control over the use of project equipment and facilities;
C. The State ensures that the project equipment and facilities will be adequately maintained;
D. In compliance with 49 U.S.C. 5311(b)(2)(C)(i), the State's program has provided for a fair distribution of Federal assistance authorized for 49 U.S.C. 5311 within the State, including Indian reservations within the State;
E. In compliance with 49 U.S.C. 5311(b)(2)(C)(ii), the State's program provides or will provide the maximum feasible coordination of public transportation service to receive assistance under 49 U.S.C. 5311 with transportation service assisted by other Federal sources;
F. The projects in the State's Nonurbanized Area Formula Program are included in the Statewide Transportation Improvement Program and, to the extent applicable, the projects are included in a metropolitan Transportation Improvement Program;
G. The State has or will have available and will provide the amount of funds required by 49 U.S.C. 5311(g) for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law; and
H. In compliance with 49 U.S.C. 5311(f), the State will expend not less than fifteen (15)

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percent of its Federal assistance authorized under 49 U.S.C. 5311 to develop and support intercity bus transportation within the State, unless the chief executive officer of the State, or his or her designee, after consultation with affected intercity bus service providers, certifies to the Federal Transit Administrator, apart from these certifications and assurances herein, that the intercity bus service needs of the State are being adequately met.

19. JOB ACCESS AND REVERSE COMMUTE FORMULA GRANT PROGRAM

Each Applicant for Job Access and Reverse Commute (JARC) Formula Grant Program assistance authorized under 49 U.S.C. 5316 is required to provide the following certifications on behalf of itself and any subrecipient that may be implementing its project. Unless FTA determines otherwise in writing, the Applicant itself is ultimately responsible for compliance with its certifications and assurances even though a subrecipient may participate in that project. Consequently, in providing certifications and assurances that involve the compliance of its prospective subrecipients, the Applicant is strongly encouraged to take the appropriate measures, including but not limited to obtaining sufficient documentation from each subrecipient, to ensure the validity of all certifications and assurances the Applicant has made to FTA. FTA may not award Federal assistance for the JARC Formula Grant Program until the Applicant provides these certifications by selecting Category "19."

A. As required by 49 U.S.C. 5316(f)(1), which makes the requirements of 49 U.S.C. 5307 applicable to Job Access and Reverse Commute (JARC) formula grants, and 49 U.S.C. 5307(d)(1), the Applicant for JARC Formula Program assistance authorized under 49 U.S.C. 5316, certifies on behalf of itself and its subrecipients, if any, as follows:
   (1) In compliance with 49 U.S.C. 5307(d)(1)(A), the Applicant has or will have the legal, financial, and technical capacity to carry out its proposed program of projects, including safety and security aspects of that program;
   (2) In compliance with 49 U.S.C. 5307(d)(1)(B), the Applicant has or will have satisfactory continuing control over the use of project equipment and facilities;
   (3) In compliance with 49 U.S.C. 5307(d)(1)(C), the Applicant will adequately maintain the project equipment and facilities;
   (4) In compliance with 49 U.S.C. 5307(d)(1)(D), the Applicant will ensure that elderly individuals and individuals with disabilities, or any person presenting a Medicare card issued to himself or herself pursuant to title II or title XVIII of the Social Security Act (42 U.S.C. 401 *et seq.* or 42 U.S.C. 1395 *et seq.*), will be charged for transportation during non-peak hours using or involving a facility or equipment of a project financed with Federal assistance authorized under 49 U.S.C. 5316 not more than fifty (50) percent of the peak hour fare;
   (5) In compliance with 49 U.S.C. 5307(d)(1)(E), the Applicant, in carrying out a procurement financed with Federal assistance authorized under 49 U.S.C. 5316: (1) will use competitive procurement (as defined or approved by the Secretary), (2) will not use exclusionary or discriminatory specifications in its procurements, (3) will comply with applicable Buy America laws, and (4) will comply with the general provisions for FTA assistance of 49 U.S.C. 5323 and the third party procurement requirements of 49 U.S.C. 5325;

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(6) In compliance with 49 U.S.C. 5316(f)(1) and 49 U.S.C. 5307(d)(1)(F), the Applicant certifies that (1) with respect to financial assistance authorized under 49 U.S.C. 5317(c)(1)(A), it will conduct in cooperation with the appropriate MPO an areawide solicitation for applications, and make awards on a competitive basis and (2) with respect to financial assistance authorized under 49 U.S.C. 5316, it will conduct a statewide solicitation for applications, and make awards on a competitive basis; and that these activities will be carried out in a manner that complies with or will comply with 49 U.S.C. 5307(c);

(7) In compliance with 49 U.S.C. 5307(d)(1)(G), the Applicant has or will have available and will provide the amount of funds required by 49 U.S.C. 5316(g) for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law;

(8) In compliance with 49 U.S.C. 5307(d)(1)(H), the Applicant will comply with: 49 U.S.C. 5301(a) (requirements for public transportation systems that maximize the safe, secure, and efficient mobility of individuals, minimize environmental impacts, and minimize transportation-related fuel consumption and reliance on foreign oil); 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly individuals and individuals with disabilities); and 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements); and

(9) In compliance with 49 U.S.C. 5307(d)(1)(I), the Applicant has a locally developed process to solicit and consider public comment before raising a fare or implementing a major reduction of public transportation;

B. In compliance with 49 U.S.C. 5316(d), the Applicant certifies that (1) with respect to financial assistance authorized under 49 U.S.C. 5316(c)(1)(A), it will conduct in cooperation with the appropriate MPO an areawide solicitation for applications, and make awards on a competitive basis and (2) with respect to financial assistance authorized under 49 U.S.C. 5316(c)(1)(B) or 49 U.S.C. 5316(c)(1)(C), it will conduct a statewide solicitation for applications, and make awards on a competitive basis;

C. In compliance with 49 U.S.C. 5316(f)(2), the Applicant certifies that any allocations to subrecipients of financial assistance authorized under 49 U.S.C. 5316 will be distributed on a fair and equitable basis;

D. In compliance with 49 U.S.C. 5316(g)(2), the Applicant certifies that, before it transfers funds to a project funded under 49 U.S.C. 5336, that project will has been or will have been coordinated with private nonprofit providers of services;

E In compliance with 49 U.S.C. 5316(g)(3), the Applicant certifies that: (1) the projects it has selected or will select for assistance under that program were derived from a locally developed, coordinated public transit-human services transportation plan; and (2) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public; and

F. In compliance with 49 U.S.C. 5316(c)(3), before the Applicant uses funding apportioned under 49 U.S.C. 5316(c)(1)(B) or (C) for projects serving an area other than that specified in 49 U.S.C. 5316(2)(B) or (C), the Applicant certifies that the chief executive officer of the State, or his or her designee will have certified to the Federal Transit Administrator, apart from these certifications herein, that all of the objectives of 49 U.S.C. 5316 are being met in the area from which such funding would be derived.

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20. NEW FREEDOM PROGRAM

Each Applicant for New Freedom Program assistance authorized under 49 U.S.C. 5317 must provide the following certifications on behalf of itself and any subrecipient that may be implementing its project. Unless FTA determines otherwise in writing, the Applicant itself is ultimately responsible for compliance with its certifications and assurances even though a subrecipient may participate in that project. Consequently, in providing certifications and assurances that involve the compliance of its prospective subrecipients, the Applicant is strongly encouraged to take the appropriate measures, including but not limited to obtaining sufficient documentation from each subrecipient, to ensure the validity of all certifications and assurances the Applicant has made to FTA. FTA may not award Federal assistance for the New Freedom Program until the Applicant provides these certifications by selecting Category "20."

A. As required by 49 U.S.C. 5317(e)(1), which makes the requirements of 49 U.S.C. 5310 applicable to New Freedom grants to the extent the Federal Transit Administrator or his or her designee determines appropriate, by 49 U.S.C. 5310(d)(1), which makes the requirements of 49 U.S.C. 5307 applicable to Elderly Individuals and Individuals with Disabilities Formula grants to the extent the Federal Transit Administrator or his or her designee determines appropriate, and by 49 U.S.C. 5307(d)(1), the Applicant for New Freedom Program assistance authorized under 49 U.S.C. 5317 certifies and ensures on behalf of itself and its subrecipients, if any, as follows:
   (1) In compliance with 49 U.S.C. 5307(d)(1)(A), the Applicant has or will have the legal, financial, and technical capacity to carry out its proposed program of projects, including safety and security aspects of that program;
   (2) In compliance with 49 U.S.C. 5307(d)(1)(B), the Applicant has or will have satisfactory continuing control over the use of project equipment and facilities;
   (3) In compliance with 49 U.S.C. 5307(d)(1)(C), the Applicant will adequately maintain the project equipment and facilities;
   (4) In compliance with 49 U.S.C. 5307(d)(1)(E), the Applicant, in carrying out a procurement financed with Federal assistance authorized under 49 U.S.C. 5317: (1) will use competitive procurement (as defined or approved by the Secretary), (2) will not use exclusionary or discriminatory specifications in its procurements, (3) will comply with applicable Buy America laws, and (4) will comply with the general provisions for FTA assistance of 49 U.S.C. 5323 and the third party procurement requirements of 49 U.S.C. 5325;
   (5) In compliance with 49 U.S.C. 5307(d)(1)(G), the Applicant has or will have available and will provide the amount of funds required by 49 U.S.C. 5317(g), and if applicable by section 3012b(3) and (4), for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law; and
   (6) In compliance with 49 U.S.C. 5307(d)(1)(H), the Applicant will comply with: 49 U.S.C. 5301(a) (requirements for public transportation systems that maximize the safe, secure, and efficient mobility of individuals, minimize environmental impacts, and minimize transportation-related fuel consumption and reliance on foreign oil); 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly individuals and

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individuals with disabilities); and 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements);

B. In compliance with 49 U.S.C. 5317(d), the Applicant certifies that (1) with respect to financial assistance authorized under 49 U.S.C. 5317(c)(1)(A), it will conduct in cooperation with the appropriate MPO an areawide solicitation for applications, and make awards on a competitive basis and (2) with respect to financial assistance authorized under 49 U.S.C. 5317(c)(1)(B) or 49 U.S.C. 5317(c)(1)(C), it will conduct a statewide solicitation for applications, and make awards on a competitive basis;

C. In compliance with 49 U.S.C. 5317(f)(2), the Applicant certifies that, before it transfers funds to a project funded under 49 U.S.C. 5336, that project will has been or will have been coordinated with private nonprofit providers of services;

D. In compliance with 49 U.S.C. 5317(e)(2), the Applicant certifies that any allocations to subrecipients of financial assistance authorized under 49 U.S.C. 5317 will be distributed on a fair and equitable basis; and

E. In compliance with 49 U.S.C. 5317(f)(3), the Applicant certifies that: (1) projects it has selected or will select for assistance under that program were derived from a locally developed, coordinated public transit-human services transportation plan; and (2) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

21. ALTERNATIVE TRANSPORTATION IN PARKS AND PUBLIC LANDS PROGRAM

Each State, tribal area, or local government authority that is an Applicant for Alternative Transportation in Parks and Public Lands Program assistance (Applicant) authorized by 49 U.S.C. 5320, is required to provide the following certifications. FTA may not award assistance for the Alternative Transportation in Parks and Public Lands Program assistance to the Applicant until the Applicant provides these certifications by selecting Category "21."

A. As required by 49 U.S.C. 5320(i), which makes the requirements of 49 U.S.C. 5307 applicable to the Alternative Transportation in Parks and Public Lands Program assistance to the extent the Federal Transit Administrator or his or her designee determines appropriate, and 49 U.S.C. 5307(d)(1), the Applicant certifies as follows:

(1) In compliance with 49 U.S.C. 5307(d)(1)(A), the Applicant has or will have the legal, financial, and technical capacity to carry out its proposed project, including safety and security aspects of that project;

(2) In compliance with 49 U.S.C. 5307(d)(1)(B), the Applicant has or will have satisfactory continuing control over the use of project equipment and facilities;

(3) In compliance with 49 U.S.C. 5307(d)(1)(C), the Applicant will adequately maintain the project equipment and facilities;

(4) In compliance with 49 U.S.C. 5307(d)(1)(E) in carrying out a procurement financed with Federal assistance authorized under 49 U.S.C. 5320, the Applicant: (1) will use competitive procurement (as defined or approved by the Secretary), (2) will not use exclusionary or discriminatory specifications in its procurements, (3) will comply with applicable Buy America laws, and (4) will comply with the general provisions for FTA

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assistance of 49 U.S.C. 5323 and the third party procurement requirements of 49 U.S.C. 5325;

(5) In compliance with 49 U.S.C. 5307(d)(1)(F) and with 49 U.S.C.5320(e)(2)(C), the Applicant has complied with or will comply with the requirements of 49 U.S.C. 5307(c). Specifically, it: (1) has made available, or will make available, to the public information on the amounts available for the Alternative Transportation in Parks and Public Lands Program, 49 U.S.C. 5320, and the projects it proposes to undertake; (2) has developed or will develop, in consultation with interested parties including private transportation providers, projects to be financed; (3) has published or will publish a list of projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed projects and submit comments on the proposed projects and the performance of the Applicant; (4) has provided or will provide an opportunity for a public hearing to obtain the views of citizens on the proposed projects; (5) has ensured or will ensure that the proposed projects provide for the coordination of transportation services assisted under 49 U.S.C. 5336 with transportation services assisted by another Federal Government source; (6) has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of projects; and (7) has made or will make the final list of projects available to the public;

(6) In compliance with 49 U.S.C. 5307(d)(1)(H), the Applicant will comply with: 49 U.S.C. 5301(a) (requirements for public transportation systems that maximize the safe, secure, and efficient mobility of individuals, minimize environmental impacts, and minimize transportation-related fuel consumption and reliance on foreign oil); 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly individuals and individuals with disabilities); and 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements).

(7) In compliance with 49 U.S.C. 5307(d)(1)(I), the Applicant has a locally developed process to solicit and consider public comment before raising a fare or implementing a major reduction of public transportation.

B. In compliance with 49 U.S.C.5320(e)(2)(A), (B), and (D), the Applicant ensures that it will:

(1) Comply with the metropolitan planning provisions of 49 U.S.C. 5303;

(2) Comply with the statewide planning provisions of 49 U.S.C. 5304; and

(3) Consult with the appropriate Federal land management agency during the planning process.

22. TRIBAL TRANSIT PROGRAM

Each Applicant for Tribal Transit Program assistance must provide all certifications and assurance set forth below. Except to the extent that FTA determines otherwise in writing, FTA may not award any Federal assistance under the Tribal Transit Program until the Applicant provides these certifications and assurances by selecting Category "22."

In accordance with 49 U.S.C. 5311(c)(1) that authorizes the Secretary of Transportation to establish terms and conditions for direct grants to Indian tribal governments, the Applicant certifies and ensures as follows:

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A. The Applicant ensures that:
   (1) It has or will have the necessary legal, financial, and managerial capability to apply for, receive, and disburse Federal assistance authorized for 49 U.S.C. 5311; and to carry out each project, including the safety and security aspects of that project;
   (2) It has or will have satisfactory continuing control over the use of project equipment and facilities;
   (3) The project equipment and facilities will be adequately maintained; and
   (4) Its project will achieve maximum feasible coordination with transportation service assisted by other Federal sources.
B. In accordance with 49 CFR 18.36(g)(3)(ii), the Applicant certifies that its procurement system will comply with the requirements of 49 CFR 18.36, or will inform FTA promptly that its procurement system does not comply with 49 CFR 18.36.
C. To the extent applicable to the Applicant or its Project, the Applicant certifies that it will comply with the certifications, assurances, and agreements in Category 08 (Bus Testing), Category 09 (Charter Bus Agreement), Category 10 (School Transportation Agreement), Category 11 (Demand Responsive Service), Category 12 (Alcohol Misuse and Prohibited Drug Use), and Category 14 (National Intelligent Transportation Systems Architecture and Standards) of this document.
D. If its application exceeds $100,000, the Applicant agrees to comply with the certification in Category 02 (Lobbying) of this document.

23. INFRASTRUCTURE FINANCE PROJECTS

Each Applicant for Infrastructure Finance assistance authorized under 23 U.S.C. chapter 6, is required to provide the following certifications. FTA may not award Infrastructure Finance assistance to the Applicant until the Applicant provides these certifications by selecting Category "23."

A. As required by 49 U.S.C. 5323(o), which makes the requirements of 49 U.S.C. 5307 applicable to Applicants seeking Infrastructure Finance assistance authorized under 23 U.S.C. chapter 6, and by 49 U.S.C. 5307(d)(1), the Applicant certifies as follows:
   (1) In compliance with 49 U.S.C. 5307(d)(1)(A), the Applicant has or will have the legal, financial, and technical capacity to carry out its proposed program of projects, including safety and security aspects of that program;
   (2) In compliance with 49 U.S.C. 5307(d)(1)(B), the Applicant has or will have satisfactory continuing control over the use of project equipment and facilities;
   (3) In compliance with 49 U.S.C. 5307(d)(1)(C), the Applicant will adequately maintain the project equipment and facilities;
   (4) In compliance with 49 U.S.C. 5307(d)(1)(D), the Applicant will ensure that elderly individuals and individuals with disabilities, or any person presenting a Medicare card issued to himself or herself pursuant to title II or title XVIII of the Social Security Act (42 U.S.C. 401 *et seq.* or 42 U.S.C. 1395 *et seq.*), will be charged for transportation during non-peak hours using or involving a facility or equipment of a project financed with Federal assistance authorized under 23 U.S.C. chapter 6 not more than fifty (50)

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percent of the peak hour fare;

(5) In compliance with 49 U.S.C. 5307(d)(1)(E), the Applicant, in carrying out a procurement financed with Federal assistance authorized under 23 U.S.C. chapter 6: (1) will use competitive procurement (as defined or approved by the Secretary), (2) will not use exclusionary or discriminatory specifications in its procurements, (3) will comply with applicable Buy America laws, and (4) will comply with the general provisions for FTA assistance of 49 U.S.C. 5323 and the third party procurement requirements of 49 U.S.C. 5325;

(6) In compliance with 49 U.S.C. 5307(d)(1)(F), the Applicant has complied with or will comply with the requirements of 49 U.S.C. 5307(c). Specifically, it: (1) has made available, or will make available, to the public information on the amounts available for Infrastructure Finance assistance, 23 U.S.C. chapter 6, and the projects it proposes to undertake; (2) has developed or will develop, in consultation with interested parties including private transportation providers, the proposed projects to be financed; (3) has published or will publish a list of projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed projects and submit comments on the proposed projects and the performance of the Applicant; (4) has provided or will provide an opportunity for a public hearing to obtain the views of citizens on the proposed projects; (5) has ensured or will ensure that the proposed projects provide for the coordination of transportation services assisted under 49 U.S.C. 5336 with transportation services assisted by another Federal Government source; (6) has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of projects; and (7) has made or will make the final list of projects available to the public;

(7) In compliance with 49 U.S.C. 5307(d)(1)(G), the Applicant has or will have available and will provide the amount of funds required for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law;

(8) In compliance with 49 U.S.C. 5307(d)(1)(H), the Applicant will comply with: 49 U.S.C. 5301(a) (requirements for public transportation systems that maximize the safe, secure, and efficient mobility of individuals, minimize environmental impacts, and minimize transportation-related fuel consumption and reliance on foreign oil); 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly individuals and individuals with disabilities); and 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements);

(9) In compliance with 49 U.S.C. 5307(d)(1)(I), the Applicant has a locally developed process to solicit and consider public comment before raising a fare or implementing a major reduction of public transportation;

(10) To the extent that the Applicant will be using funds authorized under 49 U.S.C. 5307 for the project, in compliance with 49 U.S.C. 5307(d)(1)(J), each fiscal year, the Applicant will spend at least one (1) percent of those funds authorized under 49 U.S.C. 5307 for public transportation security projects (this includes only capital projects in the case of a Applicant serving an urbanized area with a population of 200,000 or more), unless the Applicant has certified to FTA that such expenditures are not necessary. Public transportation security projects include increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and

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garages), increased camera surveillance of an area in or adjacent to that system, emergency telephone line or lines to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of an existing or planned public transportation; and

(11) To the extent that the Applicant will be using funds authorized under 49 U.S.C. 5307 for the project, in compliance with 49 U.S.C. 5309(d)(1)(K): (1) an Applicant that serves an urbanized area with a population of at least 200,000 will expend not less than one (1) percent of the amount it receives each fiscal year under 49 U.S.C. 5307 for transit enhancements, as defined at 49 U.S.C. 5302(a), and (2) if it has received transit enhancement funds authorized by 49 U.S.C. 5307(k)(1), its quarterly report for the fourth quarter of the preceding Federal fiscal year includes a list of the projects it has implemented during that fiscal year using those funds, and that report is incorporated by reference and made part of its certifications and assurances.

B. As required by 49 U.S.C. 5323(o), which makes the requirements of 49 U.S.C. 5309 applicable to Applicants seeking Infrastructure Finance assistance authorized under 23 U.S.C. chapter 6, and by 49 U.S.C. 5309(g)(2)(B)(iii), 5309(g)(3)(B)(iii), and 5309(i)(2)(C), the Applicant certifies that it will not seek reimbursement for interest and other financing costs incurred in connection with the Project unless it is eligible to receive Federal assistance for those expenses and its records demonstrate that it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, to the extent FTA may require.

24. DEPOSITS OF FEDERAL FINANCIAL ASSISTANCE TO STATE INFRASTRUCTURE BANKS

The State organization that administers the State Infrastructure Bank (SIB) Program on behalf of a State (State) and that is also an Applicant for Federal assistance authorized under 49 U.S.C. chapter 53 that it intends to deposit in its SIB is requested to provide the following assurances on behalf of itself, its SIB, and each subrecipient. Unless FTA determines otherwise in writing, the State itself is ultimately responsible for compliance with its certifications and assurances even though the SIB and a subrecipient may participate in that project. Consequently, in providing certifications and assurances that involve the compliance of its SIB and prospective subrecipients, the State is strongly encouraged to take the appropriate measures, including but not limited to obtaining sufficient documentation from the SIB and each subrecipient, to ensure the validity of all certifications and assurances the State has made to FTA. FTA may not award Federal assistance for the SIB Program to the State until the State provides these assurances by selecting Category "24."

The State organization, serving as the Applicant (State) for Federal assistance for its State Infrastructure Bank (SIB) Program authorized by section 1602 of SAFETEA-LU, now codified at 23 U.S.C. 610, or by section 1511 of TEA-21, 23 U.S.C. 181 note, or by section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. 181 note, agrees and ensures the agreement of its SIB and the agreement of each recipient of Federal assistance derived from the SIB within the State (subrecipient) that each public transportation project financed with Federal assistance derived from SIB will be administered in accordance with:

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A. Applicable provisions of section 1602 of SAFETEA-LU, now codified at 23 U.S.C. 610, or by section 1511 of TEA-21, 23 U.S.C. 181 note, or by section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. 181;

B. The provisions of the FHWA, FRA, and FTA or the FHWA and FTA cooperative agreement with the State to establish the State's SIB Program; and

C. The provisions of the FTA grant agreement with the State that provides Federal assistance for the SIB, except that any provision of the Federal Transit Administration Master Agreement incorporated by reference into that grant agreement will not apply if it conflicts with any provision of section 1602 of SAFETEA-LU, now codified at 23 U.S.C. 610, or section 1511 of TEA-21, 23 U.S.C. 181 note, or section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. 181 note, or Federal guidance pertaining to the SIB Program, the provisions of the cooperative agreement establishing the SIB Program within the State, or the provisions of the FTA grant agreement.

D. The requirements applicable to projects of 49 U.S.C. 5307 and 5309, as required by 49 U.S.C. 5323(o); and

E. The provisions of any applicable Federal guidance that may be issued as it may be amended from time-to-time, unless FTA has provided written approval of an alternative procedure or course of action.

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Selection and Signature Page(s) follow.

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FEDERAL FISCAL YEAR 2008 CERTIFICATIONS AND ASSURANCES FOR FEDERAL TRANSIT ADMINISTRATION ASSISTANCE PROGRAMS

(Signature page alternative to providing Certifications and Assurances in TEAM-Web)

Name of Applicant: _____

The Applicant agrees to comply with applicable provisions of Categories 01 – 24. _____

OR

The Applicant agrees to comply with applicable provisions of the Categories it has selected:

Category	Description	
01.	Assurances Required For Each Applicant.	_____
02.	Lobbying.	_____
03.	Procurement Compliance.	_____
04.	Protections for Private Providers of Public Transportation.	_____
05.	Public Hearing.	_____
06.	Acquisition of Rolling Stock for Use in Revenue Service.	_____
07.	Acquisition of Capital Assets by Lease.	_____
08.	Bus Testing.	_____
09.	Charter Service Agreement.	_____
10.	School Transportation Agreement.	_____
11.	Demand Responsive Service.	_____
12.	Alcohol Misuse and Prohibited Drug Use.	_____
13.	Interest and Other Financing Costs.	_____
14.	Intelligent Transportation Systems.	_____
15.	Urbanized Area Formula Program.	_____
16.	Clean Fuels Grant Program.	_____
17.	Elderly Individuals and Individuals with Disabilities Formula Program and Pilot Program.	_____
18.	Nonurbanized Area Formula Program for States.	_____
19.	Job Access and Reverse Commute Program.	_____
20.	New Freedom Program.	_____
21.	Alternative Transportation in Parks and Public Lands Program.	_____
22.	Tribal Transit Program.	
23.	Infrastructure Finance Projects.	_____
24.	Deposits of Federal Financial Assistance to a State Infrastructure Banks.	_____

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FEDERAL FISCAL YEAR 2008 FTA CERTIFICATIONS AND ASSURANCES SIGNATURE PAGE

(Required of all Applicants for FTA assistance and all FTA Grantees with an active capital or formula project)

AFFIRMATION OF APPLICANT

Name of Applicant: _____

Name and Relationship of Authorized Representative: _____

BY SIGNING BELOW, on behalf of the Applicant, I declare that the Applicant has duly authorized me to make these certifications and assurances and bind the Applicant's compliance. Thus, the Applicant agrees to comply with all Federal statutes, regulations, executive orders, and directives, and with the certifications and assurances as indicated on the foregoing page applicable to each application it makes to the Federal Transit Administration (FTA) in Federal Fiscal Year 2008.

FTA intends that the certifications and assurances the Applicant selects on the other side of this document, as representative of the certifications and assurances in this document, should apply, as provided, to each project for which the Applicant seeks now, or may later, seek FTA assistance during Federal Fiscal Year 2008.

The Applicant affirms the truthfulness and accuracy of the certifications and assurances it has made in the statements submitted herein with this document and any other submission made to FTA, and acknowledges that the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. 3801 *et seq.*, and implementing U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31 apply to any certification, assurance or submission made to FTA. The criminal fraud provisions of 18 U.S.C. 1001 apply to any certification, assurance, or submission made in connection with a Federal public transportation program authorized in 49 U.S.C. chapter 53 or any other statute

In signing this document, I declare under penalties of perjury that the foregoing certifications and assurances, and any other statements made by me on behalf of the Applicant are true and correct.

Signature_____ Date: _____

Name_____
Authorized Representative of Applicant

AFFIRMATION OF APPLICANT'S ATTORNEY

For (Name of Applicant): _____

As the undersigned Attorney for the above named Applicant, I hereby affirm to the Applicant that it has authority under State, local, or tribal government law, as applicable, to make and comply with the certifications and assurances as indicated on the foregoing pages. I further affirm that, in my opinion, the certifications and assurances have been legally made and constitute legal and binding obligations on the Applicant.

I further affirm to the Applicant that, to the best of my knowledge, there is no legislation or litigation pending or imminent that might adversely affect the validity of these certifications and assurances, or of the performance of the project.

Signature_____ Date: _____

Name_____
Attorney for Applicant

Each Applicant for FTA financial assistance and each FTA Grantee with an active capital or formula project must provide an Affirmation of Applicant's Attorney pertaining to the Applicant's legal capacity. The Applicant may enter its signature in lieu of the Attorney's signature, provided the Applicant has on file this Affirmation, signed by the attorney and dated this Federal fiscal year.

[FR Doc. 07–5294 Filed 10–24–07; 8:45 am]
BILLING CODE 4910–57–C

Federal Register

Thursday,
October 25, 2007

Part III

The President

Proclamation 8194—United Nations Day, 2007

Federal Register
Vol. 72, No. 206
Thursday, October 25, 2007

Presidential Documents

Title 3—

The President

Proclamation 8194 of October 23, 2007

United Nations Day, 2007

By the President of the United States

A Proclamation

After World War II, representatives from around the globe gathered to begin deliberations on a new international bill of rights. The document adopted by the General Assembly of the United Nations, the Universal Declaration of Human Rights, stands as a landmark achievement in the history of human liberty. On United Nations Day, we recognize the contributions of this important body and underscore our dedication to reforming the institution and advancing the high ideals on which it was founded.

Today, the United Nations must recommit itself to maintaining international security and helping solve economic, social, and humanitarian problems. This great institution must work for great purposes: to free people from tyranny and violence, hunger and disease, illiteracy and ignorance, and poverty and despair. With renewed commitment and courage, we can pursue the vision of the Universal Declaration and build a world where people are free to speak, assemble, and worship as they wish, and where opportunity crosses every border.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 24, 2007, as United Nations Day. I urge the Governors of the 50 States, the Governor of the Commonwealth of Puerto Rico, and the officials of other areas under the flag of the United States to observe United Nations Day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of October, in the year of our Lord two thousand seven, and of the Independence of the United States of America the two hundred and thirty-second.

[FR Doc. 07–5334
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S. 474/P.L. 110–95

To award a congressional gold medal to Michael Ellis DeBakey, M.D. (Oct. 16, 2007; 121 Stat. 1008)

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